

CHAPTER 15

QUALITY ASSURANCE ENFORCEMENT ACTIONS

15.1. SANCTIONS OF A MAP LENDER: OVERVIEW.

- A. By permitting a MAP Lender to prepare much of the documentation for a loan submission for mortgage insurance, HUD places confidence in the Lender's integrity and competence. HUD and MAP Lenders have a mutual interest in ensuring consistent Lender competence and compliance with the MAP Guide and other relevant guidance and handbooks. If in the process of performing this work, the Lender places HUD at risk, HUD needs to issue a Warning Letter or sanction the Lender as quickly as possible.
- B. Every HUD multifamily employee plays an important role in the MAP Quality Assurance (QA) effort. This Chapter provides QA guidance to Program Centers, Hubs, and the Office of Multifamily Development (OMD) including the Lender Qualifications and Monitoring Division (LQMD), regarding QA tools: i) Warning Letters; ii) Probation; iii) Suspension; iv) Termination; v) Limited Denial of Participation (LDP); and vi) referral to the Mortgagee Review Board or the Office of Inspector General. An LDP is a sanction applied to participants in loan transactions other than FHA-insured lenders; the procedures governing LDP are set forth in 24 CFR § 24.700, *et seq.* The purpose and authority of the Mortgagee Review Board is set forth in 24 CFR Part 25.

15.2. WHO HAS THE AUTHORITY TO ISSUE WARNING LETTERS, PROBATIONS, SUSPENSIONS AND TERMINATIONS, INITIATE LIMITED DENIAL OF PARTICIPATION ACTIONS AND MAKE RECOMMENDATIONS TO THE MORTGAGEE REVIEW BOARD AND THE OFFICE OF INSPECTOR GENERAL?

- A. General.
 - 1. At any time a Hub/Program Center Director or the Director of OMD may initiate discussion with a MAP Lender regarding any concerns HUD has with respect to any of the Lender's actions or personnel, or any changes the Lender should make using its MAP authority. In this connection, HUD employees are reminded of the Department's policy on use of electronic mail contained in HUD Administrative Handbook 2400.1, Chapter 7.

2. If there are concerns about the Lender's underwriting and/or construction loan administration, a Hub/Program Center Director, or the Director of OMD, or the MAP Lender Review Board may take certain actions as detailed below.
 3. Every HUD multifamily employee is required to refer possible instances of fraud, material misrepresentation or other criminal violations to the Office of the Inspector General.
- B. A Program Center Director may:
1. Issue a Warning Letter to the MAP Lender.
 2. Recommend to the Hub Director that s/he recommend to the Director OMD that s/he submit a MAP Lender to the MAP Lender Review Board for possible Probation, Suspension or Termination of MAP privileges.
 3. Recommend to the Hub Director that s/he:
 - a. Refer the MAP Lender to the Mortgagee Review Board.
 - b. Initiate the issuance of a Limited Denial of Participation (LDP) of an individual or firm involved in a "covered transaction" as defined in 24 CFR 24.110.
- C. A Hub Director may:
1. Issue a Warning Letter to the MAP Lender.
 2. Initiate the issuance of an LDP of an individual or firm involved in a "covered transaction" as defined in 24 CFR 24.110.
 3. Recommend to the Director OMD that s/he submit a MAP Lender to the MAP Lender Review Board for possible Probation, Suspension or Termination of MAP privileges.
 4. Refer a MAP Lender to the Mortgagee Review Board.

- D. The Director of OMD may:
1. Issue a Warning Letter to the MAP Lender.
 2. Refer an individual or firm involved in a “covered transaction,” as defined in 24 CFR 24.110 to the Deputy Assistant Secretary (DAS) for Multifamily Housing for imposition of an LDP in which case the LDP may be imposed on a nationwide basis or a more restricted basis.
 3. Recommend the MAP Lender to the MAP Lender Review Board for possible Probation, Suspension or Termination of MAP privileges;
 4. Refer the MAP Lender to the Mortgagee Review Board.
- E. The MAP Lender Review Board may:
1. Issue a Warning Letter to the MAP Lender.
 2. Place a MAP Lender on Probation, as described below.
 3. Suspend or Terminate a Lender’s MAP privileges, as described below.
 4. Enter into a Settlement Agreement with a MAP Lender.
 5. Refer an individual or firm involved in a “covered transaction,” as defined in 24 CFR 24.110 to the DAS for Multifamily Housing for imposition of an LDP in which case the LDP may be imposed on a nationwide basis or a more restricted basis.
 6. Refer a MAP Lender to the Mortgagee Review Board.
- F. All recommendations authorized in sections 15.2B through D above shall be in writing, and shall state the reasons for the recommendations and the facts supporting those reasons. Recommendations shall be transmitted to the next higher level of review, as set forth above, together with copies of all supporting documents.

