



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000**

Office of Housing

2016 MAP Guide - Frequently Asked Questions (FAQs) on Affordable Transactions

The 2016 MAP Guide, Administrative Memo, and Questions and Answers dated July 5, 2016 included guidance related to FHA-insured financing with Low Income Housing Tax Credits (LIHTC). Additional questions have been raised after the release of these publications. This Frequently Asked Questions document provides clarification on existing policy for Affordable Transactions. Please send questions and comments to MAPGuide2016@hud.gov or to Elizabeth.h.arteaga@hud.gov.

Updated as of June 19, 2017

Q1. Can a “grandfathering” period be established to preserve transactions that are pending and may have tax credit applications already submitted that are contingent upon an execution allowed under the 223(f) Tax Credit Pilot¹ (especially the \$40,000 per unit max)?

A1. Applications may continue to be submitted under the Section 223(f) Tax Credit Pilot program for LIHTC transactions that: 1) require a 3-year waiver, 2) received a building permit by September 30, 2014, and 3) meet other Section 223(f) Tax Credit Pilot requirements. Other transactions may not be “grandfathered” in under the Section 223(f) Tax Credit Pilot.

Q2. Will HUD consider waivers to the MAP Guide to allow maximum repairs up to \$40,500 per unit in lower cost areas? Can HUD clarify what specific costs are included in the repair threshold, i.e., only hard costs, and not architectural fees, owner other fees, developer’s fees, etc.?

A2. With publication of the MAP Guide in 2016, the maximum repair limit under the Section 223(f) program for both market rate and affordable transactions is \$15,000 (base per dwelling unit) multiplied by the local High Cost Factor per unit. HUD will not consider waivers to the MAP Guide because the prohibition on substantial rehabilitation in Section 223(f) is statutory. If this amount is exceeded, then the application must be submitted under the Section 221(d)(4) Substantial Rehabilitation program. Costs included in the repair threshold include hard costs identified in the Construction Contract. For example, costs for ‘Structures and Land Improvements’, ‘General Requirements’, ‘General Overhead’, ‘Builder’s Profit or Fee’, and

¹ Please see Housing Notice 12-01



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‘Bond Premium’ can be included. Architectural fees and other soft costs such as the Developer’s Fee are not included.

Q3. The 223(f) Tax Credit Pilot stated that the Pilot transactions would be underwritten by designated underwriters that have experience in affordable transactions. Who now processes LIHTC transactions?

A3. Each Office of Multifamily Housing region has a designated LIHTC team that is experienced in reviewing and processing affordable transactions. Attached is a list of contacts for each LIHTC team in each of the five Office of Multifamily Housing Regions (see “Attachment A”).

Q4. Chapter 12.17.A.3.b states that all repairs under 223(f) must be completed within 12 months of the loan closing. The 223(f) Tax Credit Pilot allowed the standard 12-month repair period to be extended although the 2016 MAP Guide does not. Section 223(f) transactions with Level 2 or Level 3 repairs may need longer than 12 months depending on the scope of the repairs and the size of the property. Are extensions beyond 12 months allowed?

A4. Projects with rehabilitation needs requiring more than one year to complete repairs should normally be considered as substantial rehabilitation, however, extension of the 12-month repair period will be considered by HUD regional offices on a case-by-case basis. The request for a longer repair period should be discussed at the Concept Meeting, if known, and adequately discussed in the Lender’s Narrative and supported by the lender PCNA/Plan and Cost Review. The request may or may not be approved by the HUD office.

Q5. The July 10, 2012 FAQ for the 223(f) Tax Credit Pilot states: “for assisted projects (i.e. those in which greater than 90% of the units have a Project-Based Section 8 contract) underwritten and processed as part of the Tax Credit Pilot, the capitalization rate may be derived using a Band of Investment, and the Section 8 contract and any favorable financing specific to the application may be factored into the rate analysis.” For new LIHTC transactions that are rent assisted Section 223(f)s, is derivation of the capitalization rate via the Band of Investments acceptable to use as the capitalization for determining the value for Criterion 3/Loan to Value sizing? If yes, does the appraisal need to reflect this value or should this be a lender adjustment?

