

Multifamily Seller/Servicer Guide

Chapter 63

Construction Reports

63.1 Construction reports

a. General requirements for construction reports (12/14/17)

Freddie Mac requires the following construction reports for Forward Commitments and Moderate Rehabilitation (Mod Rehab) Mortgages:

- Pre-construction analysis report (also called the pre-construction plan and cost review), as described in Section 63.3
- Construction monitoring reports, as described in Section 63.4
- Post-construction analysis report (also called the construction completion report), as described in Section 63.5

With respect to the construction reports and the inspections that provide information for the reports:

- The construction reports must be prepared by the Architectural Consultant meeting the requirements of Section 63.2(a).
- The inspections must be completed by either of the following:
 - An Architectural Consultant meeting the requirements of Section 63.2(a)
 - A property condition consultant meeting the requirements of Section 62.8(a)

The Seller/Servicer's responsibilities with respect to the hiring of an Architectural Consultant are outlined in Section 63.2(b). The responsibilities of the Seller/Servicer with respect to the hiring of the property condition consultant are outlined in Section 62.2.

For a Forward Commitment, the Seller/Servicer must maintain on its staff a Chief Architect/Engineer in accordance with Section 3.13 to evaluate the construction reports and the construction documentation.

For a Mod Rehab Mortgage, the Seller/Servicer must maintain staff that are knowledgeable about construction monitoring and construction draw processing.

b. Specific requirements for construction reports (12/14/17)

Each construction report must:

- Clearly state any limiting conditions and the intended purpose of the report
- Identify deviations from the Guide requirements

Freddie Mac may require that a pre-construction analysis report be updated if it is dated more than six months prior to the date that the full underwriting package is delivered. If a pre-construction analysis report relies on a property condition report that is dated more than six months prior to the date the full underwriting package is delivered, Freddie Mac may require a new inspection by the property condition consultant or the Architectural Consultant to verify the current property condition.

The timeline for preparing and completing the post-construction analysis report is detailed in Section 63.5(b).

Freddie Mac may require other specialized reports to address specific issues, when needed.

c. Reliance for construction reports (06/28/13)

Each construction report must include the following language:

“This report is for the use and benefit of, and may be relied upon by,

- a) the Seller/Servicer, Freddie Mac and any successors and assigns (“Lender”);
- b) independent auditors, accountants, attorneys and other professionals acting on behalf of Lender;
- c) governmental agencies having regulatory authority over Lender;
- d) designated persons pursuant to an order or legal process of any court or governmental agency;
- e) prospective purchasers of the Mortgage; and
- f) with respect to any debt (or portion thereof) and/or securities secured, directly or indirectly, by the Property which is the subject of this report, the following parties and their respective successors and assigns:
 - any placement agent or broker/dealer and any of their respective affiliates, agents and advisors;
 - any initial purchaser or subsequent holder of such debt and/or securities;
 - any Servicer or other agent acting on behalf of the holders of such debt and/or securities;
 - any indenture trustee;
 - any rating agency; and

- any institutional provider from time to time of any liquidity facility or credit support for such financings

In addition, this report, or a reference to this report, may be included or quoted in any offering circular, information circular, offering memorandum, registration statement, private placement memorandum, prospectus or sales brochure (in either electronic or hard copy format) in connection with a securitization or transaction involving such debt (or portion thereof) and/or securities.”

63.2 Retaining an Architectural Consultant

a. Requirements and qualifications of the Architectural Consultant (05/05/17)

The Architectural Consultant inspecting the Property and preparing the construction reports must meet the qualifications and requirements specified in this section.

The Architectural Consultant cannot be employed by or affiliated with the Seller/Service, the Borrower, the general contractor, the tax credit investor or the syndicator, or with any party related to the land acquisition or development of the Property. The Architectural Consultant must not be engaged to perform any design or construction services associated with the Property.

In general, the Architectural Consultant must be able to understand the construction process and construction documentation, including, but not limited to, plans, specifications, contracts, cost estimates, schedules, payment requisitions, change orders, codes and other governmental requirements, construction completion documentation and the roles of the participants in the construction process. The Architectural Consultant must be able to monitor construction progress.

