LOW INCOME HOUSING TAX CREDIT PILOT PROGRAM APPLICATION PROCESSING GUIDE

As of January 16, 2013

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I. INTRODUCTION, PROGRAM PURPOSES AND FACT SHEET

A. Introduction

This document is an informal guide for lenders and HUD staff to use while implementing the Low Income Housing Tax Credit Pilot Program described below. It is based on HUD Housing Notice 2012-1 and Mortgagee Letter 2012-1. Pilot projects are to be insured under FHA's existing Section 223(f) multifamily mortgage insurance program, but the Mortgagee Letter and Housing Notice allow for certain adjustments to 223(f) underwriting and processing, to the extent they are needed for implementation of the Pilot. The Pilot is not a permanent program and this document is not intended as permanent guidance. It does not alter the 223(f) program, nor does it alter or supersede the MAP Guide, or any other Notices, Mortgagee Letters, or rules or regulations of any kind.

B. Program Purposes

The overall purpose of the Low Income Housing Tax Credit Pilot Program (the "Pilot" or "Tax Credit Pilot") is to increase FHA's production of affordable housing, through implementation of the Housing Tax Credit Coordination Act of 2008, part of the Housing and Economic Recovery Act of 2008, Public Law 110-289, in subtitle B of Title VIII (HERA). The Pilot is intended to streamline FHA processing of mortgage insurance applications for projects with equity from the Low Income Housing Tax Credit (LIHTC) program. To this end, the Pilot creates a distinct application platform and a separate processing track under HUD's Section 223(f) multifamily insurance program. This accelerated processing will ensure that FHA insurance processing and approvals will be compatible with Tax Credit program requirements and deadlines.

The outcome will be completion of FHA-insured loan approvals within 120 days from receipt of complete lender applications to closing. HUD has made several adjustments to the standard 223(f) processing and staffing for the Pilot, to ensure that projects move through the system more rapidly. These include using selected MAP lenders with Tax Credit experience, limiting the program initially to limited numbers of Pilot Hubs with capacity and/or specialized LIHTC experience (Atlanta, Boston, Chicago, Denver, Detroit, Fort Worth, Los Angeles, San Francisco and Seattle), committing highly experienced senior staff (supervisors) as Designated Underwriters ("DUs"), and back-up DUs in each of the Pilot Hubs, limiting underwriting to a single FHA insurance program (the Section 223(f) program), adapted for use with Tax Credits, and working closely with the Pilot lenders prior to application to confirm a project's Pilot suitability or refer it to another MAP program.

Similar staffing and programming commitments have been made at HUD Headquarters. These include designating an HQ Asset Management "Point of Contact" to answer questions concerning approvals of direct or FHA-insured loan prepayments, and any other special approvals and waivers needed. HUD has also committed an HQ staff person in MF Development to track and monitor Pilot projects and provide ongoing guidance and problem solving.

In addition to staffing and processing changes, HUD has made important adjustments to the Section 223(f) application submission for the Pilot. Under the Pilot, lenders will submit a streamlined Section 223(f) application package. The heart of the Pilot application package is a standard, pared-down narrative and financial information, submitted electronically. The Pilot application package eliminates certain duplicative exhibits that are not relevant to Pilot projects in order to facilitate more efficient, risk-based application reviews. Combined, these resources and program refinements allow HUD and lenders to work together to facilitate affordable housing loans and test new ways to advance our FHA business.

C. FHA Tax Credit Pilot Program Fact Sheet

Project Eligibility

1. The project must have existing Tax Credit or Bond Cap allocations, or reasonably close substitutes acceptable to HUD. Either 4% or 9% Tax Credits will be accepted. Market rate projects without Section 8 subsidies, including those which are to be initially converted into tax credit deals, are unacceptable.

2. Projects may be located anywhere in the United States. However, if not located within the geographic boundaries of the 9 Pilot Hub offices, projects will be assigned to and underwritten at a designated Pilot Hub.

3. All projects must be comparatively low-risk projects that meet sustaining occupancy and other similar requirements.

4. All projects must be eligible for the FHA 223(f) insurance program, with certain adaptations for the Pilot Program.

5. Rehab expenditures of up to $40,000/unit in hard costs (unadjusted for locality) will be allowed.

6. For repairs above $15,000 per unit in hard costs, Section 221(d)(4) Substantial Rehab controls will be adopted, including use of a licensed architect (or in some cases, an engineer) to produce the PCNA, to scope and oversee repairs, to complete plans and specs if needed, and to determine whether a general contractor is required.

7. The standard 223(f) 12-month repair period may be extended.

8. For all projects without Section 8 contracts, the lesser of Tax Credit ceiling rents and the attainable rents used in underwriting must be at least 10% below market comparables for each unit type. This rule still applies in markets where Tax Credit rents are typically higher than 10% below market rents.

   The following examples provide further clarification. Example 1 illustrates that when the Tax Credit ceiling rent exceeds market rents, and the attainable rents are not at least 10% below market, the project is ineligible. Example 2 demonstrates that even when ceiling rents and attainable rents are well below market, the project will remain ineligible because both the ceiling and attainable rents are less than 10% below market. Example 3, a variation on Example 2, shows eligibility may be achieved under similar conditions, when attainable Rents are only slightly lower than ceiling rents but do meet the 10% test. Finally, Example 4 shows a slightly different eligible scenario, in which ceiling rents exceed market but attainable rents are 10% below market. Both examples 3 and 4 illustrate the benefit of the interpretation described above: the Tax Credit ceiling rent does not have to be 10% below market for eligibility as long as attainable rents are 10% below market. Under the previous, more conservative interpretation, the project would have been ineligible because ceiling rents are not 10% less than market.

EXAMPLE	1. Attainable LIHTC Rents At Market/ Ceiling Rents Above Market	2. Attainable LIHTC Rents and Ceiling Rents Less than 10% Below Market	3. Attainable LIHTC Rents 10% Below Market/ Ceiling Rents Below Market	4. LIHTC Ceiling Rents Above Market/ Attainable Rents 10% Below Market
Market Rents	$630	$1,230	$1,230	$1,400
LIHTC Ceiling Rents	$880	$1,160	$1,160	$1,450
LIHTC Attainable Rents	$630	$1,160	$1,100	$1,260
Project Outcome	Ineligible	Ineligible	Eligible	Eligible

Other Requirements

1. Davis-Bacon Wage Rates are not required. The work in excess of the amount allowed to be financed by the mortgage under the Section 223(f) program ($6,500 multiplied by the high cost factor for the locality) must be financed using Tax Credit equity or other sources, rather than FHA-insured loan proceeds. If two major systems need to be substantially rehabilitated, if the total work exceeds the amount of $40,000 per unit, or if the transaction requires more mortgage proceeds to be allocated to repairs than the 223(f) program allows, then the project should be directed to the 221(d)(4) program instead of the Pilot program.

2. Properties with Rental Assistance must comply with Uniform Relocation Act ("URA").

3. Tenants must remain in place except for temporary relocation lasting no more than 30 days.

Three Types of Eligible Transactions

1. Acquisition or refinancing with moderate rehabilitation for developments with project based rental assistance contracts covering at least 90% of the units (waivers for

projects with assistance for slightly less than 90% will be considered on a case by case basis);

a. Rental assistance must be in the form of a 20-year Project Based Rental Assistance Section 8 Housing Assistance Payment (HAP) contract or, in the case of a Rental Assistance Demonstration ("RAD") Project, a 15-year Project Based Voucher contract. Note: Projects with other forms of rental assistance (i.e. RAP, Rent Supp or Project Based Vouchers) do not qualify.

b. Any desired rent adjustment for a Section 8 project must be requested from the Performance Based Contract Administrator (PBCA) prior to the submission of the Pilot loan application. The rents, expenses and debt service figures used in the lender's underwriting must be consistent with those in the Section 8 contract request.

c. If owners request a market based rent increase at "post rehab" rents, a debt service reserve escrow is required to fund the difference between the existing rents and the post rehab rents during construction. The "post rehab" rents will not take effect until the repairs are completed.

2. Permanent Financing of Stabilized but Newly Built or Substantially Rehabilitated Projects

   a. Projects completed fewer than 3 years prior to the Pilot loan application may qualify for the Pilot. These applications must include a request for a Waiver of the 3 Year Rule and meet requirements of Mortgagee Letter 2011-13, except that the owner will not have to show evidence of being unable been able to obtain alternative financing.

   b. The project's occupancy rate must be no less than 85% for the previous 12 months.

