

## **2018 Clarifications**

**Issued March 9, 2018**

**Question 94:**

On page 18 of the QAP, the definition of Senior Center is an off-site facility that has the primary purpose of delivering on-site daily programs and services designed for Older persons during the week. My question is: Is there a specific number of days that the facility has to be open? Does it have to be open seven days a week or just M-F or possibly M-Th?

**ADOH Response:**

*The 2018 QAP definition on page 18 states that a Senior Center “means an off-site facility operated by a Local Government, Tribe or Non-Profit Organization for the primary purpose of delivering on-site daily programs and services designed specifically for the Older Persons population during the week.” The definition anticipates that the Senior Center programs and services will occur every day from Monday through Friday. However, the QAP definition is flexible enough to allow for smaller communities in which a Senior Center is not open every day from Monday through Friday, as long as on-site programs and services designed for Older Persons occur each day the Senior Center is open, and it is open more than one consecutive day every week.*

**Question 95:**

For the A-F letter grade for schools if you follow the link on page 18 of the QAP you can get to A-F Letter grades Preliminary for 2017, can these be used?

**ADOH Response:**

*The link on page 18 leads you to <https://www.azreportcards.org>. Searching for a specific school at the center of the page no longer leads you to the letter grade for the school. The link entitled “Achievement Data Downloads” on the upper right hand side of the page has an option to directly download the 2014 A-F letter grades. Select it from the following choices:*

Assessment Data Downloads
2014 A-F Letter Grades for All Schools
2013 A-F Letter Grades for All Schools

*While it is possible to click on several links to arrive at the 2017 A-F Letter Grades for All Schools, here is a link to the correct page to download the spreadsheet: <https://azsbe.az.gov/f-school-letter->*

[grades](#). Click on the link that looks like this to download the spreadsheet:



Question 96:

We are looking at submitting an application for an acq/rehab project in Phoenix. We wanted to confirm it is possible to reduce 4% acquisition eligible basis in order to take additional 9% eligible basis and stay within Eligible Basis for Total Development Cost per unit threshold? I.e. if our per unit Eligible Basis Threshold is \$11MM and our acquisition basis is \$8MM and rehab eligible basis is \$4MM, can we take \$7MM of acquisition basis and all \$4MM of rehab eligible basis?

ADOH Response:

*Yes, the maximum allowable Eligible Basis for Total Development Cost is limited to the amounts as set forth in 2018 QAP Section 7.2(A)(3), but ADOH does not differentiate between the cost categories in Eligible Basis, as long as the allocation between 9% and 4% are compliant with Section 42 and the remainder of the QAP. Notwithstanding the foregoing, an Application as described would be ineligible for ADOH Gap Financing under 2018 QAP Section 7.1(D)(1)(a)(i).*

Question 97:

With regards to the developer requirement for Compliance Training, would ADOH accept proof of registration for the June 12th session?

ADOH Response:

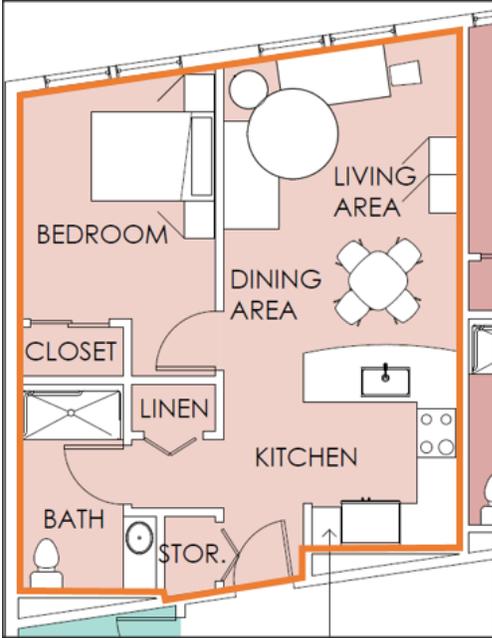
*No. 2018 QAP Section 2.9(A)(4) states "Insert Certificate evidencing Developer Compliance Training." Thus, the Developer would need to have already taken the training to obtain the certificate. The definition of Compliance Training on page 7 of the 2018 QAP lists other vendors who may have room in their programs prior to the Application Deadline.*

Question 98:

With regard to the definition of "Residential Floor Area", when ADOH says "paint to paint of the interior of the perimeter walls" are they counting interior walls in the units as part of the residential floor area?

ADOH Response:

*Yes. Residential Floor Area "means the total net square footage of the floor space in all Units (measured from paint to paint of the interior of the perimeter walls) including closets within the Units and balconies (to the exterior edge of any railing) attached to the Units for the sole use of the tenants occupying the Units."*



*In the example to the left, all of the area within the darker orange line is included in the Residential Floor Area.*

**Question 99:**

Is the Square footage area of an open exercise shallow swimming pool with no structures ( cabana, or any covered structure) destined to provide water exercises to senior tenants, to be considered in the calculation of the “ Total Project Square Footage ?

**ADOH Response:**

*Total Project Square Footage includes all residential and Common Area Facilities buildings in the Project. If the swimming pool is a stand-alone swimming pool in the midst of landscaping and a patio with a fence, it is not included in Total Project Square Footage. Any cabana or other Common Area Facilities building would be included in Total Project Square Footage.*

**Question 100:**

Tab 12, page 59, refers to “Form 12”. Is this a “typo” as the form located in 2018 LIHTC Additional Forms is actually 12-1 (noting 12-1 has two pages)?

**ADOH Response:**

*2018 QAP Section 2.9(L) (Tab 12) states: “Insert Form 12, Architect’s Certificate...” The Architect’s Certificate labeled as tab “12” in the “Additional Forms” spreadsheet has a typo. It should be labeled as “Form 12.” Form 12-1 is the Architect’s Certificate of Building Efficiency.*

Question 101:

During the Application Workshop ADOH did not announce equity pricing amounts as discussed in Section 7.1C.4.k (Equity Pricing). Post workshop has ADOH conducted any surveys to provide guidance as to what they expect as reasonable for applications that will be submitted this round?

ADOH Response:

*ADOH has not conducted surveys regarding equity pricing for the 2018 round. ADOH will use the tax credit pricing in the Syndicator's letter described at Section 2.9(I)(1) to underwrite the Application, unless the pricing appears unreasonable in ADOH's sole discretion.*

Question 102:

In the workshop slides there are examples of 15 year pro formas that include calculation of DCR. Does ADOH have a template prepared that we can use or do we need to make our own?

ADOH Response:

*ADOH does not provide a template for the Applicant's pro forma required at 2018 QAP Section 2.9(I)(3).*

Question 103:

If I'm reading things correctly it doesn't appear that we have to provide any legal or CPA opinions at time of application. This of course assumes we don't need legal opinion related to the "10 year rule". Can you please confirm this is the case?

ADOH Response:

*The CPA Opinion and Legal Opinion described at 2018 QAP Sections 2.10(H) and 2.10(I) respectively, are due with the Carryover Allocation Agreement Request.*

Question 104:

Will the requirement of compliance training be satisfied by certification by Spectrum as a Certified Credit Compliance Professional with a notation that "this designation signifies that the recipient has a comprehensive understanding of the LIHTC Program and has completed 6 hours (CEU's) of training. C12P."

ADOH Response:

*No. 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, Costello Compliance, E&A Team, 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.”*

**Question 105:**

In light of some confusion last year, can you confirm that our understanding of the tribal set-aside is correct? ADOH will first award up to \$1,000,000 in credits to the highest scoring applications in each of the two tribal set-aside sub-pools. In the event that there are remaining credits in each sub-pool, those credits will be combined to award the next highest scoring project (either from an experienced or inexperienced developer) as long as there are sufficient tax credits to fully fund that project. In the event of a tie for the 3rd LIHTC award in the tribal set-aside, ADOH will determine the winning project based on the tiebreaker criteria in Section 2.8 of the QAP. If the winner of the tiebreaker cannot be fully funded with the remaining credits from the two sub-pools in the tribal set-aside, ADOH will move on to the loser of the tiebreaker and award the project if it can be fully funded with the remaining credits in the tribal set-aside. Is our understanding correct?

**ADOH Response:**

*No. 2018 QAP Section 2.9(Y) sets forth the manner in which the Tribal Set-Aside will be awarded and states in part, “Once each sub-pool has been considered for an award, any remaining Tax Credits will be re-pooled, and if there are sufficient Tax Credits to fully fund that Project without exceeding the Tribal Set-Aside, the next highest scoring Application (of all Tribal Applications) will be selected for an award. If the next highest scoring Application is not able to be fully funded within the Tribal Set-Aside, **it will not be awarded**, and the Tribal Set-Aside will be deemed to be fulfilled.” Thus a smaller Project with a lower score that is competing in the tiebreaker would not be funded, if the higher-scoring Project is too large to be funded within the Tribal Set-Aside.*

**Question 106:**

I’m having trouble understanding what ADOH is requiring for DCR after the primary debt is paid for projects going for HOME funds. At training it was stated that any GAP financing amortized over a term of 20 years at 2%. That makes for a pretty hefty payment, in addition to hard debt due. So guess my question is if after hard the DCR is at 120 in year 15, do we show another DCR for the GAP money payments? Not being in a QCT/DDA really hurts a rural project that doesn’t otherwise qualify for any boost other than single story elderly of 1.05. In the slides it states the payment must be the greater of \$5000 or cash flow and there can be a balloon at maturity? Is there a sample DCR spreadsheet ADOH can provide that shows how the calculation are to be done?

**ADOH Response:**

*Regarding the statement in your question that “any Gap financing amortized over a term of 20 years at 2%.” ADOH Gap Financing is amortized over a twenty year period, unless a longer term is permitted through a waiver request, due to federal financing that requires a longer amortization period. The interest rate is the Applicable Federal Rate for long term (> 9 years) loans with annual payments. This rate is 2.88% for the month of March 2018. Thus, while the interest rate is close to 2%, the applicable fixed interest rate for the ADOH Gap Financing loan is determined based upon the rate that is in effect during the month the loan closes.*

*Regarding the statement in your question that “payment must be the greater of \$5,000 or cash flow.” The terms of the ADOH Gap Financing include a set payment that is determined during underwriting of the Project based upon the Project’s cash flow. The minimum set payment is \$5,000. However, the minimum set payment could be as high as a fully amortized payment, if ADOH determines that the Project is able to support a higher payment. If sufficient cash flow, as defined in the Promissory Note, is available to make a higher payment in a given year, the higher payment will be required for that year.*

*Regarding whether a balloon payment is possible: Upon maturity of the Promissory Note, the unpaid principal balance together with accrued and unpaid interest of the Promissory Note becomes due and payable. This does not negate the requirement to make the payments described above during the term of the loan.*

*Regarding the DCR calculation: 2018 QAP Section 7.1(C)(3)(e) states that “Secondary debt from an unrelated third party with a hard payment that is not based upon cash flow will be included in the calculation of the Debt Service Requirement in Section 7.1(C)(3)(b) above.” Thus, ADOH’s determined payment, which shall not be less than the minimum \$5,000 set payment, may be included in the calculation of the 1.20 minimum DCR if required by the perm lender.*

*As stated in Question 102 above, ADOH does not provide a form for the pro forma required at 2018 QAP Section 2.9(I)(3), which would necessarily include a calculation of the Debt Service Coverage. This provides the Applicant the flexibility to present multiple financing layers for the Project.*

**Question 107:**

On tab 24, Is “Target Area B Redevelopment Plan” adopted by the City of Phoenix on January 1980 and last Amended on June 2016 the equivalent of “Concerted Community Revitalization Plan” ( CCRP) ?