The Architectural Consultant must have, at a minimum, the following qualifications:

- A professional undergraduate degree in architecture/engineering from an accredited institution
- Architectural registration
- Ten years of professional experience with at least five years of experience with multifamily properties
- A working knowledge of construction processes, building materials and methods of design and construction and the ability to develop cost estimates
- References that address the Architectural Consultant's:
 - Experience with projects of similar scope and complexity to the Property
 - Quality of work product
 - Timeliness of work product

Membership in one or more of the following professional organizations is highly desirable:

- American Institute of Architects
- Urban Land Institute
- Construction Specifications Institute

The Architectural Consultant must provide the Seller/Service with an original certificate of insurance that indicates that the Architectural Consultant is, at his or her own expense, covered by insurance meeting the requirements of Section 11.5.

b. The Seller/Service's duties and responsibilities with respect to retaining an Architectural Consultant (05/05/17)

The Seller/Service is responsible for retaining and directing an Architectural Consultant meeting the requirements of Section 63.2(a). The Seller/Service is responsible for selecting the Architectural Consultant and is solely accountable for the Architectural Consultant's performance. Because Freddie Mac does not approve Architectural Consultants, the Seller/Service must not consider any representation made by the Architectural Consultant or others that the Architectural Consultant is approved or qualified by Freddie Mac to prepare construction reports.

The Seller/Service must review and verify the Architectural Consultant's credentials, licensing, certifications, memberships and affiliations. The Seller/Service must check at least three references from the Architectural Consultant's previous lenders to sufficiently evaluate the consultant's capabilities and performance. The Seller/Service must maintain a separate Architectural Consultant file for Freddie Mac's use that includes the Seller/Service's ongoing evaluations of its performance, as well as the Architectural Consultant's current resume, required references and original certificate(s) of liability insurance per the requirements of Section 11.5.

For a Forward Commitment, the Architectural Consultant may be the same as the Architectural Consultant retained by the construction lender as long as this Architectural Consultant is engaged directly by the Seller/Service as evidenced by a consulting services agreement. However, if the consultant retained by the construction lender is not qualified per the requirements of Section 63.2(a) or if that consultant is unable or unwilling to provide reports that meet the requirements of this chapter, the Seller/Service must directly engage its own Architectural Consultant to prepare new or revised construction reports meeting Freddie Mac's requirements.

c. Unacceptable Consultants (04/29/16)

The Seller/Service must send written notification immediately to the *Applicable Freddie Mac Multifamily Regional Office* if the Seller/Service, for cause, discontinues the use of an Architectural Consultant who has completed construction reports within the past 12 months for Mortgages purchased or credit enhanced by Freddie Mac. The TAH Seller/Service must send written notification immediately to the *Multifamily TAH Underwriter*.

In addition, Freddie Mac reserves the right to refuse to accept reports completed by any specific consultant. Freddie Mac will maintain, on FreddieMac.com, the [Multifamily Restricted Vendor List](#). If an Architectural Consultant appears on the Multifamily Restricted Vendor List, the Seller/Servicer may not use that consultant for multifamily Mortgages offered to Freddie Mac until notified otherwise by Freddie Mac. The decision to place a third-party vendor on the Multifamily Restricted Vendor List is solely within Freddie Mac's discretion.

The Multifamily Restricted Vendor List is made available to Seller/Servicers for the sole purpose of ensuring that unacceptable consultants do not prepare construction reports for Multifamily and will constitute "Confidential Information" as defined in Section 2.8.

63.3 Pre-construction analysis report

a. Scope of the pre-construction analysis report (06/27/19)

The pre-construction analysis report replaces the standard property condition report for a Forward Commitment and a Mod Rehab Mortgage. However, if a property condition report meeting the requirements of Chapter 62 was completed prior to the engagement of the Architectural Consultant, then the Architectural Consultant may rely on this property condition report in lieu of performing an inspection. The age of the report must be considered as noted in Section 63.1(b).

In order to prepare the pre-construction analysis report, the Architectural Consultant must analyze sufficient construction documentation to understand the scope and quality of the proposed project and to determine the likelihood that the project can be successfully delivered as proposed. The Architectural Consultant or the property condition consultant must make an inspection as required in Section 62.5.

For Forward Commitments that involve rehabilitation and Mod Rehab Mortgages, the Architectural Consultant must analyze the Property in accordance with the requirements of Sections 62.3-62.7. If conflicts exist between these sections and the requirements of this Chapter 63, the requirements of this Chapter 63 will prevail.

If the Forward Commitment is for new construction, then the Architectural Consultant:

- Must include a Replacement Reserve schedule for the life of the loan plus two years, up to a maximum of 12 years (10-year loan term plus two years).
- May make the professional opinion that a site visit is not necessary, and instead may rely on imagery from a reputable and appropriate source that is no more than six months old as of the date of engagement. Examples of existing land uses for which a site visit is not necessary include vacant land, parking lots and, at the consultant's discretion, any land with permanent structures that will not be re-purposed as part of the project.

