

## **Clarifications to the 2021 Qualified Allocation Plan**

Questions are copied as written and may include typos, especially in the case of questions posed via chat during the LIHTC Application Workshops held on January 8 and 15, 2021. Please note all photos/pictures are for illustrative purposes only.

Requests for clarifications were accepted until February 26, 2021 at noon Mountain Standard Time. The deadline to accept clarification questions has now expired.

### **Questions received by February 26, 2021 at noon and posted on March 1, 2021:**

#### **Question #54:**

When planning on doing more than one phase of a development, are the amenities developed in Phase I (pool, clubhouse, etc) considered as amenities for Phase II in the subsequent application? Or, would Phase II need it's own on-site amenities?

#### **ADOH Response:**

*Applicants proposing a second or later phase of a development would need to request a waiver for consideration. The cost of amenities and infrastructure applicable to later phases may not be included in the Development Budget of the first phase.*

#### **Question #55:**

If a project is NOT located in a QCT/DDA do we simply leave that section of the app blank or should we submit a map/Exhibit E with a note that it is NOT in a QCT/DDA?

#### **ADOH Response:**

*If a project is not located in a QCT/DDA, the Applicant may leave the following check boxes blank on pages 1-2 of Form 3 where it says:*

**Check all that apply:**

- Qualified Census Tract
- Difficult Development Area

#### **Question #56:**

For Tab 6, please confirm that Form 6-1 is only required for the Developer/Individual with the experience to claim the points.

#### **ADOH Response:**

*List the Developer's (i.e. the entity that is the Developer) experience on Form 6-1. The 2021 QAP states: "The Person listed with the experience must be the Developer or Co-Developer to obtain Development Experience points in this Section 2.9(F). 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." A Person is "an individual (acting on their own behalf, not merely as an employee of another entity), partnership, corporation, limited liability company, trust, or other entity."*

Question #57:

Please confirm that if you are claiming points for a Public Transportation Bus Stop in Greater Phoenix Area, we are no longer required to show a schedule with certain headways, merely the distance map and schedule published no earlier than Jan 1, 2019.

ADOH Response:

*To claim points, Applicants should provide "a transportation schedule published no earlier than January 1, 2019 by the transit authority with stops and frequencies evidencing that the Public Transportation Bus Stop claimed for points was operational as of the date the schedule was published." While both stops and frequencies are part of a bus schedule, in the 2021 QAP points are not based upon the headways published in that schedule, only the location of the public bus stop.*

Question #58:

Page 3 of Form 3 asks for the site size in square footage, but Form 8 asks for it in acres. Do you want share footage also shown on the Form 8 or do you want an explanation of conversion in the cover letter (Tab 1)?

ADOH Response:

*While they may be shown for clarity, it is not a requirement to list both acreage and square footage on Form 8. However, the information on both Form 3 and Form 8 must be consistent with one another when the calculation is performed by ADOH during review of the Application.*

Question #59:

If a new construction project is two phases, must the water/sewer will serve letter be for both phases or should the letter only address phase 1 (the phase of the current application)?

ADOH Response:

*Will serve letters only need to address the current Application phase. Will serve letter(s) would be required with future application(s) to ADOH for each subsequent phase.*

Question #60:

For site control, if the purchase and sale contract is in the name of a parent company and states that it may be completed by that company "or its assignee" is that sufficient or should a copy of an assignment to the final owner/applicant be included? If the land has not already been subdivided is it okay that the purchase contract is for a larger amount than shown on Form 3 so long as the Form 3 amount is supported by the appraisal?

ADOH Response:

*If the purchase and sale contract is not between the intended Owner and the Seller, the assignment to the proposed Ownership entity is needed to demonstrate that the Applicant/Owner has site control.*

*The purchase and sale contract should list the purchase price of the tract which is the subject of the transaction. If land is not subdivided, the purchase of the entire tract shall be supported by the appraisal. Only the portion of the land to be included in the phase that is the subject of the Application may be included in the Development Budget. The portion of the land allowable in the Development Budget may not exceed the proportionate share of the entire parcel (i.e. the square footage of the land applicable to this phase multiplied by the price per square foot paid for the entire parcel).*

Question #61:

For site control, is it okay if the title commitment is for total cost of the land not yet subdivided in a multiphase development (If so, should we just include an explanation in the cover letter at Tab 1)?

