

UNM Wholesale permits the use of a Power of Attorney (POA) for execution of mortgage documents in certain circumstances. A valid power of attorney must meet all secondary market and investor requirements.

DEFINITION OF A POWER OF ATTORNEY:

A power of attorney is a legal document that allows a person the borrower designates (known as the "**Attorney-in-Fact**") to do certain things on their behalf. There are two types of power of attorneys that can be used for real estate transactions:

General Power of Attorney - A general power of attorney allows the Attorney-in-Fact to do anything the borrower would legally be able to do in their name. **UNM Wholesale will not accept a general power of attorney.**

Specific (or Special) Power of Attorney - is a very limited power of attorney. It allows the Attorney-in-Fact to do only those things specified by the borrower. **UNM Wholesale requires all power of attorney documents to be specific to the mortgage transaction.**

THE POWER OF ATTORNEY MUST INCLUDE THE FOLLOWING INFORMATION:

- Comply with state law to the extent that the mortgage can be legally enforceable (i.e. some states require the power of attorney be signed in the presence of two witnesses).
- Clear title to the property can be conveyed in the event of a foreclosure
- Borrower's name as it will appear in title (e.g. John Smith wants to take title as John Robert Smith. The power of attorney must reflect John Robert Smith as the borrower's name on the POA and **all mortgage documents must match**).
- Complete street address and/or legal description for subject property
- Sales price (if applicable) and loan terms (i.e. VA, FHA, RD, conventional)
- Purpose – must legally provide authority for attorney-in-fact to mortgage, convey, refinance, enter into a real estate transaction etc. on behalf of the borrower.
- Complete name of the attorney-in-fact (person who is the legal POA).
- The attorney-in-fact (POA) must be legally competent and of legal age.
- The POA must be notarized.
- Fully executed and dated

LOAN APPLICATION PACKAGE AND LEGAL DOCUMENTS:

- The correct way to execute loan documents is reflected in the example below:



Borrower's name: John Robert Smith
POA signing on behalf of borrower: Kathleen J. Wright.
Kathleen would sign all the mortgage documents in this manner:

Kathleen J Wright as Attorney-in-Fact for John Robert Smith

- The attorney-in-fact (POA) must sign all mortgage documents in the same manner.
- All mortgage documents must match the names as they appear on the power of attorney – no deviation allowed.
- The original power of attorney must be given to the title company and recorded with the mortgage/deed of trust simultaneously at closing in order to create a valid lien of record.

FHA LOANS:

- A power of attorney may be used only for closing documents
- A power of attorney may not be used on the initial loan application except for the following:
 1. Active duty military personnel stationed overseas. The borrower must provide evidence of signatures by mail or fax.
 2. An incapacitated individual. The borrower must provide evidence that the signer has authority to purchase/refinance the property and obligate the borrower in a real estate transaction. Acceptable evidence includes a durable power of attorney (this means the power of attorney is valid during the period of the borrower's life) specifically designed to survive incapacity and avoid the need for court proceedings. The incapacitated borrower must occupy the subject property.

VA LOANS:

- The power of attorney must include the amount of the entitlement to be used for the transaction.
- The veteran's intention to use the property as a primary residence.
- Verify that the veteran is alive and if on active duty, not missing in action. This requires completing the VA Alive and Well Certification (which certifies in writing from the commanding officer validating the veteran is alive and well and if on active duty not missing in action (insert date of the closing)).

RD LOANS:

- The power of attorney must be dated on or before the execution of any document executed using the POA.
- Notary section correct including: state, county, date, borrower name, notary's signature, notary expiration, notary seal.
- **No POA allowed for loans with one borrower. At least one borrower must be present at closing.**