

2016 Clarifications

Week Ending January 29, 2016:

In reference to Exhibit N, Question #4, the form will not allow us to insert a response. The field does not appear to have a "gray box" to receive an answer. How do we insert our response?

A box for response to question #4 has been added to Exhibit N and posted to the ADOH website.

If a Project applies for AHP Funding on March 7th 2016, does the Applicant attach a full copy of the AHP application to his LIHTC Application?

Section 7.1(C)(7) on page 117 of the QAP states that the Project must submit the Federal Home Loan Bank Affordable Housing Program (AHP) application prior to ADOH's announcement of tax credit reservations. If the AHP application is completed prior March 1, 2016 and is pending an announcement of AHP awards, ADOH would prefer that it is included with the Application. If it is not included with the Application, it will be required prior to the date which ADOH announces the Tax Credit Reservations. Please do not include attachments that are already part of the Tax Credit Application, such as evidence of site control.

For presentation purposes on the 15 year pro forma, to arrive at DCR of no less than 1.20 that is required for the duration of the Compliance Period, I am currently showing the cost of Supportive Services (paid by the project), on a line by itself directly after all other Total Annual Operating Expenses (which includes Reserves) to produce the Net Operating Income After Reserves. I then use that number to determine DCR on the primary mortgage. Then below the DCR calculation I am showing payment on a 15-year **cash flow** loan (i.e., not showing as part of the DCR calculation as this debt is not a hard payment and is based on cash flow). I then show deferred developer fees being paid after the cash flow loan annual payment is paid. Is this okay?

Section 7.1(C)(3)(b) requires Applicants to maximize its lending sources by paying at least the maximum mortgage payment supportable by Project net operating income has described in the QAP. ADOH calculates the debt service coverage ratio (DSCR) without the cost of Supportive Services unless it is included in the Permanent Lender's Letter of Interest as a requirement in the Lender's calculation of allowable debt service. You are correct that cash flow loans should not be included in the calculation of the DSCR for the primary debt. The QAP includes the following priorities of payment in Section 7.1(C)(3)(e)-(i): primary debt, then secondary debt from unrelated parties with a hard payment (as is sometimes the case for USDA Rural Development Projects), then from cash flow in the following order: the cost of Supportive Services, the investor's reasonable asset management fee, Deferred Developer Fee, ADOH Gap Financing, Local Government financing, then other soft financing (including Seller Carryback loans, related party loans, incentive management fees, payment of adjustors, etc.). Some syndicators will not allow Deferred Developer Fees to be paid in

front of payments of adjustors and their loans. In such cases, ADOH may be paid ahead of the Deferred Developer Fee.

We have a couple questions/clarifications as to the proper data/approach to use for the acquisition/rehab on and existing LIHTC property that has a LURA still in effect. We want to make sure we understand Section 7.1(C)(4)(a) (page 113) as required to be followed as noted on Tab 9, Appraisal Requirements (page 57).

Page 113 – states “...The building cost on Line 3 of Form 3 page eight (8) through eleven (11) will be limited to the “As-Is” market value assuming market rate rentals.” Noting- market rate is not capitalized as a defined term.

My gut feeling is this means assuming any restrictions with regards to income/rents that is currently on the property. I.e., don't assume it could go “market” but should be “As-Is”.

Can someone please confirm if any existing LURA requirements have to be applied?

Yes, as you have noted, page 113 states that the building cost is limited to the “As-Is” market value assuming market rate rentals. That means that the value is not permitted to be higher than this amount, but it could be lower. If an existing property has regulatory restrictions limiting the rents, which also limit the value of the property, those rents should be used – as that is the market condition under which the property is being purchased.

It appears ADOH no longer has a “checklist” form that is part of the application. Is that true or am I just overlooking it somewhere, noting it wasn't in the QAP workshop materials.

The 2016 Application does not include a “Checklist”. Applicants should refer to the QAP to ensure that all required documentation is included in the Application.

In the definitions it is stated to reference Line#55 from Form 3 (Development Budget) for “Total Construction Costs” and Line#48 for “Total Direct Construction Costs”. Within the Form 3 I downloaded these line items seem to correspond with Line#60 and Line#67. Am I looking at this correctly?

It is possible to see the column names and row numbers in the Form 3 by clicking on “View” and then “Headings.” However, the row numbers in the excel spreadsheet that you are referring to are not the line numbers referred to in the QAP. Column A that includes the line numbers was inadvertently hidden. A copy of Form 3 that un-hides the column A with the line numbers has been posted to ADOH's website. For reference here is that portion of the Form 3:

Arizona Department of Housing		Low Income Housing Tax Credit Program			Form 3	
2016					Pages 8-11 Insert at Tab 3	
Project Name: _____				Date: _____		
19) Development Budget						
Are Davis Bacon Wages Included in Direct Construction Costs?						
Line Items		Development			Budget Changed?	
		Budget	9% Eligible Basis	4% Eligible Basis		
Other						
Permits & Fees paid for by General Contractor						
Sales Tax						
Direct Construction Costs Sub-Total		\$0	\$0	\$0		
		Maximum Allowable:				
General Requirements		\$0.00				
Builder's Overhead		\$0.00				
Builder's Profit		\$0.00				
HC Contingency (10% max) Line 48		\$0.00				
Hazardous Waste Contingency (7% max) Line 48		#VALUE!				
Total Construction Costs		\$0	\$0	\$0		
Maximum Eligible Basis on Line 55 is:		\$				

On Form 3 pages 8-11 of the application it used to have 130% on the line item of DDA and QCT. It currently has 100% and during the training I recall you saying the entire state is still 130%. Do we just change that number to 130% in that line item or is there another process we should be doing?