ADOH Response:

*Yes.*

Question #62:

For forms 6-1, 6-2, and 6-3, may we use our forms from last year so they don't all need to be copied over to 2021, or would you like them on the 2021 forms?

ADOH Response:

*Applications must be on the current year's forms.*

Question #63:

I had a question about the ownership entity structure for our LIHTC application submission. I see that on Tabs 1-2 for Form 3 that we are allowed to mark the ownership entity, i.e. the LP as "to be formed." Then below, we must name the general partners. Must we form the GP that will own .01% of the LP prior to application submission, or can that also be formed after award?

ADOH Response:

*While the ownership entity and its partners/members may be formed at a future date (for Applicants not claiming points described at 2.9(I)), the Applicant must be an existing legal entity authorized to conduct business in Arizona and in good standing with the applicable Arizona state agency for the type of Applicant entity. ADOH will not consider forms signed on behalf of an entity that is not duly formed or by a representative without authority.*

Question #64:

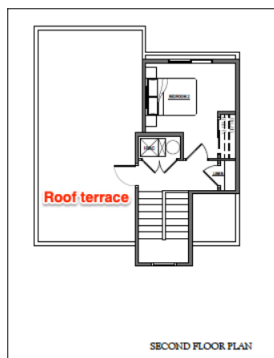
We are currently negotiating site control on land for a 9% application. The Seller just informed us that they are leasing the land to a farmer and that the lease has a termination date of October 1, 2021. The closing date being sought is after the lease expiration date. In this case, would a relocation plan be necessary?

ADOH Response:

*Section 2.9(T) of the 2021 QAP states: "Applications for Projects with existing tenants must be supported by a relocation plan." The Uniform Relocation Assistance Act (42 U.S.C. § 4601, et seq) is applicable at the initiation of negotiations.*

Question #65:

Definitions → "Balcony" – the definition of Balcony contains "roof terrace," however, this term is not separately defined like "Porch" or "Deck" in the QAP. How does ADOH define a roof terrace? Is a roof terrace calculated in the Residential Floor Area? And if so, is there a size restriction at all, like there is with a Porch or Deck? Our proposed two-story townhome design would like to include a door on the second floor that opens onto an area formed from the roof of the first floor:



ADOH Response:

*Roof terraces are part of the Total Project Square Footage (see definition on page 22) and are not included in Residential Floor Area (see definition on page 18) in the 2021 QAP. An Applicant may propose a roof terrace in the Project, bearing in mind that in doing so, the Building Efficiency score will be impacted making the Project less efficient than it would be without the roof terrace.*

Question #66:

Definitions → "Residential Floor Area" – the definition states "First floor patios are not included in the Residential Floor Area, as they are not part of the Total Project Square Footage". Can first floor patios be enclosed or partially enclosed?

ADOH Response:

*First floor patios that are enclosed or partially enclosed are Porches. Please see question #17.*

## **Questions Posted on February 5, 2021:**

### **Question #1:**

I have a quick question for a project that I am preparing to apply for 2021 LIHTC. It is located in a small DDA (Nogales) per HUD 2021 DDA and QCT and I was trying to understand how do we request an increase in the credit rate? I believe is for ADOH consideration when reviewing applications, but do we show the calculation of tax credits as part of the application budget or should this request be only in the narrative...any guidance you can give me?

#### **A. Eligible Basis Analysis**

Tax Credits are calculated by multiplying the Eligible Basis by one hundred percent (100%) times the Applicable Fraction times the Applicable Percentage.

1. ADOH has elected to designate the following types of Projects as requiring an increase in credit of up to 130% as needed for feasibility, under I.R.C. § 42(d)(5)(B)(v) as follows. Projects which qualify under more than one of the following categories may layer those categories, if the total credit does not exceed 130%, and is needed for feasibility.

a. Projects qualifying for participation in the Supportive Housing Set-Aside, by meeting all of the requirements in Section 2.9(P) of this Plan shall qualify for up to 130%.

b. Projects on Tribal Land shall qualify for up to 130%.

c. Urban Structured Parking Projects and Urban Podium Parking Projects , which are located within one-half (½) mile of a High Capacity Transit line shall qualify for up to 115%.

d. Projects located outside Maricopa and Pima counties shall qualify for up to 130%.

e. Single Story Projects for Older Persons shall qualify for up to 105%.

f. Projects requiring Davis-Bacon wages shall qualify for up to 105%

2. Adjustments to Eligible Basis shall be made for the following reasons:

a. Project qualifies under I.R.C. § 42(d)(5)(B)(i)-(iv) for an increase in credit.