A5. The annual net operating income (NOI) remaining after the payment of expenses is the primary source of value to the project. The preferred method of capitalizing the NOI into a value estimate is Direct Capitalization. There are several acceptable techniques for deriving capitalization rates. Rate Extraction based on recent (preferably within the past year)



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comparable sales is the most preferred. Band of Investment should be considered and may be acceptable, as long as the appraiser develops a market basis for the equity dividend portion of the calculation. The appraisal should also contain discussion of how the chosen capitalization rate compares to rates listed in commercially available published reports. The Band of Investment approach remains one of the permissible and appropriate approaches in determining value for affordable transactions. Note that in all cases market derived rates should be discussed, even if it is later concluded that they are not the most reliable or if no comparable sales exist.

Q6. What is the standard, non-mortgageable assurance of completion amount for a 223(f)?

A6. 20%, or 10% if the project is affordable and the underwriter agrees 10% is sufficient. The assurance of completion may also be reduced to 10% of cost for any repairs and alterations where:

- i. a design professional has prepared construction drawings, and the borrower has engaged a non-identity of interest general contractor to execute the work per a form of contract acceptable to HUD; and
- ii. the contract provides for the withholding of retainage in the amount of 10% of the value of work completed.

Q7. If the repair escrow is being funded gradually (20% at closing, 37.5% of Net Equity at 65% completion of repairs, and 62.5% of Net Equity at 100% completion of repairs), how should the Assurance of Completion Escrow be funded?

A7. The Assurance of Completion must be funded at 100% at the time of Initial/Final Endorsement with cash or a Letter of Credit.

Q8. Can the scope of work be modified so that unused assurance of completion can fund additional rehabilitation and increase tax credit basis?

A8. Yes, so long as all of the other work is or will be completed satisfactorily and the total dollar amount does not exceed the per unit substantial rehabilitation threshold.

Q9. Chapter 14.7 of the MAP Guide states that “Section 8 HAP Renewal Requests and Rent Adjustment Requests must be delivered to the Performance Based Contract Administrator (PBCA) at least 60 days prior to the submission of the LIHTC Firm Commitment application, and 120 days in advance is preferable.” The requirement to submit this request at least 60 days prior to the submission of the Firm Application is problematic for transactions with time constraints (bond allocations, placed-in-service dates, etc.). Borrowers often dual-track the appraisal and rent comparability study, which means that the HAP request is often completed



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just prior to the submission of the Firm Application. The requirement to wait 60 days to submit a Firm Application adds an undue time burden to the transaction, and it may result in the expiration of third party reports when a Firm Application would otherwise be ready to submit.

A9. The lender should work with the Owner and with the Office of Asset Management and Portfolio Oversight in advance of submitting the application to HUD. The lender should plan carefully with the Owner to submit all required requests and contact Brian A. Murray in the Office of Asset Management and Portfolio Oversight, if there is a problem coordinating the Section 8 HAP contract renewal with the application. Mr. Murray can be reached at (202) 402-2059, or at brian.a.murray@hud.gov. Persons with hearing or speech difficulties can reach this number by TTY through the Federal Relay Service at (800) 877-8339 (this is a toll-free number).

Q10. The 2016 MAP Guide did not include an Exhibit Checklist, Underwriter's Narrative nor a Wheelbarrow specific to Section 223(f) LIHTC transactions. Is it possible to edit those documents to remove references to "Pilot" so they can be used for all Section 223(f) LIHTC submissions?

A10. The Tax Credit Pilot Program Lenders' Narrative template and Wheelbarrow can be used for all tax credit projects and are available on HUD's Tax Credit Pilot website at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/map/maphome/taxcredit. Other standard documents will be those used for a given project's Section of the Act program.