15.3. BASIS FOR ISSUING A WARNING LETTER OR SANCTIONING A MAP LENDER.

A MAP Lender's underwriting and construction loan administration may lead to a Warning Letter or sanction. Examples include, *but are not limited to*, the following:

- A. Minor offenses that may be the basis for a Warning Letter include:
1. Failure to provide required exhibits or the submission of incomplete or inaccurate exhibits. Although the Lender will be permitted to correct minor errors or provide additional information, substantial inaccuracies or lack of significant information will result in a return of the application and retention of any fee collected.
 2. Repeated failure to complete processing to Firm Commitment unrelated to an underwriting analysis, which demonstrates that the process should not proceed to firm Commitment.
 3. Preparation of an underwriting summary that is not supported by the appropriate documentation and analysis.
 4. Failure to notify the HUD processing office promptly of changes in the mortgage loan application for a Firm Commitment submitted, such as changes in rents, numbers of units, or gross project area.
 5. Failure to meet MAP closing requirements or construction loan administration requirements.
 6. Business practices that do not conform to those generally accepted by prudent lenders or that show irresponsibility.
 7. Failure to cooperate with a Lender Qualifications and Monitoring Division review.
- B. Serious offenses that might be a basis for a Warning Letter and/or Probation, Suspension, or Termination include:
1. Receipt of multiple Warning Letters over any one-year period. In any sanction action that is being pursued as the result of prior Warning Letters, the facts and circumstances surrounding those warning letters and the corrective actions, if any, undertaken by the Lender shall be considered.

2. Fraud or material misrepresentation in the Lender's participation in FHA multifamily programs.
3. Lender collusion with or influence upon Third Party Contractors to modify reports affecting the Contractor's independent evaluation.
4. A violation of MAP procedures by a Third Party Contractor, which the MAP Lender knew, or should have known, was occurring and which, if performed by the MAP Lender itself, would constitute a ground for a sanction under this chapter.
5. Evidence that a Lender's inadequate or inaccurate underwriting was a cause for assignment of an FHA-insured mortgage and claim for insurance benefits to HUD.
6. Identity-of-interest violations under Section 2.5 of the MAP Guide.
7. 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.
8. Failure to comply with any agreement, certification, undertaking, or condition of approval listed in a MAP Lender's application for approval.
9. Noncompliance with any requirement or directive of the MAP Lender Review Board.
10. Violation of the requirements of any contract with HUD or violation of the requirements in any statute, regulation, handbook, notice, mortgagee letter, or other written rule or instruction including the MAP Guide as interpreted by answers to Frequently Asked Questions (FAQs) that are posted on the Multifamily MAP website.
11. Submission of false information, or a false certification, to HUD in connection with any MAP mortgage transaction.
12. Failure of a MAP Lender to respond in a timely manner to inquiries from the MAP Lender Review Board in accordance with this Chapter.

13. Indictment or conviction of a MAP Lender or any of its officers, directors, principals or employees for an offense that reflects on the responsibility, integrity, or ability of the Lender to participate in the MAP initiative.
 14. Employing or retaining an officer, partner, director, or principal at the time when the person was suspended, debarred, ineligible, or subject to a Limited Denial of Participation (LDP) under 24 CFR Part 24, or otherwise prohibited from participation in HUD programs, when the MAP Lender knew or should have known of the prohibition.
 15. Employing or retaining an employee who is not an officer, partner, director or principal, and who is or will be working on HUD-FHA program matters, at a time when that person was suspended, debarred, ineligible, or subject to a Limited Denial of Participation under 24 CFR Part 24 or otherwise prohibited from participation in HUD programs, when the MAP Lender knew or should have known of the prohibition.
 16. Failure to cooperate with an audit or investigation by the HUD Office of Inspector General or an inquiry by HUD into the conduct of the MAP Lender's FHA-insured loans.
 17. Failure to fund MAP mortgage loans or any misuse of mortgage loan proceeds.
- C. The issuance of a Warning Letter is not a prerequisite to the Probation, or Suspension, or Termination of MAP privileges.

