

# **APPENDIX Q**

## **Identity Of Interest**

How It May Impact A Development

### **IDENTITY OF INTEREST - DEFINITION**

**The Identity of Interest definition that WHEDA will follow is provided by HUD and bond regulations. HUD's Management Agent handbook (4381.5) defines Identity of Interest as:**

(1) An identity of interest relationship exists if any officer, director, board member, or authorized agent of any development team member (consultant, general contractor, attorney, management agent, seller of the land, etc.):

- (a) is also an officer, director, board member, or authorized agent of any other development team member;
- (b) has any financial interest in any other development team member's firm or corporation;
- (c) is a business partner of an officer, director, board member, or authorized agent of any other development team member;
- (d) has a family relationship through blood, marriage or adoption with an officer, director, board member, or authorized agent of any other development team member; or
- (e) advances any funds or items of value to the sponsor/borrower

**All developments that include an Identity of Interest, as defined above, must indicate the specific Identity of Interest in the application for financing or tax credits.**

### **IDENTITY OF INTEREST – SITUATIONS**

WHEDA will impose restrictions on the amount of certain fees in the following Identity of Interest situations.

- ◆ An Identity of Interest **between the seller and buyer of real estate**, on Rehabilitation and Adaptive Reuse developments, results in a developer fee limitation. The developer fee for the acquisition portion is limited to 3% of the acquisition cost or a minimum of \$5,000. The developer fee for the rehabilitation portion will be scaled to the amount of rehab defined in WHEDA's "Developer Fee Policy".
- ◆ When an Identity of Interest exists between the developer, owner and general contractor, and the auditor performing the cost certification determines that the general contractor entity is **not** a legitimate operating concern, the following limitations will be applied. For developments with 24 units or less, the **combined total** of the general requirements, contractor's profit, contractor's overhead, consultant's fee, developer's fee, and developer's overhead will be limited to 20% of the total development costs, not including the combined total for those items. The combined total will be limited to 17% for developments over 24 units. For rehabilitation developments, the limits will be reduced to reflect the policy in WHEDA's "Developer Fee Policy".