3. Permanent Financing With Moderate Rehabilitation of Stabilized Tax Credit Projects Being Resyndicated with New Tax Credits

   a. Projects must have achieved stabilized occupancy of at least 85% for the previous 12 months.

   b. Resyndicated projects without rental assistance will require a debt service reserve equal to 6 months of debt service.

   c. Underwritten EGI cannot exceed 105% of historical EGI.

   d. Post rehab operating expenses cannot be less than 90% of historical, with adjustments for repairs and maintenance, capital expenditures and energy improvements.

Underwriting Standards and Loan Terms

1. Mortgage Term: Lesser of Lesser of 35 years or 75% of remaining useful economic life of property, but no less than 10 years.

2. Interest Rate: Negotiated by Lender and Borrower.

3. Maximum Mortgage Amount: The lowest of the amounts established under the following Criteria (as Calculated in the Wheelbarrow or in form HUD-92264-A 03/20/2010), not to exceed $25 million.

    a. Criteria 1: Amount Requested.

    b. Criteria 3: Loan to Value, not to exceed 87% for project with project based Section 8 contracts, and 85% for others meeting the definition of Affordable Housing.[1]

    c. Criteria 4: Limits per Family Unit, adjusted with High Cost Percentage of jurisdiction.

    d. Criteria 5: Debt Service Coverage Ratio of 1:1.15 for projects with project based Section 8 contracts and 1:1.18 for projects meeting definition of Affordable Housing.

    e. Criteria 7: Total Cost of Acquisition, not to exceed 87% for projects with project based Section 8 contracts, and 85% for others meeting definition of Affordable Housing.[2]

    f. Criteria 10: Greater of 80% of LTV or the Cost to Refinance.

Other Requirements

1. Only one-step, direct to Firm Commitment processing will be used.

2. Projects must contain at least 5 units.

3. Critical Repairs identified by the PCNA and lender review must be completed prior to endorsement. This requirement does apply in the case of an acquisition, although under certain circumstances HUD may allow the repairs to be deferred.

4. Financial escrow of 100% of the cost of non-critical repairs must be established at closing. An additional 20% of the cost of repairs will be required as completion assurance, but this amount may be partially deferred.

5. Manufactured home parks and group homes are excluded.

6. Age-restricted projects (designed for ages 62 or higher) are allowed as long as services are not provided. Projects with differing age requirements are not eligible and all heads of household must be 62 or older at the time of the application.

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[1] For purposes of the Pilot Program, "Affordable Housing" will mean that at least 90% of the units will have "low income" occupancy and rent restrictions. Specific income restriction levels are not proscribed by HUD. For example, the qualifying 90% of the units may all be available for tenants earning 60% or some other percentage of median income, or various income tiers may be established.

[2] Discounts and Costs of Issuance for bond financing may be included in computation of Criteria 7 and 10.

7. Mortgages will carry a 5 year prepayment prohibition (from date of endorsement, with certain exceptions).

8. 50% of Cash Out is held in escrow until non-critical repairs are completed.

9. Reserve for replacement deposits will be required according to existing Section 223(f) program requirements.

10. Secondary financing is allowed.

11. Commercial space is limited to 20% of total net rentable area and commercial income to 20% of effective gross project income.

12. Real estate must be held in fee simple or under an approved ground lease.

13. Minimum and maximum physical occupancy standards detailed in the MAP Guide apply.

14. Market Studies are not required, other than those included in the Appraisal.

II. UNDERWRITING PROCESS OVERVIEW AND FLOW CHART

A. Overview

The Tax Credit Pilot Process Flow Chart is designed as a guide for participating lenders and field office staff involved in the Pilot Program. It reflects and refines the program's primary goal of completing the processing of applications, from lender submission to closing, in a 120 day time frame. The Flow Chart is a tool, but Hubs participating in the Pilot are encouraged to find other ways to further expedite the review process. The 120 day process is divided among five key Phases: Concept Meeting and Application Submission, Preliminary Review, Underwriting, Approvals, and Closing. The process contains three critical meetings or calls as well: the optional Concept Meeting prior to submission of the application, the Organizational Call early in the Underwriting Phase and the Status Call later in the Underwriting Phase. These meetings are intended for information sharing among all the relevant parties at appropriate times in the process, and in the case of the Concept Call, to acquaint field office counsel with the project well in advance of closing in order to minimize the time required to close the Pilot projects. Individual steps in the process are described in detail in Part II. B. below, and the focus is to a large extent on the ways in which the Pilot differs from the standard MAP program rules. Thus the DU and other interested staff and lenders are urged to rely on the MAP Guide as well.

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TAX CREDIT PILOT: PROJECT PROCESSING FLOW CHART

SUGGEST-ED TIME FRAME	ACTIVITY	HUD TOOLS
	OPTIONAL CONCEPT MEETING & APPLICATION Refer Applicant to Another MAP Program if Applicable / Invite Pilot Application	Concept Meeting Agenda & TCP Project Eligibility Checklist
	HAP RENEWAL & RENT INCREASE REQUESTS (FOR ASSISTED PROJECTS)	
Days 1-5	**PILOT APPLICATION SUBMISSION**	TCP Application Exhibits Checklist
Days 1-5	**PRELIMINARY REVIEW** Confirm Eligibility Confirm Completeness Identify Risk Factors	TCP Project Eligibility Checklist TCP Application Exhibits Checklist
Days 1-5	**IF INELIGIBLE: APPLICATION REFERRED TO ANOTHER MAP PROGRAM** / **IF ELIGIBLE: APPLICATION RETAINED FOR UNDERWRITING REVIEW**	
Days 6 - 50	**UNDERWRITING** HQ Notification (Sharepoint) /Data Entry in DAP Draft Documents, Title and Survey to Field Counsel Designated Underwriter's Review of Lender's Narrative and Wheelbarrow	
Days 6 - 50	Kick Off Call (No Later than 2 Weeks After Submission) (Field Counsel Invited)	Kick Off Call Agenda & Invitation List
Days 6 - 50	Technical Reviews (By Designated Underwriter and if Requested, Technical Staff) Site Visit and Environmental Review Preliminary OGC Review: Site Control, Partnership Agreement, Lien Priority, and Other Project Specific Concerns	
Days 6 - 50	Status Call (When DU is Nearly Ready To Recommend Decision)	Status Call Agenda
Days 6 - 50	Legal Review, Preliminary Closing Checklist Preparation	
Days 51-60	**APPROVALS** Hub DU Recommendation To Director	
Days 51-60	Director Rejection / Director Approval	
Days 51-60	Pilot Loan Committee Rejection / Pilot Loan Committee Approval	
Days 51-60	Lender and Field Counsel Preparation	
Days 51-60	APPROVAL (Issuance of 223(f) Firm Commitment)	
Days 61 - 105	CLOSING	

COLOR KEY
- Lender/Owner Action
- Hub Action
- Both

B. Process Flow Chart Description

1. Concept Meeting and Application Phase

The process begins with the Concept Meeting and Application Phase, comprised of three or four critical steps prior to submission. These include the optional Concept Meeting, followed by a decision by the Hub's Designated Underwriter ("DU") as to whether or not the proposed project is suitable for the Pilot. If so, the applicant is invited to submit an application for the Pilot Program and if not, the applicant is referred to another MAP program if suitable. Concept meetings are encouraged, but at the lenders' option. The lender must ensure the project is eligible or it will be rejected. If the project is suitable for the Pilot and involves a Section 8 project submission of a HAP Renewal Request, a rent increase request and a prepayment request (if applicable) are required 60 days prior to submission of the Pilot Program Application but are encouraged as early as 120 days in advance. Lenders should assist borrowers with ensuring that requested (and if later approved) rents are consistent with the underwritten rents.

Participation in a concept meeting does not mean that an application will be approved for submission under the Pilot: It may be determined that a proposed Pilot application is more appropriate for standard MAP processing due to the complexity of the issues or the risks presented by the transaction. The meeting may take place as a phone conference. The Concept Meeting should include the DU and the Backup DU, the attorney of the Pilot Hub (or of the Originating Hub[3], selected by Regional Counsel in the case of projects located outside of a Pilot Hub's jurisdiction), the applicant (lender) and the applicant's client (the project owner) and the owner's attorney (at the owner's discretion). Other technical staff need not be invited unless the DU is aware of a particularly difficult technical problem that could affect the project's eligibility for the Pilot. Then, only the technical staff person, the HUD architect or appraiser, for example, who would be knowledgeable of the solution to that problem should be invited. Section 4.2 A.1. of the MAP Guide provides lists of materials the applicant should provide (in advance of the meeting if possible).

