

Chapter 2 Lender and Underwriter Qualifications and Requirements ; Quality Control Plans ; Identity of Interest and Conflict of Interest

2.1 Introduction

- A. The MAP program requires that lenders and underwriters be skilled in underwriting multifamily housing loans and in preparing applications for FHA multifamily mortgage insurance. To ensure that goal is met, MAP Lenders and MAP Underwriters must be approved by HUD's Multifamily Asset and Counterparty Oversight Division ("MACOD").
- B. Approval of a MAP Lender or Underwriter by MACOD is on a nationwide basis and the MAP Lender and its approved Underwriter may process MAP loans regardless of which HUD area office will review the MAP application. MAP approval does not expire, but by accepting the opportunity to participate in the MAP program, the MAP Lender and Underwriter agree that their MAP loans will be subject to post-endorsement review by MACOD and that, if they fail to meet HUD standards for underwriting loans, their MAP designation may be terminated in accordance with the Quality Assurance and Enforcement Actions in Chapter 15.
- C. Approval by MACOD as a MAP Lender is a prerequisite to participation in the MAP program, but MAP approval does not obviate the need to have an experienced team process each application. The MAP Lender is responsible for ensuring that all third party contractors meet the requirements outlined in the MAP Guide, including the USPAP appraiser competency provision and jurisdictional certification requirements, and that third party contractors do not have any identity of interest with the Borrower/sponsor or any affiliated entity. If the HUD office has concerns regarding the MAP Lender's, its Underwriter's or its third-party contractor's past performance or capabilities, the office should consult with MACOD for additional monitoring or for a potential enforcement action.

D. As a condition of approval of any new MAP Lender, the lender's first three loan transactions will be subject to the processing restrictions described at D.1-4, below. Further, MACOD will review the first three loan transactions after Firm Commitments have been issued, although the transactions may continue to be processed for Initial Endorsement during MACOD's review. Section 223(a)(7) refinancing transactions may only be credited towards one of the three loan transactions that must be reviewed by MACOD. Based on the results of its review of the first three transactions, MACOD may extend the review process and the processing restrictions described at D.1-4, below, to additional applications for all MAP programs, to additional applications just for specific programs or it may release any application processing restrictions. A new MAP Lender may not submit additional applications for insurance until MACOD has completed its first three loan transaction reviews. For its first three MAP applications, and such additional applications as MACOD may require, the following limitations on the new lender's MAP privileges will apply:

1. For all MAP lending programs:
 - a. A Concept Meeting will be required for all new applications.
 - b. The lender's ability to process MAP loans over a certain amount or for properties over a certain number of units may be restricted, with the specific loan and unit limits determined by MACOD based on a review of the lender's application.
 - c. A HUD appraiser must review and approve the full appraisals (and market studies, as applicable) for any new applications.
2. For the 223(f) and 223 (a) (7) programs:
 - a. The lender may not manage critical and non-critical repair escrow releases without a site inspection and approval of escrow disbursements by HUD staff.
 - b. The lender may not process 223(f) or 223 (a) (7) loans which require greater than Level 1 repairs and/or alterations.
 - c. HUD staff must inspect a property if a CNA is found to be deficient.
 - d. The lender must report quarterly on its administration of a non-critical repair escrow.
3. For the 221(d)(4) and 220 programs:
 - a. Two-step processing will be required for all new construction and substantial rehabilitation applications and direct-to-Firm applications may not be submitted.
 - b. The lender may be required to submit full schematics and working drawings during pre-application processing based on the results of HUD's review during the concept meeting.

4. For the Low-Income Housing Tax Credit program:

The lender may not participate in expedited processing of tax credit applications but must submit to standard application processing for both 223(f) and 221(d)(4) loans.

- E. An originating MAP Lender may sell or transfer a MAP application only upon receipt of a Firm Commitment. The application and Firm Commitment may be sold only to another MAP Lender in good standing and not currently subject to any Probation or Suspension sanctions, and within the limits on MAP Lenders with Identities of Interest with the Borrower (or affiliates of both). For further guidance on the sale of a Firm Commitment by a MAP Lender, see Chapter 1, Section 1.2 of this Guide.

2.2 Lender Qualifications

- A. The lender must prepare the application for approval as a MAP Lender, although there is no prescribed form of this application. The application should be submitted to MACOD electronically in PDF format. Upon receipt of all the information specified in Section 2.8, MACOD will process the application within 30 days.
- B. MACOD must approve each MAP Lender in writing. The names of approved MAP Lenders will be posted on the HUD website at:

<https://www.hud.gov/sites/dfiles/Housing/documents/aprvlend.pdf>

- C. MACOD may disapprove a lender application on the grounds that: a) it fails to meet the standards set forth in Section 2.3; b) it fails to provide sufficient information required by Section 2.8; or, c) there are specified deficiencies that must be corrected. A lender will not be granted MAP approval if the lender uses contract underwriters exclusively. An appeal of MACOD's decision to disapprove an application, or to impose specific conditions of approval, may be made to the Deputy Assistant Secretary (DAS) for Multifamily Housing.
- D. If the MAP Lender's approval has been terminated, the lender may not apply for reinstatement for 12 months after termination. (See Chapter 15, Section 15.10.G)
- E. MAP lenders that fail to maintain a minimum level of MAP activity, defined as failing to submit either a pre-application package or a Firm Commitment application at least once every 12 months, will be terminated from the MAP program for inactivity, in accordance with 24 CFR 200.1520(b).

2.3 Standards Required for Qualification

A MAP Lender must demonstrate that it is an FHA-approved mortgagee pursuant to 24 CFR Part 202, that it is financially sound, it has on-staff principal employees with the necessary multifamily underwriting experience required by this Guide and its record with FHA-insured or conventional multifamily loans has been satisfactory. Further requirements are as follows:

- A. A Lender must be an FHA mortgagee as a result of its approval by the Office of Lender Activities and Compliance.
- B. The Lender must not be subject to judgments, administrative claims, litigation or current lawsuits that would seriously affect its ability to do business; the Lender may not unlawfully discriminate. The lender must be, and must remain, continuously in compliance with 24 CFR 200.30, 24 CFR part 5 and 24 CFR part 200, subparts I, J, and M, regarding nondiscrimination and equal opportunity, and it may not have outstanding violations under said authorities unless it is under an agreement or order to come into compliance with such authorities.
- C. The Lender must identify staff persons with the level of training and experience required pursuant to Section 2.11, below. Multifamily underwriting experience on staff is a key to MAP approval and the Lender's underwriters must have worked regularly in the multifamily lending business and have underwritten the required number of loans which have been funded.
- D. The Lender's application must identify experienced staff who have the authority to underwrite loan applications and sign the narrative summary in a loan application. The applicant must also identify whose signatures may bind the Lender for its responsibilities under MAP.
- E. FHA multifamily experience is not specifically required for initial approval as a MAP Lender, but if the Lender lacks FHA experience, additional emphasis will be placed on recent comparable conventional multifamily permanent and construction lending experience that is consistent with MAP lending. For any loan processed under MAP, the lender must thoroughly understand MAP program requirements.
- F. A Lender may be rejected for MAP qualification due to a recent history of early defaults, foreclosures or assignments of FHA-insured, or defaults or foreclosures of non-FHA insured, loans. The reason for any assignments, defaults or foreclosures will be evaluated by MACOD, including whether it was due to inadequate servicing or poor-quality underwriting. MACOD will review any loan the applicant has underwritten and endorsed within the previous five years that has defaulted and been assigned to HUD to determine whether the Lender was at fault in its origination and underwriting of the defaulted loan and if there has been a pattern of poor lender performance.
- G. If the Lender has worked with HUD's Offices in the previous two years, MACOD will contact those offices to ascertain their experience with the applicant and their responses will be included in the Lender's file. A pattern of unsatisfactory applications at one or more HUD Offices may be grounds for rejection of the Lender's MAP application.

