

Glossary

Appraisal: The formulation and support of an opinion of value. Appraisals are usually required when real estate is sold, financed, condemned, taxed, insured, or partitioned. An appraisal is an estimate of value, and not a determination. The three major approaches to formulating appraisals are listed below:

- a) The Market Data Approach: The current sales prices of similar properties are compared and analyzed after necessary adjustments are made for any differences in the properties. This approach is used most frequently in evaluating residences, and is also called the "direct sales comparison approach."
- b) The Cost Approach: This approach involves an estimation of the value of the land (usually determined by the market data approach), plus the cost of replacement of any improvements to the land, minus depreciation. This approach is used primarily to estimate the value of service-type properties, such as churches and post offices.
- c) The Income Approach: This approach, frequently used to determine the value of income-producing properties such as apartment buildings, involves an estimation of value based on the capitalization of income and productivity. Often called the "income approach to value," it appraises the current worth of a property's future benefits.

Where applicable, an appraisal reconciles information from all three approaches. The three appraisal methods serve as checks on one another to evaluate a property. In determining the weight to be given to each approach, consideration is given to such factors as the type of property involved, the appraisal's purpose, and the adequacy of the compiled data.

Bid Document Review: A review of the final plans, specifications, and any addenda submitted prior to bidding the project. Bid documents are reviewed to ensure that: the applicant complies with conditions and scope of work included in the Funding Commitment and the documents comply with all relevant HCR design and development requirements.

Builder: A contractor, construction manager as constructor, or other entity recognized by HCR that is responsible to perform the work under the contract for construction and assumes the risk for the construction. Builders are to be responsible to ensure the completion of the project in accordance with all applicable provisions and are subject to the requirements indicated in the Capital Programs Manual.

Construction documents: As defined by the AIA; "drawings and specifications prepared by the architect setting forth the requirements for the construction of the project."¹

Construction manager as constructor: In accordance with standard AIA contract relationships; an entity that serves as an advisor to the owner during the design phase of a project, including cost estimating and constructability reviews, and as a construction contractor during the construction phase. Construction managers as constructors shall complete the work in accordance with the

¹ Hayes, R.L. (ed.) *The Architect's Handbook of Professional Practice, Fifteenth Edition*. Hoboken: John Wiley & Sons, 2014. Print.

construction documents and assume the risk for construction. In this capacity, the construction manager as contractor takes on the role of the “Builder” in accordance with the above definition.

Contingency:

Hard Cost Contingency Budget Line: The hard cost contingency budget line shall be for funds set aside for unforeseen circumstances occurring after a final development budget is established at the time of the construction loan closing. Hard cost contingency funds may only be expended to complete the project scope represented in the application for funding or agreed to at the time of the construction loan closing. Hard cost contingency funds shall not be used to otherwise expand the project beyond the project scope agreed to by the agency, unless approved in writing by HCR. Use of the hard cost contingency for changes to the construction work must conform to the applicable change order process in the CPM. HCR reserves the right to use hard cost contingency funds remaining at the time of the permanent loan closing to reduce funding to the project from any of the sources administered by HCR by an equivalent amount.

Soft Cost Contingency Budget Line: The soft cost contingency budget line shall be for funds set aside for unforeseen increases in project soft costs after the construction loan closing. HCR reserves the right to use soft cost contingency funds remaining at the time of the permanent loan closing to reduce funding to the project from any of the sources administered by HCR by an equivalent amount.

Contractor: (Also known as "Builder" or "General Contractor") A person or corporation who contracts with an owner or developer to supply labor and materials for a specific project. As defined by the American Institute of Architects (AIA); “one who enters in to a contract.....responsible for performing the work under the contract for construction.” Contractors shall complete the work in accordance with the construction documents and assume the risk for construction².

Dwelling Unit: A private, self-contained group of rooms rented or owned by an individual(s) for independent living. Each dwelling unit shall contain kitchen facilities for food preparation, full bathroom/sanitary facility(ies), living space, dining space, sleeping space(s), and associated closet/storage spaces.

Elderly: A person 55 years of age or older as defined by the New York State Human Rights Law, Section 296 of the Executive Law.

Elderly Project: A project which excludes non-elderly persons based on age and as prescribed by the federal Fair Housing Act and the New York State Human Rights Law, Section 296 of the Executive Law.

