Evaluation of Plan of Action
for Incentives to Extend
Affordability

GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED

GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED

```
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*********************************************************************
```



```
*********************************************************************
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*       GRAPHICS  MATERIAL  IN  ORIGINAL  DOCUMENT  OMITTED         *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*                                                                   *
*********************************************************************
```



```
*********************************************************************
```

```
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*       GRAPHICS  MATERIAL  IN  ORIGINAL  DOCUMENT  OMITTED          *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
**********************************************************************
```



```
**********************************************************************
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*       GRAPHICS  MATERIAL  IN  ORIGINAL  DOCUMENT  OMITTED          *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
**********************************************************************
```

```
*******************************************************************
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*       GRAPHICS  MATERIAL  IN  ORIGINAL  DOCUMENT  OMITTED       *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*                                                                 *
*******************************************************************
```


INSTRUCTIONS FOR FORM HUD-50061

I. General Project Finances.

All information comes from the Plan of Action (POA) to Extend Affordability. If information is missing, the POA is deficient and should be returned to the owner.

A. These costs vary with each project; however, a detailed description should be included for each cost listed. If any questions exist about the validity of a particular cost, the owner should be instructed to provide clarification.

B. The outstanding debt is simply the outstanding principal balance on the mortgage. The debt service is the amount of annual payments made to principal, interest, and Mortgage Insurance Premium (MIP).

C. For project funds, the loan servicer should ensure that all escrow accounts, income levels, and other funds are listed. The sources of these funds should be listed as well. For example, do funds come from rents, government sources, private foundations, etc.? Is any funding from any source missing? Furthermore, there should be a detailed cash flow analysis that projects for the next 3 years what the project's anticipated cash flow will be, including income and expenses.

D. The loan servicer should ensure that the use of all funds are shown. There should be no funds without a corollary expense. All sources of funding should be accounted for. The POA should indicate whether or not the owner plans to use Low Income Housing Tax Credits (LIHTCs). If the owner does not plan to use LIHTC, the POA must include a form (Appendix 8-5), signed by the owner, that certifies LIHTCs will not be used. If the owner is using LIHTCs, are the funds accounted for?

E. For all expenses, the POA must be specific. Be cautious of any headings like "Miscellaneous" or "Other."

F. The loan servicer should scrutinize the POA to ensure that the owner plans to use funds efficiently. Similarly, the servicer should make sure the owner has not overestimated or underestimated costs and consequently the need for funding.

G. Proposed utility allowances should be based on historical data with possible adjustments made for items in the rehabilitation plan that would lower utility costs.

H. Has the owner made allowance in the budget for the fact that 10 percent of the equity loan will be withheld for a minimum of 5 years?

I. This space is for LM comments on the above questions. If any of the above answers are not satisfactory, the POA is deficient and should be returned to the owner.

II. Capital Improvement, Rehabilitation, and Repairs

A. Two methods for funding requested incentives include (1) financing of capital improvements through provision of a Flexible Subsidy Capital Improvement Loan, and (2) insuring rehabilitation loans of up to 90 percent of rehabilitation costs with the maximum loan based on the equity requirements of the program under which the loan is made. Unless the project is devoid of physical deficiencies, the owner should include a list of capital improvements and rehabilitation that will restore the project to good physical condition. The list must include all items specified in the Capital Needs Assessment.

B. The A Branch of HUD has completed a Capital Needs Assessment for the project. The owner must address all capital improvements listed in this report. These capital improvements include those required by HUD regulations. All other improvements are at the owner's discretion, subject to the approval of HUD.

C. Has the owner justified the need for capital improvements not required by HUD?

D. Are the cost estimates for these capital improvements reasonable and justified.

E. Check to ensure that the owner is making the correct minimum contribution to the costs of capital improvements as required by the appropriate program. For example, a profit-motivated owner must contribute 25% of the capital costs to qualify for a Flexible Subsidy Loan and 10% of the capital costs for a Section 241(a) loan.

F. For each capital improvement, list the cost, the value of the improvement (what it adds to value of mortgaged property as determined by A & E and Cost Branch), the program under which it will be financed, and the percentage the owner must contribute.

G. List the total amount under each loan program that will be used to fund the rehabilitation and capital improvements.

H. Identify the program through which the loan will be made.

I. List the anticipated interest rates for the loan(s).

J. List the anticipated annual debt service payment for each loan.

K. Add the anticipated annual debt service payment for each loan. This provides the total annual debt service for rehabilitation and capital improvement loans. This total will be included in the calculation of the total annual debt service for the project.

L. The owner must submit a schedule for completion of all rehabilitation and capital improvements.

M. Consult the A & E and Cost Branch for guidance in making the determination.

N. The owner needs to describe how the contracts will be awarded.

O. This space is for comments on any of the questions pertaining to capital improvements, rehabilitation, and repairs. If the answers to any of the questions are unsatisfactory, the POA is deficient and should be returned to the owner.

III. Annual Authorized Return (AAR) on Investment and Equity Loan

The owner is entitled to an 8% AAR on total Extension Preservation Equity (EPE). (EPE is the fair market value of the project based on the highest and best use of the project as multifamily market-rate rental housing, minus the outstanding balance of any debt secured by the property). The owner can collect the 8% in three ways: through debt service to pay for an insured equity loan, a cash return, or a combination of the two. There are limitations specific to the equity loan, and the annual debt service on said loan plus the AAR cannot exceed the 8% annual return on EPE.

A. Enter EPE.

B. 1. Owners are allowed to collect an 8% return on their total equity.

2. Only 90% of the 8% can be used for debt service. The total amount of return the owner is allowed to finance is discounted 10% to provide a cushion against default. Hence, we multiply the (AAR) by 90%, or .9.

C. The maximum equity loan HUD will insure is equal to 70% of EPE.

D. 1. Enter amount of equity loan requested by owner on POA.

2. HUD will insure the lesser of 70% of EPE or the loan amount requested by owner (provided that the annual debt service does not exceed the AAR).

3. Enter interest rate for equity loan that owner has arranged with a lender. At initial submission, the owner may use rates and terms in the local market. The rates and terms in the commitment letter would be updated at POA approval.

4. Enter amortization period for the loan. If not yet known, use 20 years.

5. By using either amortization tables or a financial calculator, determine the annual debt service that would be required to finance the loan amount in D2 at the given interest rate for the appropriate number of years.

E. Is 90% of the AAR greater than or equal to the annual debt service on the allowable equity loan which was requested?

1. If Yes, then the requested loan meets the limitations specific to the loan portion of the total AAR, and, does not exceed the annual AAR. Therefore, the loan requested is approvable. In addition, the owner is still entitled to an annual return in addition to the equity loan, thus capturing the total 8% AAR. The annual return is the amount shown on line c.

2. If No, then the requested loan is unapprovable because the annual debt service would exceed 90% of the AAR. The loan must be reduced to an amount so that the annual debt service is equal to 90% of the AAR. The amount of the loan is shown on line a. The residual 10% of the AAR is captured by a cash return to the owner. The amount of the return is shown on line b.