2.4 Loan Consultants, Loan Correspondents and Mortgage Brokers

It is common practice for MAP Lenders to use loan consultants, loan correspondents or mortgage brokers to increase origination capacity. A consultant or a correspondent represents the MAP lender and seeks to identify and screen transactions which the Lender can finance using the MAP program. A mortgage broker represents the borrower/sponsor and seeks to identify an appropriate financing source for their loan transaction.

The term loan consultant, loan correspondent or mortgage broker, as used here, applies to an individual or outside company who is actively engaged in the mortgage origination business and acts as an intermediary with or on behalf of the MAP Lender but who is not a MAP-approved Lender themselves and is not an employee of a MAP Lender or of an affiliate of the Lender. Under MAP, the consultant's, correspondent's or mortgage broker's sole role is to refer new business to a MAP Lender including information supplied by the proposed borrower/sponsor. Aside from referring a borrower/sponsor for a MAP loan, a consultant, correspondent or mortgage broker may not have any additional role in underwriting the transaction or in respect to the MAP Lender.

The consultant's, correspondent's or mortgage broker's fee must be paid solely from the Lender's fees and must be disclosed in the MAP Lender's underwriting narrative. The consultant, correspondent or mortgage broker may not have any Identity of Interest with the borrower/sponsor or any affiliated entity, and acting as an intermediary with or on behalf of the MAP Lender may not represent any Conflict of Interest with their existing relationship with the borrower/sponsor. Consultants or correspondents must agree to comply with the MAP Guide's prohibitions on illegal inducements, kickbacks and side agreements with the borrower/sponsor. For consultants or correspondents to represent a MAP Lender, there must be a signed written agreement acknowledging the requirements and prohibitions of this section and of the MAP Guide, and certifying their compliance to the MAP Lender.

HUD will only accept application packages from, correspond with or rely on information submitted by an approved MAP Lender, will only communicate with employees of the MAP Lender and will only accept documents signed by authorized signatories of the MAP Lender. MAP Lenders are expected and authorized to hire third party contractors to prepare specialized reports related to any of the technical disciplines, as required by the MAP Guide. However, the involvement of a consultant, correspondent or a mortgage broker in any of these functions, including in the selection of third-party contractors, is unacceptable under the MAP program.

2.5 Duties and Responsibilities of MAP Underwriter and MAP Construction Loan Administrator; HUD Role

A. Duties and Responsibilities of the MAP Underwriter

The MAP Underwriter performs the mortgage credit and real estate underwriting functions and must be a full-time employee of the MAP Lender. The MAP Lender is responsible for underwriting the loan which necessarily requires that the lender oversee and recommend to HUD for approval the conclusions and recommendations of the third-party reports, except as modified, explained and justified in the lender's underwriting. The Underwriter or the Construction Loan Administrator is responsible for management of the Lender's responsibilities during the construction period.

The duties and responsibilities associated with MAP application underwriting are as follows:

1. Make a determination of the acceptability of the general contractor, supervisory architect, management agent, the sponsor and the Borrower and its principals through a thorough review of their ownership structure and an analysis of their experience, credit, character, financial condition and motivation for ownership (e.g., are they a merchant builder, plan to hold for long term, refinancing balloon debt, etc.), the availability of assets for closing and the adequacy of property income to meet loan obligations.
2. Use trade references, bank references, credit data and construction experience resume in analyzing the construction capability of the general contractor, including its financial stability and its ability to complete the project in light of its responsibility for other projects in progress.
3. Identify and analyze all risks associated with the proposed financing and determine the recommended maximum mortgage amount and other key terms of the loan.
4. Engage all third-party consultants and analysts, provide oversight and effective supervision of their work to ensure their deliverables meet MAP Guide requirements and support the underwriting recommendation. The underwriter must assure that third party contractors do not have any Identity of Interest with the Borrower/sponsor or any affiliated entity at the time they are providing the services. The Underwriter will oversee the assembly of the loan application and will recommend loan approval to HUD.

B. Duties and responsibilities of the MAP Lender's Construction Loan Administrator

The duties and responsibilities associated with the Construction Loan Administrator during the construction period (if applicable) are:

1. Determine the initial distribution of mortgage proceeds into various accounts and maintain a record of their control and disbursement.
2. Determine construction costs (as approved by the HUD inspector), architect fees and carrying charges payable under requests for advances of mortgage proceeds or prepare written reasons for modifications, as necessary.
3. Recommend approval of construction change orders and recommend release of both on-site and off-site escrow funds or cite special requirements or conditions of approval, as necessary.
4. Protect HUD's interests by assisting with and overseeing the resolution of construction disputes, delays, costs overruns and any related problems.

C. HUD's Role during Underwriting and Construction Loan Administration

1. HUD's role during application underwriting is to:
 - a. Review the Lender's mortgage credit analysis of the acceptability of the sponsor, the Borrower and its principals, and of the contractor.
 - b. Perform the Active Partner Performance System (APPS) Electronic HUD-2530 Property Submission review or successor previous participation review process.
 - c. Confirm the maximum mortgage amount, loan conditions, loan settlement requirements and other key terms of the loan.
 - d. Confirm the project's financial feasibility and the acceptability of the market and the valuation conclusions.
 - e. Review initial and final closing documents for compliance and acceptability.
 - f. Perform the environmental review.
 - g. Review and approve the Lender's construction period analysis and construction costs.
2. HUD's role during the construction period (if applicable) is to:
 - a. Review and approve the Lender's proposed initial distribution of mortgage proceeds.
 - b. Conduct construction inspections.
 - c. Require the Lender to ensure resolution of construction problems and disputes.
 - d. Approve construction change orders.

- e. Review the borrower's cost certification based on HUD's allowed costs.
- f. Confirm the final maximum insurable mortgage.
- g. Review and approve the final distribution of mortgage proceeds.

2.6 Electronic Communications

HUD will post information on its web site and will transmit messages to Lenders and to the lending community by electronic mail, often with attached documents, Mortgage Letters or Housing Notices. Much of the information required to be submitted by Lenders to HUD must be submitted electronically, including MAP Lender and Underwriter approval requests which are submitted to MACOD.

2.7 Identity of Interest and Conflict of Interest

A. Introduction

The Code of Federal Regulations at 24 CFR 200.1530(b)(6) refers to Identity of Interest (IOI) violations as defined in this Chapter. For purposes of this section, an IOI is defined as a financial or family relationship between a MAP Lender and another party related to the MAP loan transaction. All IOIs are prohibited unless explicitly permitted pursuant to this section or approved in writing by MACOD. A prohibited IOI is referred to in this section as a "Conflict of Interest." Conflicts of Interest are unacceptable in the MAP program because they:

1. Undermine the independence and integrity of the MAP Lender's underwriting, risk assessment, credit analysis and/or loan closing process;
2. Obscure the lines between the MAP Lender's fiduciary responsibilities to the project's equity investor and its responsibilities to HUD;
3. Represent an unfair competitive advantage for the MAP Lender; and/or
4. Represent an unfair business practice with the Borrower or any of its affiliates, which may be due to a lack of disclosure or skewing of arm's length incentives.