ADOH applies the basis boost statewide to the extent needed for feasibility as permitted under I.R.C. §42(d)(5)(B)(v). Cell E149 on pages 8-11 of Form 3 may be changed by the Applicant from 100% to an amount up to 130% to provide the basis boost that is necessary for feasibility.

The project Phase I is 1,274 pages. This document will be inserted in a second binder, however, is it acceptable to insert this as a double sided document due to the size?

Section 2.4(3) on page 31 of the QAP states that the Phase I Report shall be submitted as follows:

Hard Copy: [The entire 1,274-page report is not required in a hard copy format.] Submit the body of the report or an executive summary thereof that includes the certification of the professional preparing the report, the site description, findings and conclusions. This typically totals approximately thirty pages or less.

Electronic Copy: The Phase I Report in its entirety including all records reviews and appendices.

We are intending to submit a project that qualifies for the Affordable Housing Preservation scoring criteria. We have noticed that some of the existing 1B & 2B units are (somewhat) less than 2016-Exhibit D standard of 650/800 net sf.

Also, some of the 2 & 3B unit bedroom sizes are also less than 2016-Exhibit D standard of 120 net sf.

Since the original design standards allowed for what has been built, will you confirm that since the proposed project is a rehab of what is existing, that the unit mix will be acceptable 'as-is' without modification for our 2016 submittal?

On page 13, Exhibit D states "[t]he minimum square footages in Section IV Interior Design are only applicable to rehabilitation where the Applicant is changing the structure of the unit to change the

number of bedrooms in the unit or otherwise change the exterior footprint of the unit." So, if you are not changing the number of bedrooms or the exterior footprint of the unit, "as-is" square footage of the unit and/or the bedroom size, as applicable, is acceptable for purposes of Exhibit D.

We are working on a project within a municipal jurisdiction that has agreed to waive certain development fees, as is allowed administratively by the existing City Ordinance. Section 2.9 X Tab 24, Local Government Contribution, requires "Letter from the unit of Local Government with jurisdiction to waive development fees and the resolution from the unit of Local Government that authorizes the development fee waivers."

Since this action is already allowed, no specific motion for this action is required and would be considered a waste of time and redundant by the administration. It's really no different from the issuance of a Building Permit which is an administrative act authorized by the City's ordinances. You wouldn't ask a city to pass a resolution each time it issues a Building Permit. This is the same thing. Is a citation from the City Ordinance evidencing the authority to waive the fees sufficient since no resolution is necessary?

*Applicants need to ensure that the documentation submitted with the Application evidences the Local Government Contribution. Section 2.9(X) on page 87 states "Committed Local Government contributions towards the Development Budget are expected to include the following documents for the type of contribution listed [which in the case of Development Fee Waivers included a resolution from the unit of Local Government...] **but alternative documents may be submitted for ADOH evaluation** [emphasis added]. Any documents submitted must evidence a commitment for scoring purposes under this Tab 24 and all of which must indicate the amount and sources ... of the contribution, and such commitment may only be contingent upon an allocation of 2016 Tax Credits." An ordinance that provides a development fee waiver by right for affordable housing is acceptable as long as it is clear that it applies to the Project and there is documented evidence from the municipality of the amount of the fee that would have been incurred by the Project without the waiver.*

The Sustainable Development section of Form 2 indicates that 3 points are available for water efficiency, but the QAP and Form 17 both indicate that only 2 points are available for water efficiency. Please clarify.

There are only two points available for water efficiency. A revised Form 2 is included in the 2016 LHTC Additional Forms that are posted to the ADOH website.

Week Ending January 22, 2016:

Can the City council authorize the City Manager to sign a letter, committing to fund the 1% of Construction costs for LHTC project in February that is contingent on ADOH awarding the credits, then the city, once we know the project is awarded, pass a Resolution approving a loan agreement? Or do we have to approve a loan agreement now?

Section 2.7(I) states “Projects are eligible to receive five (5) points for a Local Government Contribution of new funding towards the Development Budget that is committed to the Project by the Local Government as of the Application Due Date in an amount based upon the population of the jurisdiction...” Please refer to page 87 of the 2016 QAP for a list of the documents that are expected based upon whether the contribution is a Donated Land, cash contribution, HOME/CDBG contribution, or waiver of fees. The funds must be committed through the process your jurisdiction requires for a true commitment of funds to the Project as of the Application Date that can only be contingent upon an allocation of 2016 Tax Credits. It may not be revoked for any other reason.

Is this [Application] Workshop also required for applicants of 4% LIHTC?