IV. Total Annual Debt Service for:

In this section, we are adding the annual debt service on the specified loans. Enter debt service, not actual debt. Once again, we provide a cushion against default by dividing by .9. (Note that to discount debt, we multiply by .9; to provide a cushion for debt service, we divide by .9.)

V. Rents

A. In this section, we assess the accuracy of some key items in the projected budget before we proceed to calculate how incentives will be funded. The level and type of incentives requested depend on these items. If the items are artificially high or low,

then the level and type of incentives will most likely be inappropriate. Item A.5. enforces the regulation that the cash return plus the debt service on the equity loan cannot exceed the maximum allowable AAR on equity of 8%.

B. 1. The Preservation Project Rent (PPR) is defined as the Annual Gross Rent Potential (GRP) plus total annual utility allowances, or, the rents needed to fund all expenses plus tenant utility allowances. The PPR needed to operate the project (with costs of incentives built into the budget) and allow for utility allowances cannot exceed the Federal Cost Limit (FCL). The FCL is the greater of 120 percent of the Section 8 existing fair market rent for the market area in which the project is located or 120 percent of the prevailing rents in the relevant local market area. If the PPR exceeds the FCL, the POA cannot be approved.

Logic underlying parts B2 through D5:

The PPR needed to operate the project, including incentives, and to support utility allowances has two components: TTPs from moderate-income tenants and Section 8 gross rents. We must allocate the rents from these two sources to fund the PPR. In essence, the TTPs for moderate-income tenants will be raised to a level where each tenant pays the lower of FMR or 30% of their adjusted monthly income. These TTP increases will be raised by the greater of 10% of the current TTPs each year or 1/3 of the total increase in any one year. The difference between the TTPs projected to be collected from the moderate-income tenants and the TTPs needed to fund the POA will be bridged by higher Section 8 gross rents.

To arrive at this conceptually, start with the PPR needed to operate the project, including incentives, and to support the utility allowances. Subtract from this total the TTPs that are projected to be generated by the moderate-income tenants after the phase-in of TTPs is complete. We now have the portion of GRP needed to be funded from Section 8 assistance. The rents needed from Section 8 are then distributed among the units which will be receiving Section 8 rental assistance. They will be allocated by unit type.

It is important to understand that the new Section 8 Gross Rents may exceed FMR. The relevant cost restriction is that total annual TTPs projected for moderate-income tenants plus Section 8 rents cannot exceed the FCL (Federal Cost Limit). For example, assume a 100 unit project has 99 moderate-income tenants and one Section 8 tenant. Provided that total annual receipts are no greater than FCL, the Section 8 gross rent for that one unit may be 900% of FMR. (Be careful not to confuse Section 8 Gross Rents with TTPs. Section 8 tenants pay a TTP. After the utility allowance is subtracted from the TTP, HUD supplements that amount up to the Section 8 Gross Rents).

Instructions by line item:

In B2., we calculate the rents which would be generated if FMR or PMR were paid for all Section 8 units. This is completely theoretical. It is only used to derive a ratio to be applied to FMRs to yield actual Section 8 gross rents to be paid.

Item 2e is the total monthly rent which would be generated by Section 8 units if all Section 8 units generated FMR or PMR rents.

Item 2f converts total monthly rent to total annual rent.

Part C is the total annual projected TTPs that would be paid by moderate-income tenants after the phase-in of TTP increases is completed if each moderate-income tenant paid the projected amount. Please note that this process leads to a low estimate of projected TTPs. This amount is assumed to be the lower of the FMR or 30% of the low-income limit each month.

Item C.2. Enter the number of moderate-income tenants in each size unit.

Item C.3. This item lists the number of persons for each income limit to be used for that unit size. For example, for a two-bedroom unit, use the low-income limit for four persons rather than the number of people in the unit.)

Item C.4. Enter the appropriate income limit in accordance with Item C.3.

Item C.5. Multiply the income limit by .025. This is the amount each moderate-income tenant would pay if each paid 30% of the low-income limit divided by 12 each month.

Item C.6. Enter the FMR for each unit size.

Item C.7. Enter the lower of the FMR or the TTP projected in Item C.5. since no tenant pays more than FMR for that unit size.

Items C.8 and 11. These items sum the projected TTPs for all moderate-income tenants.

Item 12. Multiply the result by 12 to derive the total projected annual TTPs for all moderate-income tenants.

Item D.1.c. is the total annual income necessary to complement the moderate-income projected TTPs in order to support the PPR.

Item D.2 calculates the factor by which current FMR or PMR will be multiplied. In most cases, it will be greater than one, but it may be equal to or less than one. The purpose of the factor (or ratio) is to adjust the Section 8 rents to the levels needed to fund the incentives. The FMR for each unit size is adjusted by the same factor. The adjusted monthly rents are shown in Item D.3.d. D.3.f. shows total rents to be collected from all Section 8 contracts for units of that size.

Item D.3.g. is the total monthly rent to be collected from all Section 8 contracts.

Item D.4. converts D.3.g. to total annual rent for the Section 8 units.

Item D.5.: D.4. and D.1.c. should be equal. Item D.4. is the aggregated annual Section 8 rents after they have been adjusted to support the new TTPs; by definition, this is the same as D.1.c. and should differ only by amounts due to rounding. If there is a discrepancy due to rounding, add to or subtract from the rents in D.3.d. until the totals in g., when multiplied by 12, add up to D.1.c. Do not alter D.1.c. to match D.4. If the discrepancy is larger than an amount due to rounding, check your calculations.

E. TTPs for Section 8 tenants who are not paying 30% of their adjusted income prior to the POA will also need to be phased-in. This will generally only apply to tenants in BMIRs who do not receive Section 8 prior to POA approval. This phase-in will not affect project income.

F. Minimum rents are intended to protect the owner from sudden and substantial reductions in project income. This could occur if moderate income tenants suffer a large decline in income and still had to pay only 30% of income for rent.

G. This space is reserved for comments.

VI. Evaluation of additional Incentives which the owner may request.

Two additional methods of funding incentives include: (1) Increased access to residual receipts accounts as needed to enable the owner to realize the AAR, and (2) Redirection of the Interest Reduction Payment subsidies to a second mortgage for projects which are insured, assisted or held by HUD or a State or State Agency under Section 236.

VII. The POA must contain an acceptable Management Plan.

VIII. The answer to each question in this section must be Yes for the POA to be approvable.

The project must remain affordable for the remainder of its useful life. A statement that it will remain affordable for the remaining term on the original mortgage is unacceptable.

The owner must include a statement and budget showing that expenditures will be adequate for proper maintenance and operation.

Tenant profiles must be submitted for two periods. One profile should reflect tenant data as of the date of POA submission. The second profile should reflect tenant data as of January 1, 1987. Tenant data as of January 1, 1988, or 1989, may be substituted for the second profile if accompanied by a certification for the unavailability of the prior year's data.

Based on the two tenant profiles submitted, the owner must maintain the tenant profile which contains the highest number of very low-income tenants.

Future rent increases must be made using an operating cost adjustment factor or required rent increase provisions.