HUD considers certain prohibited payments and promises by a MAP Lender to be a violation of 24 C.F.R. 200.1530(b)(7), which prohibits:

Payment by, or receipt of a payment by, a MAP lender of any kickback or other consideration, directly or indirectly, which would affect the lender's independent evaluation, or represent a conflict of interest, in connection with any FHA-insured mortgage transaction.

Certain payments and promises could further violate the Lender's Certificate (HUD-92434M) and the Request for Endorsement (HUD-92455M, Certificate of Lender) provision, as follows:

Lender has not made or offered, and shall not make or offer, any guarantees, pledges, reservations of sums to become due, or other inducements to any entity or person to make loans or advances which Lender would be prohibited from making under the terms of this Section.

MAP Lenders that violate the prohibition against IOIs may be subject to enforcement action by the Department, including, but not limited to, sanctions under 24 CFR part 200, subpart Y (MAP Lender Quality Assurance Enforcement) and part 25 (Mortgagee Review Board).

Prohibited Conflicts of Interest, and acceptable IOI relationships and permissible exceptions, are detailed in this section; examples are provided in Appendix 2. IOI relationships that could be a Conflict of Interest must be disclosed and reported to MACOD which will provide determinations to written requests for IOI approvals pursuant to this section. Because determining whether an IOI is acceptable is inherently complex and may lead to an enforcement action, MAP Lenders and other participants must obtain written approval from MACOD prior to proceeding when there is any question of an IOI.

B. Definitions

The following definitions shall apply to this Chapter:

1. Borrower: Includes, but is not limited to, the GP, LP or managers and members of an LLC of the borrowing entity, its principals and affiliates.
2. Borrower's Counsel: Includes, but is not limited to, any attorney or support staff employees who are a partner, member, or employee of the law firm, and applies to firms and solo practitioners.
3. Borrower's Team: Includes the Borrower, Borrower's counsel, general contractor, subcontractor, architect, seller of the land, seller of the property, a third-party consultant providing reports supporting the transaction, any affiliates of the Borrower's Team or any parties related to the Borrower's Team.

4. Family Relationship/ Family Members: Includes spouses, parents, siblings, brothers, stepbrothers, sisters, stepsisters, sons, stepsons, daughters, stepdaughters, legally adopted sons or daughters, foster children, grandparents, grandchildren, aunts, uncles, mothers-in-law, fathers-in-law, brothers-in-law and sisters-in-law.
5. Financial Interest/ Financial Relationship: Includes any current or contingent ownership, equity or security interest in real or personal property or in a business, as well as any indebtedness, compensated employment and fiduciary relationship.
6. Gift: Includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value, including services as well as gifts of training, transportation, local travel, lodgings, and meals. Gifts can be provided in-kind, by payment in advance, or by reimbursement after the expense has occurred.
7. MAP Lender: Includes the Lender's officers, directors, partners, principals, stockholders, affiliates, affiliate's officers, affiliate's principals or any contract employees working on a particular affiliate's or principal's MAP application and, unless otherwise specified, includes the FHA-approved MAP Lender, its parent company, subsidiaries, affiliates and any other related entities, and any officers, directors, partners, members or employees of the MAP Lender, its affiliates and other related parties.
8. Prohibited Source: Means any person who: (a) is seeking official action by HUD, (b) does business or seeks to do business with HUD, (c) conducts activities regulated by HUD; (d) has interests that may be substantially affected by performance or nonperformance of the HUD employee's official duties, or (e) is an organization a majority of whose members are described in (a) through (d) and also includes any people who have a family relationship with the prohibited sources.

C. Lender Responsibilities and General Guidance

The MAP Lender is responsible for conducting appropriate, commercially reasonable due diligence to identify IOIs and to ensure that no Conflicts of Interest exist. Because the guidance in this chapter is necessarily general, the Lender is responsible for obtaining prior written approval from MACOD when there are questions as to whether an IOI is prohibited in any particular situation.

In some cases, the MAP Lender is a Supervised Mortgagee, as defined in the HUD Single Family Handbook, or is a publicly owned company (or a wholly owned subsidiary of a publicly owned company) subject to oversight by the U.S. Securities and Exchange Commission. Such entities are actively regulated by other federal agencies and thus HUD's risk in IOI situations is partially mitigated. Due to the size and number of shares and employees, it may be impractical for such entities to provide certainty that there is no IOI. Accordingly, for purposes of determining whether a prohibited Conflict of Interest exists, Supervised Mortgagees or publicly-owned MAP Lenders may define in their QC Plan the MAP Lender as the applicable operating entity responsible for origination and servicing of "agency business", which would include both FHA and GSE loans. The QC

Plan must describe the due diligence process used to ensure shareholder or employee IOIs are sufficiently remote such that they will not undermine, or give the appearance of undermining, the MAP Lender's or Borrower's Team member's integrity and independence in the underwriting, risk analysis, credit review and loan closing process.

Generally, MAP Lenders which are Supervised Mortgagees or publicly owned companies can assume that counterparties in MAP transactions with less than a 5% shareholder interest, or depositories with less than \$500,000 in an account, would not have a Conflict of Interest with the Lender.

Lenders are expected to perform commercially reasonable and appropriate due diligence in evaluating Borrower Team members' potential IOIs. Generally, certifications by Borrower's counsel, design architects and other professional advisors (including the MAP Lender's third-party professionals) and the principals of their firms, that they have no equity interest in the Borrower or in the MAP transaction or project, may be relied upon. Similarly, certifications by non-IOI General Contractors may be relied upon as applying to principals of their firms and sub-contractors.

Borrower Team members subject to Previous Participation review are assumed to be subject to IOI disclosure and prohibitions, as are entities or persons with an equity or other financial interest in the borrower such that their role in the transaction may provide material control or influence over the development, operations or management of the project.

Further IOI examples can be found in Appendix 2, Section II.

D. Additional Programmatic Guidance

1. MAP Lenders with Ownership Interests in Properties with FHA Insured Mortgages

MAP Lenders with an equity or ownership interest in a property, either directly or through an affiliate, would have an IOI if they refinanced the property's existing loan with a new FHA insured mortgage. This is not necessarily prohibited, so long as the MAP Lender complies with the requirements of this Chapter of the MAP Guide (for example, if the MAP Lender is affiliated with a tax credit equity investor or syndicator which will have a 99% ownership interest in the property), discloses to MACOD the relationship in writing prior to submitting the Firm Commitment application, and the loan terms and interest rate are commercially competitive at the time of the refinancing.

2. Secondary Financing Relationships

Secondary financing includes, but is not limited to:

- a. Loans secured by the project or made to the Borrower entity in addition to a first mortgage;
- b. Loans made to and/or secured by upper tier ownership interests in the Borrower entity (i.e., persons or entities with any ownership interest in the property's Single Asset Mortgagor Entity); and
- c. Other forms of mezzanine financing associated with the project proposed for the MAP loan transaction.