**ADOH Response:**

*ADOH does not comment on proposed Application exhibits in advance. However, ADOH will review each document claimed as a Concerted Community Revitalization Plan (“CCRP”) and consider the extent to which the claimed CCRP meets the criteria outlined in 2018 QAP Section 2.9(X).*

**Question 108:**

HUD will release the LIHTC Income Limits for 2018 on Friday March 30<sup>th</sup> 2018 and the date limit for submission of the LIHTC Application is Monday April 2<sup>nd</sup> with no time to amend the rents in the pro forma and other application documents. Novogradac is predicting an increase of 5.6% of the 2018 LIHTC rent limits. Any suggestion how ADOH will handle this late submittal of 2018 rents by HUD?

**ADOH Response:**

*As HUD does not anticipate publishing the 2018 rent and income limits until March 30, 2018, Applicants may use the 2017 rent and income limits in the Application. ADOH will make appropriate adjustments in its underwriting, based upon the 2018 rent and income limits once they are published. ADOH may also require that Applicants update market studies with the 2018 rent and income limits, where it believes it would impact underwriting. Adjustments may include, but are not limited to, requiring a different primary debt loan amount and awarding an amount of credits that may be more than or less than the amount requested in the Application, as analyzed in accordance with Section 7.2 of the QAP.*

*To be clear, the number of Tax Credits requested by the Applicant on page 1 of Form 3 will be the amount of Tax Credits used in the first Tiebreaker calculation set forth in Section 2.8 of the 2018 QAP. If the 2018 rent and income limits are lower, and a Project is to be awarded based upon the first tiebreaker in Section 2.8 of the 2018 QAP, the amount of Tax Credits awarded will not exceed the amount of Tax Credits requested on page 1 of Form 3. ADOH will first adjust the Applicant’s Deferred Developer Fee to balance sources and uses. In the event that the amount of Developer Fee that needs to be deferred is more than 40% of the total Developer Fee, ADOH will apply the provision in Section 7.1(D)(1)(a) to allow the Applicant ten business days to secure a commitment for an alternative source of permanent soft funds before ADOH moves to the next Application in line for an award of Tax Credits.*

**Question 109:**

I.R.S. Code Section 42(d)(5)(B)(v) allows State housing agencies to designate any building requiring the increase in credit for such building to be financially feasible.

Can the Applicant request a waiver request related to 7.2A. Eligible Basis Analysis, so long as the request satisfies all 2.9A.5 (Waiver Requirements)?

ADOH Response:

*No. ADOH provided the criteria to designate buildings under I.R.S. §42(d)(5)(b)(v) in Section 7.2(A)(1)(a) – (f) of the 2018 QAP.*

Question 110:

Our appraiser's analysis is indicating that the highest and best use of the land we are purchasing is for development as a LIHTC project. He wanted us to confirm that this would be an allowable highest and best use conclusion and sales comparison analysis under the QAP.

ADOH Response:

*ADOH does not comment on proposed Application exhibits in advance. In the event that the Appraisal is unacceptable, ADOH will follow the Appraisal Validation process outlined in Section 2.9(G)(1)(d) of the 2018 QAP.*

Question 111:

I am working on a project in which 100% of the non-employee units are set-aside for persons 62 and older. In the unit mix on the 1st page of Form 3, I entered, as instructed, the total number of LIHTC units plus the one employee unit. In the chart for demographics, should I enter all units, including the employee unit, as "Housing For Persons (100% are 62+)" so that the percentage is shown as 100%, or should I only include the LIHTC units, in which case the percentage will be less than 100%?

ADOH Response:

*The chart for demographics should include the Low Income Units only.*

Question 112:

We submitted an application in 2017. When resubmitting the same project in 2018, do we need to obtain all new documents and signatures? We understand that we need to use the 2018 ADOH forms and will need signatures on those items; however, what about items such as a lease option, zoning letter, resolution, etc. if there were no changes?

ADOH Response:

*All documentation and exhibits submitted with the Application are required to meet all of the QAP requirements for the year in which the Application is submitted. As you have stated, Applicants are required to use the 2018 forms and exhibits. The Applicant would need to review each document to ensure that it complies with the 2018 QAP and IRS §42.*

Question 113:

Tab : Application and Certification – Is the IRS Form 8821 is not due at the time of application?

ADOH Response:

*2018 QAP Section 2.9(C)(6) states “ADOH reserves the right to require the submittal of IRS Form 8821...” If ADOH requires the IRS Forms 8821, the Applicant will receive correspondence from ADOH directing them to submit them.*

Question 114:

If two or more applications are tied in scoring for a “set-aside” allocation, what tiebreaker rule will be in effect to determine which project is selected for that particular “set-aside”? Or will the Department use other factors to determine the successful applicant?

ADOH Response:

*Section 2.6 of the 2018 QAP states that in the event there is more than one (1) qualified Application in a Set-Aside category, ADOH will allocate Tax Credits first to the Application with the highest ADOH adjusted competitive score (other than the State Special Project Set-Aside) meeting all eligibility, threshold, and underwriting requirements in the order of Set-Aside categories below. If two or more Applications competing in a Set-Aside have the same ADOH adjusted competitive score, ADOH then moves to the Tiebreaker criteria as set forth in Section 2.8 of the QAP. See Question 108 for more information regarding Tiebreakers.*

*For the State Special Project Set-Aside, ADOH uses the criteria listed in Section 2.6 for that Set-Aside in conjunction with the review of each document claimed as a Concerted Community Revitalization Plan (“CCRP”) under the criteria outlined in 2018 QAP Section 2.9(X).*

*ADOH will also evaluate Applications under the limitations set forth in 2018 QAP Section 2.2 Tax Credit Reservation.*

*Finally, if the conditions described in the first two paragraphs of 2018 QAP Section 2.2(B) are applicable, ADOH would evaluate Applications under that criteria after scoring and tiebreakers are considered.*

Question 115:

on Tab 17 “ occupancy preferences “ ,Housing for older persons Par a-ii , there seem to be an inconsistency for the need to provide Exhibit N between ADOH answers Number 7 and 10, in ADOH clarifications 2018, and the QAP requirements ( Tab 17 ). Do we need Exhibit N for Older Persons Occupancy Preference?

ADOH Response:

*No. The responses to Questions 7 and 10 are correct.*

**Issued January 10, 2018:**

Question 1:

I have a question regarding the Building Efficiency calculation section of the 2018 redline QAP, specifically looking at Total Project Square Footage. The definition currently reads:

means the Total Project Square Footage “(also called “Construction Gross Area”) as defined in the Building Owners and Managers Association International Multi-Unit Residential Buildings: Standard Methods of Measurement (ANSI/BOMA Z65.4-2010). It includes all residential and Common Area Facilities buildings in the Project and is measured to the building perimeter, a closed line that encompasses all structured elements of each building at every level including basements and penthouses but excluding roofs (unless they are used for Structured Parking). It includes all fully enclosed areas including stairs, elevators, HVAC shafts, pipes, flues, as well as structured unenclosed areas, such as balconies, roof terraces, plazas, decks, porches, exterior stairs and corridors. Areas with restricted headroom are included within the building perimeter. Not included within the building perimeter are the following: commercial space; non-structural protrusions including eaves, cornices, canopies, awnings, sills, ledges, chimneys, casing, wainscoting, gutters, downspouts, signs, shutters, attached electrical or mechanical systems and decorative projections. The “Construction Gross Area” must be prepared and certified by the architect of record for the Project, who may not be an employee of the Applicant or Developer. If the architect of record is an employee of the Applicant or Developer, a third party architect or engineer with no Controlling Interest in the Applicant or Developer must prepare and certify the Construction Gross Area.”

We have a schematic design that is shaped like a “C”. This allows for an interior courtyard. The courtyard is not enclosed, it is out in the open, and is defined by two sides. My question is, will this count towards the overall “Total Project Square Footage”. We also have an open areas that are not enclosed but are under a pergola and are part of the main entrance, does this count as well?

ADOH Response:

*ADOH can't pre-score any Projects prior to submittal. The definition includes “structured unenclosed areas, such as balconies, roof terraces, plazas, decks, porches, exterior stairs and corridors.” A pergola is a structured unenclosed area. If a building is shaped like a “C” and there are no structural elements within the “courtyard,” that landscaped or paved ground area would not be part of the building.*

Question 2:

Subterranean Space unimproved- If subterranean floors were to be abandoned in a multi-family rehabilitation, and not used for either future residential, or common space, does the square footage of the subterranean space count towards either the numerator, or denominator, of the residential percentage factor.

ADOH Response:

*The Total Project Square Footage “encompasses all structured elements of each building at every level including basements.”*

Question 3:

I am a little confused about what is included in the “Project Total Gross Square footage “. Is an underground or 1<sup>st</sup> floor Garage included in the calculation of the gross Sqf ?

ADOH Response:

*Yes. The Total Project Square Footage “encompasses all structured elements of each building at every level including basements and penthouses but excluding roofs (unless they are used for Structured Parking.)”*

Question 4:

Per the QAP the Total Project Square Footage is calculated as “defined in the Building Owners and Managers Association International Multi-Unit Residential Buildings: Standard Methods of Measurement (ANSI/BOMA Z65.4-2010).” [page 21]

It is my understanding from reading excerpts from this standard that on-grade parking below an elevated building is EXCLUDED from the area measurements. This is essentially how most podium parking would be characterized. I wanted to make sure that this was the intent and understanding of ADOH.

ADOH Response:

*The definition of Total Square Footage in the QAP **included** Structured Parking (such as parking below a podium) in the percentages described in the scoring criteria in Section 2.7(D). The building efficiency ratios for Urban Projects are lower than other project types because the Urban Projects include Structured Parking. The definition in the QAP specifically includes Structured Parking in the calculation when it uses Structured Parking as a defined term in the QAP where it states “excluding roofs (unless they are used for Structured Parking)”.*

*Please note that only the under-roof portion of any on-grade parking under a podium is included in the Total Project Square Footage.*

Question 5:

With respect to the inquiry above, if the podium parking is excluded from the Total Project Square Footage calculation is it still considered 'structured parking' as it relates to an increase in eligible basis?

ADOH Response:

*As stated above, the parking under the podium is included in the Total Project Square Footage. The definition of Urban Project is a "three (3) plus-story Multi-Family Housing Project in an Urban Area in which at least seventy-five percent (75%) of the parking is Structured Parking." ADOH considers podium parking garages to be Structured Parking, thus qualifying for the 115% increase in Eligible Basis under Section 7.2(A) of the 2018 QAP.*

Question 6:

On page 41 of the 3rd draft of the QAP under D. Building Efficiency, please clarify the Project Type in the left column that reads "Urban Project or 100% Permanent Supportive Housing Project." As it relates to a PSH Project, does 100% mean the project cannot serve two resident populations (e.g., family and Supportive Service), or does it mean that all the units must be Supportive Housing?

ADOH Response:

*It means that 100% of the Units in the Project must be Permanent Supportive Housing.*

Question 7:

On page 73 of the third draft of the 2018 QAP under Q. Tab 17 Occupancy Preferences, it states under ii "insert Exhibit N with a description of the Supportive Services to be offered"

Is this accurate? What services are required for senior only (Not supportive housing) projects? Why is this the only occupancy preference this is required for?

ADOH Response:

*Housing for Older Persons Projects, by definition, do not require Supportive Services in the 2018 QAP. Exhibit N is not required for Housing for Older Persons.*

Question 8:

In the definition section of the DRAFT 2018 QAP, Phoenix Ranch Market is listed as a "qualifying" grocery store. I am assuming that is referring to the Los Altos Ranch Market at the corner of Southern Ave. and Central Ave. in Phoenix. Can you confirm that, please?

ADOH Response:

*Yes, the Phoenix Ranch Markets were renamed Los Altos Ranch Market after the stores were acquired.*

**Question 9:**

**Under 2.9.G. Tab 7: Acquisition, Site Control, and Environmental Review**

Is a Purchase Contract or Agreement valid for submission if the Contract or Agreement has an initial term of at least 180 days from the date of application BUT requires additional deposits from the Purchaser within the 180 day initial period? In other words, is the requirement of additional payments to escrow allowed as a contingency since the Seller could terminate the Contract or Agreement if the additional deposit is not made or delayed for some reason. So no contingencies other than award of tax credits is allowed?