IX. There cannot be any outstanding findings against the owner. If some exist, they must be resolved to Loan Management's satisfaction before the POA can be approved.

X. The owner must have financing commitments in writing, although they may be conditioned upon POA approval.

XI. Has a subsidy layering analysis and any other analysis deemed necessary by the loan servicer been done?

XII. This space is reserved for comments.

C. Calculation of Total Tenant Payment for Moderate-Income Tenants

(1) Enter apartment number.

(2) Enter number of bedrooms.

(3) Enter FMR.

(4) Enter current TTP.

(5) Enter adjusted monthly income.

(6) Enter 30% of adjusted monthly income. Mathematically, multiply amount in (5) by .3.

(7) Moderate-income tenants will pay the lesser of the FMR or 30% of their adjusted monthly income.

(8) The TTP increase is calculated by subtracting the current TTP from the new target TTP.

(9)-(12) If the total TTP increase (8) is greater than 30% of the current TTP (.3x(4)), it must be phased-in equally over a period of not less than three years. Thus, the maximum TTP at POA approval is the current TTP plus one-third of the total increase (4)+(10) . The TTP increase must be phased-in by at least 10% each year (4)+(9) .

If the total TTP increase is greater than ten percent but less than 30% of the current TTP, it must be phased-in at no more than 10% of the current TTP each year (4)+(9) .

(13) Enter the TTP at POA Approval (after final stage of phase-in is complete). It must fall within the range of TTPs established by (11) and (12).

(14)-(16) The actual TTP increase is calculated by subtracting the current TTP from the new TTP. It will almost always be the higher of (9) or (10). This amount will be added each year to the TTP for the previous year until the TTP equals the Target TTP (7). Use additional columns if the phase-in will take more than three years.

Finally, add columns (7), (13), (14), (15), (16), and any subsequent columns for phase-ins that will take longer than three years. Next, multiply the totals by 12 to make the amounts annual. The totals in columns (7) and (16) (or the last column if there are more than 16) should be equal.

Evaluation of Plan of Action
to Sell a Project

GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED

*   *
*   *
*   *
*   *
*   *
*   *
****

****
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
****

****

```
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*       GRAPHICS  MATERIAL  IN  ORIGINAL  DOCUMENT  OMITTED          *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
**********************************************************************
```



```
**********************************************************************
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*       GRAPHICS  MATERIAL  IN  ORIGINAL  DOCUMENT  OMITTED          *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
*                                                                    *
**********************************************************************
```

```
********************************************************************
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*       GRAPHICS  MATERIAL  IN  ORIGINAL  DOCUMENT  OMITTED        *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
********************************************************************
```



```
********************************************************************
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
*                                                                  *
```

*   GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
****

****
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
*   *
****

INSTRUCTIONS FOR FORM HUD-50062

I. Type of Sale/Purchase

A. Identify the type of sale. An owner is eligible to proceed under the Mandatory Sale Provisions only if the Transfer Preservation Rent (TPR) exceeded the Federal Cost Limit (FCL) when the appraisal information was returned. There are certain benefits available to purchasers under Mandatory Sales.

An owner may choose to proceed under the Voluntary Sale Provisions whether or not TPR exceeded the FCL. However, if the TPR did exceed the FCL, the incentives received by the purchaser cannot require a Project Preservation Rent (PPR) which exceeds the FCL. The PPR is defined as Annual Gross Rent Potential (GRP) plus Gross Annual utility allowances for all tenants, or, the rents needed to fund all expenses including incentives plus tenant utility allowances.

B. Identify the type of purchaser. Only Priority Purchasers are eligible for some benefits such as certain types of grants and reimbursement of transaction costs related to acquisition.

II. General Project Finances

All information comes from the Plan of Action (POA) to Sell a Project. If information is missing, the POA is deficient and should be returned to the owner and purchaser.

A. 1. In a Voluntary Sale, the offering price for a bona fide offer may not exceed the Transfer Preservation Value (TPV) of the project. In a Mandatory Sale, the offering price in a bona fide offer must equal the TPV. The owner may, however, accept a lower offer.

2. This is the maximum sales price HUD will use to determine the amount of incentives it will provide. Reducing the offering price by the amount of residual receipts to be retained by the seller is required by statute.

3-5. HUD will use the lower of the Purchase Price that meets the criteria of 2. or the TPV to determine the amount of incentives it will provide.

B. The outstanding debt is the outstanding principal balance on the mortgage. The debt service is the amount of annual payments made to principal, interest, and Mortgage Insurance Premium (MIP).

C. The loan servicer should ensure that all project funds, such as escrow accounts, income levels, and other funds are fully described. For example, do funds come from rents, government sources, private foundations, etc.? Is any funding from any source missing? There should be a detailed cash flow analysis that projects for the next 3 years what the project's anticipated cash flow will be, including income and expenses. If the seller provides financing for the acquisition or rehabilitation, ensure that it does not violate any restrictions detailed in 4350.6, chapter 8, paragraph 8-21F. Finally, list the sources of these funds and their respective amounts.

D. The loan servicer should ensure that the use of all funds are shown. There should be no funds without a corollary expense. That is, all sources of funding should be accounted for. The POA should indicate whether or not the owner plans to use Low Income Housing Tax Credits (LIHTCs). If the owner does not plan to use LIHTC, the POA must include a Form HUD-9611, signed by the purchaser, that certifies LIHTCs will not be used. If the purchaser is using LIHTCs, are the funds accounted for?

E. For all expenses, the POA must be specific. Be cautious of any headings like "Miscellaneous" or "Other."

F. The loan servicer should scrutinize the POA to ensure that the owner plans to use funds efficiently. Similarly, the servicer should make sure the owner has not overestimated or underestimated costs and consequently the need for funding.

G. Proposed utility allowances should be based on historical data with possible adjustments made for items in the rehabilitation plan that would lower utility costs.

III. Capital Improvement, Rehabilitation, and Repairs

A. Two methods for funding requested incentives include (1) financing of capital improvements through provision of a Flexible Subsidy Capital Improvement Loan, and (2) insuring rehabilitation loans of up to 90 percent of rehabilitation costs with the maximum loan based on the equity requirements of the program under which the loan is made. Unless the project is devoid of physical deficiencies, the owner should include a list of capital improvements and rehabilitation that will restore the project to good physical condition.

B. The A Branch of HUD has completed a Capital Needs Assessment for the project. All capital improvements listed in this report must be addressed by the owner. These capital improvements include those required by HUD regulations. All other improvements are at the owner's discretion, subject to the approval of HUD.

C. Has the owner justified the need for capital improvements not required by HUD?

D. Are the cost estimates for these capital improvements reasonable and justified.

E. Check to ensure that the owner is making the correct minimum contribution to the costs of capital improvements as required by the appropriate program. For example, a profit-motivated owner must contribute 25% of the capital costs to qualify for a Flexible Subsidy Loan and 10% of the capital costs for a Section 241(a) loan.

F. For each capital improvement, list the cost, the value of the improvement (what it adds to value of mortgage property as determined by A and Cost Branch), the program under which it will be financed, and the percentage the owner must contribute.

