2017 Clarifications

Week ending January 27, 2017

Can we capitalize the entire 15-year supportive service cost?

Section 7.1(C)(2)(c) indicates that "Costs for Supportive Services will be considered an additional Operating Expense." A waiver may be requested when USDA or HUD-insured loan requirements do not permit supportive services to be paid from cash flow. Applications where a waiver is approved to have supportive services paid from a capitalized reserve should complete Form 3, page 5 as described on those tabs of Form 3. The capitalized reserve should be identified in the cover letter and included on pages 8-11 of Form 3 on line 122 or 123 (Cells C&D134 and C&D135) In addition, an annual contribution should be calculated and added to Form 3, page 6 cell L63 ("Additional Monthly Income") to allow the anticipated portion of the capitalized reserve to flow into the cash flow as income. (If you check the "headings" box under "view", you can see the headings for worksheets to identify a specific cell.)

Can you please clarify what the last sentence on page 132 and top of page 133 means and give me an example? *"In ADOH's sole discretion, Applicants with USDA or HUD-insured loans may not be eligible for ADOH HOME funds unless guarantees or equivalent security are provided to ensure full collateralization of the ADOH Gap Financing for the entire period of affordability."*

In the event of a foreclosure on the USDA or HUD-insured loan and subsequent loss of affordability, ADOH would be required to repay HUD the entire principal amount of the HOME loan with non-federal funds. Therefore, ADOH requires a guarantee or equivalent security from the Developer or another Person with sufficient financial capacity to ensure that the investment of these funds is not lost for the people of Arizona. For example, the loan to value ratio on a refinanced RD property can be more than 100%, not allowing for a repayment of the ADOH subordinate debt in the event of a foreclosure. In addition, RD debt is often not forgivable in the event of a restructure.

Please confirm per the underwriting guidance on page 125, Project Pro forma/Cash Flow Analysis. ADOH expects Years 1-15 (Compliance Period) DCR at a minimum of 1.20 and for years 16-30 DCR at a minimum of 1.15.

*You are correct regarding the Compliance Period, however the Extended Use Period is more nuanced. In order to maximize primary debt, Section 7.1(C)(3)(b) requires that "**the annual debt service coverage ratio ("DSCR") shall be no less than one point two zero (1.20) for each year of operation during the Compliance Period and no more than one point one five (1.15) on the earlier of: the date the Extended Use Period expires or the year the loan matures."** Additionally, a Debt Service reserve is required under Section 7.1(C)(3)(j)(i) if "**ADOH's pro forma***

for the Project anticipates a debt coverage ratio of lower than one point one five (1.15) in any year prior to loan maturity on the primary debt".

Form 15A, if a Service Provider is committing Door to Door transportation for only 1 year, is OK for the Owner to find a replacement (with in the year approved by ADOH) or can the Owner take on the transportation service.

Yes, subject to ADOH approval of the replacement provider. Form 15A includes the provision: "If the Term of Commitment is less than fifteen (15) years, the Applicant commits to provide the services as described below for no less than fifteen (15) years, either through the Service Provider making the commitment on this form, or through another service provider that is acceptable to, and approved in advance by the Arizona Department of Housing."

I have a few questions on the maximum tax credit allocation. Does the $3,000,000 total to one developer apply only to 9% competitive credit or does it also include bond projects from the 4% pool? If a developer owns a fraction of a project, say 50%, does the project's entire allocation count toward the total or only 50% of the project's allocation?

Section 3.1 states "Applicants applying for Tax Credits pursuant to I.R.C. § 42(h)(4) are not subject to the Maximum Reservation Per Project," so the $3,000,000 total to one developer does not apply to the 4% Tax Credits with Tax-Exempt Bond Financing.

Regarding your second question, whether only a portion of the Maximum Reservation is applicable when a Developer only owns a fraction of a Project, the Project's entire allocation counts toward the total, not a fraction thereof. Section 2.2 of the QAP states "The Maximum Reservation per Project will be $1,750,000 of the State's annual credit authority and not more than a total of $3,000,000 total in Tax Credits and two (2) Projects in any [9%] Application Round for any Developer. For the purposes of the Maximum Reservation, the term "Developer" includes the Developer, Co-Developer or any Affiliate of a Developer or Co-Developer that is acting as a Developer or Co-Developer on a Project." Thus a Developer or Co-Developer may not exceed the Maximum Reservation or the limit of $3,000,000 total in Tax Credits by partnering with other Co-Developers.