Any proposed secondary financing relationship between the Borrower and the MAP Lender on a MAP financed project constitutes an IOI and, unless explicitly allowed in published program guidance, must be disclosed in writing to HUD and the MAP Lender must receive written approval of the IOI from MACOD before submitting an application. Such approval will not be unreasonably withheld provided the relationship is fully disclosed and the parties demonstrate to HUD's satisfaction that the relationship will not undermine the integrity and independence of the MAP Lender's underwriting, credit review and loan closing process. These situations will require additional scrutiny by HUD and by the MAP Lender to ensure an appropriate property valuation and compliance with MAP program requirements. In cases where a secondary financing IOI occurs during or after processing, it must be disclosed in the manner provided in this section as soon as it is anticipated.

3. Bridge Loans and Balance Sheet Loans

An IOI is created in cases where a temporary bridge loan is made by the MAP Lender to the Borrower, as well as in cases where a loan on the MAP Lender's balance sheet will be refinanced using an FHA insured loan. Existing or potential bridge or balance sheet loans require disclosure of IOIs at the earlier of the Concept Meeting or at submission of the loan application. Generally, such IOIs will be approved if HUD determines, based on the facts and circumstances submitted in writing by the MAP Lender, that the relationship does not:

- a. Undermine the integrity and independence of the underwriting;
- b. Circumvent program requirements; or
- c. Undermine program intent (for example by facilitating cash out on either a Section 223(a)(7) or a Section 223(f) loan greater than 80% LTV).

4. MAP Lenders with Tax Credit Equity Investment Affiliates

With prior written approval from MACOD, certain MAP Lenders with tax credit equity syndicator or investor affiliates, which would otherwise represent a prohibited IOI relationship, may originate MAP loans. Approval of such requests shall be

conditioned on:

- a. The MAP Lender must be a Supervised Mortgagee, as defined in the HUD Single Family Handbook.
- b. Except where HUD has agreed to a “Pre-Approval of Special Limited Partners as Interim Replacement GP/MM for LIHTC Transactions”, the equity syndicator or investor must remain in a purely passive role throughout the term of the FHA-insured loan, including after the tax credit compliance period ends.
- c. The MAP loan must be processed, underwritten and approved by the MAP Lender’s staff without involvement by the affiliated equity syndicator’s or investor's staff.
- d. Effective firewalls must be maintained between the affiliated equity syndicator or investor and the MAP Lender. The affiliated equity syndicator or investor must not improperly influence the MAP division's staff in its role as MAP lender, nor may the MAP Lender act to influence the affiliated equity syndicator or investor.
- e. The MAP division and the affiliated equity syndicator or investor must each provide HUD with a project-specific certification that contains the MAP Guide's prescribed IOI certification contained in Section H, below.
- f. The MAP Lender and the Borrower must certify that the affiliated equity syndicator or investor did not seek, and shall not provide, any inducement to the Borrower to close the MAP loan with the MAP Lender.

MAP Lenders that are not Supervised Mortgagees may still invest in tax credit transactions through their equity syndicator or investor affiliates, subject to compliance with Section D.5 (b – f) above, and compliance and certification that, after the project’s placed-in-service date, the affiliated equity syndicator or investor will hold no more than a 25 percent ownership interest in the Borrower entity.

5. Mortgage Brokers, Loan Consultants, Loan Correspondents and IOI

MAP Lenders may engage business using a mortgage broker, loan consultant or loan correspondent, subject to the restrictions and requirements contained in Section 2.4, above. Brokers, consultants and correspondents may not have any IOI with the Borrower or Sponsor or any of their affiliated entities. Although the broker’s, consultant’s or correspondent’s fee will be paid from the MAP Lender’s fees, this does not create an IOI relationship between the broker, consultant or correspondent and the Lender.

6. Other IOI Relationships Among MAP Lenders

MAP Lenders may occasionally seek to invest in a project financed under MAP by a separate “Underwriting MAP Lender”. If the Borrower has an IOI relationship with a MAP Lender, that “IOI MAP Lender” cannot assist in underwriting, purchasing or servicing the loan until after Final Endorsement. The arrangement to assign the loan after Final Endorsement is subject to full disclosure before processing begins, including certification and approval by HUD and the adoption of appropriate procedures in each MAP Lenders’ QC Plans. The Conflict of Interest risk may be mitigated by meeting the following requirements:

- a. The IOI relationship must be fully disclosed as a planned business practice in both MAP Lenders’ QC Plans. With each application, the Underwriting MAP Lender must include a certification that includes the applicable criminal penalty warning. The warning must certify that the IOI MAP Lender had no involvement in the underwriting process and that the referring entity had a “firewall” such that only employees of the owner/ equity investor affiliate of the IOI Map Lender provided information to the Underwriting MAP Lender.
- b. The Underwriting MAP Lender must have made no specific written or oral obligation to assign the loan to the IOI Map Lender after Final Endorsement and must retain the right to assign, or refuse to assign, the loan to any servicer or to hold the loan.
- c. The IOI Map Lender must have made no written or oral obligation to purchase the loan from the Underwriting MAP Lender after Final Endorsement and must retain the right to sell, or refuse to sell, the loan.
- d. Any dealings between the IOI MAP Lender and the Underwriting MAP Lender must be arm’s length and independent at all times, including after issuance of a Firm Commitment. The IOI MAP Lender may not advise or assist the Underwriting MAP Lender in processing the loan or with making any underwriting decisions.
- e. The IOI MAP Lender may not receive a mortgage broker’s, consultant’s or correspondent’s referral fee from the mortgage proceeds.
- f. HUD will only accept application packages, correspondence and information related to the loan that are submitted by the Underwriting MAP Lender.

- g. The IOI MAP Lender may not hire or interact with third-party contractors, except that its equity affiliate may respond to inquiries from the Underwriting MAP Lender's third parties. Such interactions must be isolated by the firewall described in the Lenders' QC Plans.
- h. Third-Party contractors may not have any IOI with the Borrower or the Underwriting MAP Lender at the time they are providing their services.
- i. Both Lenders must have appropriate and acceptable QC practices that provide for an effective firewall and must provide for objective and independent loan origination and underwriting processes. Such practices and procedures must be defined in each MAP Lenders' QC Plan and be approved by MACOD.

7. Prohibited Business Practices

a. Inducements

A MAP Lender may not have arrangements with Borrowers for the purpose of securing the Borrower's business that may undermine the MAP Lender's integrity in the underwriting and credit review process or provide an unfair competitive advantage to the MAP Lender. The following are examples of prohibited inducements in which the MAP Lender may not:

- i. Provide "kickbacks" such as financial rewards, payments or fee rebates, free or discounted professional services (except for a reduced loan origination fee) or other remuneration to a Borrower;
- ii. Provide loans between affiliates of either the MAP Lender or the Borrower for the purpose of meeting requirements for cash or financial capacity related to the MAP transaction;
- iii. Condition the provision of, or provide more desirable terms for, other banking products including tax credit equity investments by affiliated entities in exchange for engagement to process the MAP loan;
- iv. Pay the Borrower's costs for third party reports;
- v. Pay application fees; or
- vi. Offer to refund application fees on unsuccessful loan applications.