G. List the amount for each loan program that will be used to fund the rehabilitation and capital improvements.

H. Identify the program through which the loan will be made.

I. List the anticipated interest rates for the loan(s).

J. List the anticipated annual debt service payment for each loan.

K. Add the anticipated annual debt service payment for each loan. This provides the total annual debt service for rehabilitation and capital improvement loans. This total will be included in the calculation of the total annual debt service for the project.

L. The owner must submit a schedule for completion of all rehabilitation and capital Improvements.

M. If the schedule is not reasonable, consult the A Cost Branch for guidance in making the determination.

N. The owner needs to describe how the contracts will be awarded.

O. This space is for comments on any of the questions pertaining to capital improvements, rehabilitation, and repairs. If the answers to any of the questions are unsatisfactory, the POA is deficient and should be returned to the owner and purchaser.

IV. Acquisition Loan and Grant

All purchasers are eligible for an acquisition loan. This loan may not exceed 95% of Transfer Preservation Equity (TPE). Priority Purchasers are also eligible for grants of not more than 5% of TPE.

A. Enter TPE. TPE is the Transfer Preservation Value (TPV) minus the outstanding balance of only the federally-assisted mortgage(s).

B-C. One method of funding incentives is the provision of insurance under Section 241(f) for an acquisition loan to the purchaser. Alternatively, the purchaser may obtain a non-insured mortgage loan approved by HUD. The maximum insured acquisition loan will be 95% of either the TPE or the Purchase Price minus Outstanding Debt, whichever is lower, minus the total amount of funding the purchaser receives from other sources. However, in the case of Priority Purchasers, funds from other sources should first be used to reduce the amount of the grant. The loan will be reduced only if the funds from other sources exceed the amount the purchaser may receive in grant funds. Therefore, to complete C.2., the amount of other funding is first subtracted from the allowable grant. The remainder (if any) is subtracted from the allowable loan and entered on this line.

D. 1. This means that the purchaser may receive an acquisition loan of up to 95% of TPE less total funding from all sources. However, the loan may not exceed the purchaser's actual need.

D. 2. Enter amount of Acquisition Loan requested in the POA.

D. 3. The owner may contribute more than the minimum 5% required. Therefore, the acquisition loan requested may be lower than would be allowed. The difference between the maximum allowable acquisition loan and the loan amount actually requested represents an additional amount of equity over and above the minimum 5% required by HUD on which the purchaser may receive a return.

E. Enter Annual Debt Service on Acquisition Loan.

F. (Only Priority Purchasers are eligible for this grant.) All purchasers are expected to contribute 5% of TPE or the difference between the Purchase Price and the loan amount. If a Priority Purchaser is unable to do so, however, the Priority Purchaser may request a grant for up to 5% of TPE minus any funding received from other sources, subject to approval by Headquarters. If the entire POA, including any requests for grants, is deemed approvable, Loan Management must forward the complete POA, a copy of the completed Form HUD-50062, and a recommendation for approval of the grant to Preservation Division in Headquarters. Preservation staff must issue a decision on the grant within 15 days.

G. This space is reserved for any comments on the acquisition loan and grant, if applicable.

V. In this section, we add the annual debt service on the specified loans. We provide a cushion for debt service to protect against default by dividing by .90 for a Limited Dividend Purchaser. For Non-Profit Purchasers, we divide by .95 because HUD requires a smaller cushion for non-profits.

VI. A. Purchasers may receive a maximum of 8% return on the equity they contribute up to a purchase price no greater than TPV. Part A. calculates the equity contributed by the purchaser. We start with the minimum 5% equity contribution required by HUD, then add the amount by which the purchaser exceeds this minimum contribution. Finally, for Priority

Purchasers, we subtract any grant amount provided by HUD to reach the minimum required contribution. Priority Purchasers may not take the return out of the project except to pay authorized loans, but may include it in the budget to increase project receipts.

B. Here, we apply an 8% rate of return to the purchaser's equity contribution to determine the Maximum Annual Return on their investment.

VII. Gross Annual Rents

A. In this section, we assess the accuracy of some key items in the projected budget before we proceed to calculate how incentives will be funded. The level and type of incentives requested depend on these items. If the items are artificially high or low, then the level and type of incentives will most likely be inappropriate. Item A.5. enforces the regulation that the return on the purchaser's investment cannot exceed 8%.

B. 1. We add the total annual rent necessary to operate the project and the sum of the utility allowances for all tenants to determine the Preservation Project Rent (PPR). The PPR (Total Tenant Payment (TTP) plus all utility allowances) needed to operate the project cannot exceed the Federal Cost Limit. If it does, either the purchaser must be eligible for a grant as determined in X. below or the POA cannot be approved.

2. In order for a POA to be approvable, one of three conditions must exist. One, gross TTPs needed to operate the project are less than or equal to the FCL. Two, it is a Mandatory Sale. Or three, it is a Voluntary Sale to a Priority Purchaser and the TPR is less than or equal to the FCL. If none of these conditions exist, the POA cannot be approved.

VIII. Grant or loan to priority purchasers for transaction and other costs.

A. An additional incentive available to Priority Purchasers is the reimbursement for transaction expenses and other expenses related to acquisition of the project.

B. The loan and/or grant amount cannot exceed 5% of the TPE.

C. This loan and/or grant may be made for acquisition costs, costs of organizing the nonprofit organization, and for tenant training and education. These costs must be based on documented expenses that have not and will not be reimbursed. Transaction costs may include legal fees and closing costs for purchasing the project. Broker's fees may not be included.

D. HUD will only provide assistance for actual costs, subject to the cap determined in B.

E. 1. This is the amount by which the FCL exceeds the allowed PPR. This amount represents a capacity for the project to incur the cost of debt service for a loan to cover the expenses described in C. To the extent that the capacity allows, that is, until total costs to operate the project equal the FCL, the assistance will take the form of a loan. If no such capacity exists, then any debt service on a loan would cause costs to exceed the FCL. Therefore, the assistance must take the form of a grant as calculated in F.

2. Once we determine the difference between the FCL and the allowed PPR, we determine how much debt that amount will support.

3. The assistance for the costs described in Part C will take the form of a loan to the extent that the debt service on the loan can be added to the total costs of operating the project without exceeding the FCL.

4. If less than all of the assistance for the costs described in Part C. will take the form of a loan, then the debt service on the loan should be the difference between the FCL and the allowed PPR. (This taps the entire capacity to increase total rents up to the FCL.)

5. Here, we add the debt service on this loan to the PPR calculated earlier. This amount should not exceed the FCL. If the loan amount covers all the costs described in Part C., there is no grant for these costs. If the loan amount is inadequate to cover all eligible costs, then the remainder of the assistance will take the form of a grant as calculated in F.

F. To determine the grant amount, subtract the loan amount from the total costs eligible for reimbursement (subject to the cap imposed in B.). Remember that all grants must be approved by Headquarters.