In the QAP, the Local Government Contribution scoring categories require evidence of the population of the "Local Government". According to the QAP, Local Government "means the governing body of the city, town, county or Tribal government having jurisdiction over the real property upon which the Project will be located". Similarly, the Transit Oriented Design scoring category requires evidence of the population for "municipalities and Census Designated Places". Tribal project on reservations are under the jurisdiction of a Tribal government, not the jurisdiction of a municipality. The Census Quick Facts link provided in the QAP only provides population information on cities and towns, not reservations. Will

ADOH accept population data from the 2010 Census to substantiate the population in the Local Government Contribution and Transit Oriented Design categories for tribal projects?

Yes, as stated in last week's clarifications, the link listed in the QAP only works for cities and towns with a population of 5,000 or more. Smaller geographies are available using the following tool, but the data available is from 2010:

https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml

ADOH will accept this 2010 data for smaller geographies.

I would like to understand why the Application Workshop certificate lists an individual's name when the company is paying for the registration as we are making application as a company?

The Application Workshop lists the name of the individual that attends the workshop. Section 2.5(B) of the 2017 QAP requires that the Developer, Co-Developer, or Consultant submit a certificate of attendance from the 2017 LIHTC Application Workshop. The terms Developer, Co-Developer and Consultant are defined in the QAP. The individual listed on Form 3 as the principal contact and Tab 6/Form 6 should be the individual that attends the Application Workshop. If not, an explanation regarding the role of the individual employee attending the workshop in preparing the Application and developing the Project must be included in Tab 1 with the certificate.

In past somewhere I know it was referenced the percentage fee the management company could charge based on the size of the project (number of units). For some reason I am not seeing this. Do you know where I can find this?

The 2017 QAP and LIHTC Compliance Handbook do not address the amount of the property management fee negotiated between the Property Management Company and the Owner. However, amounts deemed to be excessive in comparison to other Applications may be reduced for purposes of calculating the maximum primary debt under QAP Section 7.1(C)(3)(b).

Can a municipality utilize in-kind labor and equipment to conduct on site-grading and drainage work, as the "local government's contribution" to reduce the development budget? The work would be done onsite and is directly related to the development of the project. The value would be based on the standard rate for this type of work as established by Means Cost Data or current contractor charges for equivalent work, documented by actual expenditure's on City projects.

Section 2.9(T) of the QAP states "The Local Government contribution… shall be in the form of a committed cash contribution, HOME contribution, CDBG contribution, loan, donation of land, or waiver of fees." The in-kind labor and equipment proposed does not fit into any of the allowable categories listed in the 2017 QAP.

Can the waiver of design review fee's and permit fees be utilized to meet the "Local Government Contribution"?

Yes.

I was also trying to clarify what is covered under the definition of "development fees" as listed in Section 2.9(T)(2)(b) page 89 of the 2017 LIHTC QAP. Development Fees are traditionally impact fees which are usually difficult to waive because the City has to cover the shortfall with general funds.

Development fees referred to in Section 2.9(T)(2)(b) include any fees that a Local Government charges via its planning and development process to a Developer to review plans and specifications issue building permits, and inspect the building prior to certificate of occupancy. The fees must be fees that the Project would incur, if they were not waived. Examples include: site planning fees, site plan review fees, environmental plan review and permit fees, subdivision and property division plan review fees, sign fees, sign plan review fees, sign permit fees, civil engineering plan review fees, civil engineering permit fees, on-site improvement permit fees, right-of-way permits, civil engineering inspection fees, building safety plan review fees, building safety permit fees, building safety inspection fees, and impact fees.

Since the current Compliance Manual states "the compliance monitoring fees are determined by the Qualified Allocation Plan for the year the tax credits were awarded," can you clarify if one uses the current policy for this item vs. the year the credits were awarded?

The compliance monitoring fees are determined based upon the QAP of the most recent award of Tax Credits. So if an Applicant applies to re-syndicate a Project in 2017, the 2017 compliance fees will apply.

Weeks ending January 13 and 20, 2017:

Updates to Forms:

I have a question on the current Form 3. You mentioned at the training last Thursday that the contractor bond & insurance is not included in the maximum eligible basis calculation for construction costs (Tab 8-11 line #56 of the Form 3 states this explicitly as well). However, the calculations for box K9 and K10 on Tab 4 are picking up the cost of the contractor bond and including it in the maximum allowable per SF construction cost and construction eligible basis. Is this an oversight, or should I be including my contractor bond in the maximum eligible basis and the maximum allowable construction cost per SF?

Form 3 - Cell F17 on Tab 4 has been corrected to exclude Cell D56 (contractor's bond and insurance) on Tab 8-11. The calculation in Cell K9 on Tab 4 includes Cell F17 on Tab 4.

