

# Lender Underwriting HUD Review

### 11.1

### Lender Underwriting

A. Pre-application. When a Lender is contemplating submitting a pre-application to HUD, the Lender should provide HUD immediately in writing the names and qualifications of the proposed in-house underwriter, contract appraiser, and/or contract market analyst. The review and approval of the lender's principal staff and consultants must be made by the Hub Director and designated MAP staff within the Hub and Program Centers. If a member of the Lender's staff or a contractor has been previously approved by a Hub, the Lender is required only to submit the names of the staff or contractor and note the prior approval. HUD will advise the Lender within five business days of any problems with a proposed reviewer. If a Lender is concerned about key aspects of the transaction, competing proposals, or market or environmental issues, the Lender is encouraged to have informal discussions with HUD staff to gain their insights regarding those concerns. The MAP Lender's underwriter must review the developer's materials before submitting a request for HUD field office review and determine that based on the information provided the proposal should be able to meet the requirements of this guide and represents an acceptable risk to the FHA mortgage insurance fund. The pre-application submission to the HUD field office must include a narrative summary prepared by the underwriter which provides:

1. A description of the proposed project and the surrounding area including demand, extent of competition, vacancy rates, market absorption and any other information that would be useful to FHA.
2. Explanations for any differences between the HUD-92013 application and the market study.
3. Features of the proposal (e.g., zoning, unusual site conditions, environmental) which may present potential problems.
4. List of proposed MAP Lender reviewers of the Firm Commitment application, both in-house and third party, and their qualifications.

NOTE: If the proposed loan is a Section 223(f) or a 232/223(f) requiring no preapplication submission, the list of proposed reviewers and qualifications must be submitted to the Hub before the Lender initiates the appraisal or any technical review in order to avoid any problems with the individual reviewers at the Firm stage. Prior informal discussion with HUD staff would be available and encouraged, but not required for a mortgage insurance application pursuant to Section 223(f).

- B. Firm Commitment application: The MAP Lender's underwriter must review the in-house and third party reports and determine that the processing of the loan is in accordance with the requirements of this guide and that the proposed loan represents an acceptable risk (replacement cost programs) or is economically sound (value programs). The underwriter must document any changes made to the Lender's technical reports. In the package submitted to HUD, the underwriter must provide a narrative analysis describing the mortgage transaction containing a discussion of:
1. Characteristics of the proposed mortgage that make it economically sound or an acceptable risk and the reasons why the Lender recommends the loan for mortgage insurance.
  2. Any risk factors.
  3. Changes in the project from the preapplication stage including changes in sponsorship, proposed mortgagor development team and Lender reviewers.
  4. Evaluation of the financial capacity of the principals of the borrower and its ability to repay the loan.
  5. Evaluation of the financial and technical capacity of the general contractor to build/rehabilitate the project.
  6. Property's financial analysis (profile and trend) (Section 223(f),232/223(f) only)
  7. Property's physical description (Section 223(f), 232/223(f) only).
  8. History of borrower's equity investment in the property (Section 223(f), 232/223(f) refinances only).
  9. Analysis of market, rents, expenses and estimated rent-up and operating deficit.
  10. Adequacy of the proposed Reserve for Replacement (207/223(f) and 232/223(f) only).
  11. Documentation of any changes the underwriter made to the appraisal/technical reports with justification.
  12. Requests for any waivers of FHA requirements with supporting documentation.
  13. Certifications from the individual reviewers. (See 11.2H.)
- C. Due diligence. With the Firm Commitment package the MAP Lender certifies that:
1. The Lender has reviewed all in-house and third party forms/reports/reviews.
  2. The preparer of the forms/reports/reviews is qualified as required by this guide, and has the insurance, if any required by this guide.
  3. The forms/reports/reviews were prepared in the manner required by the guide and the forms/reports reviews are complete and accurate.
  4. The proposed loan represents an acceptable risk to the Department (replacement cost programs) or is economically sound (value programs), based upon the Lender's review and analysis and the proposed loan and processing complies with all FHA statutory

regulatory and administrative requirements.

D. HUD Forms Submission. The lender prepares a **Master** HUD 92264 which whenever possible should be signed by the lender's underwriter and all third party contractors. If the third party contractor has signed the Master HUD 92264, they do not need to prepare an individual 92264. Third party contractors are cautioned not to sign the Master HUD 92264 if they are not in agreement with its conclusions. If the third party contractor is not in agreement with the conclusions in the Master 92264, they must prepare and sign an individual 92264. In all cases, the lender's underwriter must sign the Master HUD 92264. Any variations between the Master 92264 and the individual contractors' 92264 must be identified and justification for the variance provided.