### **ADOH Response:**

*Section 7.2 of the 2021 QAP describes the calculation of Tax Credits. To account for the applicable basis boost for the Eligible Basis analysis in Section 7.2(A), enter the applicable basis boost on Line 127 of pp 8-11 to affect the Maximum Annual Tax Credits per IRC calculation on Line 144. Page 12 of Form 3 will calculate the Maximum Annual Tax Credits per IRC based upon the Gap Analysis described in Section 7.2(B). The lesser of the amounts generated under the Eligible Basis Analysis in Section 7.2(A) and the*

*Gap Analysis in Section 7.2(B) is entered at the top right hand corner of pages 1-2 of Form 3 next to "LIHTC Requested".*

Question #2:

Will the basis boost for balance of state be automatically calculated?

ADOH Response:

*Please see the response to Question #1 above.*

Question #3:

How should donated land be handled?

ADOH Response:

*Applicants receiving donated land must include an appraisal to have the value of the land included in the calculation of the tiebreaker in Section 2.8 of the 2021 QAP. Applicants should also include a note in the right hand column on line 1 of pages 8-11 (Development Budget) of the Form 3 where budget changes are explained referring to the donation.*

Question #4:

Our company will assume the role as either the Developer or Co-Developer. We are assuming, as with most other states, Developer includes members of the organization. In other words, the Asset Managers in our office all hold LIHTC training certificates, but the owner of the company does not. Does the owner need to attend the compliance training, or will the certificates of the team members satisfy the QAP requirement?"

ADOH Response:

*Section 2.5(C) requires the Developer, Co-Developer, or Consultant to attend Compliance Training as defined in the 2021 QAP at a minimum of every five years. The Developer is the Person (i.e. the name of the company developing the Project) identified in Form 3 and Tab 6/Form 6 as the Developer for the Project. A Person means an individual (acting on their own behalf, not merely as an employee of another entity), partnership, corporation, limited liability company, trust, or other entity. Thus an employee of the Developer is a qualified individual to attend Compliance Training.*

Question #5:

Once the application is submitted and accepted, how often does it need to be renewed?

ADOH Response:

*Only the timely Application submitted pursuant to the 9% competitive round is reviewed. There are not "renewed", per se. However, pursuant to Section 7.1(A) a Project will undergo the underwriting process*

*a minimum of four times: 1) prior to issuing a binding Reservation, 2) prior to issuance of a Carryover Allocation; 3) prior to admission of the Equity Investor/Partner into the ownership entity; and 4) at submission of documents requesting a Form 8609. An updated Form 3 is required at each underwriting as well as with the Ten Percent Test.*

Question #6:

There is no Section 2.9(O)(4) in the QAP. This section ends with paragraph 3. Is this a typo?

ADOH Response:

*Yes, the last line of the Balance of State Set Aside in Section 2.6 should read (See Section 2.9(O)(3).)*

Question #7:

If the project is multiphase, do you want the cost for the entire piece of land (assuming it has not been subdivided yet) or just the cost for the portion of the phase being applied for?

ADOH Response:

*The Application only includes the land for the current phase. The total land cost and land square footage at Section 8 on page 3 of the Form 3, the cost of the land acquisition on pp 8-11 (Development Budget) of Form 3 and Form 8 Zoning Verification only include the portion of the phase associated with the current Application. If the land is not subdivided, provide a breakdown in the appraisal for that portion of the parcel.*

Question #8:

The cells on page 5 (operating expenses) seem to be locked. How can we unlock them?

ADOH Response:

*The cells reflecting the operating budget on page 5 of Form 3 are filled by formula. Once the entire Form 3 is completed, these cells will be filled in with the budget information provided on tab 14 of the Form 3.*

Question #9:

Do our past projects need to be in the state of Arizona to qualify for points or if we have LIHTC properties in other states, do those count as well?

My phone cut out when you were talking about whether projects outside AZ can qualify as experience. Could you repeat that?

ADOH Response:

*LIHTC projects developed outside Arizona also qualify for points.*

Question #10:

If the project has a land lease do you still require an appraisal?