**ADOH Response:**

*Section 2.9(G)(2)(1) states that “[a]s of the Application Deadline, the only remaining contingency in a binding commitment that is in the Seller/Lessor’s control may be a condition of receipt of tax credits. No other conditions will be accepted.” Payment of additional escrow deposits are in the Purchaser’s control. Thus, they are acceptable.*

**Question 10:**

**Under 2.9. Q. Tab 17 Occupancy Preferences**

Will Form N be revised now that Supportive Services is no longer a point driven issue and the cost for which is no longer allowed to be included in the project budget?

**ADOH Response:**

*Yes, the revised Exhibit N is only required for Permanent Supportive Housing Projects. It is posted with the other forms and exhibits on the Department’s website.*

**Question 11:**

Wanted to know if there is a firm date for when clarifications for the QAP won’t be answered or responded to by adoh.

**ADOH Response:**

*Section 1.1(C) of the 2018 QAP indicates that the deadline to submit requests for clarification is March 23, 2018 at noon Mountain Standard Time.*

**Question 12:**

Per the QAP:

*“School” means an elementary, junior high, middle school, high school, K-12, charter school or alternative school that is rated “B” or better by the Arizona Department of Education’s School Report Card as listed at the following website: <https://www.azreportcards.org> and as further described at Section 2.9(K)(2)(c) of this Plan”*

Would you please clarify your policy?

ADOH Response:

*Section 2.9(K)(2)(c) describes the schools which are eligible for points in the Service Enriched Location scoring category. Schools that are not on the list posted by the Arizona Department of Education and which are not rated “B” or better by the Arizona Department of Education in its list of school letter grades for 2014 or under the 2016-2017 Accountability Plan (whichever is better)” are not eligible for points in this scoring category.*

Question 13: (See further clarifications at the beginning of this document.)

Page 17 Definition of: “Scattered Site” ; limitations on proposing projects that include both rehabilitation and new construction; per the QAP:

*“Scattered Sites” means a Project which is comprised of separate buildings that are considered a single Project if the buildings meet the following criteria: A. Consists of the rehabilitation of no more than six (6) non-contiguous existing multi-family developments in any area of the State which are located within a fifteen (15) mile radius of each other and/or new construction or rehabilitation of existing units on at least fifteen non-contiguous single family infill parcels on Tribal Land within a fifteen (15) mile radius of each other.*

Please clarify this policy? So, in order to combine new construction with rehabilitation an applicant’s housing project must agree to serve Native Americans with housing on single family lots on tribal land?

ADOH Response:

*~~Yes, new construction of a multifamily project on a parcel of land must be submitted as a separate project rather than as a scattered site project with other developments.~~*

Question 14: (See further clarifications at the beginning of this document.)

With regard to the definition of “Scattered Sites” on pages 17-18 of the Third Draft of the 2018, QAP, we are seeking clarification regarding the intent of the word “rehabilitation”.

The portion of the definition in question states the following,

“Scattered Sites” means a Project which is comprised of separate buildings that are considered a single Project if the buildings meet the following criteria:

A. Consists of the rehabilitation of no more than six (6) non-contiguous existing multi-family developments in any area of the State which are located within a fifteen (15) mile radius of each other and/or new construction or rehabilitation of existing Units on at least fifteen non-contiguous single family infill parcels on Tribal Land within a fifteen (15) mile radius of each other. “

We are interested in submitting a new construction project which would be on two separate sites.

ADOH Response:

*New construction of a multifamily project on a parcel of land must be submitted as a separate project rather than as a scattered site project with other developments.*

Question 15:

Page 69, Balance of State Areas; Points for Frequent Bus Transit System; USDA Rural Development eligible sites

It appears that some rural designated communities may be de-listed by RD when new maps are drawn. Municipalities and Counties have the opportunity to object to the de-listing of areas until approximately April 1<sup>st</sup>. For purposes of the 2018 QAP, will the state consider a property within RD Eligible area if it is still listed as of the April 1 application date? If the map officially changes by June of 2018, will the application lose points because it is no longer considered RD eligible?

ADOH Response:

*With regard to Section 2.9(O)(2)(c) ADOH will consider sites listed on the USDA website described in this section of the 2018 QAP as of the April 2, 2018 Application Deadline to be eligible for the Transit Oriented Design scoring category.*

Question 16:

Page 18; Definitions of Senior Center; Per the QAP:

“Senior Center” means an off-site facility operated by a Local Government, Tribe or Non-Profit Organization for the primary purpose of delivering on-site daily programs and services designed specifically for the Older Persons population during the week. Except for meals, for which a nominal donation may be requested, such programs shall be free of charge for all Older Persons

So if I understand this correctly, if we submit an application to develop affordable housing within ½ mile of a **for-profit** community center located within age-restricted master planned community like Sun City, or Green Valley, or if we submit an application within ½ mile of a public community center that is

utilized primarily by seniors, our application will not be awarded Service Enriched Location points like applicants who propose Senior Housing within ½ mile of a “public” senior center. Is that true?

ADOH Response:

*Only Senior Centers “operated by a Local Government or third party Non-Profit Organization that provides on-site daily programs and services during the week specifically designed for the Older Persons population” are eligible for points in Section 2.9(K)(2)(d) of the 2018 QAP. For-profit facilities are not eligible for points under the QAP. Community centers operated by Local Government without daily programs designed specifically for the Older Persons population are also ineligible for points under this scoring category.*

Question 17:

Use of Common Space for FQHC. If a FQHC has committed to locate a new location within the tax credit proposed redevelopment, what third party documentation would you need to confirm the commitment (leases, floor plans, LOI?). We respectfully request clarification on the nature of the third party commitment.

ADOH Response:

*Section 2.9 of the 2018 QAP states, “All facilities and transportation claimed for points must be in place, and operating as of the Application Deadline.” In order to qualify for points in this scoring category, evidence that the FQHC has already commenced operations at the location claimed for points as of the Application Deadline must be included in the Application.*

Question 18:

Section 2.9R of the 2018 QAP states that “Units set aside for persons with incomes at 30% of AMGI must have rental assistance.” Is this an ADOH threshold requirement? Or is it a requirement to receive points under category G: Targeting Low Income Levels?

If rental assistance is in fact a threshold requirement for 30% AMGI units, would it be problematic to have a set aside of units that are marginally above 30% AMGI (e.g. 31-35%) without rental assistance?

ADOH Response:

*The 2018 QAP does not include points for units at or below 30% AMGI in Section 2.7(G) or Section 2.9(R) Targeting Low Income Levels. The 2018 QAP does include a Set-Aside for Permanent Supportive Housing in Section 2.6 in which Units are set aside for Chronically Homeless people with a preference for veterans. The Permanent Supportive Housing set aside requires that “rents shall be designated at thirty percent (30%) AMI and supported with Rental Assistance (see Section 2.9(P)/Tab 16 for further requirements and the ranking of Applications)”. Rental Assistance is a threshold requirement for the Permanent Supportive Housing Units (“PSH Units”); PSH Units that*

*are marginally above 30% AMGI without Rental Assistance are not eligible for the Permanent Supportive Housing Set-Aside.*

**Question 19:**

Clarification is requested related to the reference to land being "held in trust by the Secretary" in the most recent draft of the Tribal Lands definition. For land acquired through P.L. 99-503 (that meets all requirements set forth in the law) and is subject to a trust application filed with the federal government prior to 2017, we request clarification that because it is a mandatory land into trust process that the trust application having been filed meets the QAP requirement and allows the land to be considered for use in the tribal set-aside.

**ADOH Response:**

*The Tribal Land definition states that "it does not include land that the Tribe acquired legal title through non-federal designation or award, unless . . . 2) the tribe has acquired the land under Public Law 99-503 that provided for the replacement of certain lands within the Gila Bend Indian Reservation, the Secretary of the Interior holds such land in trust for the benefit of the tribe, and such land is deemed to be a Federal Indian Reservation for all purposes." In order for the project in question to be considered Tribal Land, the Secretary of the Interior must hold such land in trust for the benefit of the tribe as of the Application Deadline.*

**Question 20:**

Were there any changes to the 3<sup>rd</sup> draft of the QAP and the one the Governor signed? If so, will you be providing a page listing any changes after the 3<sup>rd</sup> draft and the final one signed by the Governor?

**ADOH Response:**

*The changes between the 3rd Draft and the approved QAP were as follows:*

- *The SPDAT score required for Chronic Homeless definition was reduced to eight (8) or higher to coincide with the score used by the Continuum of Care to define a vulnerable Chronically Homeless individual and ensure consistency across various platforms of capital for funding, operation and services.*
- *The reference to the 2017 School grades was clarified in Section 2.9(K)(2)(c). The document from the Arizona Department of Education is referred to as the 2016-2017 Accountability Plan.*
- *The QAP was also reviewed for typographical errors and consistency of style when referring to numbers (i.e. eight (8)).*

**Question 21:**

Regarding Prescott Valley, they currently don't have a public bus service. Would I be able to get the points by supplying a van at the complex or utilize a "Dial A Ride" type of service to get the points allowed.

ADOH Response:

*No. The 2018 QAP only provides points for a Frequent Bus Transit System as described in Section 2.9(O)(2) et seq. or High Capacity Transit as described in Section 2.9(O)(3)(a).*

**Issued January 19, 2018:**

**Form Changes 1:**

The following changes were made to Form 3:

- *The drop-down box under Section 16 on page 5 was unlocked so that Applicants may indicate whether any low-income units will receive Rental Assistance.*
- *The drop-down box under Section 19 on page 8 was unlocked so that Applicants may indicate whether Davis Bacon Wages are included in Direct Construction Costs.*
- *The Maximum Allowable Eligible Basis in the peach colored Cell C139 on page 8-11 was updated to reflect 2018 amounts.*
- *Cell C15 on each of the pages 14 – 17 has been corrected to request the entity type corresponds with the title of the page.*

The following changes were made to the Additional Forms:

*A line was added to the top of Form 12-1 to allow the Architect to enter the name of the Project.*

**Question 13: (Re-presented here for clarity)**

Page 17 Definition of: "Scattered Site" ; limitations on proposing projects that include both rehabilitation and new construction; per the QAP:

*"Scattered Sites" means a Project which is comprised of separate buildings that are considered a single Project if the buildings meet the following criteria: A. Consists of the rehabilitation of no more than six (6) non-contiguous existing multi-family developments in any area of the State which are located within a fifteen (15) mile radius of each other and/or new construction or rehabilitation of existing units on at least fifteen non-contiguous single family infill parcels on Tribal Land within a fifteen (15) mile radius of each other.*

Please clarify this policy? So, in order to combine new construction with rehabilitation an applicant's housing project must agree to serve Native Americans with housing on single family lots on tribal land?

**ADOH Response:**

~~Yes, new construction of a multifamily project on a parcel of land must be submitted as a separate project rather than as a scattered site project with other developments.~~

*The Department has received several inquiries regarding the definition of “Scattered Sites” contained in the 2018 Qualified Allocation Plan. (see Questions 13 and 14 below) In light of the questions raised by the industry regarding the definition, it appears that varying interpretations of the definition could result in some perceived ambiguity and confusion.*

*Accordingly, for purposes of the 2018 QAP Round only, pursuant to Section 1.1(C) of the 2018 QAP regarding clarifications, the Department will deem those applications that meet the following criteria as “Scattered Site” applications:*

- 1. A Project that is comprised of separate buildings is a single Project if it consists of rehabilitation and/or new construction of no more than six (6) non-contiguous multi-family developments in any area of the State, and which are located within (15) miles radius of each other; or*
- 2. A Project that is comprised of separate buildings is a single Project if it consists of rehabilitation and/or new construction of no more than fifteen (15) non-contiguous single family infill parcels on Tribal Land, and which are located within fifteen (15) mile radius of each other.*

*Please be aware that the Department will not entertain a waiver of any limits related to development costs set forth in this 2018 QAP Round for any Project.*

**Question 14: (Re-presented here for clarity)**

With regard to the definition of “Scattered Sites” on pages 17-18 of the Third Draft of the 2018, QAP, we are seeking clarification regarding the intent of the word “rehabilitation”.