The pre-construction analysis report must provide the Architectural Consultant's conclusion and recommendations regarding the adequacy and accuracy of the following:

- Functionality, adequacy and completeness of the building design and plans

- Quality, functionality and adequacy of building materials
- Compliance with zoning laws, restrictions and all governmental requirements
- Compliance with the geotechnical engineer's recommendations
- General construction contract(s)
- Reasonableness and adequacy of the projected costs, contingencies and reserves
- Reasonableness of project schedule and budget
- Seismic analysis (if applicable)
- All relevant environmental reports
- The capacity of the developer, contractor and architect to successfully complete the project, and
- Any other issues that might impact the ability of the developer, contractor or architect to successfully complete the project.

b. The Architectural Consultant duties and responsibilities with respect to the pre-construction analysis report (09/30/20)

The Architectural Consultant must base the pre-construction analysis report on a review and analysis of all applicable pre-construction documentation, including the following:

- Final plans and specifications
- Construction contract
- Construction budget
- Construction schedule
- Development budget
- Development team's qualifications
- Boundary and topographic surveys
- Geotechnical report
- Zoning and utility information
- Permits and other governmental approvals

- Environmental reports
- Seismic risk assessment (SRA), if required, including Form 1102, Seismic Risk Assessment Summary

If construction has commenced prior to the Origination Date, the Architectural Consultant must provide an independent assessment of all factors as identified in Section 63.4(a).

In addition, the pre-construction analysis report for a Forward Commitment with rehabilitation work or a Mod Rehab Mortgage must:

- Provide a determination of whether all Priority and PR-90 Repairs identified during the property inspection will be appropriately addressed by the proposed scope of work; provide costs for repairs not included in the scope of work
- Discuss the results of any wood-damaging insect inspection reports (e.g., any report on damage by termites, powderpost beetles, carpenter ants, etc.)
- Identify any issues not addressed in the rehabilitation plan that warrant additional investigation, such as structural, roof or electrical work
- Confirm the adequacy of the amount of construction contingency available to complete the rehabilitation
- Provide an evaluation of the remaining economic life of the Property following the completion of the rehabilitation
- Address any functionality and building code issues that may exist if the Property was not originally multifamily housing or if building codes have changed since the original construction
- If applicable, confirm whether the appropriate approvals for historic rehabilitation have been obtained from the Department of the Interior and all local and State authorities

The Architectural Consultant must note significant issues identified in previous construction monitoring reports and state how they were resolved.

For a Mod Rehab Mortgage, the pre-construction analysis report must:

- Provide two replacement reserve tables over the term of the Mortgage:
 - As-is replacement reserve table in accordance with Section 62.6(d)
 - As-stabilized replacement reserve table assuming all rehabilitation has been completed
- Verify the reasonableness of the lease-up schedule compared to the unit delivery schedule

c. The Seller/Service's duties and responsibilities with respect to the pre-construction analysis report (05/05/17)

The Seller/Service is responsible for obtaining the pre-construction analysis report and for determining if the report meets Freddie Mac's requirements.

For Forward Commitments that involve rehabilitation work or Mod Rehab Mortgages, the Seller/Service must conduct inspections of the Property that will enable the Seller/Service to evaluate the report findings with respect to the Borrower's scope of work, ensuring that it meets the immediate and near-term needs of the Property.

The Seller/Service must provide the Architectural Consultant with the following documents to review for adequacy and accuracy, and to analyze as part of the pre-construction analysis report:

- Construction budget
- Development budget
- Construction schedule
- Lease-up schedule (verify reasonableness compared to unit delivery schedule)
- Final plans and specifications
- Construction contract
- Development team's qualifications
- All relevant environmental reports
- Building permits and other governmental approvals
- Seismic risk assessment (SRA), if required, including Form 1102, Seismic Risk Assessment Summary
- Boundary and topographic surveys, if applicable
- Geotechnical report, if applicable
- Zoning and utility information, if applicable
- Anything else that might impact the ability of the Borrower, contractor or architect to successfully complete the project

The Seller/Service must review the pre-construction analysis report to determine whether:

- The report is complete and accurate

- The proposed scope and quality of the improvements reflect the market so that the income projections can be achieved
- The project as proposed will result in an investment quality Property, and
- There are no substantive risks to the timely completion or stabilization of the Property as budgeted

If the Seller/Servicer identifies any substantive risks to timely completion or stabilization of the Property, the Seller/Servicer must document such findings and how they were resolved in the applicable underwriting package.