The single most important outcome of the Concept Meeting is an accurate determination as to the project's Pilot eligibility. The *Tax Credit Pilot Program Project Eligibility Checklist* (Appendix A) is provided to assist the DU in achieving this goal. It includes virtually all of the key questions necessary for this purpose. The Concept Meeting should also include a discussion of the relevant LIHTC time frames and deadlines, such as bond closings for 4% Tax Credit transactions and placed-in-service dates. Finally, the concept meeting is also an opportunity to discuss the timeline for submission and processing of the application.

The Lender's preparation of the Pilot application should be guided by and include all of the materials listed in the *Tax Credit Pilot Program Application Exhibits Checklist* (Appendix D). Primary documents for the Pilot are the *Tax Credit Pilot Program Lender's Narrative* and the *Tax Credit Pilot Program Wheelbarrow* (Appendices B and C),

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[3] The term "Originating Hub" is used for a Multifamily Hub that has geographic jurisdiction over a project but that is not a Pilot Hub. Projects located outside of Pilot Hub jurisdictions require additional coordination described below.

both of which have been streamlined and adapted for use in the Pilot Program. Differences between the technical aspects of the Pilot Program and the conventional 223(f) program that affect project structuring and lenders' applications are detailed in Part III of this publication.

2. Preliminary Review Phase

   The Preliminary Review Phase begins immediately upon receipt of the lender's application, should take no longer than 5 days to complete, and consists of two steps:

   a. The Eligibility Overview, in which the DU confirms the project's eligibility for the Pilot using the *Tax Credit Pilot Program Project Eligibility Checklist,* and makes sure that project qualities and conditions have not changed since the Concept Meeting; and

   b. The Completeness Review in which the DU reviews the entire submission package and confirms that all of the required documents have been delivered by the applicant, by checking the documentation provided against the *Tax Credit Pilot Program Application Exhibits Checklist* in Appendix D. Incomplete applications are to be rejected, if in the DU's judgment the lender's production of materials would extend the process for too long a time, or if the quality of the submission were such that the lender would be unlikely to prepare an acceptable application.

   The DU's Preliminary Review should focus on the contents of two key documents: the *Housing Tax Credit Pilot Program Lender's Narrative* and *Housing Tax Credit Pilot Program Wheelbarrow*, in order to identify any risks. This may be done by filling out an "Early Warning System" or "EWS" risk assessment worksheet, but these are not required for the Pilot. Either way, the review enables the DU to pinpoint any troublesome areas requiring special attention. The outcome of all of these steps in the Preliminary Review Stage will be a determination as to the project's eligibility and suitability for the Pilot Program. While a project may meet all the eligibility requirements, strictly speaking, it may still not be suitable. For example, if there is an environmental issue that would require an additional three months to resolve through further environmental reports, testing and approvals, it could not be approved in the time available under the Pilot Program, and is therefore not suitable for the Program. If both eligible and suitable, the application will immediately be moved into the Underwriting Phase, and if not, it will be referred to another more appropriate MAP program.

3. Underwriting Phase

   The Underwriting Phase is expected to take about 45 days. The lender will have completed some of the work normally left to HUD staff, and all reports will go directly to the DU rather than to technical staff. The initial steps, all completed by the DU, include the following:

   a. Notification of HQ of the arrival and acceptance of the Pilot Application through the SharePoint Pilot Tracking System. This will provide information to HQ enabling them to track the project, assist the DU with underwriting and processing problems, and aggregate basic project data for the Pilot Program as a whole.

b. Entry of project data into DAP.

c. Review of the Lender's Narrative and the Wheelbarrow in detail.

d. Completion of the site visit by the DU, within 14 days of accepting the application into processing, travel funds permitting. In the case of projects not located in Pilot Hubs, the DU may coordinate with the Originating Hub to use an Originating Hub staff person.

e. If an appraiser is required to visit the site to perform the Environmental Review (see Section III.C. of this guide on environmental reviews), it will also occur within 14 days of accepting the application into processing.

f. Distribution of project documents to field counsel, including the Lender's Narrative, the owner's organizational documents and organization chart, and documents regarding secondary financing, title and survey.

g. Completion of the Mortgage Credit Review by the DU, including an examination of principals' financial and credit status and obtaining an understanding of all secondary financing and its terms as well as an understanding of the compatibility of the terms of all of the financing. This will include ensuring that all sources are in agreement as to the lien priority and payment conditions of all of the debt, and confirming that use restrictions of various sources are compatible.

h. Review of PCNA, Appraisal/Valuation documents, Environmental Review reports, Architectural documents, Plans and Specs if required, and qualifications of the architect and general contractor.

i. If the project is assisted housing, close coordination by the DU with the field office's Asset Management division, and if necessary, the designated Point of Contact in HUD HQ to ensure that a) the Section 8 HAP contract renewal request and rent increases, if applicable, are approved, b) the prepayment approval is obtained, and c) any other waivers are processed and approved.

j. Discussion of the transaction with the Hub Director and regional counsel, and preparation for the loan closing, including detailed discussion of the Tax Credit organizational structure and the relevant Tax Credit or Bond allocation "placed in service" and other critical deadlines.

While this work is done by the DU, field counsel will work on a parallel track by reviewing site control, ownership entity documents, lien priority and subordination requirements, of all of the proposed debt, title and survey documentation, and any other project specific concerns.

Roughly 10 days into the Underwriting Phase, the DU will organize a <u>Kick Off Call</u>, which is internal to HUD and should include all hub staff with a role in the review. That would include the DU and Backup DU, field office counsel, and, to the extent specific technical problems have been identified, technical staff. The Agenda will be developed by the DU for this call, since the content will be more fully informed by issues specific to the project at hand, and issues will have evolved more fully since the time of the Concept Meeting.

Approximately two weeks later a Status Call will be held, primarily to enable field counsel to communicate its findings to others on the team, and secondarily to begin to define a plan and a timeline for approvals and closing. The DU, Backup DU, field counsel, lender, owner and lender's and owner's attorneys, as well as any technical staff needed to address technical issues, if any, should be included in the meeting.. The meeting agenda should include progress reports on all fronts, identification and discussion of all outstanding issues, and development of clear plans for the resolution of those issues. Finally, preliminary plans for approvals and closing should be made, including the setting of dates for both.

4. Approvals

Following the underwriting phase the DU will work toward obtaining approval for the Firm Commitment. The DU prepares the necessary summary material and presents the project to the Hub Director. This material will include the following:

a. Tax Credit Pilot Program Lender's Narrative;

b. Tax Credit Pilot Program Wheelbarrow or other substitute pro forma operating budget, development budget and sources and uses statement provided by the lender and adjusted through the underwriting process as needed; and

c. The DU's recommendation memo on the *Tax Credit Pilot Program Loan Committee Template* (Appendix H.) which will include a written assessment of risks and risk mitigation.

If the Director approves the project to move forward, a Pilot Loan Committee meeting is scheduled and materials are distributed for final approvals. Committee materials will include all of those listed above, along with a cover letter from the Hub Director.

The Pilot Loan Committee is comprised of two senior staff members of the HQ Multifamily Housing Development office and one supervisory Designated Underwriter from a Pilot Hub other than the Pilot Hub(s) presenting the projects to be reviewed. If not approved by either the Hub Director or the Pilot Loan Committee, a letter of rejection is issued and the project is terminated. If approved by both, then all parties involved are notified to proceed to closing. The Firm Commitment Letter is issued by the DU within 5 days of the committee approval (no later than 60 days from submission of a complete application).