The portion of the definition in question states the following,

““Scattered Sites” means a Project which is comprised of separate buildings that are considered a single Project if the buildings meet the following criteria:

A. Consists of the rehabilitation of no more than six (6) non-contiguous existing multi-family developments in any area of the State which are located within a fifteen (15) mile radius of each other and/or new construction or rehabilitation of existing Units on at least fifteen non-contiguous single family infill parcels on Tribal Land within a fifteen (15) mile radius of each other. “

We are interested in submitting a new construction project which would be on two separate sites.

**ADOH Response:**

*New construction of a multifamily project on a parcel of land must be submitted as a separate project rather than as a scattered site project with other developments.*

*See ADOH response for Question 13 above.*

**Question 22:**

Can you confirm what of the two below listed workshops I am required to attend for a 4% Bond Deal?

- Application Workshop
- Compliance Training Workshop

**ADOH Response:**

*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 at the Application Workshop for projects submitted under Section 3 of the QAP 4% Tax Credits with Tax-Exempt Bond Financing.*

*Section 2.5(C) requires that the Developer, Co-Developer or Consultant attend Compliance Training as defined in the QAP at a minimum of every five years. Applicants under Section 3 of the QAP must meet this requirement.*

**Question 23:**

The QAP requires that Tab 11 include a Google Earth map that includes “Existing LIHTC and any other governmental subsidized housing developments within five (5) miles of the Project site.” The previous paragraph requires that “each Facility must be located at a fixed location, be clearly identified by name on the applicable Google Aerial map...” However, a Google Earth map for the City of Phoenix showing a five mile radius does not show every LIHTC project. The number of developments shown increases as the scale shown on the map decreases. For example (and purely for purposes of illustration), a map that is scaled to a 1-mile radius from the corner of Central Ave and Van Buren shows and labels five LIHTC projects, but when the map is zoomed out to accommodate a 5-mile radius, some of the same developments are not identified or labeled. Will ADOH accept the map as delivered with a 5-mile radius even if all existing projects are not “clearly identified by name on the applicable Google Aerial map”?

**ADOH Response:**

*In situations where a five-mile radius does not show all of the LIHTC and government subsidized housing developments due to the large number, please provide the one-mile radius (or greater if it will not obscure any of the housing developments) along with the 5-mile radius and a list of the housing developments along with their addresses.*

**Question 24:**

We are currently working on a LIHTC application. Please review Form 18. It does not appear to calculate correctly. We were filling in the Balance of State and did not get the correct number of points based on our input. When we input the same number of points in Urban, it gave us the correct number (but we are not submitting an Urban application). The challenge we are having is in rounding. This shows up in two different cases:

- 1) Look at the attached Form 18 with the 11-40%, 14-50%, and 11-60%. The total % only adds up to 98%. If the calculation rounded up (both cases are .5 or above), the total would equal 100%. The QAP does not address rounding in 2.9 (G), but it does address it in 2.9 (D).
- 2) If we calculate a % of units based on the score that is needed under 2.9 (G) for Balance of State and take our project's current 36 units times .40, we get 14.4 units. That is why we entered 14 units. However, in order to achieve the 40% for a total 15 points, we need to enter 15 units. Our project is financially feasible with 14 units at 50% AMGI.

			Select Project Type:
			Balance of State
No. of Units	Percentage of Total Units	Score	
			Units with Persons with income at 30% of the Adjusted Gross Median Income (AMGI) after the adjustment for family size to be counted towards 40% AMGI Scoring. Units at 30% AMGI must have Rental Assistance. DO NOT DOUBLE COUNT UNITS.
+	11		Persons with income at 40% of the Adjusted Gross Median Income (AMGI) after the adjustment for family size (per Form 3).
=	11	30.00%	20
Totals at 40% AMI and Below for Scoring Purposes			
			Units with Persons with income at 30% of the Adjusted Gross Median Income (AMGI) after the adjustment for family size to be counted towards 50% AMGI Scoring. Units at 30% AMGI must have Rental Assistance. DO NOT DOUBLE COUNT UNITS.
+	14		Persons with income at 50% of the Adjusted Gross Median Income (AMGI), after the adjustment for family size.
=	14	38.00%	10
Totals at 50% AMI and Below for Scoring Purposes			
	11		Persons with income at 60% of the Adjusted Gross Median Income (AMGI), after the adjustment for family size.
	0		Employee Units - Counted as 60% Unit(s) for scoring purposes (select one):
	0		Market Rate Units (including Employee Units)
36		TOTAL UNITS	30
			TOTAL SCORE

**ADOH Response:**

The Form 18 that is available for download on the Department's website is correct. The formula for the percentages listed on the form round down intentionally to ensure that the number of whole Units set aside for the targeted population meet the required percentages for scoring. In cases calculated as you have in your example of  $36 \times 40\% = 14.4$ , it is standard industry practice to round up to the next whole number of 15 units when determining whether a percentage of Units has been set aside (i.e., percentage of accessible units, IRC§42(g)(1)(B) which discusses the minimum set-aside.)

Regarding your first "case" wherein rounding is addressed at 2.7(D) Building Efficiency: The two scoring categories are separate and the treatment of rounding in one scoring category is not applicable to the other. In the case of Building Efficiency, the Department determined that it would

*award points for certain portions of a whole percentage, and made that explicit in the QAP. In Section 2.7(G), the Department was explicit that the points would be determined based upon the calculations on Form 18. The QAP also makes clear that the scoring will be dependent upon the calculations in Form 18 in Section 2.9(R) where it states: "Points will be awarded based upon the Table in Section 2.7(G) as automatically calculated in Form 18."*

*Regarding your second "case" wherein you discuss why you entered 14 Units: In order to be eligible for points the number of Units must be at least the percentage of Units required in Section 2.7(G). In the example you provided, 14/36 is 38.88% - thus the Form accurately shows a percentage of 38% and the accurate score is 10 points. At least 40% of the Units, or 15 Units would be required to achieve 15 points in your example.*

**Issued January 26, 2018:**

**Question 25:**

I just glanced through the [Application Workshop] slides. Only comment is on the 3rd slide for Tab 15 (for Balance of State) shouldn't the second one read "< 35,000" vs. ">35,000"?

**ADOH Response:**

*Yes. Section 2.9(O)(2)(c)(ii) describes the requirements for municipalities and Census Designated Places with populations under 35,000.*

**Question 26:**

Do I accurately read Section 2.4 of the QAP to require that only the items specifically required in the list of "following portions of the Application must be submitted by the Application Deadline in hard copy." For example, is a hard copy of forms not listed, such as Form 3 or the development experience forms at Tab 6, to only be uploaded and are not to be included in the binder with the hard copy?

**ADOH Response:**

*Yes. The entire Application must be submitted via the ADOH Portal. Only the portions of the Application listed in 2018 QAP Section 2.4(1)-(11) are required to be delivered to ADOH as specified in hard copy format.*

**Question 27:**

Section 2.2(B) states that projects seeking competitive 9% allocations may not be located within 1 mile straight line distance of previously awarded 9% and 4% LIHTC Projects with the exception of certain stated circumstances. Can you confirm that the requirements listed in Section 2.2(B) are not applicable in the 2018 cycle?

ADOH Response:

*The first two paragraphs of Section 2.2(B) are applicable to the 2018 Round. The third paragraph states: “Notwithstanding the foregoing, beginning with the 2019 QAP [emphasis added] ADOH will limit concentration of LIHTC Units for competitive nine (9%) Applications as set forth below.” The one-mile distance is described below this statement, and thus is not applicable to the 2018 Round.*

Question 28:

Form 2 for the Tribal Set Aside lists “Schools rated B or better” under the Service Enriched Location category. The 2018 QAP states on page 18 that “For purposes of the Tribal Set-Aside at Tab 25 only, a School means any elementary, junior high, middle school, high school, K-12, charter school, or alternative school that is licensed through the Arizona Department of Education or the Bureau of Indian Affairs and that is within the applicable straight line distance of the Project described at Section 2.9(Y)(3).” The rating language is absent from the tribal set-aside requirement in this section. Does a school need to be rated “B” or higher in order to earn points for applicants competing in the tribal set-aside?

ADOH Response:

*In accordance with the definition on page 18, Schools competing in the Tribal Set-Aside must be licensed through the Arizona Department of Education or the Bureau of Indian Affairs, but do not need to be rated “B” or better.*

Question 29:

Can a project located outside of a QCT build a community amenity as part of the LIHTC project as long as the community amenity serves the LIHTC project tenants?

ADOH Response:

*We assume you are referring to Community Service Facilities, rather than a Project amenity such as a community room. IRC §42(d)(4)(c) requires that Community Service Facilities be located in a Qualified Census Tract on the same tract of land as one of the buildings in the qualified low-income housing project.*

Question 30:

If a tribal developer was awarded LIHTCs in the past ten years but returned the credits after reservation, would they qualify for the experienced pool or inexperienced pool?

ADOH Response:

*2018 QAP Section 2.9(Y) states: "The Tribal Set-Aside will be split into two (2) sub-pools: Tribes who have been awarded Tax Credits within the past ten (10) years and Tribes who have not received an award in the past ten (10) years." If the developer was awarded LIHTC in the past ten years, they would be considered to be part of the pool of Tribes who have been awarded Tax Credits within the past ten (10) years.*

**Issued February 2, 2018:**

**Question 31:**

If an Architect certifies on Form 12 that a Project will have a LEED or other certification that is not required for points, will the Project Owner be required to complete the Project with that certification?

**ADOH Response:**

*ADOH requires that Applicants deliver the Project as committed in the Application. For the 2018 Round only and in the interest of obtaining the data for third parties, ADOH will hold Applicants harmless if they indicate an intent to obtain a LEED or other certification and obtaining the certification becomes unfeasible.*

**Question 32:**

I am emailing you to inquire about the LIHTC 2018 application. After the training it was my understanding that we were required to use Google Earth or Google Maps in order to measure service facility distance. I looked closer to one of the example images, and it had parcel numbers, indicating that it was made with the county assessor. Does it matter which measuring tool we use?

**ADOH Response:**

*ADOH requires an aerial map, not a street map. Applications are scored using Google Earth, so it is advisable to use the same program, as that is the only accepted measuring tool for scoring purposes. However, ADOH does not disallow points for using a different aerial mapping program.*

**Question 33:**

In Tab 13, 1c indicates that a new construction project has to submit a RESNET utility allowance, but in 2b it indicates that 100% owner paid utility projects do not have to submit a utility allowance. If we are both new construction and are paying all utilities, do we need the allowance schedule or not?

**ADOH Response:**

*QAP Section 2.9(M)(1)(c) assumes that the Owner is not paying for the utilities. As stated in QAP Section 2.9(M)(2)(b), Applications submitted in which the Owner is paying for all utilities do not require a utility allowance schedule. Please be advised that at the time of Application, all Applicants*

*are still required to submit evidence of the HERS Index score prepared by a Certified RESNET Home Energy Rater, as required in Section 2.9(N), regardless of whether a utility allowance schedule is required.*

**Question 34:**

Under 2.9(C)(6) Form 8821. Are we required to submit this form with the application, or is this just something ADOH wants us to be aware of?

**ADOH Response:**

*QAP Section 2.9(C)(6) states “ADOH reserves the right to require the submittal of IRS Form 8821.” There is no need to submit it with the Application. If ADOH will send a specific request to the Applicant, if it is required.*

**Question 35:**

Are we able to set the income maximum for a unit at 60% AMI and have the rents set at 55% AMI by utilizing the Market/Subsidy Adjustments column on Form 3 tab 6?

