

**Section 221(d)(4) Streamlined Process:  
Discussion of Deferred/Delayed Submittals  
By: Rob Hazelton, President of D3G  
January 20th, 2016**



While the words *deferred* and *delayed* are synonymous with each other, their meanings diverge in regards to usage within the HUD MAP Guide, particularly in respect to submittals for the Section 221(d)(4) review process. Yet, HUD continues supporting the term *deferred* rather than *delayed* within the MAP Guide as well as other correspondence, which has the unintended consequence of triggering burdensome requirements under the International Code Council (ICC). Unfortunately for those wishing for an expedited Section 221(d)(4) review process, the improper use of the term *deferred* can hinder the process.

The MAP Lenders and HUD need to be aware that the term *deferred* has different meanings between the HUD 221(d)(4) review process and the building permit process. The HUD streamlined 221(d)(4) processing allows for the completion of select design documents after Firm Submission in order to accelerate HUD review and processing. However, these *deferred* design items must be clearly identified within the Preliminary AEC Report with an understanding that allowed design delays be completed prior to Initial Endorsement. However, adding confusion to the *deferred* - *delayed* syntax is building code allowed and defined *Deferred Submittals*, which can remain until after closing as long as they are clearly defined on the coversheet. The International Code Council (ICC) defines *Deferred Submittals* as:

*“Section 106.3.4. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the code official within a specified period. Deferral of any submittal items shall have the prior approval of the code official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the code official. Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the code official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until their deferred submittal documents have been approved by the code official.”*

Some examples of allowed deferred submittals under the ICC and IBC include, but are not limited to:

- Fire suppression systems
- Life safety systems

- Hollow core planks and other precast concrete elements
- Pre-manufactured trusses
- Post-tensioned slabs and beams
- Pre-fabricated steel stairs, handrails and guards
- Curtain walls, window walls and cladding systems

Since its inception, the Section 221(d)(4) program has allowed shop drawings and *Deferred Submittals*, which is consistent with industry standard practice. However, the 221(d)(4) program does require that the basis of design and intent be provided with the "Permit" (Final) set of construction drawings to mitigate risk with proper cost estimation, compliance with applicable regulations, and future construction administration. Therefore, *Deferred Submittals* should not be items that would present risk to HUD or the Lender. As such, we recommend that building code defined *Deferred Submittals* not include design items which could be interpreted as alternates, resident amenities, or construction items with accessibility compliance requirements.

However, confusion has recently been raised regarding the current Streamlined AEC Processing for LIHTC projects under current MAP Guide Section 5.28, and *deferred* designs allowed by the HUD process. Under the MAP Guide, streamlined processing allows for incomplete architectural documents to be submitted to HUD prior to Initial Endorsement in order to facilitate an expedited architectural and cost review. HUD will permit the submission of construction documents which are less than 100% complete with an understanding that the project will achieve initial closing within 60 days after issuance of a Firm Commitment, conditioned upon final plan submission. These design deferrals under the Streamlined Process are entirely different items than the building code (ICC or IBC) defined and allowed *Deferred Submittals*.

Should you or your processing staff have additional concerns with the terms and discussion above, please contact me at (804) 237-1900.