Equity and Regulatory Agreement: (HTF Program term) A document which establishes the regulation of the operation of the project, pursuant to Article 18 of the PHFL, the regulations and the policies and procedures of the Corporation. The Agreement also establishes the permissible return on equity, if any.

² Hayes, R.L. (ed.) *The Architect's Handbook of Professional Practice, Fifteenth Edition*. Hoboken: John Wiley & Sons, 2014. Print.

Family Project: A project containing a majority of dwelling accommodations for families of three or more persons.

Firm Commitment: A lender's irrevocable agreement to loan a specific sum of money at a specified interest rate for a definite term, subject to certain conditions.

Frail Elderly: Persons age 55 or older who require assistance with one or more activities of daily living or instrumental activities of daily living. Also persons age 55 or older who have limitations in mental capacity or emotional strength and motivation that affect their capacity to viably live independently; that is without assistance or intervention.

Funding Commitment: A letter sent by HCR that identifies all conditions to be met prior to Contract Closing and sets forth the amount of the payment, grant, or loan which will be provided for the project by HCR. Funding Commitments may be amended to adjust the funding amount based on the HCR approved Development Budget at the time of Contract Closing.

General Conditions: Services and obligations of the builder necessary to administer and facilitate the contract for construction. These services and obligations do not directly contribute to and are not specific to any scope of work required for the actual construction of the project³. Where differences in terminology occur, the following examples of General Conditions supersedes that indicated in the Design Handbook. However, this list does not alter the responsibilities and obligations of the Builder, or other project member, from that indicated in the Design Handbook. Examples of services and obligations categorized under General Conditions:

- Site administrative tasks:
 - Oversight of the various building trades, including conducting coordination meetings and inspections necessary to ensure these trades properly and safely perform and complete their particular scopes of work.
 - Establishing safety procedures and protocols and providing equipment necessary to ensure the work complies with governmental regulations for standard construction, including OSHA, NYDOL, other jurisdictional authorities, and industry practices for the protection of workers, other personnel on site and the general public at large.
 - Scheduling, reporting and tracking of the work including the cost of on-site labor and site specific administrative tools, such as computer software used solely for the subject project but not for the builder's business administration tasks.
 - Securing government approvals necessary for the completion or occupancy of the project.
 - Processing and reviewing various product information for compliance with the contract documents and subsequently processing those items requested by the architect, or owner for their approval.
 - Project closeout, including overseeing completion of punch lists, final cleaning, completing record documentation, including as-built drawings, other record documents, warranties, operation manuals, etc.

- Permits/Signage:

³ Hayes, R.L. (ed.) *The Architect's Handbook of Professional Practice, Fifteenth Edition*. Hoboken: John Wiley & Sons, 2014. Print.

- Building permit and other miscellaneous permits that may be required by the jurisdiction or other governmental authority.
 - Temporary project signage required by funding agencies, or other authorities.
- Site office (usually a job trailer):
 - Includes telephone, internet, electrical utilities.
 - Does not include temporary electricity, etc. required for the project construction.
- Labor, etc.:
 - Site Superintendent to supervise the work.
 - May be more than one person on large projects.
 - Common laborers.
 - To carry out general labor tasks necessary to supply the site with materials, for daily clean-up, and other miscellaneous tasks to support the construction activities.
 - Labor, services and materials to correct non-conforming work.
 - Post completion warranty period obligations.
- Facilities necessary to secure the site during construction:
 - Temporary perimeter fencing and barricades.
 - Basic security measures, such as locked access points and perimeter security cameras.
 - Fire protection.
 - Pest control during construction for common pests and infestations.
- General facilities for the workers:
 - First aid facilities.
 - Sanitary facilities.
- Field measurements:
 - Site layout to locate the building, site improvements and utilities.
- Site clean-up and maintenance:
 - Standard trash disposal fees.
 - Does not include specialized trash and recycling services such as those for green building programs.
 - Dust control.
 - Basic facilities required by governing authorities, such as truck wheel washing stations for standard soils, not for specialized containment of contaminated soils.
 - Rudimentary erosion and sedimentary controls, not heightened measures mandated by a regulatory authority.
- Costs not recognized as General Conditions:
 - Builder's Office Overhead Expenses.
 - Examples:
 - Project managers assigned to multiple projects.
 - Percentages of central office bills, utilities, staff, etc. pro-rated to the subject project.
 - Software used to manage and track multiple projects.