IX. Section 8 Rents

Logic underlying A. through D5:

The PPR needed to operate the project, including incentives, and to support utility allowances has two components: TTPs from moderate-income tenants and Section 8 gross rents. We must allocate the rents from these two sources to fund the PPR. In essence, the TTPs for moderate-income units will be raised to a level where each tenant pays the lower of FMR or 30% of their adjusted monthly income. These TTP increases will be raised by the greater of 10% of the current TTPs each year or 1/3 of the total increase in any one year. The difference between the TTPs projected to be collected from the moderate-income tenants and the TTPs needed to fund the POA will be bridged by higher Section 8 gross rents.

4350.6-CHG.1

APPENDIX 8-2A

To arrive at this conceptually, start with the PPR needed. Subtract from this total the TTPs that are projected to be generated by the moderate-income tenants after the phase-in of the TTPs is complete. We now have the portion of TTPs needed to be funded from Section 8 assistance. The rents needed from Section 8 are then distributed among the units which will be receiving Section 8 rental assistance. They will be allocated by unit type.

It is important to understand that the new Section 8 Gross Rents may exceed FMR. The relevant cost restriction is that total annual projected moderate-income TTPs plus Section 8 Gross Rents cannot exceed the FCL (Federal Cost Limit). For example, assume a 100 unit project has 99 moderate-income tenants and one Section 8 tenant. Provided that total annual receipts are no greater than the FCL, the Section 8 gross rent for that one unit may be 900% of FMR. (Be careful not to confuse Section 8 Gross Rents with TTPs. Section 8 tenants pay a TTP. After the utility allowance is subtracted from the TTP, HUD supplements that amount up to the Section Gross Rent.)

Instructions by line item:

In A., we calculate the rents which would be generated if FMR or PMR were paid for all Section 8 units. This is completely theoretical. It is only used to derive a ratio to be applied to FMRs to yield actual Section 8 gross rents to be paid.

Item A.5. is the total monthly rent which would be generated by Section 8 units if all Section 8 units generated FMR or PMR rents.

Item A.6. converts total monthly rent to total annual rent.

Part B. is the total annual projected TTPs that would be paid by moderate-income tenants after the phase-in of TTP increases is completed if each moderate-income tenant paid the projected amount. Please note that this process leads to a low estimate of projected TTPs. This amount is assumed to be the lower of the FMR or 30% of the low-income limit each month.

Item B.2. Enter the number of moderate-income tenants in each size unit.

Item B.3. This item lists the number of persons for each income limit to be used for that unit size. For example, for a two-bedroom unit, use the low-income limit for four persons rather than the number of people in the unit.)

Item B.4. Enter the appropriate income limit in accordance with Item C.3.

Item B.5. Multiply the income limit by .025. This is the amount each moderate-income tenant would pay if each paid 30% of the low-income limit divided by 12 each month.

Item B.6. Enter the FMR for each unit size.

Item B.7. Enter the lower of the FMR or the TTP projected in Item B.5. since no tenant pays more than FMR for that unit size.

Items B.8 and 11. These items sum the projected TTPs for all moderate-income tenants.

Item 12. Multiply the result by 12 to derive the total projected annual TTPs for all moderate-income tenants.

Item C. This is the total annual income necessary to operate the project including all incentives plus the sum of utility allowances for all tenants. This total is capped by the FCL.

Item D.1.c. is the total annual income necessary to complement the projected TTPs for moderate-income tenants in order to support the PPR.

Item D.2. calculates the factor by which current FMR or PMR will be multiplied. In most cases, it will be greater than one, but it may be equal to or less than one. The purpose of the factor (or ratio) is to adjust the Section 8 rents to the levels needed to fund the incentives. The FMR for each unit size is adjusted by the same factor. The adjusted monthly rents are shown in Item D.3.d. D.3.f. shows total rents to be collected from all Section 8 contracts for units of that size.

Item D.3.g. is the total monthly rent to be collected from all Section 8 contracts.

Item D.4. converts D.3.g. to total annual rent for the Section 8 units.

Item D.5.: D.4. and D.1.c. should be equal. Item D.4. is the aggregated annual Section 8 rents after they have been adjusted to support the new TTPs; by definition, this is the same as D.1.c. and should differ only by amounts due to rounding. If there is a discrepancy due to rounding, add to or subtract from the rents in D.3.d. until the totals in g., when multiplied by 12, add up to D.1.c. Do not alter D.l.c. to match D.4. If the discrepancy is larger than that due to rounding, check your calculations.

E. TTPs for Section 8 tenants who were not paying 30% of their adjusted income prior to the POA will also need to be phased-in. This will generally apply to tenants in BMIRs who do not receive Section 8 prior to POA approval. This phase-in will not affect project income.

F. Minimum rents are intended to protect the owner from sudden and substantial reductions in project income. This could occur if moderate income tenants suffer a large decline in income and still had to pay only 30% of income for rent.

X. Grant to compensate for inadequate rents.

The purpose of this grant is to reduce the acquisition loan in order to lower the debt service to the level where the PPR equals the FCL.

A. Any purchaser in a Mandatory Sale or a Priority Purchaser in a Voluntary Sale where TPR was less than or equal to FCL is eligible for this grant.

B. Self-explanatory.

C. Self-explanatory.

D. Here, we compare the PPR needed to operate the project to the FCL. If the PPR is at or below the FCL, no grant is needed to reduce costs. A grant is needed only if the cost of funding the allowable incentives exceeds the FCL.

E. 1. Subtracting the FCL from the PPR calculates the amount by which annual costs must be reduced to reach the FCL. Annual costs will be lowered by reducing the amount of the acquisition loan with the provision of a grant, thereby reducing annual debt service on the loan.

2. Enter the current market interest rate for the acquisition loan.

3. Enter the amount of the previously calculated and approvable acquisition loan.

4. Use a financial calculator to determine the amount by which the loan needs to be reduced. This is the amount of the grant needed. To arrive at this amount, the debt service needs to be reduced by the amount shown in E.1. This translates to a reduction in the loan by the amount on this line.

5. Self-explanatory.

F. The new Acquisition Loan is the original loan amount minus the grant amount. The debt service on this new loan amount will bring the PPR needed to operate the project equal to the FCL.

XI. Total of all Grants

Remember that all grants need final approval by the Preservation Division in Headquarters before a POA can be approved.

XII. Evaluation of additional incentives which the purchaser may request.

Two additional methods of funding incentives include: (1) Increased access to residual receipts accounts as needed to enable the owner to realize the Annual Authorized Return, and (2) Redirection of the Interest Reduction Payment subsidies to a second mortgage for projects which are insured, assisted or held by HUD or a State or State Agency under Section 236.

XII. The POA must contain an acceptable Management Plan.

XIV. The answer to each question in this section must be Yes for the POA to be approvable.

The project must remain affordable for the remainder of its useful life. A statement that it will remain affordable for the remaining term on the original mortgage is unacceptable.

The POA must include a statement and budget showing that expenditures will be adequate for proper maintenance and operation.

Tenant profiles must be submitted for two periods. One profile should reflect tenant data as of the date of POA submission. The second profile should reflect tenant data as of January 1, 1987. Tenant data as of January 1, 1988, or 1989, may be substituted for the second profile if accompanied by a certification for the unavailability of the prior year's data.