ADOH Response:

*Section 7.1(C)(2)(a) beginning in the last paragraph of page 103 of the 2021 QAP requires land lease payments to be evenly distributed through the term of the lease and paid as an Operating Expense through the operating budget. ADOH reserves the right to order a third party valuation of the lease payment at the Applicant's expense and will contact the Applicant to inform them when this is required.*

Question #11:

If we manage non-owned properties do you want that included on form 6-3?

ADOH Response:

*No. Form 6-3 only includes 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.*

Question #12:

Is zoning a threshold requirement at application?

ADOH Response:

*Yes. Section 2.9(H) states that the "property on which the Project is to be built or rehabilitated must be zoned for the proposed use by the governmental agency or agencies having jurisdiction to do so."*

Question #13:

For items to be dated within 180 days of April 2021, does that translate to within 180 days of application submission for 4% applications?

ADOH Response:

*Yes.*

Question #14:

Is 4% competitive too? And limited to the same deadline 4/21?

ADOH Response:

*Four percent Tax Credits with tax-exempt bond financing is not competitive. Applications are accepted on a rolling basis. See Section 4 of the 2021 QAP for more information.*

Question #15:

Is a waiver needed if a project is exempt from property taxes and expenses drop below \$4,700 amount because of that?



ADOH Response:

*Applicants with Projects that are exempt from property taxes should submit a waiver request along with the certification confirming the exemption described in Section 7.1(C)(2)(d) and documentation supporting the amount to be deducted from the standard Operating Expense described in Section 7.1(C)(2).*

Question #16:

How do you do tuck under parking?

ADOH Response:

*To calculate the building efficiency of a building with “tuck under” parking, Applicants should calculate square footage of the first floor of the building as it would calculate the square footage of the first floor of any other building. Plans submitted with any LIHTC application should include clear architectural plans for the “tuck under” parking at the project that is the subject of the application.*

Question #17:

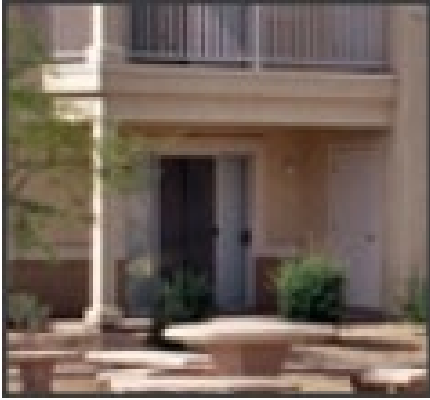
Are ground floor porches counted in the total SF as a balcony on the second floor?

ADOH Response:

*First floor patios are not included in Residential Floor Area, as they are not part of the Total Project Square Footage. For better understanding please see the clarification below, as it relates to the following photos:*

*Photo 1 Views:*





*Photo 2 Views:*



*Photo 3:*



*Photo 3 is a patio because it is not a Porch or Deck. A Porch or Deck means an unenclosed floor surface contiguous to a building that is suitable for use by an occupant and supported above the ground on at least two opposing sides by an adjacent structure, and/or posts, piers or other independent supports. A Porch or Deck may be covered or uncovered. A Porch or Deck of up to 100 square feet may be included in the Eligible Basis of the Project and included in the Residential Floor Area for purposes of calculating the building efficiency in the Building Efficiency scoring category. Photo 1 is supported above the ground by a wall on one side with a post on the opposing side. Photo 2 is supported above the ground with walls on all four sides (two of which are pony walls).*

**Question #18:**

Please define “greater” in Greater Phoenix Area.

**ADOH Response:**

*For purposes of scoring Section 2.9(O) Transit Oriented Design, the Greater Phoenix Area includes all municipalities served by Valley Metro.*

**Question #19:**

Regarding the Valley Metro local stops, does the stop need to be listed on the Valley Metro website? Not all stops on any given bus line are listed on the website.

**ADOH Response:**

*Route Maps on Valley Metro’s website show all Valley Metro bus stops with the corresponding bus stop number, which may not be on the route schedule. For bus stops not on the route schedule with times, provide documentation in the Application showing the location of the bus stop claimed for points using the route map and corresponding bus stop number.*

**Question #20:**

For an occupancy preference for households with children, do 2-bedroom units need to have more than 1 bath?