Form 3 - Cell K10 on Tab 4 has been corrected to exclude Cells E56 and F56 (contractor's bond and insurance) on Tab 8-11.

Questions for Clarification:

I keep getting the error message below when I try to get the population count for the City of Phoenix. Do you know of another way that we should verify the population?

The link worked during the drafting of the QAP, but has since been removed by the webmaster. The following link was found by typing in www.census.gov and searching for "quick facts" and clicking on the first result:

http://www.census.gov/quickfacts/table/PST045216/00

It only works for cities and towns with a population of 5,000 or more. Smaller geographies are available using the following tool, but the data available is from 2010:

https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml

One additional question I have regarding the contractor bond and insurance line item is if we are able to generate general requirements, profit and overhead off of the contractor bond line item? The formulas in Tab 8-11, cells C61 through C63 include it in the calculations, but I wanted to confirm that is the intent of the Department.

Yes, the maximum allowable general requirements, profit and overhead are limited to the percent of costs in the table found at Section 7.1(C)(4)(f) found on page 129 of the QAP. As stated in the 2017 QAP, "[t]hese limits are calculated as a percentage of line item "Subtotal Direct Construction Costs" (Cell D59 on Line 47 of Form 3 Pages 8 – 11)" which include contractor bond line item on Line 44 of Tab 8 – 11.

Can you clarify the Compliance Training definition in the QAP? "Compliance Training" means a two (2) day certification class designed to support an exam taught by authorized providers on operating and managing Projects in conformance with the requirements of I.R.C. § 42, Reg. 1.42-5, the QAP and the LURA. Approved Compliance Training providers are: ADOH, Zeffert and Associates, THEOPRO, Quadel, Elizabeth Moreland, National American Indian Housing Council ("NAIHC"), Novogradac, NCHM and Spectrum. ADOH programs must be specifically designated as a valid Compliance Training program that meets the requirements of the QAP." The last sentence is a bit confusing. In short we are wondering if the compliance training needs to be AZ specific or would training provided by THEOPRO that was a federal training be ok?

The training does not have to be specific to Arizona. It must be a two-day certification class designed to support an exam as described in the Compliance Training definition.

If we have a project to propose for the SMI set-aside and we include the soft funding that comes with that set-aside, but then do not get funded in that set-aside (and do not receive the soft $$), but the project scores high enough to get funded in the general pool or gets funded in another set-aside without the SMI funding, what happens then?

Projects submitted under the SMI Set Aside must not rely on the $ 2 million to fill any gaps. The SMI Housing Trust Funds that are awarded to the selected Project will be used to replace tax credits that would have otherwise been generated by the Project, as the structure of these funds as a deferred forgivable loan will require a reduction in eligible basis. Therefore, projects submitted for the SMI Set Aside need to be financially viable (have all gaps filled) whether awarded under the SMI Set-Aside or the general pool.

Week ending January 6, 2017:

Updates to Forms:

Form 3 – ADOH unlocked the cell that allows the Applicant to indicate whether the Development Budget includes Davis Bacon wages on page 8-11 of Form 3.

Questions for Clarification:

Is the preliminary site approval in accordance with "Project Readiness" tab subjected to ONE YEAR VALIDITY like, for example, for the Appraisal or Market Study? In other words, if a project obtains the preliminary site approval from the City before March 1st 2017, is this approval still valid for a March 1st 2018 LIHTC Application?

The validity of any site plan approval is determined by the Local Government that issues the site plan approval. As long as the site plan approval is still valid without a re-submittal of the site plan, and the next step is to submit engineering and construction documents, as documented on Form 7, and the Project meets all requirements of Section 2.7(B) and 2.9(G), the Project would be eligible for the points in this scoring category.

Are proposed 2017 LIHTC projects located in a Colonia eligible for the 130% boost?

Projects located in a Colonia are only eligible for the 130% boost if the specific location is in an area identified in the 2017 QAP for the 130% boost. Section 7.2(A) limits the Projects eligible for the 130% boost to the following:

ADOH has elected to designate the following types of Projects as requiring an increase in credit of up to one hundred thirty percent (130%) as needed for feasibility, under I.R.C. § 42(d)(5)(B)(b):

- *Projects qualifying for participation in the Supportive Housing Set-Aside, by meeting all of the requirements in Section 2.9(P) of this Plan.*
- *Projects on Tribal Land.*
- *Urban Projects with Structured Parking that are located within ½ mile of a High Capacity Transit line.*

In addition, Section 7.2(A)(1)(a) states that an adjustment to Eligible Basis shall be made where the "Project qualifies under I.R.C. §42(d)(5)(B)(i)-(iv)" (QCT or DDA).