15.4. **ADMINISTRATIVE RECORD.**

When any final action is taken against a MAP Lender, an administrative record must be prepared. It should include all materials that might have influenced the decision, and not merely those relied upon in the final decision. Although not intended to be an exhaustive listing, examples of material that should be included are:

- Copies of correspondence;
- Copies of E-mails, if relied on in the decision process;
- FAXes including the FAX cover sheet and the FAX confirmation sheet;
- Application and underwriting submissions;
- Copies of appropriate sections of notices, guide books including Frequently Asked Questions (FAQs) posted on the Multifamily web site, handbooks, regulations and statutes;
- Notes from meetings and telephone conversations; and

- Work product and recommendations from subordinates.

All the material should be placed in date order with an index cover sheet.

The term “final action” includes issuance of a Warning Letter but does not include any referral, recommendation for action, or presentation to the MAP Lender Review Board (Board). In matters before the Board, the administrative record ordinarily will consist of the referral and the materials accompanying referrals to the Board, any written materials submitted by the Lender and any written materials submitted by the Director of OMD in response to those materials, the transcript of the informal meeting when that transcript is a part of the record, and the final decision of the Board.

Note: Intra-agency memoranda and other such records should be included, but will not be released if privileged. The administrative record in its final form as described in this Section, which shall be made available in its entirety to the Office of General Counsel, relates to and supports HUD’s final action and is not to be released to any person outside of HUD until it has been reviewed by the Office of General Counsel. All evidentiary material supporting any recommendation to the MAP Lender Review Board must be delivered to the Lender as provided in Section 15.13.A and must be included in the administrative record.

15.5. **WARNING LETTERS.**

- A. The Program Center Director/Hub Director, the Director of OMD, or the MAP Lender Review Board may issue a Warning Letter to a Map Lender.
- B. The Warning Letter:
 - 1. May require a meeting in the official’s office with principal owners of, and/or Officers of the MAP Lender to discuss the problem(s) and possible corrective action(s).
 - 2. Shall specify the violation(s) for which the Warning Letter is issued. If the Warning Letter explains or interprets a section of the MAP Guide, the text of the letter (after deleting all information that might identify the MAP Lender concerned) shall be posted on the Multifamily MAP web site as a FAQ.
 - 3. Direct the taking of a corrective action.
- C. The Warning Letter does not suspend a Lender’s MAP privileges but may impose a higher level of review of the Lender’s underwriting by the Field Office and/or Headquarters.

- D. The Warning Letter must clearly state that it is a Warning Letter issued pursuant to Chapter 15 of the MAP Guide. The letter is mailed to:
1. The MAP Lender's contact person as listed on the Multifamily MAP website.
 2. The Director, Lender Qualifications and Monitoring Division (LQMD), Room 6128, Headquarters along with a copy of the administrative record.
- E. The Lender must be sent, along with each Warning Letter, a copy of the administrative record prepared with respect to that letter.

15.6. **MAP PROBATION.**

Only the MAP Lender Review Board may place a Lender on probation.

Probation is intended to be corrective in nature and not punitive. As a result, release from probation is conditioned upon the Lender meeting a specific requirement or requirements, such as replacement of a staff member.

- A. During the probation period a MAP Lender may:
1. Not submit, and the HUD Field Office may not accept, materials after the close of business of the date of the probation letter for a new:
 - a. MAP Pre-application for a Section 220, 221(d) or 232 project involving new construction/substantial rehabilitation; or
 - b. MAP Firm commitment application for a Section 207 (pursuant to Section 223(f)) project or Section 232 (pursuant to 223(f)) project involving a purchase or refinance.

Note: If either a new pre-application or a new firm commitment application for a Section 207 pursuant to Section 223(f) or Section 232 pursuant to 223(f) was accepted after the date of the probation letter, it shall be returned to the MAP Lender.

