APPENDIX Q

Identity Of Interest
How It May Impact a Development

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".