Note: This list is not intended to be exhaustive. Any similar payment made by MAP Lender to the Borrower to secure loan origination business is prohibited. The prohibition on inducements does not prevent a MAP Lender from paying for updated third party reports provided the transaction was already submitted for a Firm Commitment application that was delayed in processing due to no fault of the Borrower. The lender must provide to MACOD and the Director of Multifamily Production a written notice and detailed explanation of any transaction in which such funds are greater than \$10,000.

b. Gifts

A prohibited IOI can be created when the MAP Lender, Borrower, or other parties to a MAP loan transaction solicit or accept gifts from prohibited sources based on their business relationship. Gifts less than \$200 per year to an individual recipient are presumed to not constitute a prohibited IOI. A gift may not be conditioned on an agreement or obligation to do business related to a MAP transaction. Gifts given based on an existing business relationship outside of the MAP transaction, or incidental to commercially reasonable and customary marketing practices, are not prohibited unless the value, amount or circumstances undermine, or give the appearance of undermining, the integrity and independence of the underwriting and credit review process. The MAP Lender's QC Plan must address their policy on this topic.

c. Charitable Donations

Occasionally, MAP Lenders will make charitable donations to causes that may create a potential Conflict of Interest. HUD does not prohibit charitable contributions by MAP Lenders or borrowers, although they can result in a Conflict of Interest for MAP purposes. If a donation to the charity was given by any party in a MAP transaction conditioned upon an agreement or obligation related to a MAP loan, it would create a prohibited IOI whether or not such condition is in writing. In situations where HUD becomes aware of such contributions that may constitute a Conflict of Interest, enforcement will be pursued if HUD determines the gifts were intended for the purpose of competing for a potential MAP loan.

The 6 primary factors to be considered by HUD in determining whether charitable donations may represent a prohibited IOI are:

- i. Whether the donor disclosed such charitable donations to HUD in advance of submitting the MAP application. The donor may provide documentation of monetary value, history of donations to a particular charity, history of donations to a variety of similar charities or other information it deems relevant to show that the donation is not based on, and would not influence, the origination or underwriting of the MAP loan;
- ii. The timing of the donation;
- iii. The monetary value or amount of the donation;
- iv. Any implicit or explicit understanding that the contribution is a condition of engagement of the Lender to process the MAP loan;
- v. The Lender's history of philanthropic contributions; and
- vi. The specific roles and relationships between the parties involved.

E. Disclosure Requirements

1. In General

Disclosure is required where there is an actual IOI, the appearance of an IOI or the potential for an IOI between the MAP Lender and the Borrower's Team or any other party to the MAP transaction. All questions and supporting documentation, including any additional information requested by the HUD production office, must be submitted to MACOD for review.

2. IOI Discovered Before Processing

If an IOI is identified and a MAP Lender has not started processing, the MAP Lender must disclose the IOI to MACOD and request written approval of the IOI before continuing. Alternatively, the MAP Lender may undertake one of the following measures:

- a. Remove the IOI party from the transaction and process the application using MAP; or
- b. Immediately transfer the application to a new MAP Lender. The new MAP Lender may not assign the pre-application submission, the Firm Commitment application, the mortgage insurance commitment or the insured loan back to the IOI MAP Lender prior to Final Endorsement.

3. IOI Discovered During Processing

If an IOI becomes apparent during processing, a MAP Lender must immediately stop processing, disclose the IOI to MACOD and attempt to obtain HUD's written approval of the IOI before continuing. Alternatively, the MAP Lender may transfer the application to a new MAP Lender which may be required by the HUD production office to reprocess all or some stages of the transaction. At no time prior to Final Endorsement may the new MAP Lender assign the pre-application submission, the Firm Commitment application, the mortgage insurance commitment or the insured loan back to the IOI MAP Lender.

4. IOI Discovered After Firm Commitment

IOIs discovered after issuance of a Firm Commitment may reflect either a lack of transparency, absence of due diligence or negligence on the part of the MAP Lender. The MAP Lender and other involved parties may be referred to investigative or enforcement authorities and the HUD production office must refer such transactions to MACOD for review of the loan underwriting to determine if it may have been impacted by the IOI relationship.

F. Certification

The MAP Lender must certify and agree that it:

1. Does not have outstanding loans or advances to the Borrower's Team or to any of the sponsors, the general contractor or the architect for any purpose directly or indirectly related to the MAP transaction without prior written approval of HUD;
2. Will not make any loans or advances to the aforementioned parties for any purpose directly or indirectly related to the MAP transaction without prior written approval of HUD; and
3. Has not made or offered, and shall not make or offer, any guarantees, pledges, reservations of sums to become due or other inducements to any entity or person associated with the MAP transaction.

In the following circumstances, certification is not required: a) loan advances made in accordance with Program Obligations; b) notes given to evidence additional financing charges owed by Borrower to the MAP Lender as authorized in the MAP Guide and as disclosed pursuant to the Lender's Certificate (HUD-92434M or later designation) or the Certificate of Lender contained in the Request for Endorsement of Credit Instrument (HUD-92455M or later designation), as applicable; or c) lender advances made pursuant to the Security Instrument (HUD-94000M or later designation).

G. IOI Tax Credit Equity Syndicator or Investor Representation and Warranty

The affiliated tax credit equity syndicator or investor must not improperly influence the MAP Lender which is underwriting a MAP loan on a tax credit project. The MAP Lender and the affiliated tax credit equity syndicator or investor must each provide the HUD production office a specific Representation and Warranty on each application submitted for a tax credit project, which contains the following criminal warning language:

1. The MAP Lender's Representation and Warranty must state:

a. With respect to any tax credit project loan that it will process under MAP:

(1) No officer or employee of _____ (insert the name of the affiliated tax credit equity syndicator or investor) or any director or parent thereof will have any loan-specific or decision making control or influence in _____'s (insert the name of MAP Lender) underwriting of the MAP loan except by providing factual information to _____ (insert the name of MAP Lender) in the same manner as would be provided by an unaffiliated syndicator).

(2) _____ (insert name of MAP Lender) will not condition its agreement to provide such financing on _____ (insert the name of affiliated tax credit equity syndicator or investor) being selected as the tax credit equity syndicator or investor for the project to be financed by the MAP loan.

b. _____ (insert the name of MAP Lender) will notify HUD promptly, in writing, during application processing of any change or event which causes the foregoing Representation or Warranty to be materially untrue or inaccurate.

“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.”

2. The MAP Lender’s affiliated tax credit equity syndicator’s or investor’s Representation and Warranty must state:

a. In the regular course of its business it syndicates or invests in tax credit equity investments in multifamily affordable housing projects.

b. With respect to any project loan that is to be underwritten by _____ (insert name of MAP Lender) and in which _____ (insert name of affiliated tax credit equity syndicator or investor) intends to make an equity investment or sell equity to other investors:

(1) No officer or employee _____ (insert name of MAP Lender) will have any loan-specific control or influence in _____’s (insert name of affiliated tax credit equity syndicator or investor) processing of the sponsor’s application for tax credit equity syndication or investment except by providing factual information to _____ (insert the name of affiliated tax credit equity syndicator or investor) in the same manner as would be provided to an unaffiliated MAP Lender.

(2) _____ (insert the name of affiliated tax credit equity syndicator or investor) will not condition its commitment to syndicate or invest in the project equity on debt financing for such a project being provided by _____ (insert name of MAP Lender).