2. Continue to process any:
 - a. MAP Section 220, 221(d) or 232 project involving new construction/substantial rehabilitation when a pre-application was submitted to a HUD Hub/Program Center before the close of business on the date of the probation letter.
 - b. MAP Section 207 (pursuant to Section 223(f)) project or Section 232 (pursuant to 223(f)) project involving purchase or refinance when a firm commitment application was submitted to a HUD Hub/Program Center before the close of business on the date of the probation letter.
- B. Probation continues until all specific corrective actions required by the Board (for example, exclusion of a specific staff member from work on MAP loans) are taken by the MAP Lender. At the point when all corrective actions have been taken, the MAP Lender shall notify the Board. Once the Board is satisfied that the corrective actions have occurred, the Probation period shall end. A false statement that corrective action has been taken constitutes a false certification as described under Section 15.3, and in addition may constitute a violation of 18 U.S.C. § 1001. A Lender's failure to take prompt corrective action after Probation has become final may be the basis for a recommendation of either Suspension or Termination. Any such recommendation shall, when possible, go to a MAP Lender Review Board composed of the same members who issued the original Probation.
- C. Probation is nationwide in effect. The Lender's name shall be removed from the MAP-Approved Lender list on the web. When Probation is lifted, the Lender's name shall be re-posted promptly on the web.
- D. The probation notice is:
 - Sent by overnight delivery;
 - Addressed to the MAP Lender's contact person as listed on the Multifamily MAP website; and
 - Signed for by an employee of the MAP Lender upon receipt.
- E. Refer to Section 15.12 and 15.13 for sanction and notice procedures.

15.7. SUSPENSION OF MAP PRIVILEGES.

Only the MAP Lender Review Board may suspend a Lender's eligibility for MAP.

Suspension is limited by time, not to exceed 12 months. In addition, a Suspension may impose any conditions that may be imposed by Probation. Where such additional conditions are imposed, a Suspension shall terminate only when the time period of the Suspension has elapsed, the Lender has certified its compliance with those additional conditions and the Board is satisfied that the corrective actions have occurred.

- A. During the suspension period a MAP Lender may:
1. Not submit, and the HUD Field Office may not accept, materials after the close of business of the date of the suspension letter for a new:
 - a. MAP Pre-application for a Section 220, 221(d) or 232 project involving new construction/substantial rehabilitation; or
 - b. MAP Firm commitment application for a Section 207)pursuant to Section 223(f) project or Section 232 (pursuant to 223(f) project involving purchase or refinance.

Note: If either a new pre-application or a new firm commitment application for a Section 207 pursuant to Section 223(f) or Section 232 pursuant to 223(f) project was accepted after the date of the suspension letter, it shall be returned to the MAP Lender.

2. Continue to process any:
 - a. MAP Section 220, 221(d) or 232 project involving new construction/substantial rehabilitation when a pre-application was submitted to a HUD Hub/Program Center before the close of business on the date of the suspension letter.
 - b. MAP Section 207 (pursuant to Section 223(f) project or Section 232 (pursuant to 223(f) project involving purchase or refinance when a firm commitment application was submitted to a HUD Hub/Program Center before the close of business on the date of the suspension letter.

- B. The suspension notice is:
- Sent by overnight delivery;
 - Addressed to the MAP Lender's contact person as listed on the Multifamily MAP website; and
 - Signed for by an employee of the MAP Lender upon receipt.
- C. Suspension is nationwide in effect. The Lender's name shall be removed from the MAP-Approved Lender list on the web. When Suspension is lifted, the Lender's name shall be re-posted promptly on the web.
- D. Refer to Sections 15.12 and 15.13 below for sanction and notice procedures.

15.8. TERMINATION OF MAP PRIVILEGES.

Only the MAP Lender Review Board may terminate a Lender's eligibility for MAP.

- A. A terminated Lender may not submit, and the HUD Field Office may not accept, materials after the close of business of the date of the termination letter for a new:
1. MAP Pre-application for a Section 220, 221(d) or 232 project involving new construction/substantial rehabilitation; or
 2. MAP Firm commitment application for a Section 207 (pursuant to Section 223(f)) project or Section 232 (pursuant to 223(f)) project involving purchase or refinance.
- B. Any MAP pre-application or MAP application in process may no longer be processed under MAP by the terminated Lender. The Lender will either:
1. Immediately transfer the transaction to the Traditional Application Processing (TAP) procedure. The HUD Field Office will completely reprocess all stages of the transaction; or
 2. Immediately transfer the project to a new MAP Lender. The new MAP Lender must completely reprocess all stages of the transaction. At no time can the new MAP Lender assign the pre-application, the firm application, the mortgage insurance

commitment, or the insured construction loan back to the original MAP Lender.