Based on the two tenant profiles submitted, the purchaser must maintain the tenant profile which contains the highest number of very low-income tenants.

Future rent increases must be made using an operating cost adjustment factor or required rent increase provisions.

XV. Self-explanatory.

XVI. There cannot be any outstanding findings against the purchaser. If some exist, they must be resolved to Loan Managements's satisfaction before the POA can be approved.

XVII. The purchaser must have financing commitments in writing, although they may be conditioned upon POA approval.

XVIII. Has a subsidy layering analysis and any other analysis deemed necessary by the loan servicer been done?

XIX. This space is reserved for comments.

Calculation of Total Tenant Payment for Moderate-Income Tenants

(1) Enter apartment number.

(2) Enter number of bedrooms.

(3) Enter FMR.

(4) Enter current TTP.

(5) Enter adjusted monthly income.

(6) Enter 30% of adjusted monthly income. Mathematically, multiply amount in (5) by .3.

(7) Moderate-income tenants will pay the lesser of the FMR or 30% of their adjusted monthly income.

(8) The TTP increase is calculated by subtracting the current TTP from the new target TTP.

(9)-(12) If the total TTP increase (8) is greater than 30% of the current TTP (.3x(4)), it must be phased-in equally over a period of not less than three years. Thus, the maximum TTP at POA approval is the current TTP plus one-third of the total increase (4)+(10) . The TTP increase must be phased-in by at least 10% each year (4)+(9) .

If the total TTP increase is greater than ten percent but less than 30% of the current TTP, it must be phased-in at no more than 10% of the current TTP each year (4)+(9) .

(13) Enter the TTP at POA Approval (after final stage of phase-in is complete). It must fall within the range of TTPs established by (11) and (12).

(14)-(16) The actual TTP increase is calculated by subtracting the current TTP from the new TTP. It will almost always be the higher of (9) or (10). This amount will be added each year to the TTP for the previous year until the TTP equals the Target TTP (7). Use additional columns if the phase-in will take more than three years.

Finally, add columns (7), (13), (14), (15), (16), and any subsequent columns for phase-ins that will take longer than three years. Next, multiply the totals by 12 to make the amounts annual. The totals in columns (7) and (16) (or the last column if there are more than 16) should be equal.

CHECKLIST FOR SUBMISSION OF
PLAN OF ACTION TO RETAIN A PROJECT

The numbers in the ( )s are paragraph references.

Did the owner submit:	YES	NO
1. A Plan of Action (POA) within six months of receiving the reconciled appraised values and corollary information (8-3.A.1;8-16.A)?	____	____
2. Six copies of the POA (8-3.A.1)?	____	____
3. A POA summary to tenants (8-3.B)?	____	____
4. A POA summary to the Loan Management Branch		

(8-3.B)? ____ ____

5. A copy of the POA and POA summary to the tenant representative or a certification stating that the owner is unaware of a tenant representative (8-3.B)? ____ ____

6. A certification that a copy of the POA to the State or local government official to whom the Initial NOI was submitted (8-3.C)? ____ ____

Were the following included in the submitted Plan of Action?

1. A. Descriptions of outstanding findings of noncompliance and violations and documented resolution of findings or proposed resolutions?

OR

B. A certification of no violations (8-5.C)? ____ ____

2. A. Description of proposed changes in status or terms of the mortgage or regulatory agreement?

OR

B. A statement of no proposed changes (8-5.A)? ____ ____

3. A. Description of proposed changes in low-income affordability restrictions and a detailed assessment of the effect of these changes on each tenant?

OR

B. A statement that no changes are proposed (8-5.B)? ____ ____

4. A. A request for waivers?

OR

B. A statement that no waivers are requested (8-5.D)? ____ ____

5. List of incentives (assistance) requested

and methods to fund listed incentives
(8-17.A.B; 8-19.A.B)? ____ ____

6. Projected budgets for three years (8-17.D)? ____ ____

7. Management plan (8-17.D)? ____ ____

8. Occupancy policy (8-17.D)? ____ ____

9. Requested utility allowances (8-17.D.)? ____ ____

10. Other information and conditions/criteria specified by the Loan Management Branch as necessary for evaluating the POA (8-17.H)? ____ ____

11. A. Description of assistance from State or Local Government Agencies, excluding LIHTCs, and an analysis of any cost reduction for HUD?

OR

B. A statement that no assistance will be received (8-17.E)? ____ ____

12. A. If LIHTCs are part of the transaction, has the information required by Notice H90-17 been included (8-17.E.1)?

OR

B. If LIHTCs are NOT received by the owner, has form HUD-9611 been included (8-17.E.1)? ____ ____

13. Two tenant income profiles (8-17.F):

A. One as of the date of submission of the POA? ____ ____

AND

B. i. One as of January 1, 1987?

OR

ii. A tenant income profile for a year other than 1987 along with a

certification that the January 1,
1987 profile is unavailable? ____ ____

14. A certification that the owner has submitted or will submit all required loan applications (8-17.G.)? ____ ____

15. A certification that ten percent of any equity loan will be escrowed for five years or until the owner is in compliance with HUD's Housing Quality Standards. (8-20)? ____ ____

CHECKLIST FOR SUBMISSION OF
PLAN OF ACTION TO SELL A PROJECT

The numbers in the ( )s are paragraph references.

Did the owner and purchaser submit:

YES NO

1. A Plan of Action (POA) within six months:

   A. Of accepting a HUD approved bona fide offer under the voluntary sales process (8-3.A.1. & 8-16.B)? or ____ ____

   B. Of receipt of a HUD approved bona fide offer under the mandatory sale process?

2. Six copies of the POA (8-3.A.1)? ____ ____

3. A POA summary to tenants (8-3.B)? ____ ____

4. A POA summary to the Loan Management Branch (8-3.B)? ____ ____

5. A copy of the POA and POA summary to the tenant representative or a certification stating that the owner is unaware of a tenant representative (8-3.B.1)? ____ ____

6. Certification that a copy of the POA to the State or local government official to whom the Initial NOI was submitted (8-3.C)? ____ ____

Were the following included in the submitted Plan of Action?

1. A. Descriptions of outstanding findings of noncompliance and violations and documented resolution of findings or proposed resolution?

OR

B. A certification of no violations (8-5.C)? ____ ____

2. A. Description of proposed changes in status or terms of the mortgage or regulatory agreement?

OR

B. A statement of no proposed changes (8-5.A)? ____ ____

3. A. Description of proposed changes in low-income affordability restrictions and a detailed assessment of the effect of these changes on each tenant?

OR

B. A statement that no changes are proposed (8-5.B)? ____ ____

4. A. A request for waivers?

OR

B. A statement that no waivers are requested (8-5.D)? ____ ____

5. List of incentives (assistance) requested and methods to fund listed incentives (8-17.A.,B. & 8-21.A.,B.,D.)? ____ ____

6. Projected budgets for three years (8-17.D)? ____ ____

7. Management plan (8-17.D)? ____ ____

8. Occupancy policy (8-17.D)? ____ ____

9. Requested utility allowances (8-17.D.)? ____ ____

10. Other information and conditions/criteria

specified by the Loan Management Branch as necessary for evaluating the POA (8-17.H)? ____ ____

11. A. Description of assistance from State or Local Government Agencies, excluding LIHTCs, and an analysis of any cost reduction for HUD?