**ADOH Response:**

*In accordance with Exhibit D, only units with three or more bedrooms are required to have more than one bathroom.*

**Question #21:**

On special populations, are there limits to the age when those disabilities are diagnosed?

**ADOH Response:**

*ADOH follows the definition of “disability” under the Americans with Disabilities Act of 1990, Pub. L. 101-336, 104 Stat. 329 (July 26, 1990)(“ADA”) as amended by the ADA Amendments Act of 2008, Pub.*

*L. 110-325, 122 Stat. 3555 (September 25, 2008) (“ADA Amendments”) which is incorporated by reference in the State of Arizona’s Fair Housing Act, §§41-1491(5), A.R.S. Other than units specifically designed to house persons over the age of 62, LIHTC units must serve persons of all ages, disabilities, races, genders, religions, creeds, nationalities, and family size. Accordingly, ADOH takes the position that all housing units must comply with the requirements of the Title VI of the Civil Rights Act of 1968, including the ADA and the ADA Amendments, §41-1491, A.R.S., et seq. (the “Arizona FHA”), and other applicable federal and Arizona laws.*

*ADOH adopts the definition of “Developmental Disability” set forth in Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. 106-402, 114 Stat. 1677, 1683 (October 30, 2000) (“2000 Act”).*

*LIHTC units developed with any LIHTC allocation under the 2021 QAP will be deemed to comply with general public use under IRC §42(g)(9) if, for example, the subject residential rental unit serve persons (a) with special needs under established federal or State of Arizona programs, or (b) who are members of a specified group under an existing federal or State of Arizona program serving the disabled or developmentally disabled (“Special Needs Populations”).*

*ADOH policy is that successful applicants awarded LIHTC under the 2021 QAP who seeking to construct or rehabilitate housing using LIHTC to serve Special Needs Populations are undertaking a compliant and lawful general public use if those applications contemplate the construction of affordable housing that will serve persons with (a) a disability as defined by the ADA or the ADA Amendments, (b) a developmental disability as defined under the 2000 Act, (c) a disability as defined under §41-1491(5), A.R.S., or (d) a developmentally disability as that term is defined in §36-551, A.R.S.*

**Question #22:**

Is it possible to serve more than one special needs population in the 25%?

Section 42(g)(9) clarifies: “A project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants – (A) with special needs, (B) who are members of a specified group under a Federal program or State program or policy that supports housing for such a specified group, or (C) who are involved in artistic or literary activities.”

**ADOH Response:**

*While people with various special needs are not precluded from occupying a unit financed with Tax Credits, only one Special Population may be targeted for scoring purposes with units set aside in Attachment II of the LURA. Section (Q)(4)(b) states “Projects in which twenty-five percent (25%) of the total Project units will serve an [emphasis added] identified Special Population and insert each of the documents below are eligible for the five (5) points in this scoring category.” Among the documents required are a description of the Project’s specific design elements that will “address the needs of the ([emphasis added] Special*

*Population targeted” and “letters of support and collaboration that demonstrate coordination of population-specific [emphasis added] resources and services.”*

Question #23:

Concerning Tab 19, On page 29 of the 2021 QAP item A “Tax Credit Reservation”, the QAP states ADOH must reserve tax credits as follows...to paraphrase to save time...First to projects in each set-aside with the highest competitive score & Second to projects that don’t qualify for a set-aside category with preference given to projects with the highest score for a set-aside category with preference given to projects with the highest score...So the QAP’s selection criteria is and always has been based on ADOH audited scores...correct?

ADOH Response:

*ADOH’s process for scoring is set forth in every QAP. “Audited scoring,” as used in this question, seems most applicable to scoring under the General Pool. Scores for Set Asides have their own criteria.*

Question 23a:

Sect 42(m)(1)(C) item 8. .“Projects Intended for Eventual Ownership” says the QAP must have a “Selection Criteria” set forth in the QAP for this type of project.

ADOH Response:

*ADOH’s criteria for Section 42(m)(1)(C)(viii) purposes are set forth in Section 3.2(BB) of the 2021 QAP in reference to ADOH’s process with respect to selection and not any other purpose.*

Question 23b:

Since Eventual Tenant Ownership is a selection criterion mandated by the federal code @ 42m and there is no mention of it as a set-aside in the 2021 QAP for it to be ranked for selection – since there is no set-aside...How will ADOH meet the “Selection Criteria” ranking requirement of the federal code for Eventual Tenant Ownership?