1. If there is a logistical difficulty in getting all of the technicians' signatures on the Master HUD 92264, it shall be permissible for each third party contractor to complete and sign an individual HUD 92264. All of the individual contractor 92264s must be submitted to HUD along with the lender's master HUD 92264.
2. MAP requires the Lender to certify that all parties preparing forms, reports, or reviews are qualified as required by the MAP Guide. HUD does not review qualifications of the mortgagor's Architect; the Lender is responsible to determine that the mortgagor's Architect is qualified. This is also the case for 223(f) projects. HUD does not need to review the Needs Assessor's qualifications.

## 11.2

### HUD Field Office Underwriting Review

A. Pre-application. HUD field staff must advise MAP Lenders of competing proposals submitted to the Hub and any market or environmental concerns. If the Team Leader determines that the submitted deliverables are incomplete but curable within a short time, the Lender can have five business days to correct the deficiencies. The Team Leader will advise the Lender by fax or email. Once the Team Leader determines that the pre-application deliverables are complete, the Team Leader assigns the deliverables to the HUD technical specialists including Economic and Market Analysis Staff (EMAS). HUD field staff have five business days for a completeness review of pre-application deliverables. The underwriting review time does not begin until the Team Leader determines the deliverables are complete. The format for the technical specialist review is in Appendices 5,6,7, and 8. Upon completion of the technical reviews of the submitted materials, including the list of Lender reviewers and their qualifications, the Team Leader will prepare a memorandum to the Hub director. The memorandum will summarize the results of the technical reviews and recommend whether or not to invite a Firm Commitment application. Where the Team Leader rejects or modifies the recommendation of a technical reviewer, it should be noted in the memorandum. If the director concludes that an application should be invited, the Team Leader will prepare an invitation letter (See 11.2.I) including any conditions. If the director concludes that an application should not be invited, or there are issues that need to be resolved before an application can be invited, the Team Leader will prepare a letter to the MAP Lender explaining why an application was not invited. If there are issues that need to be resolved or discussed, the Hub has the option of scheduling a meeting with the MAP Lender.

- B. HUD Reviewers Signature and Certifications: Upon determination of acceptability for processing, the HUD reviewers should sign their individual Technical Reviews and when determined acceptable for processing, the Master HUD 92264 prepared by the lender. The Master HUD 92264 is the most critical underwriting document because it is a summarization of key technical processing conclusions which, along with the HUD Form 92264A, are the basis for the FHA Firm Commitment. Since MAP requires a technical review of the lender's underwriting conclusions, the Master HUD Form 92264 is the logical and appropriate form that HUD reviewers should sign or co-sign to authenticate their review as opposed to individual 92264s prepared by third party contractors. HUD appraisal reviewers should also sign the Forms 92273 and 92274 which provide crucial underwriting justifications for the amounts in the 92264. Long before the implementation of MAP, it has been an FHA basic procedure to require the HUD review appraiser's signature on the aforementioned forms.

The Department believes that the continuation of this long standing policy clearly documents the underwriting conclusions and decisions made by HUD staff. This same policy is extended to HUD architecture, and cost, and mortgage credit examiners performing review functions under MAP and their respective forms. HUD review appraiser signatures, on such Forms as the 92264, attest to the quality of the review, that the processing is in compliance with MAP technical instructions, that it is free of errors and has no omissions, and that the appropriate appraisal procedures and analysis have been completed. Additionally, as the MAP Guide currently states, MAP requires a Technical Review of appraisals.

The HUD review appraisers' signature on the Master HUD 92264 and the 92273 and 92274 should not be construed as the reviewers' acceptance of full responsibility for all elements of the report. To avoid any confusion or misunderstanding regarding the HUD review appraiser signing the 92264, 92273 and 92274, the Department invokes the USPAP Jurisdictional Rule. The authority justifying this action should be stated in the review appraisers work product and in Section O, "Remarks and Conclusions", of the HUD Form 92264. As a guide and for the purposes of consistency we suggest that MAP review appraisers use the following language:

"Despite joint signatures of the appraiser and review appraiser on this document, the review appraiser's signature does not constitute the acceptance of full responsibility for the appraisal or the contents of the appraisal report under review. It indicates that the processing has been reviewed in conformance with USPAP Standard 3 and related provisions and found to be acceptable for use in HUD's internal underwriting decision making process".