5. Closing

The closing process is expected to take 30 to 60 days and the process follows standard 223(f) procedures, although much of the preparation work should have been previously completed as a result of distribution of documents to field counsel early in the underwriting phase and information provided in the Kick Off and Status Calls. Standard 223(f) closing documents are used, and revisions specific to the Pilot program are being developed by OGC/HQ staff in conjunction with field counsel in the Pilot Hubs. Other programmatic changes include the following:

a. Waiver of ALTA Survey. The DU may recommend a waiver of the ALTA Survey for transactions involving the refinance of a Section 202 Direct Loan, where HUD is the mortgagee and where the new FHA lender submits a statement certifying that there have been no material changes or additions to the structure or property boundaries since the closing of the original loan. HUD may also accept an existing survey for the projects rather than requiring a new survey document.

b. Deferred submission of plans and specifications. Tax Credit Pilot transactions under Section 223(f) may follow the process for deferred plans and specifications submissions just prior to closing, at the lender's/owner's option.

c. Submission of Tax Credit Limited Partnership Agreement or LLC Operating Agreement. These agreements are to be submitted for review with the application for Firm Commitment. The executed versions are required for closing.

d. The DU may opt to review any or all of the closing documents, or may delegate this review to HUD project management or underwriting staff.

e. Lenders should begin preparations for closing by ordering the title and survey and by preparing the loan documents for HUD review before issuance of the Firm Commitment.

f. Changes in equity proceeds may occur during underwriting but should be firm immediately prior to closing, with a revised Wheelbarrow submission. HUD can then amend the Firm Commitment accordingly.

g. Lenders are encouraged to submit loan documents for HUD review prior to issuance of the Firm Commitment. However, submission of documents no later than 7 days after issuance of the Firm Commitment is essential to enable HUD to achieve closing within the Pilot's compressed schedule.

6. Other Field Counsel and Closing Notes: Prior to or at Firm Commitment

Attention to the needs of field counsel throughout the process is essential to the Hubs' ability to process and close the projects within the Pilot's 120 day time frame. The following are intended to assist that effort during the process.

a. If field counsel is to process Pilot transactions on a priority basis, the DU must advise Regional Counsel accordingly when the transaction is assigned to field counsel.

b. For projects outside of Pilot Hub jurisdictions, the Designated Underwriter of the nearest Pilot Hub will contact Regional Counsel with jurisdiction over the project to assign an attorney in the Originating Hub to close the transaction. This step should occur prior to the Concept Meeting.

c. The assigned Field Counsel should participate in the Concept Meeting, the Organizational Meeting and the Status Meeting to enable the attorney to identify issues that could delay the closing.

d. OGC's assigned attorney should receive a copy of the Lender's Narrative submitted with the application, to help OGC isolate any issues as soon as possible.

e. Draft tax credit entity organizational documents, and draft priority and disbursement agreements should be submitted to OGC as early as possible and well in advance of the issuance of the Firm Commitment.

f. The title and survey should be ordered and reviewed by Housing and OGC before the Firm Commitment is issued.

g. Any waivers of administrative requirements by Housing are to be completed at the time of the issuance of the Firm Commitment.

h. Anticipated changes to HUD-required documents should be identified prior to issuance of the Firm Commitment so OGC can resolve any requested changes and comply with the 30 day closing objective.

7. Other Field Counsel and Closing Notes: In Preparation for and At Closing

   a. The DU is to advise all parties to the transaction that OGC will commit to a closing within 30 days of receipt by OGC of a "clean" closing package (i.e. a package resulting in limited comments from OGC, that is substantially ready for closing).

   b. The Partnership Agreement or LLC Operating Agreement and other tax credit documents should be signed and delivered to HUD in advance of the scheduled closing date.

C. Process Notes for Projects Located Outside of Pilot Hub Jurisdictions

The September 2012 expansion of the Pilot included the addition of five new Pilot Hubs as well as inclusion of projects from all 50 states. The changes required are addressed in Appendix G, which describes how projects are to be "transferred" from their own Hubs and assigned to those which operate the Tax Credit Pilot Program, how field counsel will be assigned to projects, how and where the Firm Commitments are to be signed and where the projects will be closed.

For projects in states outside of Pilot Hub areas, HQ staff will assign the preliminary work to a Designated Underwriter in a Pilot Hub, typically the Hub closest to the "Originating" Hub in which the project is located. For example, projects from Ohio, Virginia and West Virginia have been assigned to the Detroit Hub. However other factors will come into play as well and may result in reassignment of a project to a more distant Hub after the Concept Meeting and preliminary eligibility determination.

Firm Commitment approvals will remain with the Originating Hubs' Directors. OGC regional counsel designees will assign individual attorneys at their Originating Hubs to the projects (regional counsel designees are identified in Appendix G by region and by state). As soon as a request for a concept meeting is made, the Originating Production Chief will notify the Designated Underwriter of the nearest Pilot Hub, who will in turn notify the appropriate regional office staff member that an attorney must be assigned. This must all be done promptly so that the assigned attorney can join in the Concept Meeting, consistent with the Pilot's emphasis on early engagement of Hub counsel to facilitate quick closings at the end of the process.

The Designated Underwriter will be responsible for coordination of processing with the Originating Hub, especially matters which must be completed at the Originating Hub such as Asset Management concerns, site inspections, closings and various other matters noted in the chart.

III. UNDERWRITING AND PROCESSING INSTRUCTIONS

Under the Tax Credit Pilot, the Section 223(f) application has been streamlined to eliminate duplicative exhibits and to focus on underwriting components that are the most critical for the project and transaction types targeted under the Pilot, and to facilitate risk-based underwriting decisions. This section provides detail on the Tax Credit Pilot application exhibits that differ from a standard 223(f) application package, and provides instruction for the Designated Underwriters' review of these application components.

This Section is not an exhaustive instruction manual for the preparation and review of every 223(f) application exhibit. Rather, it provides guidance on the new flexibility and tools being provided for Pilot applications. If a submission requirement is not addressed here, lenders and Designated Underwriters should refer to the MAP Guide for standing guidance. Because this is a Pilot, this guide may not capture all possible opportunities to streamline the application components. Designated Underwriters are strongly encouraged to find additional areas for improvement in application review and processing that may help to expedite the review and approval process.

The application, including the required narrative, third-party reports and HUD forms, will be submitted to the DU in electronic format, with a single original paper copy. The required forms and documents must be submitted in "fillable" format (no PDFs) so that HUD staff and the lender may make amendments electronically as needed. If the Designated Underwriter agrees, the paper copies of the application, including required signatures on the final Form HUD-92264 and HUD-92264-A if used, may be submitted immediately prior to Firm Commitment once the final underwriting numbers are known.

A. General Application Exhibits

The Designated Underwriter will review all general application exhibits to obtain a summary of the proposed sources and uses for the transaction, the proposed development team and the overall strengths and weaknesses of the transaction. The DU will rely on these general exhibits to determine if the application meets the Pilot threshold requirements and to identify any risks that the lender may need to further address or mitigate. These documents are described individually below.

1. Transmittal Letter and Application Fee (Self Explanatory.)

2. Tax Credit Pilot Program Lender's Narrative.

   The MAP Guide requires lenders to prepare and submit an underwriting narrative. The content, format, length and focus of these lender-prepared narratives vary greatly. Since the Pilot targets a small, specific subset of Section 223(f) transactions, such variation is not necessary and can slow the HUD review process. Lenders will complete and submit the *Tax Credit Pilot Program Lender's Narrative* (provided as Appendix B), which is a written narrative that poses questions relevant to LIHTC transactions, including 3 year rule waiver projects, assisted housing projects and stabilized LIHTC properties. This document provides a detailed overview of the transaction and key issues relevant to LIHTC transactions. It also includes a "threshold" introductory page that serves as a screening tool to ensure the transaction is eligible for the Pilot. Lenders will complete this document and submit the word document electronically along with the other application exhibits. The Designated Underwriter will review these reports to assess the overall viability of the transaction, including an analysis of all proposed sources and uses. Please note: The Lender's Narrative is a suggested format. Lenders may submit the same information in a different format as long as all information is included.

3. Master Certification

"Master Certification" documents that incorporate multiple certification components are available for and must be signed by various members of the development and finance team. A PDF copy of the certification is sufficient (wet signatures are not required). Samples that can be adapted are included in Appendix E, but lenders may use different formats as long as they include the text from the Byrd Amendment, the architect certification, and answers to the "Four Deadly Questions" found on Form 92013-Supp.

4. Housing Tax Credit Pilot Program Wheelbarrow: Project's Financial Profile Reports

The *Tax Credit Pilot Wheelbarrow* (Appendix C) and its auto-generated reports are an optional application exhibit that may replace both the 92264 and the 92264-A forms and the distinct sources and uses documents. Along with the *Pilot Lender's Narrative*, reports presenting a comprehensive financial profile of the project that are generated from the *Housing Tax Credit Program Wheelbarrow* will summarize and describe the transaction. Tax credit projects are more complex and therefore more vulnerable to structuring and underwriting risk than FHA projects that do not utilize tax credits as a source of capital. The field offices' Pilot application review process will emphasize developing a full understanding of:

a. All sources of funds available through all phases of the project, from closing through stabilized operations, with a particular focus on:

    i. The timing and amounts of the available funds,

    ii. The conditions to be met to trigger funds availability,

    iii. Credit concerns including those pertaining to the ownership entity and the lenders, and

    iv. Regulatory risks affecting availability of funds, including non-FHA program risks such as the potential for delays in local jurisdiction funds releases.

b. All uses of funds necessary to finance and support the project, from acquisition through construction and stabilized operation.

c. Non-mortgageable costs to be identified in detailed listings of these costs and their allocation into industry-standard categories of "acquisition," "hard costs," "soft costs," "fees," "reserves," and "closing expenses.

d. Detailed analysis of lenders' descriptions and displays of draws during construction through stabilization, and of balance in the timing of sources and uses, including bridge funding.