- Tools and equipment necessary to build the project.
- Services and facilities necessary for the work trades to perform their particular scope(s) of work.
- Construction bonds and insurance.
- See corresponding General Requirements list.

General Contractor: A contractor who does not personally do all construction work on a project, but requires the use of other specialty contractors, such as electrical or plumbing contractors, whose work the general contractor superintends. The general contractor takes on the role of the “Builder” in accordance with the above definition.

General Requirements: Costs of tools, services and equipment that directly contribute to a specific scope of work necessary to construction the project that are provided by the Builder and not included in a subcontract⁴. Where differences in terminology occur, the following examples of General Requirements supersedes that indicated in the Design Handbook. However, this list does not alter the responsibilities and obligations of the Builder, or other project member, from that indicated in the Design Handbook. Examples of tools, services and equipment categorized under General Requirements:

- Special services and obligations:
 - Specified inspections and testing performed by the builder.
 - Site safety plans and other enhanced safety measures, training and reporting required by the local jurisdiction when they exceed OSHA and NYDOL requirements for standard construction.
 - Commissioning (testing of mechanical or other systems).
 - Construction waste management associated with specialized trash and recycling programs, such as those for green building programs (not for standard construction trash removal).
 - Field engineering for special situations (e.g. engineering the underpinning of an existing structure).
 - Sustainable (green) building practices, procedures, and certifications.
 - Construction bonds and insurance.
- Temporary utilities, facilities, etc.: (those required for specific scopes of work and not associated with the site office, or basic safety or security obligations)
 - Temporary access roads and parking.
 - Temporary electric.
 - Temporary heating/cooling.
 - Temporary lighting.
 - Temporary protective walkways (e.g. where work blocks or endangers pedestrian sidewalks).
 - Temporary ventilation.

⁴ Hayes, R.L. (ed.) *The Architect's Handbook of Professional Practice, Fifteenth Edition*. Hoboken: John Wiley & Sons, 2014. Print

- Temporary water.
 - Construction platforms.
 - Dewatering for foundation systems.
 - Site shoring and existing building protection.
 - Staging areas (storage areas for materials and equipment).
- Equipment and tools:
 - Cranes.
 - Equipment mobilization (moving large equipment, necessary to construct the project, to the site).
 - Equipment rentals (large and small equipment and tools).
 - Generators.
 - Hazardous materials protection, equipment, containment and safety measures.
 - Personal protective equipment (e.g. hardhats, gloves, eye protection).
 - Safety nets.
 - Scaffolding.
 - Temporary elevators/hoists.
 - Costs not recognized as General Requirements:
 - General Conditions:
 - See corresponding General Conditions list.
 - Builder's Office Overhead Expenses.
 - Examples:
 - Project managers assigned to multiple projects.
 - Percentages of central office bills, utilities, staff, etc. pro-rated to the subject project.
 - Software used to manage and track multiple projects.

Grant Conditions Compliance Enforcement Mortgage: A document which secures the performance of the project recipient under the Construction Loan Agreement and the Equity and Regulatory Agreement by the placement of a mortgage on the project site in the amount of the grant.

Homesteading Project: a) A one-to-four unit dwelling, of which one unit is occupied by the property's owner as a primary residence (HTF Program); or, b) housing that is owned and made available by a public agency at favorable terms to low- or moderate-income homeowners.

Housing Trust Fund-funded non-residential Community Service Facility (HTF CSF): A HTF CSF is a non-residential facility within a HTF-eligible project which provides services to the low-income residents of the neighborhood/area in which the project is located. Up to 10 percent of the HTF award amount may be used to finance costs associated with the development of the HTF CSF.

Identity of Interest: A condition which exists when:

- a) there is any financial interest of the developer or owner in the general contractor, subcontractor, architect, or consultant which receives compensation in regards to the project;
- b) one or more of the officers, directors or stockholders of the developer or owner is also an officer, director, or stockholder of the general contractor, subcontractor, architect or consultant;
- c) any officer, director or stockholder of the developer or owner has any financial interest whatsoever in the general contractor, subcontractor, architect or consultant;
- d) the general contractor, subcontractor, architect or consultant advances any funds to the developer or owner;
- e) the general contractor, subcontractor, architect or consultant provides and pays, on behalf of the developer or owner, the cost of any architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by a general contractor in connection with his/her obligations under the construction contract;
- f) the general contractor, subcontractor, architect or consultant takes stock or any interest in the developer or owner corporation, or partnership as part of the consideration to be paid it;
- g) any relationship (e.g., family) exists which would give the developer or owner or general contractor control or influence over the price of the contract or the price paid to the subcontractor, material supplier or lessor of equipment; or
- h) there exist (or come into being) any side deals, agreements, contracts or undertakings entered into or contemplated, thereby altering, amending, or cancelling any of the required closing documents, except as approved by HCR.