**ADOH Response:**

*Applicants are required to maximize the permanent loan on the Project, thus the income and rent limits must be consistent on Form 3. The adjustments on page 6 in column C “Market/Subsidy Adjustments” are only for adjustments due to:*

- *Rental Assistance Subsidy in which case the total monthly rent is increased (usually based upon the HUD/USDA contract rent); or*
- *a decrease in rent due to market conditions that will not support the full rent based upon imputed income. Such decreases must be fully supported by the Market Demand Study.*

**Question 36:**

Can you please elaborate on the meaning of 2.9(G)(2) “As of the 24 CFR 58.22 effective date for the Project, conditional purchase contracts may only be used for the acquisition of existing multifamily residential properties.”? It sounds as though we cannot utilize a purchase contract on raw land for new construction if we are requesting ADOH Gap Financing, HOME, or CDBG funding. Is that correct?

**ADOH Response:**

*Yes. On August 26, 2011 HUD issued a memorandum regarding “Guidance on Options and Conditional Contracts for Purchase of Real Property for Environmental Reviews Conducted by a Responsible Entity under 24 CFR 58.” That memorandum stipulated that an option contract or agreement must be used to purchase land because it does not impose any obligation upon the potential*

*buyer to purchase the property. The option agreement 1) must be subject to a determination by the recipient [of the Federal funds] on the desirability of the property for the project as a result of the completion of the environmental review in accordance with 24 CRF Part 58; and 2) limit the cost of the option to a nominal portion of the purchase price. The provision allows flexibility regarding the term "nominal" and any reasonable interpretation is acceptable, depending upon the local real estate market and the purchase price.*

**Question 37:**

In the QAP presentation, you said we needed to provide will-serve letters for water, sewer and power. The QAP only requires water and sewer will-serve letters. Do we need to provide a power will-serve letter also?

**ADOH Response:**

*While it is prudent to obtain a will-serve letter for power, QAP Section 2.9(H)(3) only requires will-serve letters for water and sewer dated within 180 calendar days of the Application Deadline.*

**Question 38:**

I see the application deadline in the Arizona QAP is 4/2/18. Do you have an estimated date for the 2018 LIHTC award announcement?

**ADOH Response:**

*ADOH plans to announce awards at the end of June 2018.*

**Question 39:**

Should [we] require additional lines for project history on Forms 6-1, 6-2, and 6-3 can we make additional copies of the tab within the workbook and / or create a new workbook with the same information, or do you have any alternative solutions that you would prefer. Is a waiver required for creating additional sheets?

**ADOH Response:**

*Form 6-1: Applicants with more than 19 prior projects may either 1) submit more than one Form 6-1 or 2) submit the additional projects beyond the 19 that fit on the Form 6-1 in another format, as long as the same information is provided in the same order.*

*Form 6-2: Applicants must complete the Form 6-2 for each state, and make additional copies of the tab as needed. ADOH submits this information to other states, thus the Form 6-2 must be completed.*

*Form 6-3: Form 6-3 allows for up to 170 projects to be entered. Applicants with more than 170 projects may submit additional sheets with the same information in the same order.*

**Issued February 9, 2018:**

**Question 40:**

In regards to the ADOH GAP loan, in the event that the cash flow, after paying, deferred developer fee and a reasonable asset management fee to the syndicator is above \$5,000 but below a fully amortizing payment of \$30,353, how will payments be calculated? Projecting cash flow of \$35,000 in year 1, but \$9,000 in year 18.

**ADOH Response:**

*The calculation of required payments will be based upon the terms of the Promissory Note. However, in general, based upon the operating information obtained from the Borrower's audited financial statements for the twelve-month period preceding the payment due date, all remaining cash flow after payment of Operating Expenses (see definition on page 14 of the QAP), Deferred Developer Fees, and reasonable asset management fees to the investor would be owed to ADOH for that year. Please note: this will likely be different from the Cash Flow Statement prepared in the Borrower's audited financial statement. With the exception of payment towards the unpaid Deferred Developer Fee, payments or disbursements to the Borrower or Developer are prohibited under the terms of the Promissory Note.*

**Question 41:**

Is the ADOH GAP a negative amortizing loan in the event the project doesn't make at least a \$10,000 payment annually?

**ADOH Response:**

*No, ADOH does not recalculate payments during the term of the loan to ensure that the loan will amortize over its remaining term.*

**Question 42:**

If the project refinances prior to year 20, is the ADOH loan due then?

**ADOH Response:**

*Any refinance or placement of a mortgage, deed of trust, or other lien on the Project is prohibited without ADOH explicit written approval. ADOH would make a determination at the time of refinance, if approved, whether it is possible to repay the obligation to ADOH.*

Question 43:

According to the QAP, state housing funds “are comprised of federal HOME and National Housing Trust Fund resources from HUD and state resources from the State Housing Trust Fund (HTF).” If a proposed capital stack does not otherwise use federal funds that would trigger Davis-Bacon requirements, is it possible to specify that an SHF award to a project be entirely from non-federal resources?

ADOH Response:

*While it is possible to request that ADOH Gap Financing be awarded from a non-federal funding source, Applicants should anticipate that any awarded ADOH Gap Financing will be sourced from ADOH’s federal HOME funds. Davis-Bacon requirements are triggered if more than twelve units will be assisted by HOME. Tab “Gap P1” of the Gap Financing Application includes an estimated number of assisted units. However, it does not include all of the HOME requirements, thus the actual number of assisted units may be somewhat higher.*

Question 44:

Can you please confirm that unenclosed tuck-under parking is not considered common space for the efficiency calculation?

ADOH Response:

*The definition of Total Square Footage in the QAP **included** Structured Parking (such as parking below a podium, which may otherwise be referred to as “tuck-under parking”) in the percentages described in the scoring criteria in Section 2.7(D). The building efficiency ratios for Urban Projects are lower than other project types because the Urban Projects include Structured Parking. The definition in the QAP specifically includes Structured Parking in the calculation when it uses Structured Parking as a defined term in the QAP where it states “excluding roofs (unless they are used for Structured Parking”).*

*Please note that only the under-roof portion of any on-grade parking under a podium is included in the Total Project Square Footage.*

Question 45:

With the Phase I liability review, is this document actually required to be completed at the time of the April 1 submission? The relevance of this question has to do with the "shelf life" of the liability review which is 180 days. More simply stated, at what point does the Phase I ESA need to be submitted?

ADOH Response:

*Section 2.9(G)(3) of the 2018 QAP states that the Phase I ESA is required 120 calendar days following the Reservation Letter except in the two instances described below. In each of the*

*following two instances, any portion of the Phase I ESA that is required to obtain the following evidence of a determination, is required with that evidence on April 2, 2018:*

- a. Projects in a 100-Year Floodplain must include at Tab 7 of the LIHTC Application either:  
1) a conditional or final designation from FEMA that removes the property from a FEMA-designated floodplain location (“LOMA”) or 2) evidence that no practical alternative location exists, as demonstrated by a completed 8-step decision making process described at 24 CFR §55.20 (“8-Step Process”) (See QAP Section 2.9((G)(a)(ii).)*
- b. Projects which meet historic criteria described at QAP Section 2.9(U)(1)(c) must submit the documentation set forth in QAP Section 2.9(U)(1)(a)-(b) evidencing that the Section 106 review process under 16 U.S.C. 470 et seq. has been completed and that there is No Adverse Effect or that the Adverse Effect is mitigated (“Section 106 Process”). (See QAP Section 2.9(G)(b).)*

**Question 46:**

The second question is relative to the HUD part 58 review. This level of review would only be necessary if there were federal funds invested in the project. The confirmation that I would hope to have is if this level of review is needed at the time of the application; or can wait until both the level of federal funding (required in completing the review) and any scope of changes (essential for defining the project and the federal review) are confirmed once the proposal is evaluated. At what point does the HUD part 58 review need to be submitted?

**ADOH Response:**

*All LIHTC Projects requiring a HUD Part 58 Review must submit a complete HUD Part 58 Review that is ready to publish a FONSI/RROF no later than 120 calendar days after the date of the Reservation letter. It is recommended that the HUD Part 58 Review be submitted as soon as possible to allow for any corrections to be made in time to publish and receive an Authority to Use Grant Funds from HUD on or before the date that is 150 calendar days after the date of the Reservation letter.*

*If, however, the Project meets either of the criteria set forth in Question 45(a) or (b) above (as further described in QAP Sections 2.9(G)(3) and Section 2.9(U)(1)(a)-(b)), then those portion(s) of the HUD Part 58 Environmental Assessment that may be required to produce the LOMA, 8-Step Process and/or Section 106 Process, as applicable, must be submitted by the Application Deadline of April 2, 2018.*

Question 47:

The QAP requires underwriting of new construction at \$4,200/unit/year. Can you please provide us with the information source that ADOH used to come up with this number? Based on our experience with new construction we believe that this number is too low, particularly as the property ages.

ADOH Response:

*The annual Operating Expense amount of \$4,200 included in the QAP Section 7.1(C)(2) was determined during the public process prior to the approval of the 2018 QAP. Applicants who wish to request a waiver based upon the Developer's portfolio may do so by submitting a waiver request at Tab 1, and meeting the stipulations at QAP Section 7.1(C)(2): "Waivers will be required for an operating budget that is more than \$100 per unit per year higher or lower than this [\$4,200 new construction] standard. Waivers for operating budgets that are higher than the standard must demonstrate that the additional costs are reasonable and necessary for project operations. Waivers will only be considered where the Developer can demonstrate by providing past operating statements from similar properties over which the Developer has a Controlling Interest, which demonstrate capacity to operate the Project within the proposed operating budget without deferred maintenance."*

Question 48:

I just wanted to clarify a concern I had in regards to Question 20 on the QAP. It states that the ADOH funded agencies need to use a SPDAT of 8 or above to qualify housing applicants as needing permanent, supportive housing. I think you are confusing the SPDAT (which requires a score of 35 or above to qualify an applicant as needing permanent, supportive housing) with the VI-SPDAT, which does require the score of 8 and above to qualify.

ADOH Response:

*The Chronically Homeless definition in the 2018 QAP refers to a "SPDAT score of eight (8) or higher". This is for the Vulnerability Index – Service Prioritization Decision Assistance Tool otherwise known as the VI-SPDAT.*

Question 49:

In trying to satisfy the requirements of 2.9(G)(2) can the developer, who has a conditional purchase contract with the current owner of the land (unrelated party) grant the ownership entity/applicant an Option to purchase?

ADOH Response:

*No. Unless the Developer owns the land as of the Application Deadline, an option agreement with the Developer, who does not own the land, does not demonstrate that the Applicant has site control. An Assignment and Assumption of a Developer's option to purchase land from the seller is indicative of site control because it is transferring the rights to purchase the land from the Developer to the Applicant.*

**Question 50:**

QAP's definition of Residential Floor Area specifically mentions balconies but not patios. Is it correct to assume that the area of a ground floor patio may be included in RFA if it is intended for the sole use of tenants occupying the unit adjacent to the patio? The definition also does not mention if the private outdoor space needs to be covered. Is it correct to assume that it may be covered or open to above?

*No, private outdoor space included in the Residential Floor Area definition is limited to balconies. Balconies do not need to be covered. An uncovered patio used for private outdoor space at the ground level of a building is not a structural element of the building described in the Total Project Square Footage definition, such as a balcony, roof terrace, plaza, deck, or porch (which is a structured element protruding from a building), and is thus not included in the Building Efficiency calculation.*

**Question 51:**

QAP page 80 mentions Form 13 but there appears to be no Form 13 among the application materials available. Is it a typo or will the form be provided at a future date?

*This is a typo. Section 2.11(N) on page 80 of the 2018 QAP should read "Form 12".*

**Question 52:**

In the event that a developer changes its operational structure from a corporation to a limited liability company, with no change to the key decision makers or staff, can the new entity continue to operate as usual under the new entity name after notifying ADOH of the change without any other approvals and with no impact on developer experience points?

