

## **2017 Clarifications**

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](http://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 is not 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.