(3) Except during the interim period prior to the placed in service date during which _____ (insert name of affiliated tax credit equity syndicator or investor) may make an equity bridge loan to the project, neither _____ (insert the name of affiliated tax credit equity syndicator or investor) nor any affiliate or subsidiary thereof will hold greater than a 25 percent interest in the 99 percent investor limited partnership entity (or an equivalent percentage if owned as an LLC) of the borrower.

“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.”

2.8 New MAP Lender Application Package

The new Lender's MAP application should be submitted to MACOD electronically in PDF format. There is no specific required application form for approval as a MAP Lender, but the information submitted must include the following exhibits:

Exhibit A. Name of applicant, address, employer identification number, contact person or persons, telephone and fax number, e-mail address, branch offices for multifamily business with address, telephone and e-mail address, and the FHA Mortgagee ID Number.

Exhibit B. List of names and titles of those who are authorized to bind the lender in matters involving an application, underwriting and origination of insured mortgages under MAP.

Exhibit C. Type of FHA-Mortgagee (e.g., supervised or non-supervised), type of legal structure (e.g., general corporation, limited liability corporation, partnership, housing finance agency or other), whether the Lender is a subsidiary of another company, and if so, identification of the parent company.

Exhibit D. Copy of most recent financial statements submitted to HUD's Office of Lender Activities and Compliance (not applicable to supervised mortgagees).

Exhibit E. Narrative discussion of the applicant's method of operation in multifamily lending. This will include whether it: a) services loans; b) is an originator that sells commitments or loans to others; c) originates and holds loans in its portfolio; d) purchases loans from others; and, e) has experience in construction loan administration. Also include the number, location and staffing of branch offices it operates and any other information the applicant deems relevant in providing a clear description of its business.

Exhibit F. Experience of the Lender in multifamily loan origination, for both conventional, GSE and FHA-insured loans. List the FHA-insured loans for which the Lender has received Firm Commitments in the last 5 years, the number, name, location, original amount, HUD Office where processed and whether the loan is in default has been assigned, or an election to assign the loan to FHA has been filed, or the Lender has elected to foreclose on the loan. The extent of conventional lending may be summarized rather than listing each conventional mortgage originated in the last 5 years. It is important to summarize the extent of conventional multifamily experience, the extent to which construction loan administration was involved and the number and percentage of defaults and foreclosures. List any FHA or conventional loan that was sold since origination and is serviced by another lender and report on whether the sold loan is in default, foreclosure or has been assigned to FHA. Default for these purposes means a loan whose payment is more than 60 days overdue.

Exhibit G. Narrative discussion explaining any elections to assign FHA loans for insurance benefits for any Initial Endorsements that occurred after May 1, 1995.

Exhibit H. Resumes of the staff who will be responsible for the submission of MAP loan applications that demonstrate that the staff has the required multifamily experience.

Exhibit I. Experience in construction loan administration, if intending to perform this function. Identify those persons authorized to sign advances, construction change orders and escrow releases.

Exhibit J. Information regarding:

1. Lawsuits/claims/judgments filed or issued in the last 5 years against the applicant which:
 - a. Concern equal employment or lender discrimination prohibited by law, or
 - b. Are a result of, or might significantly affect, its multifamily lending business.
2. Any criminal charges or civil complaints brought against the applicant related to the mortgage lending business.

Exhibit K. Certification by the Lender that it will certify with each pre-application submission and application for mortgage insurance that it is in compliance with the IOI provisions in the MAP Guide.

Exhibit L. An agreement that the Lender will open its files and records on all FHA applications for monitoring by MACOD, the Departmental Enforcement Center and the Office of Inspector General.

Exhibit M. A QC Plan for underwriting and construction loan administration, if applicable, of insured mortgages processed under MAP.

Exhibit N. A copy of the Letter of Approval/HUD approval evidencing approval as an FHA Approved Mortgagee.

2.9 Limitation on Requirements; Notifications

- A. There are no additional capital requirements for MAP Lenders beyond the minimum net worth and liquidity requirements in 24 CFR Part 202.5(n)(3).
- B. There is no fee charged by HUD for applying to be a MAP Lender.
- C. MAP Lenders must promptly notify MACOD if there has been a change in approved signatories. MAP Lenders are expected to at all times maintain staff with the level of experience and qualifications required by this Guide. Other than Underwriters, Chief Underwriters and Deputy Chief Underwriters, MACOD will not approve or disapprove of other individuals working for MAP Lenders.

- D. MAP Lenders must notify MACOD if there has been a change of address of their home office for multifamily business, electronic mail address or telephone number. If there is a change in ownership or in the controlling interest in a MAP Lender, or if the Lender has a material change in its way of doing business, the Lender must re-apply for MAP Lender status. If there is a change in the MAP Lender's name or in the name the Lender does business as (DBA) with no other substantive changes proposed, the Lender must notify MACOD of the change. The Lender must also include a certification that there has been no change in ownership, principal staff or in the lender's QC Plan and procedures. Lenders must notify MACOD if they withdraw as MAP Lenders, even if temporarily.

2.10 Lender Quality Control Plans; Record Keeping and Monitoring

All new and existing MAP Lenders must have a QC Plan that contains the information required by this chapter and by Appendix 2. The QC Plan must be updated annually.

MAP Lenders must make their files and records available to HUD or HUD's authorized contractors for such monitoring of MAP processed loans as HUD determines. Lenders must retain the loan origination and underwriting files for 7 years after Final Endorsement (even if the loan has been sold).

MAP Lenders are subject to, and must cooperate with, monitoring and periodic on-site reviews by MACOD or its representatives to verify that the Lender:

1. Adheres to all statutory, regulatory and MAP Guide requirements;
2. Has made underwriting decisions that are consistent with the requirements of the MAP Guide;
3. Has undertaken technical processing that is consistent with the requirements of the MAP Guide;
4. Has complied with the conditions of a Firm Commitment and the requirements for Initial or Final Endorsement; and
5. Has complied with the requirements for construction loan administration in the MAP Guide.

Additional information on the role, authority and procedures of MACOD is found in Chapter 15.

2.11 MAP Underwriter Approval Standards

Any applications submitted to HUD must be underwritten by a MAP-approved Underwriter who has been approved and certified either by HUD or by a HUD-approved Chief Underwriter who is employed by a MAP Lender. The process for approving and certifying MAP Underwriters by HUD or by Chief Underwriters is outlined below.

MACOD will approve MAP Underwriters for: a) Low Volume MAP Lenders (with less than a 4 year trailing average of \$100,000,000 in firm commitments annually) that choose not have its Underwriters approved by a Chief Underwriter; b) new MAP Lenders with less than 4 years MAP underwriting experience (or until MACOD has determined that they have gained sufficient experience); and, c) MAP Lenders with suspension or termination enforcement actions within the previous 4 years. All other MAP Lenders must approve their MAP underwriting staff pursuant to the Chief Underwriter process described below.

MACOD may reject or condition approval authority for MAP Underwriters, the basis for which will be in writing. Lenders may appeal rejections or conditions to approval to the DAS for Multifamily Housing.

A. MAP Underwriters

A MAP Underwriter must be a full-time salaried employee of the MAP Lender and may not be hired on a contract basis just for a particular loan application. Underwriter compensation may not be based solely on loan production volume, nor may the underwriter be compensated in a way that may be construed as a means of discouraging prudent risk management. MAP Underwriters may not hold a significant equity position in, or be a principal of, the MAP Lender or any of the lender's affiliates, although Employee Stock Ownership Plans and similar forms of compensation are permitted.