**ADOH Response:**

*Tab 6, Section 2.9(F) of the 2018 QAP outlines items which will be evaluated to determine eligibility for the Developer Experience points. Section 2.9(F) et seq. provides guidance for the evaluation of both the Developer and the Development Team.*

**Question 53:**

Has the Arizona State made a designation of QUALIFIED OPPORTUNITY ZONES? That would influence investments by Syndicators by giving their investors additional tax benefits and in return give a better pricing on their Tax Credit purchases.

**ADOH Response:**

*ADOH is familiar with the new Opportunity Zone initiative. The Arizona Commerce Authority is taking the lead in determining potential Opportunity Zones for the Governor's consideration. We will be watching to see how it develops and agree that it may provide some new opportunities for housing and housing supports.*

**Issued February 20, 2018:**

**Question 54:**

Due to the City of Glendale's requirements that each apartment have a minimum 100 square foot balcony or porch, two of our four floorplans are above ADOH maximum SF requirement. In order to meet your maximum, we would have to redesign our terrific plans to reduce usable SF for the tenant, which would be unfortunate. Is there a waiver possible for this situation?

**ADOH Response:**

*The 2018 QAP does not permit waivers for scoring or for Section 7.2(A)(3) Maximum Allowable Eligible Basis for Total Development Cost.*

*Building Efficiency Scoring: The maximum Residential Floor Area ("RFA") limits set forth in 2018 QAP Section 2.7(D) and in Section IV of QAP Exhibit D ("Maximum RFA") are not a limit to the RFA that is permitted to be built. Nevertheless, the Maximum RFA constrains the RFA that will be considered when calculating the Building Efficiency under the scoring category in Section 2.7(D) of the 2018 QAP. If the RFA of the Unit exceeds the Maximum RFA, ADOH will reduce the RFA inserted on page 4 of Form 3 to the Maximum RFA when determining the Building Efficiency score for the Project, regardless of the calculation in Cell F17 on the Form 3.*

*Maximum Allowable Eligible Basis: Section 7.2(A)(3) of the 2018 QAP states "no waivers will be considered for this item." Cell D138 on Line 126 of the Development Budget on pages 8-11 of Form 3 may include the additional cost for the square footage beyond the Maximum RFA. However, the total Eligible Basis for the Project, as set forth in 2018 QAP Section 7.2(A)(3), may not be exceeded when Cells E138 and F138 on Line 126 of the Form 3 are added together.*

*ADOH Gap Financing: Projects described in 2018 QAP Section 7.1(D)(1)(a)(i) are ineligible for ADOH Gap Financing.*

**Question 55:**

In an acquisition rehab of an EXISTING 100% for Senior tenants building, containing only one bedrooms and efficiency units that are ADJACENT to the One Bedrooms , if the Developer wants to provide a certain number of Two Bedrooms to accommodate Seniors couples requiring separate Bedrooms or Seniors with in-house care taker, by Combining the existing One Bedroom ( 640 Sqf ) with the ADJACENT existing Efficiency ( 420 Sqf ) , the total of the new created Two Bedroom ( 1060 sqft) exceeds the maximum square footage ( 973 sqft ) stipulated for a 2 Bedroom unit in the “ ADOH 2018 Mandatory Design Guidelines “ by 87 sqft . Is the Developer required to file a “Request for Waiver “? What I need to know is: what is the impact, if any, by ADOH concerning scoring, cost cap etc... By code, we are allowed to combine an existing one Bedroom with an adjacent efficiency unit to produce a 2 bedroom, but, what we need to know, is this process impacting, in any way, our LIHTC application.

ADOH Response:

*Yes, it does impact your LIHTC Application. The 2018 QAP does not permit waivers for scoring or for Section 7.2(A)(3) Maximum Allowable Eligible Basis for Total Development Cost.*

*Building Efficiency Scoring: The maximum Residential Floor Area (“RFA”) limits set forth in 2018 QAP Section 2.7(D) and in Section IV of QAP Exhibit D (“Maximum RFA”) are not a limit to the RFA that is permitted to be built. Nevertheless, the Maximum RFA constrains the RFA that will be considered when calculating the Building Efficiency under the scoring category in Section 2.7(D) of the 2018 QAP. If the RFA of the Unit exceeds the Maximum RFA, ADOH will reduce the RFA inserted on page 4 of Form 3 to the Maximum RFA when determining the Building Efficiency score for the Project, regardless of the calculation in Cell F17 on the Form 3.*

*Maximum Allowable Eligible Basis: Section 7.2(A)(3) of the 2018 QAP states “no waivers will be considered for this item.” Cell D138 on Line 126 of the Development Budget on pages 8-11 of Form 3 may include the additional cost for the square footage beyond the Maximum RFA. However, the total Eligible Basis for the Project, as set forth in 2018 QAP Section 7.2(A)(3), may not be exceeded when Cells E138 and F138 on Line 126 of the Form 3 are added together.*

*ADOH Gap Financing: Projects described in 2018 QAP Section 7.1(D)(1)(a)(i) are ineligible for ADOH Gap Financing.*

Question 56:

I just got this email from a developer who wants me to revise my LOI regarding cash flow requirements.

“Since we need to apply for State Housing Funds as part of the LIHTC app, I need you to revise the LOI for the Project to include the following Waterfall provision:

Cash Flow “Waterfall”

- Primary Debt

- Permanent Supportive Housing Supportive Services
- Reasonable Investor/Syndicator Asset Management Fee
- Deferred Developer Fee (included in Eligible Basis)
- ADOH Gap Financing
- Local Government Gap Financing
- Seller Carryback Loans and Related Party Loans”

This could create a problem because Equity Investors require a priority especially in the event LP provides a loan due to construction cost overruns or unpaid tax credit adjusters. Below is a typical/industry standard cash flow set up.

Cash Flow will be distributed as follows:

- 1) To the Limited Partner to pay any unpaid Tax Credit adjuster amount;
- 2) To NEF to pay the Asset Management Fees;
- 3) To the Limited Partner to repay any Limited Partner loans;
- 4) To Maintain/replenish the Operating Reserve (if applicable);
- 5) To the Developer to pay any Deferred Developer Fee;
- 6) To the General Partner to repay any General Partner loans;
- 7) To the General Partner to repay any guaranty advances;
- 8) To the General Partner to pay the Partnership Management Fee
- 9) The remainder 0.01% to the General Partner and 99.99% to Limited Partner.

I think the waterfall described in the email from the developer could work as long as LP doesn't have any loans or unpaid Tax Credit Adjusters. Please let me know your thoughts.

ADOH Response:

*To establish ADOH Gap Financing as bona fide debt that is not subject to recapture of Tax Credits, ADOH Gap Financing includes an annual defined payment (determined based upon the Department's underwriting at the time of equity closing). The priority of that payment is defined in Section 7.1(C)(3)(b)-(i) of the 2018 QAP. This priority of payment needs to be acknowledged in the LOI from other financing sources.*

Question 57:

Section 2.9(Y)/Tab 25 of the 2018 QAP outlines the scoring categories for applications requesting consideration under the tribal set-aside. This year, there is no scoring category in this tab related to Occupancy Preferences. However, the Service Enriched Location category on page 75 still has the qualifier "Households with Children" next to Schools points. Form 2 for Tribal Projects also includes the same Households with Children qualifier for After School Program points. If a project is targeted for families but does not meet the definition of "Households with Children", can they still qualify for school or after school program points in the tribal set-aside?

ADOH Response:

*Households with Children are not an Occupancy Preference under the Tribal Set-Aside. Therefore the reference to Households with Children and Housing for Older Persons Project relate to Occupancy Preferences, and the references in parentheses do not apply. Thus, under the Tribal Set-Aside scoring in 2018 QAP Section 2.9(Y)/Tab 25 a Project targeted to Families would be eligible for points for a School and After School Program.*

**Question 58:**

Section 7.1(C)(2)(c) of the QAP states that only Permanent Supportive Housing Projects may include the cost of supportive services in the operating expense budget. 24 CFR 983.56 requires family projects that have more than 25% of the total units covered by a Project Based Voucher (PBV) Housing Assistance Payment (HAP) contract to provide supportive services to the tenant population. Will ADOH allow non-Permanent Supportive Housing Projects that are required to provide supportive services by federal regulation to include the cost of those supportive services in the project operating expense budget?

**ADOH Response:**

*24 CFR 983.56 requires that families in "Excepted units" receive supportive services, but it does not require that they be paid for from the project operating expense budget. Rather 24 CFR 983.56(b)(ii)(B) states "It is not necessary that the services be provided at or by the project...". Further, in accordance with the QAP, "With the exception of Permanent Supportive Housing, all Supportive Services shall be provided at no cost to the Project, nor shall a reserve be included in the Development Budget for such Supportive Services.*

**Question 59:**

Regarding the QAP, Section 2.9, F, Tab 6 Development team, 2e. :

"Insert a completed Form 6-3 for the Developer and Co-Developer (where applicable). Provide the information requested for all real estate that is owned by the Developer (and Co-Developer, where applicable) or for entities in which the Developer (and Co-Developer, where applicable) have a Controlling Interest, regardless of location and whether or not the real estate is Affordable Housing."

Does form 6-3 need to be filled out if the Developer does not own, or have any controlling interest in, any property? IE, all property is owned by a sole individual, who also owns the development company.

*Yes, Form 6-3 needs to be filled out. Controlling Interest means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the means of ownership, position, contract or otherwise.*

**Question 60:**

Regarding the answer to Question 50, please confirm that, for the purpose of calculating Residential Floor Area, a private outdoor space on the ground floor qualifies as a “balcony” if it is covered by a structural element, such as a roof, another balcony, or habitable space above.

ADOH Response:

*A private outdoor space on the ground floor is not a “balcony.”*

Question 61:

Related to Question 1: Can a pergola covered by a trellis be included in Total Project Square Footage?

ADOH Response:

*ADOH can't pre-score any Projects prior to submittal. Please refer to the answer provided for Question 1.*

Question 62:

Are there guidelines on using decimal points for completing Form 12-1? For example, if there are 60 units at 1000.5 SF each, the total Residential Floor Area could vary by 30 SF depending on how the unit size is entered in the form. If entered as 1000.5, it appears as 1001 and totals 60,030. If entered as 1001, it still appears as 1001 and totals 60,060. Similarly, the total of 60 units at 1000.4 SF each could vary by 24 SF.

ADOH Response:

*Architects should use standard mathematical rounding to the nearest square foot and insert whole numbers onto Form 12-1. ADOH will use the whole numbers that are visible on the Form 12-1 to verify the Building Efficiency for scoring purposes.*

Question 63:

If the after school program is offered off-site but is within one quarter of a mile walking distance, do we need to provide evidence that children will be “immediately transported” to the after school program or is the fact that it is within walking distance acceptable?

ADOH Response:

*Section 2.9(K)(2)(f)(3) states “If the After School Program is not held at the school claimed for points above under Section 2.9(K)(2)(c), provide evidence that the participants will be immediately transported to the After School Program... Students may not be required to walk more than one-fourth (1/4) mile to the After School Program from school.” To provide evidence that the applicable distances have been met for scoring, insert an aerial map demonstrating that the School claimed under Section 2.9(K)(2)(c) and the After School Program location are no more than ¼ mile walking*

*distance and an aerial map evidencing that the After School Program is no more than the applicable distance set forth at Section 2.7(C) of the 2018 QAP.*

**Question 64:**

Is the Elizabeth Moreland Consulting, "Housing Credits 245: Site Compliance Specialist" on line training class sufficient to meet the requirements of Developer Compliance Training require under 2.5(c.) of the QAP? It was 5 years ago.