The HUD's review appraisers' technical review should comply with USPAP Standard 3. To document his review, the review appraiser should complete Appendix 7C.1 and the review report must include a signed certification as prescribed by USPAP Standard 3.

- C. Review of MAP Lender team members. HUD staff needs to check the Limited Denial of Participation List and the Consolidated List of Suspended and Debarred Contractors. Where the Hub has problems with qualifications or past performance of a Lender reviewer who has prepared the preapplication materials, the Team Leader should halt the HUD review and

advise the Lender immediately. In cases where the Lender reviewer will only be involved at the Firm Commitment stage, the field office can make substitution of the reviewer a condition of the invitation letter. For Section 223(f) or 232/223(f) cases, or where the MAP Lender submits the list of reviewers prior to initiation of Lender processing, the Team Leader needs to request immediate reviews by the technical staff and advise the Lender within 5 days if the Hub has a problem with a particular reviewer.

- D. Environmental Assessment. The MAP Lender can submit any additional or updated environmental information prior to submission of the Firm Commitment deliverables. The Team Leader can direct the staff to complete the HUD environmental assessment prior to submission of the Firm Commitment deliverables in order to expedite the review. The Team Leader should initiate such an action only in instances where it is clear that the MAP Lender will meet the deadline for submission of the Firm Commitment deliverables.
- E. Firm Commitment. If the Team Leader determines that the application is incomplete but curable, the MAP Lender has five business days to correct the deficiencies. Once the Team Leader determines that the Firm Commitment deliverables submitted by the MAP Lender are complete and acceptable for review, the Team Leader will assign the deliverables to the HUD technical specialists. HUD field staff have five business days for a completeness review of firm application deliverables. (Project fiscal procedures (Handbook 4410.1 REV-2) including selection of project numbers, application and inspection fees, and mortgage insurance premiums, remain in effect.) The director or Team Leader can require a more extensive FHA review of the deliverables for transactions which may increase FHA's risk such as the following:
1. Mortgage amounts of \$15 million or more.
  2. Requests for waivers of commercial space or commercial income limitations.
  3. Substantial rehabilitation proposals changing building use from non-residential to residential.
  4. Waivers of the limitations on the cost not attributable to dwelling use or where the site value allocated for costs not attributable to dwelling use may be requested.
- F. Underwriting recommendation. Each HUD technical specialist by discipline would review the respective Lenders' reviewers reports, the underwriting summary and certain key elements of the application specified in the Guide. The HUD technical specialist would review the quality of the Lender's review and the transaction itself. The HUD technical specialists would not reprocess the case. However, if the technical specialist determines that certain underwriting conclusions are not supportable and affect HUD's risk, the specialist would recommend modification of the Firm Commitment application, recommend that the Lender modify the application or recommend a rejection. Whether to modify internally or by the lender may depend upon the scale or severity of the issue, timing, etc. The team leader must make the decision to approve, reject or require modification of the application based upon the recommendation of the specialist. The formats for the HUD technical specialist reviews are in the appendices to Chapters 5,6,7 and 8. The Team Leader is authorized to approve, reject or modify the recommendation of the specialist.

Upon completion of the technical reviews and the environmental assessment, the Team Leader will prepare a memorandum to the director summarizing the individual reviews of the specialists, any proposed waivers of FHA underwriting requirements and the Team Leader's overall recommendation. The memorandum will specifically address

1. the adequacy of the initial operating deficit for any new construction or substantial rehabilitation loans,
2. the adequacy of both the initial deposit and ongoing reserve for replacement and any non-critical repairs to be performed after closing for section 223(f) loans,
3. any environmental conditions and any other concerns raised by the Lender or HUD staff, and
4. Subsidy layering compliance if requested in accordance with Notice 95-4 as modified by any subsequent directives.

Attached to the memorandum will be the previous participation (2530) approval, specific HUD staff reviews, the Lender narrative summary, the Lender's technical reviews and, if recommended for approval, a proposed FHA Firm Commitment with Forms 92264 and 92264a signed by the HUD reviewers and Team Leader. Where the Team Leader has rejected a conclusion by the reviewer, or has modified any technical recommendation by the MAP Lender or HUD reviewer, documentation and justification must be included in the memorandum.

