



U.S. Department of Housing and Urban Development
New York State Office
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<http://www.hud.gov/local/nyn/>

**Bookletter #6
FY 2007 - 2AHMLAP**

July 25, 2007

MEMORANDUM FOR: All Owners and Management Agents
All Performance-Based Contract Administrators and other Contract Administrators

FROM: Teresa M. Bainton, Director, New York Multifamily Hub, 2AHMLA

SUBJECT: **Revised Previous Participation Certificate Filing Instructions**

The President recently signed into law the Preservation Approval Process Improvement Act of 2007. This law requires the Department to take certain actions in regard to the Previous Participation operating process (commonly known as Previous Participation Certificate or Form HUD-2530) until HUD submits the proposed new rule to the House and Senate authorizing committees for review. The proposed rule will be published in the Federal Register with the appropriate comment period.

Until the new rule is in effect, the following changes will be in effect immediately:

1. HUD is suspending the mandatory electronic filing of Previous Participation Certificates via the Active Partners Performance System (APPS). HUD will accept Previous Participation Certificates submitted via APPS or in paper format on Form HUD-2530.
2. HUD is suspending Previous Participation Certificate filing requirements for Limited Liability Corporate Investors (LLCI) who own, or expect to own, an interest in entities which have received, or are expected to receive Low-Income Housing Tax Credits (LIHTC) under Section 42 of the Internal Revenue Code.

Please note that paper format Form HUD-2530s must be completed in full and without error by each entity and participant (see Attachment 1).

Please also note the New York Multifamily Hub must approve all requests by LLCIs to waive HUD's Previous Participation Certificate filing requirements. Requests by LLCIs to waive the filing requirements should include the following materials:

1. The completed and signed certification, "Identification and Certification of Eligible Limited Liability Corporate Investors" (see Attachment 2).
2. An organizational chart or description of the ownership entity from an operating principal (the general partner, managing member, majority/controlling stockholder, board chairperson, etc) or the principal's attorney. The organizational chart or description should clearly identify the

ownership interest of each entity in the Partnership and the mailing address of the requesting LLCI entity.

The New York Multifamily HUB will review the materials submitted by entities requesting approval as LLCIs and issue a determination letter. The determination letter will include a copy of the approved Identification and Certification of Eligible Limited Liability Corporate Investors certification. Our office recommends that LLCIs retain copies of these materials in their files.

HUD must receive the above materials from each Limited Partnership entity with greater than 25% interest in the ownership/mortgagor entity. Limited Partnership entities with greater than 25% ownership interest in ownership/mortgagor that do not receive HUD's approval as LLCIs will be required to submit Previous Participation Certificates in accordance with HUD's regulations.

For additional information on HUD's Previous Participation requirements for entities other than LIHTC LLCIs, please refer to HUD Handbook 4065.1. If you have any additional questions, you may contact Michele Anteri at (212) 542-7869 or Beryl Niewood at (212) 542-7717.

ATTACHMENT 1

The New York Hub will review paper format Form HUD-2530s to be sure that each of the following items is completed:

- Part 1—Reason for Submitting the Certification
- Sections 1-6
- List of All Proposed Principal Participants (Sections 7-10 for each participant)
- Certification Section—If any of these items cannot be certified to, the item should be crossed out and a detailed explanation of the specific circumstances should be attached.
- All four columns of the signature section must be completed. Signatures must be current within six months of the date of submission.
- The bottom line of the form must be completed, indicating the form preparer's information with their telephone number.
- Schedule A (page 2 of the form) must be fully completed with the information required for columns 1 through 6 supplied for each principal and each project for each principal. Duplicates of page 2 may be added as needed. At least one of the page 2 submissions must include the blank format for Part II-For HUD Internal Processing Only.

Failure to fully complete Form HUD-2530 completely may result in its return to the applicant without HUD processing. The HUD Handbook 4065.1 should be consulted for additional information.

ATTACHMENT 2

Identification and Certification of
Eligible Limited Liability Corporate Investors (LLCI)

I, _____ am authorized to certify to each and every item stated below.
(Name of Authorized Signer)

I certify that _____, is:
(Name of LLCI)

1. An eligible Limited Liability Corporate Investor as noted in the Preservation Approval Process Improvement Act of 2007 and as defined herein:
2. Investing in _____, which made a complete application to the state Tax Credit Agency (TCA) to receive Low-Income Housing tax Credits under Section 42 of the Internal Revenue Code or to which the TCA issued an allocation or letter of intent to allocate Low-Income Housing Tax Credits under Section 42 of the Internal Revenue Code;
3. A company organized under a State limited liability company statute, an investor corporation, an investor limited partnership, or an investor limited liability limited partnership; and
4. An investor with limited or no control over routine property operations or HUD regulatory and/or contract compliance, even if the investor may control (albeit not routine or repetitive control) of the ownership entity or assume the operating responsibilities in the event of the default of the operating partner or upon specific events all defined under the investment contract/agreement.

I further certify that should any of the facts that support the certifications above change or the company for which this certification is made withdraws from participation in the owner/mortgagor, I will notify HUD immediately providing full disclosure and explanation of the change(s).

Signed: _____ Date: _____

Approved: _____ Date: _____
(Field Office Hub/PC Director)