**ADOH Response:**

*Elizabeth Moreland's "Housing Credits 245: Site Compliance Specialist" course meets the requirements of the Compliance Training required for Developers, Co-Developers, and Consultants. The class may be taken live or on-line. Section 2.5(C) requires that the Developer, Co-Developer, or Consultant attend Compliance Training at a minimum of every five (5) years. For example, the certificate of completion must be dated on or after April 2, 2013 to qualify for the 2018 LIHTC Round.*

**Question 65:**

Per the QAP, Section 2.9, K, Tab 11, Service Enriched Location, 2.:

*"Applicant must provide an eight and one-half by eleven (8 ½ x 11) Google Earth aerial map for each of the following Facilities claimed for points, demonstrating that each is located within the applicable straight line distance stated in Section 2.7(C) of this Plan."*

Can you please confirm that subsection 2a. "Existing LIHTC and any other governmental subsidized housing developments within five (5) miles of the Project site. (Applicant should note that this is not a point requirement, but is required to be provided within this Section)." does not need to be on the Google Earth aerial map as it is not a points requirement.

**ADOH Response:**

*The Application must include the Google Earth aerial map for the Existing LIHTC and any other governmental subsidized housing developments within five (5) miles of the Project site as a part of the minimum "Threshold" of information in Tab 11 to advance to the underwriting stage. Please refer to Clarification Questions 23 and 32 for further information regarding aerial maps in the Application.*

**Question 66:**

Just to be clear, is the list of LIHTC posted on the ADOH website, the list of developments that applicants are using to produce the 5 mile radius map? I want to be certain we are submitting the correct map.

**ADOH Response:**

*Section 2.9(K)(2)(a) requires an aerial map of “Existing LIHTC and any other governmental subsidized housing developments within five (5) miles of the Project site.” The list of LIHTC developments posted on the ADOH website does not include all of the other governmental subsidized housing developments, such as those funded with State Housing Trust Fund, HOME (both State and Local Government), CDBG, public housing, etc. The best source to meet this requirement is the Market Analyst performing the Market Demand Study for your Project.*

**Issued February 27, 2018**

**Question 67:**

I need clarification regarding the following language related to the purchase of non-government land from page 51 of the QAP...

"If a purchase contract, or purchase option is submitted, a copy of the agreement must be submitted and the relevant agreement must provide for either a closing date or an initial term lasting until the period ending no less than 180 calendar days after the Application Deadline. If more than one (1) Project is included in the purchase contract, it must include a breakdown of costs associated with each of the Projects."

Does this mean we have to wait 180 days from April 2nd to close? Even if we do not have GAP or other HUD funds? Will ADOH grant a waiver for a quicker close post award of LIHTC to facilitate a transaction?

**ADOH Response:**

*Section 2.9((G)(2)(b)(2) states that the initial term of the agreement must not end prior to the date that is 180 calendar days after the Application Deadline. In other words, the Applicant must have at least 180 calendar days after the Application Deadline to close. Assuming that none of your funding sources require other benchmarks (such as a HUD Authority to Use Grant Funds) to be achieved prior to closing, there are no restrictions on when the Owner may close on the transaction.*

**Question 68:**

We are working on a senior project. To claim the full 15 points for building efficiency one must have an efficiency of at least 75%. The question is, if the building efficiency is 74.6% does this round up to 75% and you would be able to take the 15 points?

**ADOH Response:**

*Section 2.7(D) states “For the points below, ADOH will round up if the percentage is not a whole number and the percentage is at least point five percent (.5%) greater than the whole number (i.e. sixty-nine point five percent (69.5%) will be rounded up to seventy percent (70%)).”*

**Question 69:**

If you claim points under the Occupancy Preferences scoring category as a “Special Populations Project”, are you excluded from obtaining any of the points available under the Service Enriched Location scoring category? It looks like a Special Populations could obtain points in the Service Enriched Location scoring category, but only get 7.5 out of the 15 points. So, instead of my question below, can you just advise, that my calculation of the points available to a Special Populations Project is correct?

ADOH Response:

*Yes, 7.5 points are potentially available for Special Populations Projects under 2018 QAP Section 2.7(C) Service Enriched Location, which provides points for the following facilities, regardless of the Occupancy Preference claimed for points under 2018 QAP Section 2.7(F): Grocery Store and Hospital/Urgent Care Clinic/Federally Qualified Health Center. The other facilities include the restrictions set forth in 2018 QAP Section 2.7(C).*

Question 70:

In TAB 17(2) – Occupancy Preferences (HFOP)

In the above section of the QAP it states that to be eligible for 5 points in this scoring category (HFOP Occupancy Preference) that the applicant must insert BOTH (i)description of the Project’s specific design elements that serve the needs of Older Persons AND (ii)Exhibit N with description of Supportive Services to be offered. It was our understanding that a separate Supportive Services plan/organization was not required for the 5 points and no additional points would be awarded if Supportive Services are included with HFOP. In addition, the Exhibit N states it should be submitted in Tab 16, not Tab 17. Is this an error in the QAP? Is there a benefit of points for providing supportive services with HFOP that is not clearly set out?

ADOH Response:

*Supportive Services are not required for Housing for Older Persons Projects, thus Exhibit N is not required for Housing for Older Persons Projects. It is required at Tab 16 for Permanent Supportive Housing Projects only.*

*All of the points available in the 2018 QAP are clearly set forth in Section 2.7 Project Scoring.*

Question 71:

We are reviewing a project for a 2018 QAP submittal and have found a couple of areas that we need the client to address:

- Mechanical plans do not call out room pressure relief or fresh air ventilation
- Modify wall insulation to cellulose in lieu of batts

The client has committed to addressing these items. We will be noting all of these details on our deliverable for TAB 13/14. However, the client has a question:

Based on ADOH's requirements for application, do we need to address your stated concerns ahead of application submission? Or should they just be taken into consideration before the final plans are issued ahead of construction start?

ADOH Response:

*2018 QAP Section 2.9(N)(1)(a) requires an energy analysis prepared by a Certified RESNET Home Energy Rater. "To verify the projected HERS score at the time of Application, Applicant must provide a certification from a Certified RESNET Home Energy Rater that the Project's schematic design [or for rehabilitation, the existing building condition plus schematic design] has been reviewed and it is possible for the Applicant to achieve the projected HERS Index score." It is not necessary to implement the energy improvements prior to submitting an Application for Tax Credits.*

Question 72:

Exhibit D, Section III(A) states that new construction cannot be located within 100 feet of land with an elevation at or below a designated 100-year floodplain. Would ADOH allow for a parking lot to be located within 100 feet of a 100-year floodplain as long as the elevation of the parking is higher than the floodplain?

ADOH Response:

*For Projects located in a 100-Year Floodplain, the 2018 QAP Section 2.9(G)(3)(a)(ii) sets forth the required documentation that must be submitted with the Application. If the Project is completely outside of the 100-Year Floodplain, but within 100 feet of land that is within the 100-Year Floodplain, the Applicant may submit a waiver request as described in 2018 QAP Section 2.9(A)(5).*

Question 73:

As I understand it, a project competing in the tribal set-aside and the general pool would submit both the "Form 2" and the "Form 2 for Tribal Set-Aside". If that project is awarded in the tribal set-aside, would they be required to fulfill the additional commitments made in the other Form 2 (i.e. smoke free development, building efficiency, etc.)?

ADOH Response:

*Yes. 2018 QAP Section 4.5 states that "Development Team members with Controlling Interest in the Project must deliver a Project as described in the Application for Tax Credits unless ADOH approves a Material Change request in writing."*

Question 74:

Does ADOH allow projects to apply for additional credits if the project received an allocation of credits in a prior year? I see this option mentioned in the Form 3, Tab 1-2 but I don't see it mentioned in the QAP.

ADOH Response:

*The question in Section 2 of Form 3 on Tab 1-2 refers to Projects that are being re-syndicated. The 2018 QAP does not have a provision allowing Applicants to request additional Tax Credits.*

Question 75:

We have a question regarding the accessibility requirements by ADOH for a 4% Low Income Housing Tax Credit Rehabilitation Project.

The property has 5 existing 2-Story 1,2 and 3 BR apartments constructed in 1970. I have reviewed the following documents addressing accessible dwelling units.

1. Mandatory design Standards for Multifamily rental Housing, Exhibit D.
  - Section XI - Rehabilitation Projects: 2nd Paragraph states "All Additions, Alterations or Renovations shall comply with the latest local building code and energy code as well as meeting standards in 24CFR 5.703 and 24CFR 5.705 (Uniform physical Standards)
  - Item K states Upgrade bathrooms and Kitchens per Section IX – New Construction
  - Section IX - New Construction: Specific Construction Features, last paragraph states "For Rehabilitation Projects, the minimum design standards listed in this section shall apply to any part to any part of the building that is modified or replaced where the design specifications can be met." Replaced Finishes and fixtures etc. will comply.
  - Section II Building Code Standards states " All Projects financed and built under the program are to meet or exceed the most recent local building codes and the following development standards.
    - A. Federal Fair Housing Act including the Fair Housing Act Design Manual revised April 1998  
Page 12 of the Design Manual states  
FIRST OCCUPANCY AFTER MARCH 13, 1991

"The fair Housing Act does not require any renovation to existing buildings.

Second Paragraph states

A building is not subject to the design requirements of the Fair Housing Act if:

1. If it was occupied on or before March 13, 1991
2. The last building permit or renewal thereof was issued by the state, county, or local government on or before June 15, 1990.

This project was constructed in 1970. Based on the above, I don't see anything in Exhibit D that would require modifying dwelling units to comply with Fair Housing.

A Property Condition Report has been prepared recommending specific repairs and replacement items and states “the property is not required to comply with the provisions for new construction buildings under the FHAA.”

Is there another ADOH exhibit or regulation that addresses specific requirements to renovate existing dwelling units for adaptability or accessibility?

ADOH Response:

*ADOH requires the submission of an Architect’s Certificate and Fair Housing Checklist that are certified by the architect when the Project is placed in service. (These are ADOH documents that are available on-line.) 2018 QAP Section 8(J)(6) states that Project Owners must “[c]omply with the program requirements relating to the source of any funding to the Project and the Fair Housing Act (42 U.S.C. § 3601 et seq.), the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794).” Applicants are responsible for determining which requirements apply to the sources of funding in their capital stack. For example, HUD has requirements, which may be accessed through their [Accessibility Requirements for Buildings](#) webpage. ADOH encourages accessibility and expects that Applicants will make spaces accessible where they are being substantially rehabilitated. Local Government may also require accessibility through its codes and ordinances.*

Question 76:

If an Applicant checks one of the energy efficiency program boxes on Form 12, will they be required to implement that program?

ADOH Response:

*Yes. Form 12 is a certification that the Project will be designed to meet the standards selected on the form.*

Question 77:

Regarding the answer to Question 60, if a covered ground level patio does not qualify as a “balcony,” then does it mean it cannot be included in Residential Floor Area calculation? If that is the case, then what should it be categorized as on Form 12-1? Covered patios will be included in Construction Gross Area based on the BOMA method of measurement. To clarify, the patios in question are for the private use of the residents of the unit to which the patio is attached.

ADOH Response:

*ADOH clarified in Question 60 that a private outdoor space on the ground floor is not a “balcony” and it is not included in the definition of Residential Floor Area in the 2018 QAP. A private outdoor*

*space on the ground floor that is included in the Construction Gross Area should be included under "Other" space, directly below "Inside walls."*

**Question 78:**

The defined term "Total Project Square Footage," includes the area for "Stairs" and "Elevator." Please confirm that the calculation for the area of "Stairs" and "Elevator" in a three-story building is determined by using the area of the full footprint on the first floor only.

**ADOH Response:**

*The Total Project Square Footage, also called the Construction Gross area is the total of all the horizontal floor areas (as viewed on a floor plan) of all floors of a building contained within their building perimeters. Thus the footprint for the stairs and elevator on each floor are included in the circulation space for the building.*

**Question 78:**

Regarding Form 8: We need clarification on #3 The Project does not require any further zoning or use permit approvals prior to construction.

If the project were to need a variance prior to construction, would we still be able to meet #3 requirement at time of application. Can you please clarify what #3 means?