The Tax Credit Pilot Program version of the Wheelbarrow provides the information needed for a thorough analysis. Unlike prior versions, lenders will see the reports that are generated through the Tax Credit Pilot Program Wheelbarrow. Layouts presented are more concise and will be easily understood by lenders and HUD's DUs. The Pilot Wheelbarrow automatically generates reports so the lender does not need to build separate reports. These reports include:

Report Name	Pages
Tax Credit Summary Report	1
Consolidated and Condensed Sources and Uses	1
Mortgageable Costs & Non-mortgageable Costs Summary	2
Non-mortgageable Cost Details	2
Tax Credit Equity and Permanent Sources of Capital	1
Draw Schedule	1
92264-A with Total Requirements for Settlement – 3 pages	3
Output- HUD Summary Report – 5 pages	5
Total	16

The Tax Credit Pilot Program Wheelbarrow will be available to lenders as a single Microsoft Excel file, and entering the data which auto-generates the reports should take no longer than two hours as lenders underwrite the project. Lenders may link their own spreadsheets to the Pilot Wheelbarrow's input cells, making filling out the Wheelbarrow nearly automatic.

Submission of the Pilot Wheelbarrow is not a requirement of an application and HUD welcomes alternatives from lenders that provide equal or superior reports, as well as suggestions for ways to improve the Pilot Wheelbarrow. If the lender chooses to utilize the Pilot Wheelbarrow however, it should be submitted electronically as an Excel file. Finally, it is important to note that the Pilot Wheelbarrow includes an approximation of Form 92264-A, so the standard paper form of From HUD-92264-A is not required in conjunction with the use of the Pilot Wheelbarrow.

5. Evidence of LIHTC or Tax Exempt Bond Cap Allocation and LIHTC Investor Commitment

As a threshold matter, all Tax Credit Pilot applications must demonstrate an award or allocation of 4% or 9% LIHTCs with the application. TCAP or Exchange funds are not sufficient to meet this threshold. All applications must also demonstrate that there is an active LIHTC investor engaged in the transaction because the presence of an investor is a key to reducing the risk of the transaction. Required exhibits include:

a. Evidence of the tax credit and/or bond allocation. This may take the form of the award or allocation letter from the state LIHTC allocating agency, private activity bond cap allocating agency, or other evidence acceptable to HUD, and

b. Preliminary Investment commitment letter from the tax credit investor or syndicator.

6. Form HUD 92013-E, Supplemental Application and Processing Form (Housing for the Elderly/Disabled), if applicable.

7. Development Team Information

   a. List of principals of Sponsor, Mortgagor Entity and business concerns,

   b. Current Résumé for the Sponsor, and each principal of the Sponsor,

   c. Organizational documents creating Mortgagor Entity, if applicable,

   d. Verification of Social Security Number or Employer Identification Number, and

   e. Organizational Chart for Mortgagor.

   The DU will review the development team information to identify the capacity of the borrower to successfully execute the transaction and to oversee the project.

Eliminated General Application Exhibits for all Pilot Applications

- Form 92013,
- Form 92013-Supp,
- Form 92264-A,
- Byrd Amendment, and
- Certification of Mortgagor's Architect.

B. Architecture, Engineering and Cost

Under the Tax Credit Pilot the standard 223(f) application exhibits for architecture, engineering and cost (AEC) will be included, with some notable adjustments as detailed below. All AEC exhibits will be reviewed by the Designated Underwriter, not the HUD Architect. The Designated Underwriter should review the PCNA and the *Lender's Narrative* to assess whether the project needs are being adequately met by the repairs proposed in the application. The review by the Designated Underwriter should identify any areas related to AEC that increase the risk to FHA, rather than to focus on detailed review of costs or plans and specifications.

Because the LIHTC transaction involves an investor and an LIHTC allocating agency, typically the repair work proposed will be adequate to meet the project needs. As discussed below, hard cost repairs above $15,000 per unit will require the borrower to engage a licensed architect (or in some cases, an engineer) to manage the repair process. The architect will determine whether plans and specifications are needed and whether a General Contractor is needed. If plans and specifications are required, HUD will not review these plans and specifications except to ensure compliance with Fair Housing requirements as needed. The Designated Underwriter may defer this Fair Housing review to the HUD Architect, along with a review of specialty reports such as seismic, lead based paint or engineering reports that require technical expertise to ensure compliance with federal standards. In all other cases the Designated Underwriter will complete all reviews of AEC exhibits.

1. Project Capital Needs Assessment (PCNA)

   The PCNA submitted for the Pilot will include discussion of the condition of the property, details of any recent repair work and its cost, and an expanded, detailed scope of repair work or reference to plans and specifications if necessary. The PCNA may be completed by a licensed architect or certain other individuals in accordance with MAP Guide 5.1.A.2. Particularly for transactions that propose work above the amounts to be funded with FHA-insured mortgage proceeds, it is critical that the lender work with the property assessor to make sure there are references to plans and specs, and a single detailed scope of repair work (agreed upon by all interested parties) including timing of repair activities. The PCNA must include analysis of the ADA and the Fair Housing Act. The Section 223(f) PCNA requirements listed in part 13 of Mortgagee Letter 2012-12 remain unchanged for the Pilot Program.

2. Rehabilitation Limits

   As noted elsewhere the Rehabilitation of Pilot projects is limited to $40,000 per unit. A second limit pertains to the prohibition against replacement of two or more "building systems". Consistent with other FHA programs and industry standards, "systems" are interpreted to include the following five primary building components: The building envelope (windows, doors, roof, and external walls), the structural system, the plumbing system, the electrical system, and the heating, ventilating and cooling (HVAC) system. "Replacement" is defined as the replacement of 50% or more of the components of any system, based on cost.

3. Treatment of Costs

   The builder's general conditions, overhead and profit may be included within the $40,000 rehabilitation cost limit, along with all other rehabilitation hard costs including FF&E. Mortgageable costs may include the rehabilitation costs up to the 223(f) limit ($6,500 multiplied by the High Cost Factor for the project's location). The architectural fee is not to be included within the $40,000 limit but should be treated instead as a distinct mortgageable fee. A brief discussion and list of examples of non-mortgageable costs is available in the Tax Credit Pilot Program Wheelbarrow, at cell B112 on the worksheet/tab entitled "Tax Credit Report."

   For all Pilot projects, development fees 1) in total amounts approved by Tax Credit Allocation Agencies (but not to exceed 15%), and 2) scheduled for payment in amounts and at times agreed upon with the syndicator, will be treated as mortgageable costs consistent with current practice. For FHA insured loans limited to no more than 80% of value, proceeds may be used for any purpose including payment of development fees. When LTV is increased to the Criterion 10 limits - 87% for Section 8 projects, and 85% for other LIHTC projects - payment of development fees with FHA mortgage proceeds is allowed for up to 15% of the costs approved by the Allocating Agency, to the extent supported by the mortgage, and consistent with all other Allocating Agency rules and the partnership or LLC operating agreement. Development fees paid with equity or debt sources drawn down prior to completion, and deferred development fees to be paid from operations after completion, may be treated as mortgageable costs when in accordance with LTV limits, eligibility criteria are met and funding permits.

4. Plans and Specifications

If the licensed architect determines plans and specifications are appropriate, the *Lender's Narrative* should note this. Under certain conditions, as noted in MAP Guide Section 5.20, an engineer can be the prime professional used for plans and specifications. The plans and specs will be submitted to the Designated Underwriter, who will then screen them and review the lender's third party reviewer's report on the plans and specs. If any legal concerns arise in the course of this review, such as concerns pertaining to accessibility or fair housing compliance, the DU may discuss them with the Hub's technical staff.