ADOH Response:

*Other than a single mandatory set-aside requirement that housing credit agencies allocate not less than 10% of LIHTC to non-profit sponsors developing LIHTC units under IRC §42(h)(5)(A) through (E)<sup>1</sup>, Section 42 has no mandatory set asides requiring selection criteria in an application for any purpose. Under IRC §42, allocations means all LIHTC allocation under any given applicable QAP, whether the LIHTC to be allocated is the 9% competitively- or the 4% “automatic-” LIHTC. Section 42(m)(C)(i) through (x) sets forth criteria that must be included in any housing credit agencies QAP not competitive criteria. It does not compel a housing credit agency to include a set aside or scoring criteria for allocations to a LIHTC*

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<sup>1</sup> IRC §42(h)(5)(A) through (E) states that not more than 90% of a state’s LIHTC allocations can be allocated to entities that are not non-profit organizations. That, in turn is the basis of the “10% non-profit set-aside.” Section 42(h)(5) does not refer to a “10% non-profit set-aside.”

*project in connection with “eventual tenant ownership [IRC §42(m)(1)(C)(viii)].” Section 42(m)(1)(C) simply sets forth the elements that must be included in a QAP for selection criteria purposes when 9% or 4% LIHTC are involved. Selection criteria means the entire process of LIHTC allocation regardless of whether it is competitive 9% LIHTC or “automatic” 4% LIHTC including that part of the process that occurs after ADOH scores 9% applications or receives applications for 4% LIHTC and issues a Determination of Qualification letter (i.e. §42(m) letter), not just that portion of the overall process relating to 9% LIHTC application competitive scoring. ADOH’s criteria for purposes of Section 42(m)(1)(C)(viii) compliance are set forth in Section 3.2(BB) of the 2021 QAP.*

**Question 23c:**

Since we will do this in your written clarifications, please include this for Tab 19. . .

The 2021 QAP Threshold section at page 79 for eventual tenant ownership calls for a legal opinion that the ownership proposal is permitted under IRC Section 42

The only provision in IRC Section 42 for Eventual Tenant Ownership is the Selection Criteria at 42(m)(1)(C) item 8. It’s one sentence. There are no provisions in Sect 42 regarding the “ownership proposal structure” for such an opinion. Typically the ownership would take place at year 15, following the compliance period – states usually provide what is an acceptable structure since the process, in this case the sale to the existing unit to a qualified tenant would essentially remove the regulatory agreement...what are you looking for from legal professional to opine on?

*ADOH Response:*

*ADOH seeks the applicant lawyer’s legal opinion that concludes, without any qualification to that opinion, that a LIHTC applicant’s tenant homeownership plan complies with Section 3.2(BB)(2)(a) through (g) and is enforceable against the LIHTC applicant as a matter of federal and Arizona law.*

**Question #24:**

Since the tie break uses PBV as a secondary category, isn’t Tab 22 also necessary if a project has any PBV and hopes ot use it for the tiebreaker?

*ADOH Response:*

*Yes, Applicants should insert applicable documentation of Rental Assistance, such as PBV, at Tab 22.*

**Question #25:**

Do locally determined “Redevelopment Areas” meet the requirements under the QAP for Concerted Community Revitalization Plans?

*ADOH Response:*



*The QAP includes the factors and elements of a Concerted Community Revitalization Plan (“CCRP”) in order to provide Applicants with the flexibility to submit evidence that the proposed Project contributes to a CCRP whether the CCRP is governmentally or privately undertaken. ADOH does not require a governmentally-driven CCRP, but does require that the CCRP to which the Project contributes be relevant to the express goal of creating affordable housing and be current. The applicant’s Project must contribute to a CCRP and be supported by relevant and timely data and materials relating to the CCRP’s intent to address affordable housing as its main or ancillary component. Proof of such an effort may include proof of community meetings and charrettes, recent city resolutions or transcribed minutes of policy makers deciding to revitalize an area and include affordable housing development as a sole or component part of such an effort. Any application that involves the submittal of a claimed CCRP based on dated and stale information will be reviewed for its validity and viability.*

**Question #26:**

Is there an age limit to the plans? Where does it say that in the QAP? Please provide the type of clarifications you are using as qualifications of these plans in the QAP.