- C. The Department will not endorse any MAP loan processed by the terminated lender unless a firm commitment was issued before the date of termination.
1. Firm commitments involving new construction or substantial rehabilitation must be immediately transferred to a new MAP Lender. At no time can the new MAP Lender assign the firm mortgage insurance commitment, or the insured construction loan, back to the original MAP Lender.
 2. Firm commitments issued for Section 223(f) projects may be transferred before final endorsement to any approved FHA lender or kept in the Lender's portfolio.
 3. For those construction loans that have been initially endorsed, the MAP Lender will lose its MAP privileges for construction loan administration. HUD will assume all the construction loan administration duties it normally performs for TAP processing.
- D. The original Lender may service a transferred loan once it is finally endorsed.
- E. An application for reinstatement of MAP authority may not be made until at least 12 months after the date of termination. The requirements for reinstatement shall be similar to initial qualification, discussed in Sections 2.3 and 2.6 of the MAP Guide, and the applicant must show that the problems, which led to termination, have been resolved.
- F. The termination notice is:
- Sent by overnight delivery;
 - Addressed to the MAP Lender's contact person as listed on the Multifamily MAP website; and
 - Signed for by an employee of the MAP Lender upon receipt.
- F. Termination is nationwide in effect. The Lender's name shall be removed from the MAP-Approved Lender list on the web.

- G. Refer to Sections 15.12 and 15.13 below for sanction and notice procedures.

15.9. SETTLEMENT AGREEMENTS.

- A. The Director of OMD is authorized on behalf of the Office of Multifamily Housing to negotiate settlement agreements with MAP Lenders.
1. *Before* the Director of OMD has recommended a MAP Lender to the MAP Review Board for possible Probation, Suspension or Termination, the DAS for Multifamily Housing or his/her designee must approve any proposed settlement agreement. Furthermore, in this situation substitute the DAS for Multifamily for the Board in Section 15.9.C below.
 2. *After* the Director of OMD has recommended a MAP Lender to a MAP Lender Review Board for possible Probation, Suspension, or Termination, the Board must approve any proposed settlement agreement.
- B. Settlement agreements may provide for:
1. Cessation of any violation.
 2. Correction or mitigation of the effects of any violation.
 3. Removal of Lender staff from positions involving origination, underwriting and/or construction loan administration.
 4. Actions to collect sums of money wrongfully or incorrectly paid by the MAP Lender to a third party.
 5. Implementing or revision of a Quality Control Plan or other corrective measure acceptable to HUD.
 6. Modification of the length of any administrative action and such other provisions the Board or DAS for Multifamily Housing deems to be appropriate.
- C. A MAP Lender's compliance with a settlement is evidenced by the Lender certifying its compliance with those additional conditions, and the Board or DAS for Multifamily Housing being satisfied that the corrective actions have occurred.

- D. Failure by a MAP Lender to comply with a settlement agreement may result in a probation, or suspension, or termination of MAP approval or referral to the Mortgagee Review Board.

15.10. MAP LENDER REVIEW BOARD.

- A. The Board is authorized to take action against any MAP Lender that violates MAP requirements.
- B. Composition.
1. The Board shall consist of three HUD Multifamily Housing Officials designated by the DAS for Multifamily Housing.
 2. Board members
 - a. Are selected from among Hub and Program Center Directors or Multifamily Housing employees.
 - b. May serve on a continuing basis or may be chosen for the particular review, as the Deputy Assistant Secretary for Multifamily Housing determines.
 - c. Shall have no prior business affiliation or other conflicts of interest with the Lender under review.
 - d. Shall select one of their members to act as Chairman of the Map Lender Review Board.
 - e. Are expected to have a good knowledge of multifamily housing origination, underwriting and construction loan administration procedures.
 3. The following individuals cannot serve on the Board:
 - The Hub/Program Center Director making the recommendation;
 - Staff from the Hub/Program Center making the recommendation;
 - The Director of OMD; and
 - Staff from OMD.
- C. Non-voting Advisors to the Board.
- Designee of the Office of Inspector General