- G. Firm Commitment Decision. Once the director reviews the memorandum and backup documentation, the director will either issue the Firm Commitment and sign the Form 92264 as prepared by the Team Leader, instruct the Team Leader to modify the Firm Commitment, return the package to the Lender for modification or reject the application. If the director overrides the recommendation of the Team Leader, or modifies any technical recommendation by the Lender or any HUD reviewer, the decision and justification must be documented in the file. MAP Lenders can appeal any rejections/modifications to the Hub Director. Firm Commitments will be issued for a term of 60 days with the Hub Director permitted to grant extensions. The Hub Director must assure that prolonged extensions of commitments do not occur. When the Hub Director determines that extenuating circumstances justify extensions of outstanding commitments, the Hub Director must document that the requested delay is not likely to change significantly the underwriting data on which the commitment was based or to undermine the feasibility of the project due to a change in the market, inflation, or other factors affecting cost.

Note: Only the Hub Director, HUB Operations Director or Program Center Director or persons acting in those positions, are authorized to sign FHA Firm Commitments or endorse FHA Mortgage Notes.

The Department has some flexibility when dealing with the resubmission of rejected applications. In accordance with Section 3.2 M of this Guide the fiscal procedures contained in HUD Handbook 4410.1 Rev-2, Project Fiscal Procedures, will apply.

- H. Amended commitments. An amended commitment bears the same date as the original commitment, followed by the date of the amendment. With this type of change, the effective regulations are those outstanding on the original issue date. Most underwriting changes such as changes in mortgage amount and/or interest rate are honored by amended commitments.
- I. Reissued commitments. A reissued commitment carries only its own date since a mortgagee by accepting a reissued commitment surrenders all rights it had under the original or amended commitment. Reissuance is required for:
1. Request for reconsideration of an expired or terminated commitment.
  2. Change in location.
  2. Major change in plans and specifications.
  3. Changes in Mortgage Insurance premiums
- J. Waivers. The Hub Director can waive any requirements of this guide that are not statutory or regulatory except for the following:
1. Debt coverage ratios for all programs.
  2. Loan to value ratios for Section 223(f) loans.
  3. Restrictions on elderly meal and service packages that preclude high end Retirement Service Center type facilities.
  4. Three year rule for Section 223(f), as modified for properties constructed or rehabilitated with FHA insured loans and Davis-Bacon wage rates.
  5. Application exhibits required for pre-application submissions and Firm Commitment applications for specific programs. Documents required by the Guide text, that may in some cases not be mentioned on the exhibit list, are still submission requirements.
  6. Processing stages (Pre-application and Firm Commitment) and HUD review procedures.

Any waiver requests requiring Headquarters approval should be submitted as early as possible by the Hub Director to the Director of the Office of Multifamily Housing Development. Please note that any requests for regulatory waivers will take Headquarters longer to process since they require review and concurrence from the Office of General Counsel and the Deputy Assistant Secretary for Multifamily Housing as well as the review and approval of the Assistant Secretary for Housing/ FHA Commissioner. Headquarters will not consider waiver requests submitted directly by MAP Lenders.

Any waiver granted in connection with the proposed transaction must be documented in the field office docket and Washington docket, along with the Lender's request and field office request. Waivers granted at the Hub level must be submitted, along with supporting documentation, to the Office of Multifamily Housing Development attn; lender Monitoring Division will review all waivers requested and granted to determine if changes to this guide or the regulations are necessary.

7. A Hub Director is authorized to waive the limitations on Cost Not Attributable (CNA) in Chapter 6 or Site Not Attributable (SNA) in Chapter 7 only in those instances where it can be documented that the project will produce affordable housing through the use of bond financing, tax credits, tax abatement, CDBG, HOME, HOPE VI, or similar local funds.

K. Certifications.

I understand that my (appraisal, market study or architectural, cost, mortgage credit, valuation review) will be used by \_\_\_\_\_ (name of MAP Lender) to document to the U.S. Department of Housing and Urban Development that the MAP Lender's application for FHA multifamily mortgage insurance was prepared and reviewed in accordance with HUD requirements. I certify that my review was in accordance with the HUD requirements applicable on the date of my review and that I have no financial interest or family relationship with the officers, directors, stockholders, or partners of the Borrower, the general contractor, any subcontractors, the buyer or seller of the proposed property or engage in any business that might present a conflict of interest.