5. Owner-Architect Agreement on AIA Document B108 and HUD Amendment

The Tax Credit Pilot requires a licensed architect to be engaged on all transactions with repairs totaling $15,000 per unit or more. The AIA and B108 contracts must be submitted with the application only if hard costs for repairs exceed $15,000 per unit. However, HUD will not review and approve the documents; they are submitted only as proof that the borrower has engaged an architect. The DU and OGC, will NOT review these documents in detail as would be the case for compliance with 221(d)(4) standards.

6. Property Insurance Schedule, Form HUD-92329

7. Exhibits Related to General Contractor

As noted above, for repairs of $15,000 per unit and above the Borrower must engage a licensed architect. That architect will advise whether a General Contractor is recommended. HUD will review the underwriting narrative and the PCNA information to determine if the architect is advising use of a GC. If a GC will be used, the following exhibits will be required and HUD will review them in accordance with 221(d)(4) processing standards.

a. Identity of Interest disclosure and the 50-75 percent rule disclosure,
b. Detailed Cost Estimate, Form HUD-92326,
c. Résumé of the general contractor with specific focus on multifamily experience,
d. Schedule of jobs (work) in progress, and
e. The 2530/92013 SUPP.

8. Lead-based Paint Reports and Asbestos Test Reports for Projects Built Before 1978 and Engineering and Specialty Reports, if Not Covered Under Environmental Report.

These may include reports such as seismic assessments, pest reports, etc. The lender should clearly specify in the *Lender's Narrative* if the lender is requiring any special reports, how these reports have been reviewed and how any issues addressed.

9. Relocation Plan

   To be eligible for the Pilot, temporary relocation of tenants out of their units generally should be for no more than a few days and may not exceed 30 days. The application must include a detailed management plan addressing site staffing, a work and relocation schedule, and a plan and budget for relocation of residents with funds for relocation escrowed.

Eliminated AEC Exhibits for all Pilot Applications

- Lender's AEC Review,
- Certification from Mortgagor's Architect,
- Legal Survey Form HUD-92457, Surveyors Report (Initial Endorsement),
- Description of condition of property, list of repairs and improvements made in last two years and their estimated cost, and
- Soils report and foundation analysis.

C. Valuation and Environmental Review

Under the Tax Credit Pilot, the Designated Underwriter will conduct the HUD review of all the traditional appraisal and valuation exhibits required for 223(f). The Pilot includes certain provisions to streamline the valuation application exhibits and the HUD review of the valuation exhibits. Special instructions for the valuation, income and expense determinations for Assisted Housing transactions are delineated in Paragraph B, below.

In a traditional 223(f), the HUD appraiser performs a review of the project appraisal submitted with the FHA insurance application, and this review includes a site visit and visits to comparable properties. Typically, the HUD appraiser also conducts the environmental review on site. Under the Tax Credit Pilot, the review of the project appraisal is delegated to the Tax Credit Pilot approved lender and a Market Study is not required. The Designated Underwriter will perform a high level review of the *Lender's Narrative*, the 92264 forms or comparable forms in the *Pilot Wheelbarrow*, and the appraisal. Funds permitting, the DU will also conduct the on-site visit. The purpose of the on-site visit is for the Designated Underwriter to see the project first hand to understand the property condition, proposed repairs and appropriateness of the valuation conclusions.

Except for rental assistance projects, all Pilot projects must confirm that rents are at least 10% below market for each unit type. The DU will carefully review the lender narrative and appraisal to determine that rents are indeed 10% below market.

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.

Valuation application processing for the Pilot includes:

1. Complete appraisal with supporting documents, including

    a. Rental Housing Income Analysis and Appraisal, Multifamily Summary Appraisal Report, Form HUD-92264 and Form HUD 92264-A may be omitted entirely from the application if the Pilot Wheelbarrow is completed. If the Pilot Wheelbarrow is not used, then all of Form 92264 must be provided in the application, and the first two pages of the Form 92264-A must be completed, because these are the most salient data for the project. The MAP Guide requires both the lender's AEC reviewer and the appraiser to sign the form, but this requirement is eliminated under the Pilot. Finally, without the Wheelbarrow the lender must submit a complete sources and uses of funds statement, including all sources and all uses for the project.

    b. Estimates of Market Rent By Comparison Form HUD-92273, and

    c. Operating Expenses Analysis Worksheet Form HUD-92274.

2. Evidence of site control (deed, purchase agreement, option),

3. Evidence of last arms-length transaction price,

4. Current certified rent roll,

5. Occupancy history, by quarter for last three years,

6. A current Phase I Environmental Site Assessment and Phase II if required,

7. If part of the project is devoted to commercial space, a copy of the lease(s), the number of square feet committed to commercial uses and the percentage of total project square footage committed to commercial uses, and the percentage of total income derived from commercial uses,

8. Evidence of permissive zoning,

9. Legal description of property and title report,

10. Financial statements for the last 3 years (last full year and possibly the current year-to-date) need to be CPA-reviewed (in situations where this requirement is not practicable, HUD may consider a waiver),

11. Environmental report (to include lead-based paint and asbestos if project built in 1978 or earlier), and

12. If a private water supply or private sewage system is in use, a report from City/County Health Officer stating that it meets local health standards.

D. Valuation Instructions for Assisted Housing Projects

A key goal of the Tax Credit Pilot is to streamline mortgage insurance approvals for Assisted housing projects with 90 percent or more of the units assisted with a project-based rental assistance Housing Assistance Payment (HAP) contract. Assisted properties are a unique animal for valuation because the income and expenses for these projects are determined through the Section 8 contract renewal and rental adjustment process, which is driven by the HUD Asset Management Division in conjunction with the Performance Based Contract Administrator (PBCA).

In a traditional 223(f), lenders and HUD staff have had to address two challenges for Assisted Project applications. The first challenge stems from the conflict or inconsistency between the appraisal and valuation analysis included in the FHA loan application, and the rent setting analysis included in the budget based rent increase or Rent Comparability Study process. When the income and expenses used in the underwriting do not align with the rents requested or present on the HAP contract, this creates difficulties and can slow down the HUD review and approval process. If Asset Management and the PBCA approve rents that are lower than the rents used in the underwriting, HUD will not be able to approve the higher rents used by the lender in the MAP application and the underwriting will need to be revised. The other challenge for 223(f)s on Assisted Housing is a procedural one – historically, the MAP Application could be submitted before the borrower submits the request for the Section 8 contract renewal/rent increase, and this can slow the loan approval significantly, so for Tax Credit Pilot projects, it must be submitted in advance.

Under the Tax Credit Pilot, HUD is aiming to resolve both challenges by requiring the lender to work with the borrower up front, well before the MAP application is submitted, to coordinate the submission of the HAP contract request and the Tax Credit Pilot application, and to ensure that the income and expenses used in the Pilot FHA application match the rents requested by the borrower on the HAP contract renewal request (as supported by a Rent Comparability Study). Specific application instructions for valuation exhibits on Assisted Housing Projects (90% or more of the units covered by a project based rental assistance contract) are as follows:

1. HAP contract renewal request (listing requested rents) must be submitted with TC Pilot application

   Under the Tax Credit Pilot, all Assisted Housing projects must request a 20 year contract renewal in conjunction with the 223(f) application. The request must be submitted to the PBCA prior to the Pilot application submission. An exception to this requirement may be made if the borrower recently renewed the contract for a 20 year term. The lender must submit a copy of the borrower's HAP contract renewal request that lists any requested rent adjustment (which must be supported by either a Rent Comparability Study, a budget, or both, in accordance with Asset Management requirements).

Submission of the HAP Contract renewal request by the lender as part of the Pilot application is critical for two reasons. First, it demonstrates that the rents requested by the borrower match the rents used in the underwriting submitted by the lender. Secondly, it serves as evidence that the borrower has in fact submitted the request for the contract renewal/rent increase. Please note: if the borrower is submitting a budget based rent request, the lender must coordinate closely with the borrower to arrive at a preliminary debt service figure for the new loan that the borrower will include in the proposed budget to submit to HUD and the PBCA. The final debt service figure is subject to change during the final underwriting process, so this may be amended on the HAP contract request if needed. However it is critical that the income, expenses and debt service figure listed on the borrower's request match the figures in the lender's underwriting.