**ADOH Response:**

*The third statement on Form 8 is a certification that the "Project does not require any further zoning or use permit approvals prior to construction." Section 2.9(H) of the 2018 QAP further sets forth "If the Project requires additional zoning or use permit approvals, the Project shall be deemed to not meet the zoning mandated in this Section 2.9(H) that is a prerequisite as of the Application Deadline." A variance is a request to allow a deviation from a development standard required by the Zoning Ordinance of a jurisdiction, thus any variances that are required would need to be in place prior to the Application Deadline.*

**Question 79:**

In regards to Form 6-3, will the principals of the Developer need to submit a schedule of real estate owned? We are debating whether or not this form requires a schedule of real estate owned by the Developer and any of its subsidiaries or if it requires the principals of the developer to submit a personal schedule of real estate owned.

**ADOH Response:**

*Form 6-3 needs to be completed with “all real estate that is owned by the Developer (and Co-Developer, where applicable) or for entities in which the Developer (and Co-Developer, where applicable) have a Controlling Interest, regardless of location and whether or not the real estate is Affordable Housing.” Controlling Interest means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the means of ownership, position, contract or otherwise.*

*In most cases, the schedule will be of real estate owned by the Developer and its affiliated entities. In cases where the Developer claims that it does not own any real estate and only the principal(s) are owners, the schedule will be of the real estate for which the principal(s) of the Developer are listed as authorized persons to direct or cause the direction of the management and policies of a Person, whether through the means of ownership, position, contract or otherwise. It does not need to include the personal residence of the principal.*

*All of the Projects claimed on Form 6-1 should be included on Form 6-3 unless they were sold by the entity listed on Form 6-1 to a third party.*

**Question 80:**

In regards to experience points under 2.7(A), will ADOH accept projects placed in service that have not received an 8609 prior to the application deadline for experience points?

**ADOH Response:**

*Form 6-1 asks for the date of the LIHTC allocation and the date the project is placed in service. It does not request the date the Project received 8609s.*

**Question 81:**

Section 2.9(F)(2)(c) of the 2018 QAP states that the “Person listed with the experience must be the Developer or Co-Developer to obtain Development Experience points in Section 2.7(A).”

In regards to Form 6-1, the majority owner of the proposed Developer has LIHTC experience with other entities in which he was or is also an owner.

1. Can the Developer claim an owner's former/other current company's projects as LIHTC experience and have them count towards 2.7(A) experience points?

**ADOH Response:**

*ADOH does not pre-score Applications. Tab 6, Section 2.9(F) of the 2018 QAP outlines items which will be evaluated to determine eligibility for the Developer Experience points. Section 2.9(F) et seq. provides guidance for the evaluation of both the Developer and the Development Team. It states:*

*“The Applicant must demonstrate that the Development Team possesses the experience and financial capacity necessary to undertake and complete the Project, and that the Developer and/or Co-Developer, as applicable, have developed Projects of comparable size, financial complexity and whether or not the Development Team has experience with Affordable Housing programs.”*

*Projects claimed for points must have been completed by the Developer entity that is claiming the points. Developers who are creating a new affiliate entity for purposes of performing development services in a specific market (Entity B) are permitted to list the development entity with the requisite experience as the Developer (Entity A), and list Entity B as Co-Developer until such time as Entity B gains the necessary experience and financial strength to compete on its own.*

**Question 82:**

Section 2.9(F)(2)(c) of the 2018 QAP states that the “Person listed with the experience must be the Developer or Co-Developer to obtain Development Experience points in Section 2.7(A).”

In regards to Form 6-1, the majority owner of the proposed Developer has LIHTC experience with other entities in which he was or is also an owner.

2. Would that force us to name him personally as the Developer instead of an LLC?

**ADOH Response:**

*ADOH does not pre-score Applications. Tab 6, Section 2.9(F) of the 2018 QAP outlines items which will be evaluated to determine eligibility for the Developer Experience points. Section 2.9(F) et seq. provides guidance for the evaluation of both the Developer and the Development Team.*

**Question 83:**

Section 2.9(F)(2)(c) of the 2018 QAP states that the “Person listed with the experience must be the Developer or Co-Developer to obtain Development Experience points in Section 2.7(A).”

In regards to Form 6-1, the majority owner of the proposed Developer has LIHTC experience with other entities in which he was or is also an owner.

3. If so, would that require him to be named as the Principal Contact on Form 3?

**ADOH Response:**

*Section 2.9(F)(2)(c) of the 2018 QAP states “If a Person identified on Form 6-1 is an individual, that individual must be the principal contact for the Project and be personally overseeing and actively involved in all aspects of the development of the Project through 8609.”*

**Question 84:**

If we have purchased a property 5 years ago that is above the appraised raw land value, would we be able to claim the appraised raw land value in the application and do a seller carry for the difference between the purchase price and appraised value? (example: We purchased the property for \$2M and the appraisal came back at \$1.5M, can we have a carry back of \$500K?)

ADOH Response:

*2018 QAP Section 7.1(C)(4)(a) limits the acquisition cost in the Development budget is limited to the lowest of: the original purchase price with documented extension fees, the "As-Is" Market Value in the appraisal submitted with the application, and the "As-Is" Market Value in the construction lender's appraisal submitted prior to equity closing. As the acquisition cost is limited in the Development Budget, a seller carryback loan for the seller's loss in value is not permitted.*

Question 85:

Is there a limit on how much a lease payment can be if over the compliance period the payments are over the appraised value?

ADOH Response:

*Section 7.1(C)(4)(a)(ii) does not permit an upfront capitalized payment of a land lease to be included in the Development Budget. ADOH will review any proposed lease payment for reasonableness based upon comparable land leases in the market area. Section 7.1(C)(2)(a) states that Lease payments for land are an Operating Expense and are not permitted to be included in the Development Budget. ADOH reserves the right to order a third party valuation of the lease payment at the Applicant's expense.*

**Issued March 1, 2018**

Question 86:

How would ADOH like us to describe and present a mix-use development in the application with multiple uses (residential, commercial, retail, and office spaces) and multiple financing components, as ADOH will only be financing the portion of the development? What financing commitments would you need for the non-residential portions of the development?

ADOH Response:

*Assuming that the Project is a new construction mixed-use development on a single parcel of land or a single plat, Applicants must submit one Application that includes both the residential and commercial components of the Project. (Commercial means the non-basis eligible improvements.) The following list provides some examples of the documentation that ADOH will need in order to underwrite the Project. It is not all inclusive, and other documentation may be required. The*

*Applicant should endeavor to provide as much detail as possible to evidence the feasibility of the Project as of the Application Deadline. At a minimum, provide the following additional information:*

- A complete description of the entire Project with both residential and commercial components, including the ownership structure of each component, and how the components financially function as a cohesive Project;*
- A Development Budget and operating pro-forma that breaks out all sources and uses for both the residential and commercial components;*
- Evidence of financial ability to proceed for both the residential and commercial components in the format set forth in Section 2.9(I);*
- Documentation of both residential and commercial components as set forth in Section 2.9(L) property design standards, drawings and plans. In addition to the Form 12-1, a separate detailed schedule breaking out the square footage each portion of the residential and commercial components by use. The parking and all other common area required for the residential component, which is basis eligible, shall be clearly identified.*

**Question 87:**

[For a mixed-use development,] [h]ow would ADOH like us to calculate the efficiency points for scoring purposes? We are currently calculating the efficiency portions that are used solely for the residential portion of the development.

**ADOH Response:**

*2018 QAP Section 2.7(D) states “Up to fifteen (15) points will be awarded to Projects that demonstrate the percentage of the building dedicated to residential Units calculated as follows: the Residential Floor Area divided by the Total Project Square Footage.”*

*The Total Project Square Footage definition in the QAP states “[n]ot included within the building perimeter are the following: commercial space...” As stated in response to Question 86, commercial means non-basis eligible improvements. Please note that Form 12-1 Architect’s Certificate of Building Efficiency states that the “ratio between the Total Residential Floor Area and the Total Project Square Footage will remain within the ratio range to maintain the Project’s score. Projects which fail to meet the building efficiency ratio based upon the square footages certified [in the Form 12-1] will lose the Building Efficiency points awarded, which will cause the tax credits to be revoked if the resulting score would not have received an award.” ADOH will assess the building efficiency again at each underwriting.*

**Question 88:**

Does a project with 50%/50% co-developers at a \$2MM credit request count toward each developer as \$2MM against the \$3MM cap?

ADOH Response:

*2018 QAP Section 2.2 sets forth the amount of Tax Credits that may be awarded to a Developer. It states “no more than a total of \$3,000,000 total in Tax Credits” may be awarded to a Developer.” It further states “For 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 the entire \$2MM in your example would be counted towards the \$3MM cap per Developer for each Co-Developer of the Project.*

Question 89:

If a developer has two projects funded but the total request is above the \$3MM per developer cap, can that developer choose which of the two projects gets an award?

ADOH Response:

*No. ADOH awards Applications that meet all eligibility, threshold and underwriting requirement in the order stipulated by the 2018 QAP for all Projects submitted in the Round.*

Question 90:

Looking at form 2-1 (set-aside) I’m confused by the last sentence for the State Special Project Set-Aside. Do we have to meet **ALL** of the following criteria or just select the applicable criteria (from the list below)?

- |   |
|---|
| <p><input type="checkbox"/> <b>State Special Project Set-Aside:</b> To qualify for this set-aside, Applicant must indicate a request for consideration in the cover letter, meet all general and special goals, threshold and underwriting requirements of the QAP, score at least 60, and provide evidence that the project meets the following criteria (<i>select all that apply and explain them in the cover letter</i>):</p> <ul style="list-style-type: none"><li><input type="checkbox"/> <i>Project has received a CHAP or Choice Neighborhoods Implementation Grant.</i></li><li><input type="checkbox"/> <i>Project is located in a QCT and it contributes to a concerted community revitalization plan.</i></li><li><input type="checkbox"/> <i>Project leverages other funds to maximize outcomes.</i></li><li><input type="checkbox"/> <i>Project provides housing and services to an underserved population.</i></li><li><input type="checkbox"/> <i>Project provides housing and services which are unique to the area.</i></li><li><input type="checkbox"/> <i>Public housing wait lists indicate a need for the type of units proposed.</i></li></ul> |
|---|

ADOH Response:

*Form 2-1 states “select all that apply and explain them in the cover letter.” 2018 Section 2.6 describes how ADOH will apply the criteria to the selection of the State Special Project.*

**Issued March 7, 2018**

Question 91:

Section 2.9(F)2(h) requires developers to submit two full calendar years of financial statements. Will the financial statements submitted in the application be subject to public records request or any kind of public exposure?

ADOH Response:

*It has been the practice of the Department not to produce an applicant's financial statements sought in a public records request because production of those records may cause a chilling effect on the competitive process – recall that competition is in the state's best interest – and because of the apparent private or proprietary nature of the information.*

*However, there is no certainty that the records would remain undisclosed, particularly where such nondisclosure is challenged and a court determines otherwise. Upon notification by the Department, it is incumbent upon the party whose records are sought to take action to defend the confidentiality or privacy of such records, and their use for competitive purposes.*

Question 92:

We are working with a developer that has two types of financial statements: one for all of their federal programs and one for the entire entity. In regards to the requirements under Section 2.9(F)2(h), would ADOH accept the financial statements for federal programs as long as they meet the definition of “financial statements” in the QAP and show that the developer has financial capacity and solvency?

ADOH Response:

*ADOH will require the Financial Statements of the Person that is the Developer. 2018 QAP Section 2.9(F)(2)(h) states “Developers must have the financial capacity to successfully complete and operate the proposed Project. Applicant must include evidence of financial capacity and solvency in the form of Financial Statements of the Developer for the prior two (2) full calendar years.” Therefore, the entity or party who is the Developer must demonstrate its capacity through its complete and full Financial Statements.*

Question 93:

Would ADOH be willing to sign a non-disclosure agreement similar to the attached template?

ADOH Response:

*No. Please see the ADOH Response to Question 91 for further information.*