Since it is possible that 4% projects are not even in the conceptual stage at the time of the Application Workshop held in January, ADOH encourages, but does not require, attendance for projects submitted under Section 3 of the QAP “4% Tax Credits with Tax-Exempt Bond Financing”.

Are Developers required to attend the Compliance Workshop if their third party managers attend? Meaning, is it mandatory that Developers also attend once within a 5-year period before being able to apply, even if their managers have attended?

Section 2.5(C) states “Developer, Co-Developer or Consultant must attend Compliance Training as defined in this Plan at a minimum of every five (5) years.” An employee or principal of the Developer, Co-Developer or development Consultant entity identified at the top of page 2 of Form 8 must attend the Compliance Training. An employee listed as the principal contact person on Form 3 may attend the training in lieu of an owner or principal of the Developer, Co-Developer or Consultant entity. Third party property management agents may not attend this training in lieu of their clients.

Will the light rail extension approved by proposition 400 along the I-10 to 79th avenue be included in the scoring under TOD points?

Section 2.9(R)(II)(a) beginning on page 77 of the 2016 QAP lists the High Capacity Transit Stations that are eligible for points in 2016. No other stations are eligible for points in the 2016 QAP.

Under D. SITE PLAN APPROVAL:

b. Applicant must attach Form 9 evidencing the local government’s final site plan approval. In order to receive point for Project Readiness, DESIGN REVIEW, must have received final site plan approval...

When you go to form 9 (LOCAL GOVERNMENT SITE PLAN APPROVAL), it just talks about site plan approval nowhere on that form does it mention getting a sign off on Design Review approval.

Site Plan Approval and Design Review are two distinctively different process in most jurisdictions and half the jurisdictions in this state don't even have a formal design review submittal approval. I suspect you just meant a regular site plan approval but maybe I am wrong but can you clarify?

The 2016 QAP only requires Site Plan Approval, as evidenced by Form 9. The "Design review" mentioned at the beginning of "b" is referring to review of the site design, not the review of construction and engineering documents. Section 2.9(I)(D)(b) states the "Project must have received final site plan approval (wherein no further site design review is required and the next step is to develop and submit engineering and construction documents for review and approval) or equivalent approval from the Local Government or Tribe with jurisdiction over the land."

The market study guidelines require a map showing subsidized properties within the Primary market area. The QAP However, requires subsidized properties within a 5-mile radius for Tab 13, Service Enriched Location. See page 66, top of the page. I assume we go with the Market Study requirement. Please advise, thanks

Applicants will be required to meet all requirements in the QAP, including those in the Market Demand Study Guide. Since it is unlikely that a primary market area would be a five-mile radius circle, both maps will be required.

I would like to request a QAP Clarification concerning the Local Government Contribution Point scoring category. If a City is interested in donating land for the benefit of a Project, but, for Arizona Constitution Gift Clause purposes, it would prefer not to label the agreement a "Donation Agreement" and would prefer instead to label it a "Purchase and Sale Agreement" with the stated consideration to be given by the Buyer equal to \$1.00 (plus all recording costs), will that prejudice the Applicant's ability to obtain Local Government Contribution Points?

The QAP defines "Donated Land" on page 11 as "land on which the Project will be built for which title is transferred to the Applicant and for which no consideration is provided, and for which no costs are included in Section 1 Acquisition Costs of the Development Budget on pages 8-11 of Form 3."

My client intends to request for the "local contribution" an allocation of 5% of the Project construction costs from the \$ 1.9 M available from the 2004 GO Bonds award to the Pima County. Our Project, qualifies for an Application for these bonds from the Pima County but the date for this GO Bonds Application is February 26th 2016, just one working day before the LIHTC Application is due. So, it is IMPOSSIBLE to provide ADOH a commitment from the Pima County at the date (March 1st) of the LIHTC Application. How is ADOH addressing this situation?

Applications submitted without documentation of funding awards as stipulated in Section 2.9(K) from all sources except the Federal Home Loan Bank's AHP program (as permitted by Section 7.1(C)(7)) and ADOH Gap Financing will be denied a Reservation of Tax Credits. Section 2.7(I) states "Projects are eligible to receive five (5) points for a Local Government Contribution of new

funding towards the Development Budget that is committed to the Project by the Local Government as of the Application Due Date in an amount based upon the population of the jurisdiction...” In addition, Section 2.9(K) states that “Applicants must demonstrate that the Developer has funding sources necessary to complete the Project to such a point that the ADOH can properly issue the Form 8609.” And Section 7.1(B) states that ADOH may deny an Application for Tax Credits if “[s]ources of funds are insufficient to finance the total development costs of the Project.”

Is it permitted to fund an operating reserve to cover the difference between the rent received from tenants earning 30% AMI and below and the cost of operations?

Yes. Section 2.9(K)(3)(b) states “[i]f the pro forma reflects negative cash flow in any year, the Application must demonstrate the funding and utilization of an operating deficit escrow account or describe the source of the operating deficit funds. A commitment from the entity funding the operating deficit reserve/escrow must be included with the other funding source documents.”