OR

B. A statement that no assistance will be received (8-17.E)? ____ ____

12. A. If LIHTCs are part of the transaction, has the information required by Notice H90-17 been included (8-17.E.1)?

OR

B. If LIHTCs are NOT received by the owner, has form HUD-9611 been included (8-17.E.1)? ____ ____

13. Two tenant income profiles (8-17.F):

A. One as of the date of submission of the POA? ____ ____

AND

B. i. One as of January 1, 1987?

OR

ii. A tenant income profile for a year other than 1987 along with a certification that the January 1, 1987 profile is unavailable? ____ ____

14. A certification that the owner has submitted or will submit all required loan applications (8-17.G.)? ____ ____

15. A complete Transfer of Physical Assets package (8-21.E)? ____ ____

Low Income Housing
Tax Credit (LIHTC)
Certification for Owners

GRAPHICS MATERIAL IN ORIGINAL DOCUMENT OMITTED

USE FIELD OFFICE LETTERHEAD

MEMORANDUM TO STATE AND LOCAL GOVERNMENTS

To: Government Agencies Interested in the Preservation of Low-Income Housing

From: Chief Loan Management Branch
U. S. Department of HUD

Subject: Memorandum to State and Local Governments Requesting Comments to the Preservation Plan of

Action to Extend Low-income Affordability
Restrictions for
name of project

The owner or owner and purchaser of subject project have submitted a Plan of Action (POA) to HUD requesting incentives to extend the low-income affordability restrictions. A copy of the POA is enclosed.

We are requesting your comments to the enclosed POA. Please return them to the HUD Office specified below by Date--50 days after HUD receipt of the POA .

We would like you to inform us of any deficiencies at the project of which you are aware and provide any other information that you think would be of interest or benefit to HUD. This could include information about the violation of building codes, fair housing and equal opportunity laws, other State or local ordinances or other violations applicable to the operation of the project. We would also appreciate any information or comment about the project's financial situation which is not adequately addressed in the POA.

In cases where the POA indicates possible displacement or relocation of tenants due to prepayment of the mortgage and termination of the low-income affordability restrictions, we would encourage you to provide additional help to tenants, if your agency administers applicable tenant assistance programs. We request that you advise the tenants living in the project, in a timely manner, of such programs (or of any

tenant assistance programs that are administered by other local organizations) that could assist them in retaining their residences as affordable housing, or minimize the effects of displacement.

In the case of a Resident Homeownership Plan from a Resident Council (RC) to purchase the project, you should advise the RC of local programs that would facilitate the purchase of the project under a Resident Homeownership Program.

Please send your comments or direct your questions to:

____

Chief, Loan Management Branch

Address ____

____

City_________________________ State____ Zip Code_______

MATERIALS LIHTC PARTICIPANTS MUST SUBMIT

1. Brief summary of the terms on which the owner will participate in the LIHTC program. Include:

   a. the annual credit amount, the type(s) of credit (acquisition and or rehab); the date the 10-year credit period will begin; the credit percentage awarded for each type of credit; and the maximum qualified basis for each type of credit.

   b. which income eligibility limit will apply (50/60 percent of of median income) and how many units, if any, will be set-aside for families with incomes below 40 percent of the median income (deep-rent skewing).

   c. list of units for which credits will be claimed. Give the number of units in each bedroom size and the initial tax credit rent limit for each unit size. Also indicate which units, if any, will be held for families with incomes below 40% of the median income.

   Note: The 1989 Omnibus Reconciliation Act sets the rent limit based on the median income of "hypothetical" households having 1.5 persons per bedroom. Under previous law, rent cap was based upon the actual size of the household occupying the unit. See Page H 9396 of Attachment 4 for the new statutory language.

2. Copy of a) IRS Form 8609, Low Income Housing Credit Allocation Certification; or b) a report on the status of any tax credit allocation still in process and a copy of any credit agency reservation form or other document indicating agency's intent to award credits to the project.

3. Whether credit will be claimed by current owners or new owners.

4. List of all federal/state/local government insurance, loan, grant or subsidy programs in which the applicant plans to participate and any grants or below-market loans expected to be received from non-government sources. For each loan, give interest rate, monthly debt service, loan amount and loan term.

5. Sources and Uses of Funds Statement, itemizing: a) all funds

available; b) all purposes for which funds will be disbursed; and c) dates any investor contributions are due. For item (a), use gross amounts available before deducting syndication, legal or other intermediary costs.

6. A Statement in which the applicant agrees to promptly notify the HUD Field Office of any change in the information provided pursuant to this attachment.

Notice H90-17 Attachment 2
cont'd

NOTE: The following language must be included in the submission. The applicant's signature must appear immediately below this warning.

WARNING: It is a crime to knowingly make false statements to a federal agency. Penalties upon conviction can include a fine and imprisonment. For details, see Title 18 U.S. code, Section 1001 and 1010.

PUBLIC REPORTING BURDEN. This collection of information is estimated to average 1/2 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to:

- Reports Management Officer
  Office of Information Policies and Systems
  U.S. Department of Housing and Urban Development
  Washington, D.C. 20410-3600

- Office of Management and Budget
  Paperwork Reduction Project (2502-0377)
  Washington, D.C. 20503

CHECKLIST FOR SUBMISSION OF A PLAN OF ACTION TO TERMINATE LOW-INCOME AFFORDABILITY RESTRICTIONS

Did the owner submit: YES NO

1. A Plan of Action (POA) within six months of receiving the information about the market area from HUD (8-11)? ____ ____

2. Six copies of the POA (8-3.A.1.)? ____ ____

3. A POA summary to tenants (8-3.B.)? ____ ____

4. A POA summary to the Loan Management Branch (8-3.B.)? ____ ____

5. A copy of the POA and POA summary to the tenant representative or a certification stating that the owner is unaware of a tenant representative (8-3.B)? ____ ____

6. A certification that a copy of the POA to the State or local government official to whom the Initial NOI was submitted (8-3.C)? ____ ____

Were the following included in the submitted Plan of Action?

1. A. Descriptions of outstanding findings of noncompliance and violations and documented resolution of findings or proposed resolutions?

OR

B. A certification of no violations (8-5.C)? ____ ____

2. A. Description of proposed changes in status or terms of the mortgage or regulatory agreement?

OR

B. A statement of no proposed changes (8-5.A)? ____ ____

3. A. Description of proposed changes in low-income affordability restrictions and a detailed assessment of the effect of these changes on each tenant?