Applicants for MAP Underwriter designation may range from trainees to veteran executives with years of experience, but all are expected to be current and to document that they have met the minimum education and experience requirements expected of Underwriter trainees. The applicant must demonstrate competence and the following qualifications:

1. Requirements: The applicant must have knowledge and skills in a variety of financial areas, including:
 - a. General experience in banking, accounting, finance, commercial lending and in multifamily mortgage financing;
 - b. The ability to analyze corporate and personal financial statements including, but not limited to, balance sheets, income statements, statements of changes in financial position and to evaluate the credit acceptability of individuals, partnerships, corporations and other entities;
 - c. A broad knowledge of lending practices for permanent mortgages, construction loans and the financial structures of individuals, partnerships and other business entities; and
 - d. Demonstrate recent, like-kind underwriting experience. Recent experience is defined as actual underwriting experience obtained by underwriting funded multifamily permanent loans within the previous 5 years. Like-kind

experience is defined as underwriting with comparable duties and responsibilities as required under the MAP program.

2. Application for HUD approval of MAP Underwriters (who will not otherwise be approved under the procedures contained in Section 2.12, below): The request for approval should be submitted electronically in PDF format to MACOD by a senior officer of the MAP Lender with signatory authority and include the following exhibits:
 - a. Resume of the Underwriter that demonstrates the specific qualifications, education and level of experience.
 - b. Documentation of successful completion of relevant education and training courses.
 - c. List of loans (MAP and otherwise) processed and underwritten by the Underwriter that reached Firm Commitment (or its equivalent under other loan programs), certified and signed by a senior officer of the MAP Lender with authorized signatory designation and by the underwriter applicant. The list must contain the following warning code:

“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.”

- d. Additional supporting documentation as may be requested by MACOD.

B. Chief Underwriters

MAP Lenders that are responsible for approving their MAP Underwriters pursuant to this Chapter must designate an employee as a Chief Underwriter who has been approved by MACOD. The designated Chief Underwriter will have responsibility for approving MAP Underwriters and Deputy Chief Underwriters and must certify that they are qualified in accordance with MAP Guide requirements. If the Chief Underwriter is absent or is no longer employed by the MAP Lender, and there is no Deputy Chief Underwriter available

to perform these functions, the lender may not submit new applications until MACOD has approved a new Chief Underwriter to perform them.

Ongoing eligibility to approve Underwriters will be determined by MACOD, by confirming the following: a) the MAP Lender is in good standing; b) the Chief and Deputy Chief Underwriters are in good standing; c) the Chief Underwriter or Deputy has co-signed each application submitted by a designated underwriter; and, d) the Chief Underwriter confirms in his/her annual Certification that the MAP Lender's QC Plan and underwriting staff are in compliance as defined herein.

1. The proposed Chief Underwriter must:
 - a. Be approved in writing by MACOD.
 - b. Be in good standing with the Department and in full MAP compliance, defined as not having been subjected to MAP disciplinary actions (probation, suspension or termination) over the previous 5 years.
 - c. Have evidence of 10 years prior underwriting experience, which need not be continuous, but must total 10 years. The experience must include a minimum of 5 years FHA/MAP underwriting experience, with the remaining experience to be comprised of Fannie Mae, Freddie Mac, HFA Risk Sharing or equivalent experience underwriting construction and/or permanent loans on multifamily properties. The proposed Chief Underwriter's application must include a list of FHA loans the applicant has underwritten and the name(s) of the processing MAP Lender. The applicant may request that 1-year's equivalent experience be granted for evidence of each 10 acceptably processed Firm Commitment applications, for up to 5 years of the required experience.
 - d. Demonstrate experience in the training, development and oversight of MAP Underwriter trainees. The application should include specific training experience with a list of all personnel they have trained.
 - e. May not hold a significant equity position in, or be a principal of, the MAP Lender or any of the lender's affiliates, although Employee Stock Ownership Plans and similar forms of compensation are permitted.
2. The roles and responsibilities of Chief Underwriters include:
 - a. Creation and oversight of the MAP Lender's training and development program for underwriting personnel.

- b. Approval of MAP Underwriters.
 - c. Confirmation of the MAP Lender's compliance with statutory, regulatory and programmatic underwriting processes, requirements and standards.
 - d. Establishment and oversight of the MAP Lender's QC process.
 - e. Reviewing, approving and cosigning all HUD mortgage insurance applications. All application submissions must be cosigned by the Chief Underwriter, who may delegate responsibilities to the Deputy Chief Underwriter, but otherwise remains responsible for the submission.
 - f. Implementation of MACOD recommended improvements, including any findings and observations from MACOD's review of the MAP Lender or of its loans.
3. MAP Underwriter Approval Process and Certification.
- a. The MAP Lender and its Chief Underwriter must provide a certification that the MAP Underwriter or the Underwriter Trainee has complied with all experience and training requirements detailed in this Chapter and must evaluate the prospective Underwriter to ensure the following:
 - i. The Underwriter has completed and complied with the MAP Lender's approved training plan.
 - ii. The Chief Underwriter has extensively reviewed the Underwriter Trainee's underwriting during the training period to ensure that it complies with MAP requirements, as well as accurately identifying and addressing the risks associated with the proposed loan.
 - iii. The Chief Underwriter has reviewed and ensured that the loan documentation submitted to HUD during the training period was complete and that the submission did not require significant revision to correct errors or omissions by HUD staff.
 - b. The MAP Lender and Chief Underwriter must notify MACOD and certify that the Underwriter or the Underwriter Trainee has satisfactorily completed the designation criteria and has been approved and designated to underwrite loans. The designee is not authorized to begin underwriting until MACOD is in receipt of and acknowledges the MAP Lender's notification and certification.
 - c. Although HUD will rely upon the designation and certification by the MAP Lender, HUD reserves the right, with due cause and based on written notification, to deny or rescind such approval and otherwise hold the MAP Chief Underwriter

accountable under any of the following circumstances:

- i. Evidence that the Underwriter Trainee's work product during the training period was unsatisfactory;
 - ii. Prior incidences of poor underwriting that display a lack of knowledge or failure to exercise prudent judgment or risk management;
 - iii. Listing of the Underwriter Trainee on HUD's LDP, suspension or debarment list; or,
 - iv. For other good cause as determined by HUD.
- d. QC reviews prepared by the MAP Lender must include confirmation that the Chief Underwriter and the Underwriter(s) are approved and have satisfactorily completed all designation criteria, including, without limitation, the MAP Lender's approved training and approval requirements. During the QC process, the reviewer will ensure that each loan reviewed was underwritten by an approved and designated Underwriter, and, if the Underwriter was approved within the previous 4 years, the QC review should include a review of the Underwriter's approval package.

C. Deputy Chief Underwriters

The MAP Lender's Deputy Chief Underwriter may perform all functions delegated to the Chief Underwriter, but the Chief Underwriter remains responsible for all actions of the Deputy Chief Underwriter. With notice to and approval by MACOD, the Deputy Chief Underwriter may also act as an interim Chief Underwriter to maintain business continuity in emergency situations. The MAP Lender must obtain MACOD's approval if the Deputy Chief Underwriter will act as the Chief Underwriter for more than 3 months. High Volume MAP Lenders (with more than a 4 year trailing average of \$100,000,000 in firm commitments annually) may designate more than one Deputy Chief Underwriter.

