Lender’s PreConstruction Conference Agenda

New Construction

Substantial Rehabilitation

241(a)

**Project Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Project Location (City, State): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**HUD Project Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Meeting Date, Time, and Conference**

**Call-in Numbers: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Early Start of Construction is applicable:**  **YES**  **NO (check one)**

**Insured Advances is applicable:**  **YES**  **NO (check one)**

**Insurance Upon Completion is applicable:**  **YES**  **NO (check one)**

**Attendance Record**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name and Title** | **Organization and Mailing Address** | **Email Address** | **Phone #** |
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**Name of HUD Contract Inspector**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Welcome / Introductions**

If Early Start, or Insurance Upon Completion is applicable, confirm Construction Contract is signed, and Lender has sent PDF copy to HUD ORCF Construction Manager.  **YES**

Confirm final three HUD Sets of Plans and Specifications are prepared and ready for distribution, per the Lender’s PreConstruction Conference Duties document.

**YES**  **N/A at this time**

Confirm Construction Time: \_\_\_\_\_\_\_\_\_\_\_\_ Months

Confirm Scheduled Completion Date per Executed Construction Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. **Certified Payrolls and Davis Bacon** (Name of HUD Labor Compliance Specialist: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

Davis-Bacon is not applicable to this loan, or

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (enter the Decision Number, Modification Number, and Publication Date) is the applicable Wage Determination, and it IS attached to the executed Construction Contract.

It will be up to HUD’s Labor Compliance Specialist to determine if they will make their standard presentation during this Conference, or at a time of their choosing.

3. **Payments from Construction Account / Partial Payment to Contractor, and Borrower’s Request for Major Movable Equipment**

*Note: There shall not be any requisitions for mortgage proceeds, if Initial Closing has not occurred. This would apply to Early Start of Construction, and Insurance Upon Completion projects.*

Review “General Contractor’s Monthly Requisition Procedures.” See HUD Handbook 4232.1, Section II - Production, Appendix 10.3.

A 10% construction retainage is held back on each Monthly Draw.

Early Partial Release of Retainage is applicable as follows:

Identity of Interest General Contractor – retainage is held until Final Endorsement.

Non-Identity of Interest General Contractor – early partial release (from 10% down to 5%) is *possible* at 90% construction completion; with a further reduction from 5% down to 2 ½% *possible* at the Final Inspection. The remaining 2 ½% is held until Final Endorsement. See HUD Handbook 4232.1, Section II – Production, Chapter 10.15 D, and Appendix 10.4 (Specimen Letter).

Remember – Written approval from the General Contractor’s Surety is required.

See “SAMPLE Materials Stored Onsite Spreadsheet,” Attachment 1

Each month the Lender shall transmit, via email and attached PDF, a copy of the approved Monthly Requisition, with all attachments, to the HUD ORCF Construction Manager. A hardcopy is not necessary.

**Borrower’s Request for Major Movable Equipment** (aka FF&E’s) - Only when equipment is in place or stored onsite, can a request from mortgage proceeds be made. At that time, the Borrower shall prepare a cover invoice, with attached detailed invoices, for the requested equipment. The invoices will be provided to the HUD Inspector, who will inspect the equipment, and if acceptable, notate their approval on the cover invoice, and in their related HUD Trip Report. Both the annotated cover invoice and Trip Report are necessary for the Lender to release related mortgage proceeds.

Remember – *Deposits* and *equipment stored offsite* are not eligible for payment from mortgage proceeds.

4. **Contractor's Supervision**

Who will be the Project Manager? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Who will be the Project Superintendent? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5. **Initial Starting Date**

General Contractor shall provide \_\_\_\_\_\_\_\_ *(INSERT Lender PCCC Name)* \_\_\_\_\_\_\_\_\_; *Michael Peeler, HUD ORCF Construction Manager;* \_\_\_\_\_\_\_\_ *(INSERT HUD Labor Compliance Specialist Name)* \_\_\_\_\_\_\_; and \_\_\_\_\_ *(INSERT HUD Contract Inspector Name)* \_\_\_\_ letters indicating the date (*actual* date, not anticipated) of Initial Construction Start (the beginning of initial site clearing and preparation) and the date of Permanent Construction Start (permanent on-site building elements put in place, such as footings and utility lines). Letters shall be transmitted in PDF format, via email to all recipients. As there is no HUD form for these letters, the General Contractor shall use their letterhead. This date shall be verified by the project architect. The HUD Inspector must record the date of Initial Construction Start and the date of Permanent Construction on the HUD Representative’s Trip Report.