For a Forward Commitment only, the Seller/Servicer's Chief Architect/Engineer must prepare a narrative summary based on the construction documentation and the pre-construction analysis report and containing all of the following:

- Confirmation that the pre-construction analysis report meets all requirements as noted in this Chapter 63
- Identification and status of all documents reviewed (draft, final, etc.)
- Identification of any missing, incomplete or inadequate information
- A property and site description, as described in Section 55.2
- A summary analysis of the development team's qualifications, including the capability of the architect, contractor and developer to execute the plan

The following underwriting checklists apply to Forward Commitments:

- Section 1.30 of Exhibit 1 for TAH Cash Mortgages
- Section 1.32 of Exhibit 1 for TAH Bond Credit Enhancement Mortgages

The documents required in the underwriting package for a Forward Commitment will vary based on whether the Seller/Servicer is utilizing Freddie Mac's expedited review of construction documentation or the standard review of construction documentation for the Forward Commitment. See Section 19A.1(d) or 28A.1(e) for a description of Freddie Mac's expedited review process.

The underwriting checklist for Mod Rehab Mortgages can be found in Exhibit 1, Section 1.1.

63.4 Construction monitoring reports

a. **Scope of the construction monitoring reports (05/05/17)**

The Architectural Consultant must prepare the construction monitoring reports. The construction monitoring reports must summarize the Architectural Consultant's findings from each site visit and state whether the project is progressing in a satisfactory manner.

The construction monitoring reports must address the following items, as applicable to the particular scope and circumstances of the construction project:

- Progress of the work completed to date
- Percent of the project completion (both actual work completed and budget spent)
- Compliance with the final plans and specifications (including any material deviations)
- Opinion of the quality of work
- Compliance with construction schedule (including any revisions)
- Analysis of the contractor's application for payment
- Impact of all proposed and approved change orders
- Adequacy of remaining hard cost funds
- Any factors that may delay completion
- Resolution of any identified construction-related problems
- Color photos that are mounted and labeled to indicate the general status of the construction and/or specific areas of concern
- Test results, if applicable
- Materials storage, if applicable

b. Architectural Consultant duties and responsibilities regarding the construction monitoring reports (02/28/18)

The Architectural Consultant or the property condition consultant must make periodic site visits to the Property to evaluate the progress, workmanship, budget and other factors. Site visits must be coordinated on a monthly basis with the contractor's submission of payment applications. In connection with these site visits, the Architectural Consultant must review the following documentation:

- Contractor's executed payment application
- Change orders
- Updated project schedule
- Test results, if applicable
- Inspection reports by local building authorities and the architect of record

Following each visit, the Architectural Consultant must summarize the findings in a construction monitoring report in accordance with the requirements in Section 63.4(a) and must provide the Seller/Servicer with copies of such reports

- On a monthly basis, for Forward Commitments
- With each Disbursement Request, for a Mod Rehab Mortgage (see Section 39.9)

c. The Seller/Servicer's duties and responsibilities regarding the construction monitoring reports for Forward Commitments (11/01/20)

During the construction phase, the Seller/Servicer must monitor the progress of construction and notify Freddie Mac of any material issues.

Project progress, including lease-up schedules, must be reported using Form 5150. This form must be completed in its entirety and only reflect active deals; any deals that have converted or have broken their Forward Commitment should be removed.

Form 5150 is due by the 25th of each month and must be updated with the most current information received through the end of each preceding month. Once completed, Form 5150 must be emailed to Forward_Commitment_Monitoring@freddiemac.com.

The Seller/Servicer must maintain the construction monitoring reports in the Mortgage File, review them to determine if the reports are complete and accurate and, using professional judgment, evaluate whether the construction project has or may have problems that could:

- Create risks that negatively affect successful completion and stabilization
- Have an adverse effect on project scope or quality
- Result in a request to extend the Forward Commitment, or
- Create risk beyond that of other construction projects that the Seller/Servicer has monitored.

The Seller/Servicer must review all change orders and the Seller/Servicer's Chief Architect/Engineer must review all material change orders to ensure that the revisions do not negatively impact the:

- Developer's ability to complete the project as initially presented during underwriting
- Scope or quality of the construction
- Marketability of the project
- Ongoing operational costs of the Property

A material change order involves any change that:

- Contains one or more single line items that reduce the construction contract by more than \$100,000 or two percent of total construction costs, whichever is less, or
- Significantly affects the scope or quality of the Property, its marketability, income potential or long-term viability

d. The Servicer's duties and responsibilities regarding the construction monitoring reports for Mod Rehab Mortgages (05/05/17)

During the construction phase, the Servicer must monitor the progress of construction and notify Freddie Mac of any material issues. The Servicer must review all monitoring reports and work to resolve any outstanding issues identified in the reports.