1. The proposed Deputy Chief Underwriter must:
 - a. Be approved in writing by MACOD;
 - b. Be in good standing with the Department and in full MAP compliance, defined as not been subjected to MAP disciplinary actions (probation, suspension or termination), during the previous 5 years;
 - c. Provide evidence of 5 years prior underwriting experience including a minimum of 3 years of FHA/MAP underwriting, with the remaining experience comprised of Fannie Mae, Freddie Mac, HFA Risk Sharing or equivalent experience underwriting permanent loans on multifamily properties. The experience need

not be continuous but must total 5 years. The proposed Deputy Chief Underwriter's application must include a list of FHA loans underwritten and the name(s) of the processing lender. The underwriter may request that 1-year's equivalent experience be granted for evidence of each 10 acceptably processed Firm Commitment applications; and

- d. Not hold a significant equity position in, or be a principal of, the MAP lender or any of the lender's affiliates, although Employee Stock Ownership Plans and similar forms of compensation are permissible.

2.12 MAP Underwriter Trainee Approval Requirements

A MAP Lender may train its in-house staff to be new MAP Underwriters for approval either by MACOD or by the Lender's Chief Underwriter under the procedures in Section 2.11, above. The lender must establish a written development plan for underwriter trainees that includes a combination of commercial/multifamily training courses and on the job experience.

- A. The Underwriter trainee must have successfully completed at least 3 underwriting, finance, appraisal or environmental courses that demonstrate basic understanding of multifamily underwriting concepts, one of which must be a multifamily/ commercial appraisal course. These courses may be obtained through the American Bankers Association, Institute of Real Estate Management, National Association of the Review Appraisers & Mortgage Underwriters, the Mortgage Bankers Association of America (MBA), the Appraisal Institute or any other acceptable training institution such as colleges and universities. Suggested courses include *Commercial Underwriting*, *Understand Your Construction Borrower*, *Analyzing Financial Statements*, *Commercial Real Estate Financing and Valuation*, *Appraisal: Concepts and Applications*, *Appraisal Principles*, *Appraisal Procedures*, *Basic Income Capitalization*, *Advanced Income Capitalization*, and *Uniform Standards of Professional Appraisal Practice (USPAP)*.

Education used to meet Underwriter approval requirements must be comprehensive enough to provide substantive background. In-depth specialized technical training provided by recognized training institutions, trade associations or private firms will be considered so long as the content and duration of the class is analogous to a college-level class. One-day seminars or participation in industry conferences are appropriate (and expected) for continuing education but are not sufficient to meet the requirement for one of the 3 courses. Lenders or training providers may submit a course syllabus to MACOD if there is a question as to the sufficiency of a particular course to meet the requirement.

- B. In addition to the training courses, HUD requires on-the-job training of a minimum of 3 years continuous work experience in multifamily mortgage lending. The Underwriter trainee must work on a minimum of 3 MAP applications that reach Firm Commitment. Section 223(a)(7) refinancing transactions may only be credited towards one of the three minimum MAP applications. Only one Underwriter trainee may assist the MAP-approved Underwriter in completion of any MAP application, which should document that the trainee was supervised by only one MAP-approved Underwriter mentor.
- C. An Underwriter trainee may assist the MAP Underwriter in completion of the underwriting, and both the MAP approved Underwriter and the trainee must sign the Narrative Summary and the processing forms.
- D. The MAP-approved Underwriter must accept responsibility for all aspects of the loan underwriting as evidenced by the signed Narrative Summary and processing forms.
- E. The Underwriter trainee must be a full-time salaried employee of the MAP Lender and may not be hired on a contract basis just for a particular loan application.
- F. The Underwriter trainee may not hold a significant equity position in, or be a principal of, the MAP lender or any of the lender's affiliates, although Employee Stock Ownership Plans and similar forms of compensation are permissible.
- G. The trainee's contribution to the underwriting, and the specific tasks performed by the trainee, must be stated in the Narrative Summary.
- H. Work completed by an Underwriter trainee must be under the direct supervision of a MAP approved Underwriter and it is unacceptable for the MAP Underwriter to merely sign a form or document prepared by a trainee without providing proper supervision. The mentor Underwriter must add a paragraph in the Underwriter Certification to certify that he/ she has directly supervised the underwriter trainee in completion of the specific tasks in the underwriting narrative and the processing forms.
- I. For new MAP Underwriters who must be approved by MACOD, a written request for approval of the trainee as a MAP Underwriter should be submitted electronically in PDF format by a senior officer of the MAP Lender with signatory authority to MACOD and include the following exhibits:
 - a. A written development plan established for the Underwriter trainee.
 - b. A resume of the Underwriter trainee that demonstrates the specific qualifications, education and the level of experience outlined above.
 - c. A list of MAP loans processed and underwritten by the trainee that reached Firm Commitment, certified and signed by a senior officer with authorized signatory

designation and by the Underwriter trainee. The list must contain the following warning:

“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.”

- d. An electronic submission of complete documentation of each MAP application on which the underwriter trainee worked (a hard copy is not required and should not be submitted). The documentation, signed by the trainee and co-signed by the mentor underwriter, must include:
 - i. A copy of Underwriter’s Narrative that clearly identifies the specific tasks performed by the underwriter trainee;
 - ii. A copy of completed Form HUD-92264-A and other forms and / or exhibits for the type of mortgage proposed that require a mortgage credit analysis (refer to Chapter 8 and Appendix 4);
 - iii. A copy of the Master HUD-92264; and,
 - iv. An IOI Certification, as required by Section 2.11, signed and dated by the Underwriter trainee only.

- J. Underwriter candidates who have successfully completed the MBA’s 6-month FHA Multifamily underwriting course will receive credit toward the experience and education requirements. Completion of that course will:
 - 1. Fully satisfy the requirement to complete 3 courses;
 - 2. Satisfy half of the 3 transactions requirement; and,
 - 3. Satisfy half of the 3 years of experience requirement.

By satisfying half of the MAP Underwriter requirements in #2 and #3, above, the candidate may elect to utilize the course completion to fulfill either two transactions/one year, or one transaction/two years of the requirements. The applicant should submit evidence of completion of the MBA MAP Underwriter course and indicate how they wish to utilize the course completion toward the minimum transaction requirements.

2.13 MAP Underwriter Transfers

- A. MAP Underwriters who are in good standing may transfer to another approved MAP Lender.
- B. A written request for transfer approval should be submitted electronically in PDF format to MACOD, on behalf of the transferring MAP Underwriter, by a senior officer with signatory authority of the MAP Lender to which the MAP Underwriter has or intends to transfer and include the following exhibits:
 1. Resume of the Underwriter that demonstrates the specific qualifications, education and the level of experience.
 2. Evidence of prior MAP Underwriter approval.
 3. A list of MAP loans processed and underwritten by the Underwriter that reached Firm Commitment, certified and signed by the Underwriter applicant. The list must contain the following warning:

“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.”
 4. A detailed list of all prior MAP loan defaults, assignments or claims with which the Underwriter was associated, including a detailed explanation of each default’s, assignment’s or claim’s circumstances and any applicable mitigants.