- Designee of the Office of General Counsel
- D. The Director of OMD or his/her designee presents the cases to the MAP Lender Review Board.
- E. Functions, Duties and Powers.
 1. The MAP Lender Review Board may impose appropriate sanctions on a MAP Lender after:
 - a. Impartial review of all information and documentation submitted to the Board and
 - b. Making factual determinations that there has been a violation of MAP guidelines or instructions.
 2. In determining what action is appropriate, the Board considers among other factors:
 - The seriousness and the extent of the violation(s);
 - Any history of prior offenses;
 - Deterrence of future violations;
 - Any inappropriate benefits received by the MAP Lender;
 - Potential inappropriate benefit to other persons; and
 - Any mitigating factors.
 3. The Board may refer:
 - a. A MAP Lender to:
 - 1) The Mortgagee Review Board for possible termination as a HUD-FHA approved mortgagee or lender, and/or imposition of civil money penalties for knowing and material violations of HUD-FHA requirements. (See Section 15.17 below.)
 - 2) The Office of Inspector General.
 - b. An individual or firm involved in a “covered transaction,” as defined in 24 CFR 24.110 to the DAS for Multifamily Housing for imposition of an LDP in which case the LDP may be imposed on a nationwide basis or a more restricted basis.

15.11. SUPPORT STAFF FOR MAP LENDER REVIEW BOARD.

- A. The Chairman of the Board supplies the clerical staff for the MAP Lender Review Board. The clerical staff:
1. Coordinates Board activities with other HUD offices and government agencies.
 2. Develops the agenda and policy issues for Board meetings.
 3. Notifies a MAP Lender of any sanction imposed by the Board.
 4. Notifies a MAP Lender, when the Board is to consider sanctions.
 5. Keeps the official minutes of the Board and the case files on all Board actions.
 6. Drafts all notices, orders, letters and directives on behalf of the Board.
 7. Performs other duties assigned by the Chairman or directed by the Board.
- B. The Office of Multifamily Development staff serves the MAP Lender Review Board as the prosecutor. The Office:
1. Is the contact point within HUD for Headquarters and Field Offices on all matters concerning the Board.
 2. Presents the sanction cases to the Board.
 3. Collects, analyzes, prepares and submits to the Board the charging document and supporting documentation together with possible options or recommendations as to sanctions against a MAP Lender.
 4. Refers cases for Board consideration.
 5. Negotiates settlement agreements with MAP Lenders.
 6. Prepares the administrative record of all matters before the Board.

- C. Office of Inspector General
 - 1. Refers MAP Lenders for Board consideration as a result of audits or investigations.
 - 2. Performs audits or investigations of approved MAP Lenders.
- D. Office of General Counsel
 - 1. Advises the Board as to the legal sufficiency of actions it proposes to take.
 - 2. Assists the Board in the drafting of Board decisions and orders.
 - 3. Assists the Director of OMD in settlement negotiations.
 - 4. Provides other legal advice as requested by the Board.

15.12. PROCEDURES FOR SANCTIONS.

- A. Requests for MAP Lender Review Board Action. The Director of OMD, or his/her designee, may refer a MAP Lender to the Board for consideration of sanctions.
 - 1. Any referral from a Hub Director must be sent to the Director of OMD.
 - 2. The referral must contain a written report, which includes:
 - a. A full factual background description of the violations;
 - b. Specific citations of the Department's requirements that have been violated; and
 - c. All available supporting documentation that bears upon the violations (the administrative record discussed earlier).
 - 3. There is no notification to the Lender until the Board is constituted and receives the charging documents from the Director of OMD. (At that point, notification under Section 15.13 is automatic, and does not require substantive consideration by the Board of the nature of the charge.)

B. Appointment of the Board.

When the Director of OMD intends to send a referral to the MAP Lender Review Board, s/he requests the DAS for Multifamily Housing to appoint a Board, as described in Section 15.10 above

C. Initial Consideration by the Board.

When the Board receives a referral from the Director of OMD, the Board members may confer by email or by conference calls (telephone or video), or may meet in person. Any record of confidential communications between and among Board members at this stage of the proceedings is privileged from disclosure and will not be regarded as a part of the administrative record of any matter.

D. Informal Conference.

1. The Lender may respond and/or exercise its right to an informal conference as discussed in Section 15.13 below. The Board will schedule the informal conference, if one is requested.
2. After notifying the Lender and permitting the Lender an opportunity to respond (all as set forth more fully below), the Board will meet with the Lender or its designees (unless the Lender declines to be represented at the meeting) and with the Director of OMD and his/her designees to review documentary evidence and presentations by both sides. (See 15.13A.3. below.)
 - a. Transcript of the informal meeting.
 - 1) No transcript of this informal meeting will be made, unless the Lender elects to have a transcript made by a certified court reporter at its own expense. If the Lender elects to have a transcript made, it must provide three copies of the transcript to HUD within five business days of the informal meeting. The transcript will not become a part of the record unless it is submitted within the 5-day time frame.
 - 2) If a transcript is not provided within the time limit set forth above, oral statements made at the informal meeting will not be considered as part of the record, except that the Board may consider voluntary admissions, made by a representative of the Lender, of any element of the violation charged.