2. Project Rent Comparability Study prepared for the Section 8 contract renewal must be submitted with TC Pilot application

   A requirement of the HAP contract renewal request is a Rent Comparability Study ("RCS"). The lender must review this Rent Comparability Study as part of the underwriting process and must take the RCS conclusions into account when reviewing the MAP appraisal required for the 223(f) application. If the borrower commissions the RCS, the same firm cannot do the appraisal. However if the lender commissions the RCS, the same firm can also do the appraisal. The lender is expected to underwrite the loan using the income and expenses from the Rent Comp Study (and/or the Section 8 budget prepared by the borrower), and to address any inconsistencies carefully in the lender's narrative. The HUD Designated Underwriter will review the Section 8 HAP contract request, Rent Comparability Study, and lender's underwriting narrative to verify that the rents requested by the borrower in the HAP contract renewal request are supported by the RCS and that the lender's underwriting is in line with both the RCS and the contract renewal request. In some cases, the HUD appraiser is asked to review an RCS to determine its reasonableness. This may occur on Pilot Assisted Housing transactions if deemed appropriate by the Designated Underwriter in consultation with the Asset Management division.

3. MAP-compliant appraisal and HUD forms 92264, 92273 and 92274 are required. However, appraiser may opt to use the 92273 used in the Rent Comparability Study or another format and may use Form HUD 92274 or an alternative format acceptable to the Lender and the DU for expenses.

   The information supplied in the RCS and required by Asset Management for the rent increase/contract renewal request is the same information that is required for the Section 223(f) application on forms 92273 and 92274, so there is no need for the lender or the lender's appraiser to recreate the information on a form for the FHA application. The Designated Underwriter may also consult iREMS for historic rental income and project expense information if this information is helpful to verify the income and expenses used in the underwriting. HUD staff will not perform a review of the MAP appraisal for Assisted Housing projects. This review is delegated to the TC Pilot approved lender.

4. Occupancy history by quarter for last three years is not required.

This information is not required for Assisted Projects because occupancy information is available in iREMS. The Designated Underwriter will consult iREMS to address any questions about project vacancies or occupancy, and may also consult with Asset Management to learn anecdotal information about project occupancy and performance.

5. If the project is a Section 202 Direct Loan project or an FHA-insured project, and no significant changes have been made since construction, HUD will waive the requirement for a survey and Surveyor's Report.

   Because these projects are in the HUD inventory the survey is not a critical tool for evaluating risk and under the Pilot, and there is a waiver of this requirement.

6. Evidence of Arms-Length Transaction

If this project has an FHA-insured or HUD-held mortgage and the Hub is confident there has been no refinance or TPA, the requirement for evidence of an arms-length transaction may be waived, as the original transaction evidence may not be readily available.

E. Valuation Instructions for "3 Year Rule" Waiver Projects

One of the targeted property types for the Pilot is "3 year rule waiver" projects. To be eligible for the Pilot, these properties must have been constructed or rehabilitated and initially occupied within 3 years of the Pilot application, with development of the project financed using LIHTC equity. The 223(f) loan will be the permanent debt for these projects. They will require a waiver of the 3 year rule, and must meet the occupancy standards detailed in ML 11-13. The lender should assemble the Pilot application and include a waiver request and the supporting documentation. The Designated Underwriter will carefully review the request and the occupancy information of the project to determine it meets these standards.

F. Environmental Reviews

The Pilot does not alter the environmental requirements Under Part 50 as they apply to Section 223(f). The lender will submit the required Phase One Environmental Assessment and any required reports. However, the Pilot does provide some opportunities for flexibility and streamlining, if warranted, to meet the requirements of Part 50 while also focusing on projects where environmental risks are present.

Under the Pilot, the Designated Underwriter will endeavor to perform the on-site visit to each property. However, typically the HUD Appraiser is the staff person with the specialized experience and training to complete the environmental review, which also includes on-site reviews and assessments.

The environmental review site visit will be conducted by a trained HUD environmental reviewer (typically a HUD appraiser) per the requirements of Chapter 9 of the MAP Guide. The Phase I ESA must contain no significant unresolved environmental issues that would require a Phase II ESA or a Remediation Plan. A separate site visit by the environmental reviewer will not be required if both of the following conditions are met: a) the Phase I ESA, as augmented by the vapor encroachment screen, demonstrates that the property does not have Recognized Environmental Conditions or Vapor Encroachment (RECs/VECs) and the HUD environmental reviewer concurs with this determination, and b) the environmental issues listed in the Sample Field Notes Checklist (SFNC) required by Section 9.5 of the Guide conforms to the Guide requirements and the HUD environmental reviewer does not identify any issues or concerns that require field investigation.

G. Review of Project Impacts on Historic Properties

Federal law and regulations require that projects receiving federal financial assistance, permit or license, undergo a review to assess the impact of the project on historic properties. Known as Section 106 review (after the section of the National Historic Preservation Act where it originated), the process is a collaborative consultation that aims to avoid, minimize, or mitigate possible adverse effects to historic properties.

Issuance of FHA mortgage insurance triggers a need for Section 106 review. The consulting parties in the review include the federal agency official, the applicant (the Lenders in this case), and State Historic Preservation Officers (SHPOs), and may also include Tribal Historic Preservation Officers and tribal leaders, other parties with demonstrated interest, the general public, and the federal Advisory Council on Historic Preservation. Applicants for federal assistance often hire historic preservation professionals to assist with Section 106 reviews.

Lenders can assume that building rehabilitations that have been formally approved for the federal 20% Historic Tax Credit (HTC) meet the Secretary's Standards under Section 106. In addition, 3 Year Rule Waiver projects carried out under the Pilot Program do not involve any additional building rehabilitation or new construction and they are therefore exempt from section 106: they are considered to have no potential to affect historic properties. However, Pilot rehabilitations, especially those with significant ground disturbance, would still need to be reviewed.

Historically, the Section 106 process has required HUD staff to initiate consultation with SHPOs and to provide a determination of the Section 106 impact. Under the Pilot, HUD is using an expedited process that will enable lenders to initiate this contact and to perform the analysis. Letters are being sent from Headquarters to the SHPOS in the states participating in the Pilot program, informing them of the program and providing background information for the SHPO reviews. These letters describe the Program and authorize Pilot lenders to "... consult with SHPOs to initiate the Section 106 Review process, identify and evaluate historic properties, and assess effects." Accordingly lenders can consult with the SHPO, identifying their project as an FHA Tax Credit Pilot Program project, and send letters explaining their findings to the appropriate state SHPO. This should be done as soon as possible to expedite the process, since early lender contact with the SHPO initiates the process far in advance of the time it might otherwise be started by the field office. The initial communication from Headquarters, along with the sample forms provided, should prevent any delays from the SHPO review process.

SHPOs have 30 days to respond to the Lender's consultation letter. The SHPO response and a copy of the consultation letter must be provided to HUD. If the SHPO does not respond within 30 days, the Lender must provide a certified statement to HUD that a consultation letter was sent to the SHPO and 30 days have elapsed without a response. The HUD environmental reviewer will then check to make sure the Lender's consultation letter was adequate for the SHPO to respond. HUD's letter to the state SHPOs and sample letters for Pilot lenders' use are found in Appendix F. The initial communication from Headquarters, along with the sample forms provided, should prevent any delays from the SHPO review process.

This expedited process does not apply to Section 106 consultations with tribes. If a tribe may have an interest with a project, Tribal Historic Preservation Officers and tribal leaders must be contacted by the HUD environmental reviewer. To find out if a tribe may have and interest in a project, utilize the HUD Tribal Directory Assessment Tool, available at http://egis.hud.gov/tdat/Tribal.aspx.

Eliminated Valuation Exhibits for all Pilot Applications

- Market Study,
- Area map showing location,
- Photographs of building, and
- As-Built" Survey and Form HUD-2457, Surveyor's Report.

H. Mortgage Credit

Under the Tax Credit Pilot, the Designated Underwriter will conduct the HUD review of the exhibits related to mortgage credit. Many of the mortgage credit exhibits are eliminated or streamlined to allow the Designated Underwriter to focus on risk-based underwriting. The DU will focus on the General Partner/Developer's experience, financial strength and credit, with an abbreviated review of the passive investors. Passive investors and syndicators are generally not subject to 2530 clearance, or to a second review of credit reports and financial statements. Rating agency approval will be considered in lieu of our own due diligence on these entities. Lacking such external approval such as, current good standing with a Rating Agency, the lender must perform more extensive credit review of the syndicator's experience, liquidity, or financial strength. The syndicator/investor must demonstrate its ability to fund the deal and provide an effective, independent, counterparty review and risk position. The Pilot requires commitment from an LIHTC investor and accordingly, this investor, along with the tax credit allocating agency (and in a 4% LIHTC deal, the parties engaged in the bond transaction), are also carefully scrutinizing the transaction. The Pilot is designed to leverage the review and due diligence of the other parties to the transaction. The Designated Underwriter will review the following information related to Mortgage Credit:

1. List of conditions for supplemental grants or loans, if any. Grant and/or commitment letter if applicable

As discussed under General Application exhibits, the lender is required to submit evidence of the LIHTC award or bond cap allocation, or a substitute acceptable to HUD, along with a letter of commitment from the LIHTC investor. The transactions may involve other sources of financing, including local secondary financing, grants or loans. HUD will want to see how these other sources of financing are contributing to the transaction and the timing of their availability. Commitment letters for all additional sources must be included in the application and the total sources and uses must be included in the *Pilot Wheelbarrow* so that they will appear in the automatically generated sources and uses reports, or in alternative formats provided by the lender..