I am employed full time by the MAP Lender (underwriter) or under contract for this specific assignment (appraiser, market analyst, cost architect) and that I have no other side deals, agreements, or financial considerations with the MAP Lender or others in connection with this transaction.

\_\_\_\_\_ Signature

Warning: Title 18 U.S.C. 1001, provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any manner in the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years or both.

L. Sample MAP Invitation letter format.

Mr./Ms.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Dear Mr./Ms.:

Subject: MAP Invitation Letter  
 No.  
 Section  
 (Name of Project)  
 (City/State)

This is to inform you that our staff has reviewed the pre-application materials for the subject proposal and finds it to be worthy of further consideration should you decide to submit an application for Firm Commitment for mortgage insurance. There is a market for the proposal based upon our review of the appraisal and market study. The site appears acceptable based on our inspection and the information provided.

In the event that you desire to continue with this project and submit an application for Firm Commitment, it is understood that the project will have the following characteristics:

| <u>Type of Unit</u> | <u>Sq. Ft.</u> | <u>Number</u> | <u>Monthly Market Rental</u> |
|---------------------|----------------|---------------|------------------------------|
| Efficiency          | _____          | _____         | _____                        |
| One Bedroom         | _____          | _____         | _____                        |
| Two Bedroom         | _____          | _____         | _____                        |
| Three Bedroom       | _____          | _____         | _____                        |
| Four Bedroom        | _____          | _____         | _____                        |
| Total               | _____          | _____         | _____                        |

Equipment and Services included in the rent are:

Number of Parking Spaces: Enclosed \_\_\_\_\_ Open \_\_\_\_\_  
 Estimated Monthly Parking Rental \$ \_\_\_\_\_  
 Residential Accessory Income \$ \_\_\_\_\_  
 Commercial Area \_\_\_\_\_ sq. ft. Estimated Monthly Rental \$ \_\_\_\_\_

The operating expense estimate of \$ \_\_\_\_\_ per unit per annum is acceptable. The total for all improvements appears to be within a reasonable range. Attached is the current wage decision for this area. Please contact the Labor Relations staff at \_\_\_\_\_ for any updates while preparing your Firm Commitment application.

Land value/as-is value will be determined at the Firm Commitment stage. Excess costs resulting from any unusual site conditions identified in the construction cost estimate at the Firm Commitment stage will be deducted from the land value fully improved (with offsite improvements installed). The HUD environmental assessment and HUD previous participation (Form HUD-2530) will not be completed until the Firm Commitment package is submitted to HUD.

It is important to understand that this letter is not to be construed as a commitment on the part of FHA to insure a mortgage for your proposal. It is intended only to establish general agreement on the basic concept, market, rents and expenses for your proposal. If the Firm Commitment application submitted is consistent with the pre-application submission, does not trigger the thresholds for a more extensive review and no problems arise because of environmental or previous participation issues, HUD should be able to complete its review within the scheduled time. If there are significant changes from the concept agreed to at the

pre-application submission, HUD will need more time to complete an extensive review, will not be bound by the scheduled review time and could result in rejection of the Firm Commitment application. Significant changes would include changes in:

- a. Location,
- b. Building type,
- c. Market to be served,
- d. Rents, unit number, unit mix or gross project area great enough to affect market potential (i.e., 5 percent) and/or require a new market study and HUD review.

Therefore, you are invited to submit a Firm Commitment application for mortgage insurance, along with a fee of \$3 per thousand of mortgage amount fee with required MAP Lender deliverables, by (insert date 120 days after the date of the letter). The Lender must advise HUD in writing within 30 days of the date of this letter of invitation whether or not it plans to submit an application for the particular project. If it fails to notify HUD within the time required, the invitation letter expires, and it may be required to repeat the pre-application process.

The application for a Firm Commitment must be submitted within 120 days of the date of the letter of invitation. Two 30-day extensions of this 120-day limit may be authorized by HUD, but there is no requirement that the extensions be approved. HUD will review the circumstances reported by the Lender to justify the extension of time. The Lender must certify and HUD must determine that the requested delay beyond 120-days is not likely to change the underwriting data on which the invitation was based or to undermine the feasibility of the project due to a change in the market or other factors determined at pre-application.

The application for a Firm Commitment must be submitted within 120 days of the date of the letter of invitation. Two 30-day extensions of this 120-day limit may be authorized the feasibility of the project due to a change in the market or other factors determined at pre-application.