- b. Any additional documents, evidence, or written arguments, which the Lender wishes to present to the Board, must be presented within five working days after this informal meeting.

E. Action by the Board.

1. Upon consideration of evidence submitted by the Director of OMD and the MAP Lender, the Board will confer and make a final decision regarding the matter.
2. Any final decision by the MAP Lender Review Board placing a Lender on Probation, or Suspension, or Terminating a Lender shall be in writing and shall state the reasons for the decision and the facts supporting those reasons. Higher level officials and decision makers, including the MAP Lender Review Board, are not bound by the recommendations from other HUD officials described above, except that the Board may not take any action against a Lender which is more severe than the action recommended by the Director, OMD. In any case where the action taken or the recommendation made differs from the recommendation received, that difference shall be explained in writing.

F. Effective Date of Action.

Unless the Board decrees that a later date should apply, any sanction (probation, suspension or termination) shall become effective on the date of the Notice of Action to the Lender.

- G. The Lender may appeal the Board's decision to the DAS for Multifamily Housing or his/her designee, as specified in Section 15.14 below.

15.13. NOTICE OF VIOLATION.

- A. Before the MAP Lender Review Board reviews a matter for consideration of a sanction, the Board's Chairman will issue written notice of the proposed action to the MAP Lender's contact person as listed on the Multifamily MAP web site. The notice is sent by overnight delivery and must be signed for by an employee of the MAP Lender upon receipt. The notice:

1. Informs the Lender that the Board is considering a specific violation.

2. States the specific alleged factual violations with citation to the Department's requirements that have been violated.
3. Includes as attachments copies of all documents evidencing the violation or upon which the Board will be asked to rely in reaching a decision.
4. Provides the Lender with the opportunity, within 15 business days from the date of the issuance of the proposed action, to:
 - a. Meet informally with the Board in person or by video conference using HUD facilities at Headquarters or one of the various Field Offices; and/or
 - b. Present written evidence and any other relevant information.
5. Offers the MAP Lender the opportunity to reply in writing to the Board within 15 business days from the date of the issuance of the proposed action. Failure to reply may result in a determination by the Board without considering the MAP Lender's comments.
6. Requires the response to be addressed to the Chairman of the Board. The response may not exceed 15 double-spaced typewritten pages and must include an executive summary, a statement of the facts, an argument and a conclusion. All written material and supporting documentation must be submitted in triplicate.

Accompanying the notice of violation is a copy of the charging document and all of the supporting documentation that has been submitted to the Board.

- B. The MAP Lender Review Board has the power to issue a Notice of Action discussed in 15.14 below to terminate a Lender, or to place a Lender on probation or suspension without advance notice to the Lender when there is an imminent need to protect the financial interests of the Government. No such action shall be taken except upon the written recommendation of the Director of OMD and upon a determination by the Board that immediate action is necessary. In every such case, the Lender shall be promptly notified of the Board's decision and the reasons for it, and shall have the right to submit materials to the Board and appear before the Board to seek a prompt reconsideration of the Board's decision.

15.14. NOTICE OF ACTION.

- A. A prompt decision is important when the Board acts to place a MAP Lender on probation, or to suspend or terminate a Lender's MAP privileges. The Board will issue its final decision within 10 business days of the receipt of the Lender's information and/or the informal conference.
- B. The Board will notify the MAP Lender of its final determination by overnight delivery of a written notice of the final decision to the MAP Lender's contact person as listed on the Multifamily MAP web site.
- C. The final decision will:
 - a. State the nature and duration of the action.
 - b. State the violations and any factual findings of the Board.
 - c. Inform the MAP Lender of its right to an appeal conference.
 - d. May add or modify the reasons for the decision as stated in the initial notice.
- D. A copy of the administrative record will be sent to the Lender by overnight express within one business day after the issuance of the final decision.

15.15. APPEALS.

- A. Informal Appeal Conference.
 - 1. Whenever the MAP Lender Review Board imposes a sanction of probation, suspension or termination against a MAP Lender, the Lender may request an informal conference before the DAS or his/her designee (the Appeals Official). The DAS or his/her designee cannot have been previously involved with the proceedings or settlement discussions up to this point.
 - 2. No transcript of this informal meeting will be made, unless the Lender elects to have a transcript made by a certified court reporter at its own expense. If the Lender elects to have a transcript made, it must provide three copies of the transcript to HUD within five business days of the informal meeting.

