

HCR Multifamily Finance 9% RFP – Winter 2022

Questions and Answers #3

Application:

Q1: Do the following document need to be dated within a specific period of time before the application deadline:

- **Zoning Certifications;**
- **Public Housing Linkage Agreement;**
- **Agency Referral Agreement; and,**
- **PILOT?**

A: Zoning certifications depend on the local approval process and when the approvals have occurred/will occur. The Public Housing Linkage Agreement and Agency Referral Agreement should be dated within the past 4 months and should be updated from the previous funding round. The PILOT documentation should be dated within a year of the application submission date.

Q2: Exhibit A-5 references a Non Profit Set-Aside for 9% LIHTC, but this Set-Aside is not listed as one of the Set-Asides in the 9% LIHTC RFP. Where is the guidance on how to qualify for the 9% LIHTC Non Profit Set-Aside?

A: The funding set-asides set forth in the RFP are specific to New York State. The qualified nonprofit organization set-aside, which pertains to annual State housing credit ceiling allocations, is a federal mandate set forth in Section 42(h)(5) of the Internal Revenue Code (“Code”). The specific nature of material participation in a project by a qualified nonprofit organization necessary to qualify under the set-aside is established in this section of the Code, as well as Section 469(h) of the Code. HCR will make the final determination of whether the funded project meets the material participation standard pursuant to the Code and memorialize the project’s participation in this set-aside in the project’s reservation letter, LIHTC Regulatory Agreement and IRS Form 8609.

Q3: Do consents need to be included for each principal of the developer, owner, general contractor, etc. or does the individual principal consent requirement only refer to the applicant?

A: Consents need to be provided for the principals of each of the entities listed in the instructions, i.e., applicant, developer, owner(s), general contractor, architect, management agent and development consultant.

Q4: We received an ESSHI award extension that will expire in June 2022. It is unlikely that the project will be awarded capital funding and close in that timeframe. The project can apply to round 7 ESSHI funds to re-obtain an ESSHI award. How will HCR view this in the 9% application?

A: Applicants must provide evidence of a conditional ESSHI award, or an extension to a conditional ESSHI award, at the time of application. If funded, HCR will confer with ESSHI Interagency Workgroup to determine whether a condition of award requiring an additional extension or successful reapplication to the next ESSHI RFP is appropriate.

Q5: Does Federal Housing Trust Fund Program require prevailing wages for construction? If so, are prevailing wages triggered by a certain number of units?

A: Please refer to the Winter 2022 Multifamily 9% LIHTC RFP Presentation at: <https://hcr.ny.gov/multifamily>.

Q6: On Exhibit G-3, Column I requests the tenant paid portion of gross rent. Is this amount the utility allowance plus the monthly payment the tenant makes or just the tenant payment?

A: Column F (monthly basic rent) + Column G (tenant paid utilities) = Column H (gross rent). Column I asks for the tenant paid portion of gross rent (Column F monthly basic rent + Column G tenant paid utilities). In situations where there is no rental subsidy, Column I and H will be the same.

Q7: Is an updated letter required for Exhibit D-7, Visitable, Accessible and Fully Adapted Units?

A: Yes, an updated letter is required.

Q8: Is the RFP statement regarding OPWDD Coordination applicable to Special Needs scoring criteria, Integrated Supportive Housing Projects State Housing Goal and/or the Supportive Housing Opportunity Program?

A: Projects proposing a preference in tenant selection for individuals with intellectual and/or developmental disabilities will only be considered if the project either (1) has an ESSHI conditional award letter and does not require OPWDD capital or (2) a current letter of support from OPWDD issued after April 1, 2021. This allows OPWDD to evaluate the proposed referral, services plan and source of funding from a services perspective.

Q9: Application site control requirements state the following:

- **Exhibit I-3 (Threshold Review Checklist) requires: *Evidence of site control is valid through the proposed construction financing closing date. (B-4, B-5)***
- **Attachment B-4 (Evidence of Site Control) requires: *A signed option to purchase between the applicant and the property owner which is renewable or contains a term which continues the option to purchase for at least six months beyond the date of the funding round application deadline.***

Which standard should applicants be following?