REMEMBER – Letters are generated and submitted *on or soon after* construction begins as described above. They are not generated in *anticipation of projected* construction start.

6. **Inspection and Supervision by Project Architect**

Provide services in accordance with the Owner/Architect Agreement, AIA B108.

Ensure that construction is carried out in accordance with the contract documents.

Review Contractor’s Monthly Draw Requests for accuracy and appropriateness.

Architect's Supplemental Instructions - AIA G710, is acceptable to use for the following: interpretation or clarification of the contract documents, order minor changes in the work not involving cost, or accepting specified equivalents.

Generate a Field Report with each site visit (e.g. the AIA G711, Architect’s Field Report) – minimum contents include:

* Date of inspection
* FHA Project Number and location
* Time, weather, and temperature range
* Estimated percent of completion of the entire project
* Work in progress and conformance with the contractor's progress schedule
* Persons present at work
* Observations and items to verify
* Information or action required
* Firm name and signature

Maintain an Architect’s Log (typically a three-ring binder), which includes hardcopies of the above Field Reports, a Sign-in Log, etc. The Architect’s Log is to be kept up to date and on site. The HUD Inspector will review the Architect’s Log during each site visit. The *Sign-in Log* can be maintained concurrently with the Builder, to document who has been at the site doing inspections (such as the local authority, inspecting architect, and HUD Inspector), and when, and any necessary notes.

Throughout construction, promptly provide the HUD Inspector with an electronic copy of the Field Reports.

7. **HUD Representative’s Trip Report by HUD** **Contract** **Inspector**

In brief, the HUD Contract Inspector will check the job to insure that:

* The construction is progressing on schedule
* “HUD As-Built Set” of Plans and Specs are being updated by the Contractor on a regular basis
* Construction is according to contract documents
* The Architect of Record is inspecting regularly and maintaining the Architect’s Log
* Construction site is well organized
* Construction draws are accurate and acceptable and materials are either on site or acceptably stored offsite (if applicable)
* Workers are being paid properly. Davis Bacon Wage Interviews are conducted each time the inspector is at the job site. Interviews are used by HUD’s Office of Labor Standards and Enforcement to verify prevailing wage compliance and who was working when. The goal is to interview all trades at least once. Interviews will take a very short time, and no supervisors can be present. **Please advise all Subcontractors often that these will be taking place. HUD encourages posting a blank copy of the Record of Employee Interview, form HUD-11, next to the posted Davis-Bacon Wage Rate(s).**

8. **Sub Contractor's Identity of Interest**

An Identity of Interest occurs when the Mortgagor or the General Contractor has an interest in a subcontractor, material supplier, or lessor of equipment.

This interest may be financial, ownership, and family relationship, to name a few.

An Identity of Interest must be approved by the HUD ORCF Construction Manager prior to execution of the subcontract or commencement of the work. If prior approval is not received, the General Contractor’s Overhead and Profit for that work will be disallowed by HUD at Cost Certification time.

The subcontract must show the cost plus a profit.

Requests for approval shall be sent first to the Lender (who may enlist the services of their Third Party Architectural Reviewer), who will in turn forward the complete package to the HUD Construction Manager for final approval.

The Identity of Interest must also submit a Contractor’s Certificate of Actual Cost (if applicable, depending on the type of Construction Contract)

A company that only does business with the Mortgagor or General Contractor is not allowed (“paper conduit”).

9. **Change Orders, form HUD-92437**

*For Early Start of Construction projects, Change Orders will not be processed prior to Initial Endorsement. Rather, changes will be documented on the Contractor’s as-built set of plans and specifications; which will be the basis for the final HUD Sets of Plans and Specifications submitted at Initial Endorsement.*

*For Insurance Upon Completion projects, Change Orders are processed, but an Escrow is not required for additive Change orders, nor is Surety approval.*

Review Change Order procedures. See HUD Handbook 4232.1, Section II - Production, Chapter 10.9 through 10.12.

Communication with the HUD Inspector on potential Change Orders, as well as draft Change Orders is critical. Provide the HUD Inspector with copies of draft Change Orders.