Inspection(s): In the context of the term “inspection(s)” referenced in this document for actions by HCR personnel or their agents, personal visits and site observations of the subject matter. “Inspection(s)” when referring to HCR personnel or their agents, shall not be deemed as observations, testing, or other actions normally undertaken by authorities having regulatory jurisdiction.

Outcome Letters: A letter which is sent to applicants after HCR’s review of a 9% RFP application, and which notifies the applicant has achieved one of the following statuses:

- 1) Application Review Letters – sent to unsuccessful applicants regardless of which program(s) funds were requested from.
- 2) Application Disqualification Letters – sent to unsuccessful applicants whose submissions did not pass Threshold or Eligibility reviews.
- 3) Award Letters – sent to all successful 9% RFP applicants. This letter notifies the applicant that the project has been selected for funding, and sets forth the number of units and award amount(s). The Award Letter is a preliminary notification, and is issued prior to the binding 9% LIHTC/SLIHC Reservation and/or Funding Commitment Letters.

Operating Reserve: A fund into which monies are set aside at the time of initial occupancy and each month thereafter for unanticipated operation and maintenance costs.

Person with Special Needs: Means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.

(a) Physical or mental impairment includes:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(b) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) Is regarded as having an impairment means:

(1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.

In addition, HCR and the Housing Trust Fund may designate specific classifications of persons who have experienced significant impediments to securing safe, decent, appropriate affordable housing as Persons with Special Needs. Such classifications can include, but may not be limited to domestic violence victims, homeless individuals or families, youth aging out of foster care and Veterans with any of the previously listed Special Needs.

PHFL: Private Housing Finance Law.

Pre-Construction Meeting: A meeting held after the Contract Closing, but prior to the start of construction, with all project participants in attendance to discuss the proposed work, set forth all program regulations, procedures and requirements, and delineate the roles and responsibilities of each project participant.

Predevelopment Costs Agreement: (HTF Program term) A document which sets forth the terms for partial disbursement of a Housing Trust Fund award for costs associated with the predevelopment stage of a project. If a project proceeds to construction, this agreement will be superseded by the Construction Loan Agreement.

Project Development Meeting: A meeting held, after a successful project applicant signs and returns its Funding Commitment letter, between the project team and OF&D staff to discuss the following project-related topics: roles of OF&D staff, program and development requirements, required documents, coordination with other agencies, timetables, fee arrangements, and any issues raised by the Funding Commitment letter or as a result of HCR's review of the project.

Replacement Reserve: The amount set aside at the time of initial occupancy, or each month thereafter, for the future replacement of items including, but not limited to, flooring, plumbing systems, heating systems, security systems, electrical systems, roofs, and window and door units, as approved by HCR.

Section 42 9% LIHTC eligible Community Service Facility (Section 42 9% LIHTC eligible CSF): A non-residential facility within a residential project located in a HUD-designated Qualified Census Tract (QCT) designed to offer and provide services to individuals who reside in the Credit project and to persons in the immediate community/neighborhood. The space must meet the statutory provisions pertaining to a Community Service Facility set forth at § 42(d)(4)(C)(iii) of the Internal Revenue Code, be regulated as a Community Service Facility, and use 9% LIHTC equity to pay for the Community Service Facility space.

Subcontractor: A builder/contractor who performs a specific portion of the work on a project, such as the plumbing, pursuant to an agreement with the project's developer or general contractor.

Single Room Occupancy (SRO): A dwelling unit consisting of a single room for residence. Each SRO unit shall contain a private full kitchen for food preparation, or a full bathroom, but not both. The building shall include either common food preparation or sanitary facilities, when not included in each SRO unit. Each SRO may include limited counter space with a small sink and a small under-counter refrigerator when a common food preparation facility is provided.

Total Development Cost (TDC): The sum of all eligible, necessary and reasonable acquisition, construction/rehabilitation, and soft costs for a project, as well as working capital and reserve fund capitalization costs, where applicable.