3. Oral statements made by any participant at this meeting are not considered as evidence on any matter under consideration, except that the Appeals Official may consider voluntary admissions by a representative of the Lender of any element of the violation charged.
 4. Any additional written arguments, which the Lender wishes to present to the Appeals Official, must be presented within five business days after this informal meeting.
- B. The informal conference regarding the Board's action will be held within 10 business days of HUD receiving the MAP Lender's appeal request.
1. The Director of OMD provides the administrative record to the Appeals Official and points out the evidence on which the decision was made; and
 2. The MAP Lender may provide oral arguments in support of its position and the evidence previously submitted. No new evidence may be submitted to the Appeals Official at this point.
- C. A MAP Lender may voluntarily request to have a conference held more than 10 business days after it makes a request for the conference and the Department receives it.
- D. Within 10 business days after the conference, the Appeals Official makes a written determination. S/he may confirm, modify, or overturn the MAP Lender Review Board's decision.
- E. If the MAP Lender does not request a conference within 10 business days of receiving the sanction letter, the right to a conference will be considered waived.
- F. If the Appeals Official overturns the MAP Lender Review Board's decision, the Lender shall immediately return to an active status as a MAP Lender. The active status of the MAP Lender will be posted on the HUD web.
- G. Participation in the appeal process is not a prerequisite to filing of an action for judicial review under the Administrative Procedure Act.

15.16. LIMITED DENIAL OF PARTICIPATION.

See Chapter 4 of OGC Handbook 1300.13 REV 1, Debarment, Suspension, and Ineligibility of Participants and Contractors, and HUD Regulations at 24 CFR 24 Subpart G. In case of any conflict between this section and the foregoing authorities, those authorities control.

A. Who Can an LDP Be Imposed Upon?

An LDP may be imposed upon any participant or contractor and its affiliates, except HUD-FHA approved mortgagees. Examples of participants that may be sanctioned are (but are not limited to):

1. Independent Fee Appraisers
2. Third Party Cost Analysts
3. Needs Assessors
4. Environmental Analysts and Engineers
5. General Contractors
6. Architects
7. Specific underwriters or loan analysts.
8. Application Sponsors

B. Who will the LDP Apply to?

Once issued, the LDP may apply to any contractor, participant or to a participating organization. For example, a specific appraiser may be issued a LDP, or an entire appraisal firm may be issued a LDP. A LDP may also apply to all affiliates of that contractor or participant at the discretion of the imposing official.

C. Conditions Warranting Referral to Headquarters Recommending Consideration for a National LDP.

Referral to Headquarters for recommendation for a National LDP shall be at the discretion of the Hub Director. When it is determined that the offense warrants such a measure, the Hub Director should forward all pertinent information along with a formal recommendation to the Deputy Assistant Secretary for Multifamily Housing for review. The recommendation should include:

1. All related processing associated with the case(s) that initiated the action.
 2. A narrative summary detailing the description and nature of the alleged offense(s) committed.
 3. A synopsis of the participant's historic performance in past cases dealing with the Department.
 4. A recommend course of action to be taken.
- D. Questions should be addressed to the Director of the Compliance Division of the Enforcement Center.

15.17. REFERRAL TO THE MORTGAGEE REVIEW BOARD OR THE INSPECTOR GENERAL.

- A. If the Hub/Program Center Director determines that a MAP Lender's actions or failure to act appears to be a compliance matter justifying action by the Mortgagee Review Board, including possible removal of its authority to do business as an FHA Lender, s/he must bring this matter and the administrative record to the attention of the Director, Office of Multifamily Development in Headquarters. The Director will refer the matter to the Director of the Mortgagee Review Board Division in the Departmental Enforcement Center.

See Section 2-4, Requests for Mortgagee Review Board Action, HUD Handbook 4060.2 REV 2, Mortgagee Review Board, and HUD Regulations at 24 CFR 25.

- B. If the issue involves possible fraud, material misrepresentation or other criminal violations, then refer the matter to the Office of Inspector General.

See Section 3-1, Responsibilities of Departmental Management and Employees, OIG Handbook 2000.3 REV-4, Office of Inspector General Activities.