Each Change Order must include a written narrative from the Architect as described in HUD Handbook 4232.1, Section II - Production, Chapter 10.9 A.2. Remember: All eight Handbook items must be addressed, indicating “Not Applicable” when appropriate.

Builder’s Soft Costs (i.e. General Requirements, Overhead, Profit, and Bond) are limited to the percentages in the Builder’s Schedule of Values, form HUD-2328.

Requests for extensions of time must be on a Change Order form by themselves. The “Description of Changes,” must include the Original Construction Completion Date, the New Proposed Construction Completion Date, and the number of related calendar days.

Are there any Firm Commitment Special Conditions that could affect change orders on this project?

* + None \_\_\_, or
  + Special Condition #\_\_ - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
  + Special Condition #\_\_ - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

See Sample Change Order, as well. Attachment 2

All Change Orders must be fully funded by Owner cash (or Construction Contingency, if applicable), prior to the next Monthly Requisition.

The Lender shall create a color PDF version of the complete Change Order package, and send it via email to [the](mailto:Mike.Peeler@hud.gov) HUD ORCF Construction Manager for review, execution, and distribution.

Payment for Change Orders – form HUD-92464-ORCF, must include a copy of page 1 of the applicable approved Change Order(s). Also – list each Change Order as a *single* line item, not each and every line item of the Change Order.

10. **Construction Progress Schedule (per AIA A201 - General Conditions of the Contract for Construction)**

Used by HUD as an early warning/tracking tool to determine if the project is on schedule.

A simple schedule showing the proposed cumulative percentage of completion per month during the construction period is acceptable. Construction Progress Schedule, form HUD-5372 is an acceptable example.

An updated Schedule is required when construction falls more than 10% behind schedule (a revised schedule is not usually submitted when the project is ahead of schedule).

11. **Display of: Davis Bacon Wages, Equal Employment Opportunity Documents, Change Order Log, and Approved Change Orders, Architect’s Log/Field Reports/Sign-in Log, and “HUD As-Built Set” of Plans and Specs**

*If Early Start of Construction is applicable, the Contractor shall maintain an as-built set of plans and specifications; which will be the basis for the HUD Sets of Plans and Specifications submitted at Initial Endorsement. The “HUD As-Built Set” of the Plans and Specifications will typically only apply after Initial Closing, or for Insurance Upon Completion projects.*

All of the above must be available for view by all on the job.

12. **“HUD As-Built Set” of Plans and Specs & As-Built Survey**

*The “HUD As-Built Set” of the Plans and Specifications will typically only apply after Initial Closing, or for Insurance Upon Completion projects. If Early Start of Construction is applicable, the Contractor shall maintain an as-built set of plans and specifications; which will be the basis for the HUD Sets of Plans and Specifications submitted at Initial Endorsement.*

“HUD As-Built Set” of Plans and Specifications: Provided to the General Contractor at or soon after the PreConstruction Conference. The set must be constantly maintained by the contractor to record all construction changes and/or modifications.

As-Built Survey: Required for *both* Construction Completion (Final Trip Report) *and* Final Closing. This is an ALTA/ACSM As-Built Land Title Survey, including all above ground and below ground improvements, and site contour lines, and in accordance with the Survey Instructions and Borrower’s Certification, form HUD-91111-ORCF.

13. **Shop Drawing Submittal and Approval**

The HUD Inspector will check to make sure the contractor is submitting all shop drawings (Section 3.12 in A201) in a timely manner to the Architect for timely approval (Section 4.2.7 in A201). Most Specification sections have specific Submittal instructions, as well as other sections of the A201. HUD is not a party to Shop Drawing approvals.

14. **Corrective or Incomplete Items**

Issues may be identified by the project Architect, the HUD Inspector, the Local Authority, or other individuals. Issues must be corrected in a timely manner. Inspection reports must document the issue and continue to do so until the situation is corrected.

15. **Permission to Occupy (PTO), form HUD-92485**

Review Permission to Occupy instructions. See HUD Handbook 4232.1, Section II - Production, Chapter 10.7 A.