Q11. The current requirement to have tax credit equity bridge loans paid off at final endorsement on 221(d)(4) loans and construction completion on 223(f) loans (in both cases provided by private, for-profit lenders) are not in sync with typical tax credit equity pay-in schedules. The ability to have tax credit equity bridge loans paid off 12 months after final endorsement on an FHA 221(d)(4) loan and 12 months after construction completion on an FHA 223(f) loan is more in line with typical tax credit equity pay-in schedules. Can repayment of the Equity Bridge Loan be delayed?

A11. HUD is considering this issue although waivers are not permitted at this time. Questions, comments and case studies on this issue should be forwarded to MAPGuide2016@hud.gov.

Q12. Can the Latent Defect Assurance escrow requirement for Section 223(f) projects with Level 2 or Level 3 alterations be waived?

A12. Waivers are not permitted at this time. Questions, comments and case studies on this issue should be forwarded to MAPGuide2016@hud.gov.



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Attachment A

	Northeast Region	Midwest Region	Southeast Region	Southwest Region	West Region
Regional Director	Arden A. Sokolow 212-542-7701	Daniel J. Burke 312-913-8152	Ruben J. Brooks 678-732-2363	Mary V. Walsh 817-978-5807	Thomas W. Azumbrado 415-489-6604
MF Production Director	Stacey L. Ashmore 212-542-7840	Mary Anderson 312-913-8102	LaDonna B. Mills (acting) 678-732-2132	Kenneth L. Cooper 817-978-5836	Angela M. Corcoran 415-489-6606
LHTC Branch Chief	Joseph McNealy 617-994-8222	Scott R. Greuel 312-913-8193	Edward Wallace 678-732-2012	Kenneth L. Cooper 817-978-5836	Erica B. Kodiyan 415-489-6661
Originating Office	New York City HUD Office	Chicago HUD Office	Atlanta HUD Office	Ft. Worth HUD Office	San Francisco HUD Office
States Served	Connecticut	Illinois	Alabama	Arkansas	Alaska
	Delaware	Indiana	Florida	Iowa	Arizona*
	Maine	Michigan	Georgia	Kansas	California
	Maryland	Minnesota	Kentucky	Louisiana	Colorado*
	Massachusetts	Ohio	Mississippi	Missouri	Hawaii
	New Hampshire	Wisconsin	North Carolina	Nebraska	Idaho*
	New Jersey		Puerto Rico	New Mexico	Montana*
	New York		South Carolina	Oklahoma	Nevada
	Pennsylvania		Tennessee	Texas	North Dakota*
	Rhode Island		Virgin Islands		Oregon
	Virginia				South Dakota*
	Vermont				Utah*
	Washington D.C.				Washington
	West Virginia				Wyoming*
Send Applications To:					Projects serviced by SF HUD Office, send to:
	Stacey Ashmore Production Div. Dir. U.S. Dept. of HUD Multifamily Northeast Region 26 Federal Plaza, Suite 3214 New York, NY 10278-0068	Scott R. Greuel Chief, Underwriter Branch U.S. Dept. of HUD Multifamily Midwest Region Chicago Regional Center 77 West Jackson Boulevard, Room 2300 Chicago, Illinois 60604-3507	Edward Wallace Chief, Underwriter Branch U.S. Dept. of HUD Multifamily Southeast Region 40 Marietta Street, 12th Floor Atlanta, GA 30303	Lisa Campfield Program Analyst U.S. Dept. of HUD Multifamily Southwest Region 801 Cherry Street Unit #45, Suite 2500 Forth Worth, TX 76102	Attn: Multifamily West Application Intake U.S. Dept. of HUD San Francisco Regional Center One Sansome Street, Suite 1200 San Francisco, CA 94104-4430
					*Projects serviced by Denver HUD Satellite Office, send to:
					Attn: Multifamily West Application Intake U.S. Dept. of HUD Denver Satellite Office 1670 Broadway, 24th Floor Denver, CO 80202-48012