The Servicer must review all change orders to ensure that the revisions do not negatively impact the:

- Developer's ability to complete the project as initially presented during underwriting
- Scope or quality of the construction
- Marketability of the project
- Ongoing operational costs of the Property

See Section 39.9 for a description of additional Servicer responsibilities during renovation.

63.5 Post-construction analysis report

a. Scope of the post-construction analysis report (09/30/20)

The post-construction analysis report must include the results of a property inspection meeting the requirements of Sections 62.3 through 62.7 and a narrative evaluation completed by the Architectural Consultant. In addition, it must include a certification that all of the following is true:

- The project was completed substantially in conformance with the plans and specifications included in the full underwriting package submitted to Freddie Mac prior to the issuance of the commitment
- The quality and workmanship is acceptable
- The project is substantially in compliance with all applicable federal, State and local laws, ordinances and codes related to zoning, subdivision and use, building and housing accessibility (including the Americans with Disabilities and Fair Housing Acts), health matters and fire safety
- Certificates of occupancy and any other required permits were issued
- Either no deferred maintenance or life safety hazards were observed; or, if such observations are made, identification of the cost to cure each deferred maintenance or

Guide Bulletin Update 09/30/20 Chapter 63 – Page 12

life safety hazard

- For a Forward Commitment, the pre-construction reserve analysis is still valid, or an updated reserve table has been provided

All relevant documentation must be attached to the post-construction analysis report, including, but not limited to:

- Architect's certificate of substantial completion
- Final punch list from the architect of record or confirmation from the architect of record that all punch list items have been completed
- Final payment certification
- Final lien waiver from the general contractor
- Release of payment and performance bonds
- Release of bonds required by any governmental authority
- Final certificate(s) of occupancy, and
- Reserve analysis, if not completed previously or if revisions to the previously completed analysis are recommended
- A summary of all change orders and an analysis of all material changes, as defined in Section 63.4(c)

b. Architectural Consultant duties and responsibilities regarding the post-construction analysis report (05/05/17)

For a Forward Commitment, once the Borrower has provided all of the construction completion documentation and no more than six months prior to the Conversion, the Architectural Consultant must inspect the Property and submit to the Seller/Servicer a post-construction analysis report in accordance with the requirements of Section 63.5(a).

For a Mod Rehab Mortgage, once the Borrower has provided all of the construction completion documentation, the Architectural Consultant must inspect the Property upon completion, and, within two weeks of receipt of all construction completion documentation, must submit to the Seller/Servicer a post-construction analysis report in accordance with the requirements of Section 63.5(a).

c. The Seller/Servicer's duties and responsibilities regarding the post-construction analysis report (05/05/17)

The Seller/Servicer must review the Architectural Consultant's post-construction analysis report and ensure that it is accurate and meets the requirements of Section 63.5(a).

The Seller/Servicer may also review the final construction reports of the construction lender, the architect of record and governmental inspectors. However, the Seller/Servicer must make its own assessment of the Property and market, and provide written documentation of its findings using the Property Inspection and Lease Audit form, available on FreddieMac.com. In the underwriting package, the Seller/Servicer must document all of the following:

- The impact of all change orders, as defined in Section 63.4(c)
- Any material findings from the construction monitoring reports and how they were resolved
- Any unusual risks with the Property or its operations

For a Forward Commitment, the Seller/Servicer's Chief Architect/Engineer must provide a summary analysis indicating that the finished project has been completed, lien-free and in accordance with all appropriate governmental requirements, substantially in accordance with the plans and specifications reviewed at the issuance of the Forward Commitment.

For a Forward Commitment, the Seller/Servicer must submit the post-construction analysis report, the construction completion documents and the summary analysis to Freddie Mac as specified in Section 1.31 of Exhibit 1 for a transaction under the Targeted Affordable Housing Cash Forward Commitment Program, or Section 1.33 of Exhibit 1 for a transaction under the Multifamily Targeted Affordable Housing Bond Credit Enhancement Forward Commitment Program. For additional information regarding the construction completion documents, see Section 55.2.

63.6 Representations and warranties (09/28/18)

The Seller/Servicer is deemed to make the representations and warranties regarding the other third-party reports and the construction reports set forth in Section 5.4.