Some projects may have funding sources already committed to the project. If this is the case, the lender must explain this in the narrative and provide copies of all use agreements with the application, as well as requests for any subordinations needed.

2. Mortgagor's Obligations

The mortgagor is required to assure that 100% of the repair escrow is funded in cash at closing. This requirement will not be waived. The 20% completion assurance requirement is met in either cash or in an LOC, some of which may be deferred depending on the specific circumstances. The repair escrow may be funded from either mortgage proceeds, tax credit syndication proceeds, or other sources. However mortgage proceeds dedicated to repairs must not account for more than the amount of the standard 223(f) rehabilitation limits. If the repair estimates exceed those limits, the sources and uses must demonstrate that other sources are funding the balance.

3. Mortgage Credit Review for Passive Partners

Syndicators and passive investor partners in Housing Tax Credit projects (typically Investor Limited Partners in General Partnerships and Investor Members of LLCs) need not submit 2530s. Credit reports will not be required for nonprofit board members, except for officers of the board, such as the President, Vice President, Secretary and Treasurer. However, the lender must demonstrate and the DU must concur that these entities a) have the financial resources available to meet their equity installment obligations to the projects, and b) have the experience and the long term stability to sustain their roles in the project over time. The lender, and ultimately HUD, will rely on the syndicator's or passive investor's experience with Housing Tax Credit projects, and on rating agency reports if available. In addition, the lender must check to make sure that the parties are not debarred, suspended or under investigation, etc.

New documents developed at HQ include *Instructions for Pre-Approval of Special Limited Partner As Interim Replacement GP/Manager for LIHTC Transactions,* the *Rider to Security Instrument- LIHTC Properties,* and the *Identification and Certification of Eligible Limited Liability Investor Entities,* which is to replace the former *LLCI Certification.* All of these are now completed and may be found on HUD's Pilot website under "FHA-LIHTC Certification and Pre-Approval Docs" at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/map/maphome/taxcredit.

4. The General Partner/Developer

The general partner, managing member or developer is subject to normal 223(f) mortgage credit review, including:

a. Certification Approving Release of Banking and Credit Information:

   This banking and credit information is a standard requirement for Section 223(f). However, under the Pilot, this information is not required for the LIHTC investor or syndicator entity,

b. Personal Financial and Credit Statement, Form HUD-92417:

   In lieu of this financial information, the lender may submit a certification, after their own internal vetting, to make the case that the Tax Credit Limited Partner's or Investor Member's, in the case of an LLC, and tax credit syndicator's experience and ratings are sufficient to show that the limited liability partner will be reliable,

c. Financial Statements for Business Entities for last 3 years,

d. Schedule of Real Estate Owned,

e. Schedule of Mortgage Debt and Credit Reports:

   This detailed credit report information may not be the best tool for assessing capacity and risk, particularly for the LIHTC investor and syndicator. Credit reports will not be required for the investor and syndicator, but the lender must submit current rating agency scores, if available. The Designated Underwriter will review the rating agency scores to determine if they are acceptable, and

f. Certified statement as described in Appendix AC of the MAP guide by mortgagor listing all outstanding obligations on project.

Eliminated Mortgage Credit Exhibits

- Certification if LIHTC, Historic or New Market tax credits are part of financing (not necessary as these are all LIHTC transactions),
- Personal Financial and Credit Statement, Form HUD 92417, which is not required for Tax Credit Limited Partner and syndicator if the lender can provide a certification that these entities are among those with ample experience and ratings to show sufficient borrower reliability.
- Schedule of Mortgage Debt and credit reports, and
- If current rating agency scores are available, these will be required. Credit reports will not be required for the investor and syndicator. Credit reports also not required for nonprofit board members.

I. Asset Management Requirements

The Asset Management review remains an important component of the 223(f) review process for Pilot transactions. Asset Management staff will review these exhibits. However, participating Hubs are encouraged to find ways to expedite the Asset Management review, which may include delegating this review to the Designated Underwriter or an Asset Management Point of Contact.

For Assisted Housing transactions, the lender is advised to work with the Owner well in advance of submitting the Pilot application to coordinate the various Asset Management approvals that may be required. The Owner must submit the Section 8 HAP contract renewal request prior to the MAP lender submission of the Tax Credit Pilot application. Many Assisted Housing transactions also have HUD financing (such as a Section 202 Direct Loan, or an insured Section 236 or Section 221(d)(3) mortgage), and HUD prepayment approval is a prerequisite to approval of the new FHA loan. The Pilot aims to expedite some of these approvals by engaging HUD Asset Management designees, at the Hub and the HUD Headquarters levels, to oversee these processes. However, it is incumbent upon the lender to drive this part of the transaction and to plan carefully with the Owner to submit all required requests.

Please note that the Pilot requires all Assisted Housing Owners to execute a 20 year HAP contract. In many cases this will require HUD to authorize the Owner to terminate the existing HAP contract for the purposes of executing a new 20 year HAP contract. If the project is in the midst of a multi-year term, the Owner and HUD must, by mutual agreement, terminate the existing HAP contract and execute a Renewal Contract with a 20 year term, subject to the availability of appropriations. The Owner must also agree to execute an Exhibit to the Section 8 HAP contract agreeing to renew the HAP contract at the end of the 20-year term for the minimum of the number of years remaining on the contract in place at the time of the early termination and must execute the Preservation Exhibit.

As part of the contract renewal, the borrower must request of Asset Management any desired rent increase, whether budget-based or market-based, prior to the submission of the application for processing under the Pilot. As described below, the MAP lender must work with the borrower to address the rent request as part of the loan underwriting prior to submission. Lenders are advised that, if the borrower is requesting a market-based rent increase at "post rehab" market rent levels to support the new insured loan at initial closing, a Section 8 escrow will be required to fund the difference between the existing rents and the post-rehabilitation rents during the construction period. Lenders should include this escrow in their underwriting. Borrowers should refer to the Section 8 Renewal Policy Guide for details on post-rehab rents.

The Asset Management review for Pilot applications includes review of the capacity of the proposed management agent, which will include an assessment and determination that the selected management entity has adequate experience working with the LIHTC program and its varied requirements. Asset Management will also assess the proposed relocation plan (with temporary relocation under the Pilot not to exceed 30 days) to determine if the project sponsor has capacity or has engaged a third party with specialized experience to manage the relocation effectively.

Asset Management Exhibits:

- APPS/HUD Form 2530 (Not required for Nonprofit Board members, except for those who serve as officers of the board),
- HUD-9832, Management Entity Profile,
- HUD-9839 A, B or C,
- Narrative statement including the following:
    - Proposed Staffing for the Project and
    - Resident Complaints Resolution Procedure,
- Marketing and leasing plan and plan for temporary relocation during repair work,
- Exhibits required under MAP Guide Chapter 10.2, and
- If applicable, a 9507 prepayment request form.

IV. REPAIR PERIOD AND ESCROW RELEASES

On projects where there is either an architect representing the borrower, a general contractor, or an independent inspection firm hired by the syndicator, the following process should take place:

A. Lender obtains a written certification from any/all of the above that the work (as represented on the HUD 92464-Request for Approval of Advance of Escrow Funds) has been completed. Certifications obtained should use the certification language found on the signature page of the Contractor's Requisition Project Mortgages HUD 92448 for the contractor, architect, and inspector signature block.

B. Lender obtains a date down endorsement to the title policy to insure no liens have been filed.

C. Lender disburses upon receipt of all the above.

D. Lender sends fully executed copies/originals of all the above to HUD Mortgage Credit and AEC for their review.

E. HUD inspects repairs at normal 223(f) intervals, 35% & 65% of completion, but lender continues to approve and disburse without HUD approval unless notified by HUD of issues at these inspections. HUD inspection and signoff required prior to final disbursement.

F. HUD inspection and signoff are required prior to final disbursement, at 100% completion.