**ADOH Response:**

*Applicants should refer to Section 2.6 and Section 2.9(X) regarding Concerted Community Revitalization Plans (“CCRP”). The Applicant must demonstrate that the CCRP remains active and expressly includes or contemplates affordable housing development. The CCRP must not state that it is itself time limited or expired, whether undertaken governmentally or non-governmentally. Ideally, the CCRP will explicitly state the time period that it is in effect through the title of the CCRP or the implementation schedule in the CCRP. When the CCRP is governmentally undertaken and specifically contemplates affordable housing development and the termination date of the plan is vague or ambiguous, Applicants may include for consideration to support the claimed CCRP, documents such as the most recent Consolidated Plans or Annual Plans submitted to the United States Department of Housing and Urban Development (“HUD”) in connection with compliance requirements relating to the reporting for the federal funds regulated by HUD (and reports for all prior years for the same CCRP) under federal law, annual reports, charrette plans, or recent minutes from meetings (held by the entity that established the CCRP with the community residents and stakeholders described in the CCRP who were solicited for their input in its creation). Any such plans must describe the progress to date (i.e. through 2021) made towards advancement of the CCRP, including, if applicable, the goals set in the CCRP and plans for continued implementation of the CCRP.*

**Question #27:**

What if your loan term is longer than 15 years?

**ADOH Response:**

*The 2021 QAP requires the term of the primary loan to be no less than fifteen years (see 2021 QAP Section 7.1(C)(3)(b)(i) on page 105). However, ADOH underwrites certain criteria such as the ratio*

*between the Surplus Cash Flow and Direct Operating Expense based upon the first fifteen years of the loan term.*

**Question #28:**

Where is interest on the Deferred Developer Fee shown?

**ADOH Response:**

*Interest on Deferred Developer Fee is shown in the Developer Fee Note, but is not included in the “waterfall” described in 2021 QAP Section 7.1(C)(3)(b) – (h) for purposes of underwriting. It is not included in the calculation of the ratio between Surplus Cash Flow and Direct Operating Expense on page 14 of the Form 3 (see 2021 QAP Section 7.1(C)(3)(g)).*

**Question #29:**

Can you go back at talk about the additional \$180 for Wifi? If Wifi is required, are the allowable operating expenses now \$4,880?

**ADOH Response:**

*Wi-Fi Service is not required. If a Project includes Wi-Fi Service (as defined on page 24 of the 2021 QAP), Applicants may add up to \$180 per Unit per year to the \$4,700 annual Operating Expense assumption used to underwrite Applications.*

**Question #30:**

The QAP mentions it will “compare” equity letters from similar size projects to determine if the credit price is reasonable. Can you describe how that comparison is done. . i.e how do you consider pay-in schedule, other soft fund utilization etc?

A project that has soft funds may have a different pay-in which will make the price diferent

**ADOH Response:**

*Applicants should refer to Section 7.1(C)(4)(k) on page 112 of the 2021 QAP regarding equity pricing.*

*“ADOH may underwrite to the pricing in the letter of interest from the Equity Investor unless pricing is deemed unreasonable. ADOH will survey syndicators for market pricing information and use pricing from similar projects underwritten under this Plan to calculate the amount of Tax Credits needed for feasibility. Before making an adjustment to the pricing in the Syndicator’s Letter of Interest, ADOH will contact the syndicator to determine whether the pricing in the letter is still valid. In the event that the equity pricing increases after a Reservation is awarded, ADOH may reduce the award of Tax Credits to the amount needed for feasibility.”*

**Question #31:**



Last year, you said that for vacant land owned by the developer and sold to the ownership entity, we could show seller financing at current appraised value, not original purchase price. Is that no longer true?

ADOH Response:

*Please refer to Example #3 on the top of page 108 of the 2021 QAP (see Section 7.1(C)(4)(a)(i)(1)) that explains that a "Principle owns a parcel of vacant land and wishes to develop affordable housing on the parcel using Tax Credits. The land is conveyed to the Project Owner entity at the appraised value of the land (as further limited by Section 2.9(G) of this Plan)."*

Question #32:

Acquisition credit includes the acquisition of the property AND improvements that have been owned for 10 years. Even if those buildings are demolished. Can you get a waiver to determine the building value in the appraisal even if you are demolishing. .