A: Applicants must include an acceptable form of site control per the application or CPM for at least 6 months beyond the date of the funding round submission deadline or the proposed construction financing closing date, whichever is later.

Q10: How should Exhibit B-6 be addressed where the project doesn't meet the supportive housing threshold, but there will be rental assistance for the special needs units? It says a Special Needs Plan needs to be provided only if there will not be rental subsidies for those units.

A: The project would be considered a Special Needs project and would need to include a “Plan for Serving Tenants who are Persons with Special Needs”.

Underwriting:

Q1: What is the HUD safe harbor calculation for developer fee – 12% of TDC less reserves and fee?

A: For the purpose of determining the max allowable developer fee, HCR calculates it as follows: 10% of the Acquisition Costs and 12% of the Site Prep; Contractor’s Cost, General Conditions; Builder’s Overhead; Builder’s Profit; Performance Bond Premium; Soft Costs; Lender Fees & Interest; Legal Fees. Hard and soft cost contingency are excluded in the max developer fee calculation as are initial operating deficit, supplemental management fee, marketing and maintenance/equipment expenses. See Section 5.08.03 of the CPM for more information.

Q2: HUD has issued 2022 FMR’s for certain areas. Should the 2021 or 2022 FMR’s be used for the Winter 2022 submission?

A: HCR will apply the current HUD FMRs in determining the maximum allowable PBV rents.

Q3: Will HCR allow an HCR HOME assisted unit to be underwritten at the current payment standard rent for the voucher administering agency?

A: Yes.

Q4: Does HCR accept a restricted appraisal report?

A: Restricted appraisals are not acceptable. We require a full appraisal, which is certified for use by HCR.

Q5: In an all-electric project where the owner will pay for water and the tenant will pay for electricity, please clarify whether the “Hot water” box should be checked in Exhibit B-3 as a service included in the rent, as there is no other option to indicate that the owner will pay for water. In the Residential Tenant-Paid Utilities section, the boxes for electricity and heat are checked, water is not checked.

A: Hot water is defined as the utility cost (gas or electric) associated with heating the water – it is not the actual water usage. The proposed project appears to be using electric to heat the water and the tenants pay for electricity, so hot water should not be shown as being included in rent. Likewise, the proposed project should not show water as being paid by tenants since water usage is covered by the owner.

Design:

Q1: Is Exhibit D-2 required to be completed for preservation deals? The proposed project will not have any changes to the original floor plan. Is it necessary to provide the original plans of a preservation deal as part of the application?

A: D-2 should be completed so that HCR can understand the existing square footage of the project based on the HCR standards for calculating them. The applicant will not be held to the max. and min. dwelling unit area or common space requirements if the square footage of these existing spaces is not being modified.

The submission should show the existing conditions prior to renovation. Whether that is achieved by including existing plans or demolition plans, that is at the discretion of the architect. Either way, the full scope of work should be clearly conveyed in the preliminary drawings.

Q2: If a project will be meeting a passive house design and as a result will globally be providing a certain level of air conditioning in the summer throughout the building to maintain a constant temperature and a tenant will be able to lower the temperature further in their unit through their own thermostat, through submetering can the tenant be charged for the electricity used in the difference between the building-wide temperature and the lower temperature that they set in their unit or would a utility allowance be required or neither?

A: Tenants can be direct metered for cooling in a heat pump system by installing two connections to metering devices in the unit, where the tenant pays for cooling and possibly other in unit electric appliances such as refrigerators, lights, and plug load, but the heating is paid for by the owner and wired to the house meter. The switch can be made at the end of heating season each year, thus having the tenant pay for their additional cooling but leaving the heating paid for by the owner. The applicant must clearly explain and document the utility set up and associated expenses so HCR can determine what the owner is paying and what the tenants are paying.