Posted December 23, 2016

The Arizona Department of Housing ("ADOH") posted updated Forms to the website on December 22, 2016 as follows:

Form 3 –ADOH's suite address on the cover sheet was corrected.

Form 2 – Housing for Older Persons Project corrects the reference to Section 2.9T with a reference to 2.9Q; Targeting Low Income Levels corrects a reference to Form 22 with a reference to Form 18; Waiver of Qualified Contract corrects a reference to Form 27 with a reference to Form 23; Sustainable Development corrects references to Form 17 with references to Form 14.

Form 2-1 – the State Special Project Set-Aside was missing and was added

Form 15A – corrects a reference to Form 18 with a reference to Form 15A.

Questions for Clarification:

I would like to determine if an appraisal is needed in the following scenario. A non-profit corporation owns an existing property free and clear and is rehabbing the property. There is no purchase involved but they are transferring title to a limited partnership where the non-profit is the sole general partner in order to create an entity suitable for receiving low income tax credits. Is an appraisal needed as there are no acquisition credits being requested?

Section 2.9(G)(1)(b) for Projects involving Acquisition where there is Acquisition/Rehab or Adaptive Re-use states that "The Appraisal must include separate values for the land and the buildings." This implies that the value of the underlying land and/or the value of the building acquisition are included in the Development Budget. If the existing property, including both the land and the building, are being donated to the Project, with no consideration of the value of the land or building in the Development Budget, and with no consideration for a lease of the land and/or building during operations, then there is no need to provide an Appraisal.

I've been re-reading section 7.2.3 of the draft 2017 QAP and I'm wondering how the max eligible basis is going to be calculated. Is this Max before the 130% boost or is it after the fact?

Assuming that you mean Section 7.2(A)(3) "Maximum Allowable Eligible Basis for Total Development Cost" on page 138 of the 2017 QAP, it states the Total Maximum Allowable Eligible Basis for each Unit Type are then added together to derive the Maximum Allowable Eligible Basis for Total Development Cost in Cell E138 (9% Eligible Basis) plus Cell F138 (4% Eligible Basis) on Line 126 of p. 8-11 of Form 3. The 130% boost is not part of this calculation. The 130% boost is included on Line 137 (Cells E149 and F149) in the calculation of the Low Income Housing Tax Credits.

I noticed that ADOH revised the Form 3 (pages 8 – 11) to include "Contractor 's Bond and Insurance ". I believe that the cost of the Performance Bond required by the Construction Lender and the Investor and paid by the Developer belongs to Section IV "construction financing costs ". By switching the Performance Bond cost to Section II "Direct Construction Costs" ADOH increases the "Total Construction Costs" (line 55) UNNECESSARILY by adding sale tax (around 9%) and GC general requirements, builder's profit and overhead (12 to 15 %) to the cost of the Performance Bond. For instance, for a total GC Contract of 10 million dollars, the cost of the Performance Bond is around 1% or $ 100.000. By including the Performance Bond to line 55 ADOH is adding around $ 9.000 in sale tax plus $ 12 to $ 15.000 in GC General Requirements and Overhead and Profit for a total of 21 to $ 24.000. On the other hand, if the cost of the Performance Bond is included in Section IV (Construction Financing Costs), like it was until this year QAP, these extra costs (21 to $ 24.000) do not apply. I really believe that every unnecessary costs should be eliminated, particularly when the "high" LIHTC project costs per unit are under intense attention.

The cost of the Contractor's Bond & Insurance ("B&I") as itemized on Line 44 of the Development Budget on Form 3 pp. 8-11 is typically included in a General Contractor's contract with the Owner and is therefore included in the Direct Construction Costs Sub-Total. The cost of the B&I <u>*is not*</u> *included in the definition of Total Construction Cost on page 21 of the 2017 QAP. That definition has been taken into account in the calculation of "Maximum Allowable Eligible Basis for Total Construction Cost" in Section 7.2(A)(2)(a) on page 137 of the 2017 QAP which states "80,000 x $122.75 = $9,820,000 total Eligible Basis in the nine percent (9%) Eligible Basis* [Cell E67] *plus the four percent (4%) Eligible Basis [Cell F67] columns allowable on Line 55 Total Construction Cost of Form 3 Pages 8 through 11* ***minus Line 44 Contractor's Bond & Insurance*** *of Form 3 pages 8-11." General Requirements, Builder's Overhead, Builder's Profit, and Sales Tax are calculated based upon the terms of the construction contract. The 2017 QAP merely includes* ***maximum allowable*** *amounts for General Requirements, Builder's Overhead, Builder's Profit, HC Contingency and Hazardous Waste Contingency.*