Reminder - At a minimum, the PTO must include:

* Local Authority Certificate of Occupancy (Temporary C of O is acceptable at this stage),
* Architect’s Punchlist
* Certificate of Property Insurance,
* Certificate of Fidelity Insurance,
* Certificate of Professional Liability Insurance, and,
* Any other PTO related Firm Commitment Special Conditions, including:
  + None \_\_\_, or
  + Special Condition #\_\_ - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
  + Special Condition #\_\_ - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTE – The State license inspection is NOT a required document at this time.

It is strongly encouraged to execute the PTO prior to the Final Inspection.

The Lender shall create a color PDF version of the complete Permission to Occupy package, and send it via email to [the](mailto:Mike.Peeler@hud.gov) HUD ORCF Construction Manager for review, execution, and distribution.

16. **Final Construction Completion**

The date of final construction completion shall be the date the HUD Contract Inspector signs the final HUD Representative's Trip Report, provided the trip report is subsequently endorsed by HUD’s ORCF Construction Manager.

Remember, *before* the Final Inspection is scheduled:

* Work 100% Complete (except for approved Items of Delayed Completion)
* “HUD As-Built Set” of Plans and Specifications; reviewed by Architect and HUD Contract Inspector, and left at the site or forwarded to project Owner/Sponsor (documented by Architect’s Transmittal Memorandum to Owner/Sponsor)
* Owner’s Operations & Maintenance Manuals; reviewed by Architect and HUD Contract Inspector, and forwarded to project Owner/Sponsor (documented by Architect’s Transmittal Memorandum to Owner/Sponsor)
* Final ALTA/ACSM As-Built Survey; reviewed by Architect and HUD Contract Inspector, and forwarded to HUD (documented by Architect’s Transmittal Memorandum)
* All Major Movable Equipment on site, and in place
* All Change Orders submitted and approved by HUD
* Final 100% Construction Draw/Requisition prepared
* HUD Permission to Occupy executed and approved by HUD (*preferred* prior to Final Inspection)

Architect and HUD Inspector will make the final inspection upon request of the Builder. The Architect determines that all punch list items are complete (unless they are Items of Delayed Completion, and then construction proceeds are withheld until the work is completed), and provides a letter stating so.

The HUD Inspector fills out the final Trip Report.

The HUD ORCF Construction Manager will review and approve the report.

17. **General Contractor’s Cost Certification**

N/A; Lump Sum Contract

Applicable; Cost Plus Contract

See HUD Handbook 4232.1, Section II - Production, Chapter 11, for details.

When applicable, the General Contractor must submit a Contractor’s Certificate of Actual Cost. Account line items must correspond to line items on the Contractor's and/or Mortgagor's Cost Breakdown (form HUD-2328).

The assigned HUD Closing Coordinator shall be the HUD point of contact for the Cost Certification process (both General Contractor – if applicable, and Borrower).

18. **One Year Warranty and Guarantee Inspections**

A warranty shall be provided by the Builder on labor and materials for one year after the date of the Final Trip Report.

* A minimum of two inspections are made of all work to discover and require correction of latent defects (defective or nonconforming work not observed during construction) within one year of the date of the Final Inspection Report.
* The HUD Inspector schedules guarantee inspections (proposed dates are listed on the HUD Inspector’s Final Trip Report).
* The inspection team will include: HUD Inspector, Supervisory Architect, Owner, Contractor, and if possible, Onsite Maintenance representative.
* A Nine Month Warranty Inspection must be conducted and shall provide for inspection of the entire project.
* Other inspections may be necessary to assure inspection of seasonal items such as heating and landscaping.
* A final 12-Month Warranty Inspection must be conducted no later than 335 days after the Final Inspection Report to check previously reported defects and correction, and identify any additional defects.
* The HUD Inspector reports each guarantee inspection on form HUD-95379-ORCF, HUD Representative's Trip Report.
  + - If work is acceptable, state, "All observable work acceptable at the time of this inspection."
    - If unacceptable, list latent defects:
      * Describe each item.
      * Recommend method of correction.
      * Estimate current cost of correction.
    - Check any Items of Delayed Completion from Final Trip Report and list completed and incomplete items under a separate heading.
    - Note any improper maintenance or casualty damage under a separate heading.

Any incomplete or new repairs/maintenance identified at the 12-Month Warranty Inspection will be inspected or certified on a case-by-case basis as determined by the HUD ORCF Construction Manager.

**Attachment 1**

**SAMPLE – Materials Stored Onsite Spreadsheet**



**Attachment 2**