OR

B. A statement that no changes are proposed (8-5.B)? ____ ____

4. A. A request for waivers?

OR

B. A statement that no waivers are requested (8-5.D)? ____ ____

5. An assessment of the effect of the proposed changes on each tenant living at the project at POA approval (8-12.A.)? ____ ____

6. Evidence and an analysis of the effect of the proposed changes on the supply of housing affordable to low-income families in the community where the project is located (8-12.B.)? ____ ____

7. Occupancy information (8-12.C.)? ____ ____

8. A description of any change in ownership related to prepayment of the mortgage? (8-12.D.) ____ ____

9. A statement of the intention of the owner to sign a Use Agreement to maintain low-income restrictions (8-12.E.)? ____ ____

10. Other information and conditions/criteria specified by the Loan Management Branch as necessary for evaluating the POA (8-12.F.)? ____ ____

Guidelines for Conducting the Review of a Plan of Action to Terminate Low-Income Affordability Restrictions

1. General

This guidance outlines the policy and procedures to be followed in reviewing a Plan of Action (POA). The review of a POA to terminate low-income affordability restrictions involves the determination of whether the market area has a surplus of rental housing, i.e., the supply of vacant available rental housing significantly exceeds the demand (surplus market). The review must also take into consideration whether the prepayment would materially affect the housing opportunities of low- and very-low income families in the area, based on the specific characteristics of the project, as described below.

a. The project is needed to assist in preserving low-income housing in a neighborhood which is being revitalized;

b. The project represents a rare source or the only source of low- and moderate-income rental housing in the immediate area;

c. There is a shortage of the particular type of rental housing provided by the project such as units suitable for the disabled, single room occupancy, or units for large families;

d. The preservation of the housing would be necessary to avoid adversely affecting the housing opportunities of minorities or to avoid adversely affecting the ability of low- and very-low income families to find housing near employment opportunities.

A recommendation of approval of a POA to terminate affordability restrictions can only be made where there has been a determination of a surplus market and a determination that prepayment would not materially affect housing opportunities.

2. Definition of the Market Area

For the purpose of the analysis, the housing market area (where housing units of similar characteristics are in relative competition with each other) is defined in the case of a non-metropolitan area as the county in which the project is located. For projects located in metropolitan areas, the market area will generally be defined as the entire Primary Metropolitan Statistical Area (PMSA/MSA). In unusual circumstances, such as the case of very large metropolitan areas, the defined market area may be only a part of the larger area.

3. Evidence Indicating a Soft Market Condition (Surplus of Rental Housing)

Experience has shown that certain market conditions are indicative of a soft rental market. The existence of one or more of these conditions does not automatically establish the market area as a soft market but indicates need for further analysis.

a. Upward trends in the number of defaults and foreclosures in rental projects and the existence of a large inventory of HUD acquired properties.

b. Unusually low rents being asked for new units or widespread use of concessions for both new and existing units. Widespread use of short-term leases.

c. Increases in overall rental vacancy rates and increases in vacancies in existing rental projects which had previously had a history of high occupancy.

d. Excessive number of vacant rentals (particularly apartments) of particular size, age, project or unit type, or other common characteristic.

e. Rental vacancy rates of greater than 10 percent overall and 12 percent or more in multifamily rental projects for a sustained period (24 months).

f. Flat or stable rents in existing projects or rent increases smaller than what could be expected from normal increases in property taxes, utilities, maintenance costs or inflation.

g. Newly built rental units are being absorbed at a slower rate than in previous periods, vacancies in existing projects are on the market for a longer period, new units being absorbed at the expense of existing units.

h. Significant declines in waiting lists and increases in the size and frequency of advertising.

i. Construction or proposed construction of a substantial number of rental units.

j. Downturns in the local economy, as indicated by declining employment growth, reductions by major employers or increased unemployment or evidence that future growth will not be sufficient to increase demand to levels needed to absorb the supply.

A rental vacancy rate of 10 percent or more should generally be considered excessive for almost all markets, unless the area is experiencing a sustained and rapid rate of growth. In market areas with moderate to low levels of household growth, rental vacancy rates of less than 10 percent may also be considered excessive, especially if the impending increase in supply is significant. A vacancy rate cannot be the sole basis for the soft market determination. The current vacancy situation must be considered in the context of other factors.

4. Extent and Length of Time for Soft Market Conditions

Because a housing market is dynamic, the extent of the surplus condition and the estimated length of time the condition is expected to last are important factors in the identification of a surplus rental market. For the purposes of the review, an area should be considered a soft market if:

a. There is currently a surplus of rental housing such that the current excess supply of vacant available housing, plus units currently under construction that will enter the market within the next 24 months, is expected to exceed demand for at least the next 24 months; or

b. The market is anticipated to become a soft market within the next 12 months if, based on the housing production (units currently under construction or with firm planning commitments), in combination with the current supply of available vacant units, supply is expected to exceed demand for at least 24 months.

5. Content of the Analysis

The determination will be based on analysis of the current and anticipated conditions in the overall rental market. The analysis will take into account data from the 1990 Decennial Census and the most recent available locally obtainable data on such factors as: changes in population, households and employment, the housing inventory, residential construction activity, and recent trends in the absorption of rental housing. A determination of market conditions must be a comprehensive view of market forces and trends and comprise the following:

a. Forecasts of employment, incomes, population and household growth and other relevant economic factors.

b. Estimates of supply and demand taking into consideration marketability factors, such as, the time period necessary to successfully absorb the projects comprising the existing and planned supply.

c. Analysis of the potential number of units eligible to prepay during the forecast period relative to any excess supply of vacant available housing plus units currently under construction.

d. Estimates of current and future rental vacancies and vacancy rates.

e. Evaluation of local market absorption rates in terms of reduction of supply and evaluation of rental absorption experience in the area, so as to determine whether new projects coming on the market are adversely effecting existing inventories, that is, successful occupancy is being achieved at the cost of creating sustained vacancies in existing units.

6. Content and Format of the Market Report

The specific content and length of the written market report, which will vary depending on the nature of the local market circumstances, are at the discretion of the Field Office EMAS conducting the review. The report should be as comprehensive and explicit as needed to assure an understanding of the rationale of the analysis and its conclusions, findings and recommendations. The market analysis review is expected to contain a specific determination of whether the market area is a soft rental market and whether or not prepayment would materially affect housing opportunities. The report should contain:

a. A description of the geographic boundaries of the market area for which the determination is being made, including an explanation for the definition based on any relevant characteristics.

b. An analysis of current market conditions and a forecast of future conditions over the next 24 months, including consideration of the following:

(1) The recent trend in household growth and an estimate of growth over the forecast period, comparing the growth to the annual changes in housing production and the current inventory.

(2) The current overall rental vacancy rate and a discussion of any specific vacancy problems in the market.

(3) A discussion of recent market experience, including absorption experience of new housing projects, current occupancy levels and recent trends in existing projects and a discussion of current rents and anticipated trends, given anticipated market conditions.

(4) The number of units under construction and the characteristics of these units. The number of units in advanced planning stages, e.g., with building permits or firm financial commitments.

(5) An analysis that reconciles the estimates of annual demand with the forecast of household growth and the anticipated supply (current vacancy situation and supply of units in production).

(6) A discussion of the length of time the identified market conditions are anticipated to last.

(7) A discussion of whether the prepayment would materially affect the housing opportunities of low- and very-low income families in the area, based on the specific characteristics of the project.