The "As-is"

ADOH Response:

*Your question may be construed by some to imply that the cost of land underlying a building is eligible for acquisition credits. Land is not included in eligible basis.*

*Moreover, ADOH policy under the 2021 QAP does not allow the acquisition cost of demolished buildings (or buildings that will be demolished) in the Development Budget:*

*"Projects which include Acquisition/Demolition and New Construction components are limited to the "As If" Vacant Land value. The value of buildings to be demolished (or torn down to the foundation) shall not be included in the Development Budget." (See 2021 QAP Section 7.1(C)(4)(a)(2))*

*2021 QAP Section 2.9(A)(5) describes the requirements for a waiver. For example, ADOH may consider a waiver for buildings that will be partially demolished.*

Question #33:

In the past, the DSCR could not drop below 1.15 during the initial compliance period. Is that still the case?

ADOH Response:

*No. The 2021 QAP does not include a 1.15 DSCR floor during the initial compliance period. The DSCR will be reviewed to ensure that it is not greater than 1.20:1 or less than 1.10:1 at loan maturity. Please see Section 7.1(C)(3)(b)(vi)(1) through (5) beginning on page 105 for further information.*

Question #34:

If it starts at 1.20 and increases over time, then how can it end up low enough at the end of the loan term? I'm trying to understand but it seems that it is forcing a negative trend.

ADOH Response:

*There is a two-part assessment. If the Project doesn't meet one of the tests, ADOH makes adjustments to ensure that the Project has maximized permanent financing. Please see Section 7.1(C)(3)(b)(vi)(1) through (5) beginning on page 105 for further information.*

Question #35:

Can you repeat the information regarding the ADOH GAP Funding NOFA?

Will national housing trust funds be available?

Do you know when the sofa will be released and which projects will be eligible?

ADOH Response:

*A separate NOFA describing the terms and conditions of any ADOH Gap Financing that becomes available will be announced via Information Bulletin. At a minimum, the Department intends to release a NOFA for the National Housing Trust Funds to serve as Gap Financing for projects applying under the Permanent Supportive Housing Set-Aside. ADOH is not currently anticipating making gap financing available to other Tax Credit Projects at this time.*

Question #36:

Is the state going to get covid cares act funding?

ADOH Response:

*HUD provided two tranches of CDBG funding to the State pursuant to the COVID Cares Act. The NOFA for that first allocation is posted on the ADOH website at the following location:*

[https://housing.az.gov/documents-links/publications?tid\\_2=727](https://housing.az.gov/documents-links/publications?tid_2=727)

*Further questions regarding this NOFA may be directed to [Kathy.Blodgett@azhousing.gov](mailto:Kathy.Blodgett@azhousing.gov)*

Question #37:

Can you repeat the info about basis boost outside of Maricopa and pima county

ADOH Response:

*Section 7.2(A)(1) on page 115 describes Projects that are qualified for the eligible basis boost set forth in I.R.C. Section 42(d)(5)(B)(v). Competitive 9% Tax Credit Projects outside of Maricopa and Pima counties are eligible for this basis boost under the 2021 QAP.*

Question #38:

On the 4% as well? (related to basis boost)

ADOH Response:

*The questioner was asking whether 4% Tax Credits are eligible for a basis boost outside Maricopa and Pima counties pursuant to I.R.C. Section 42(d)(5)(B)(v) which states:*

*“Any building which is designated by the State housing credit agency as requiring the increase in credit under this subparagraph in order for such building to be financially feasible as part of a qualified low-income housing project shall be treated for purposes of this subparagraph as located in a difficult development area which is designated for purposes of this subparagraph. The preceding sentence shall not apply to any building if paragraph (1) of subsection (h) does not apply to any portion of the eligible basis of such building by reason of paragraph (4) of such subsection.”*

*4% Tax Credits pursuant to Section 42(h)(4) (i.e. buildings financed by tax-exempt bonds subject to volume cap) are not eligible for a basis boost under I.R.C. Section 42(d)(5)(B)(v) at all.*

*Acquisition credits requested as part of an Application in the 9% competitive Tax Credit Round are eligible for the basis boost pursuant to I.R.C. Section 42(d)(5)(B)(v).*

Question #39:

I would appreciate a clarification to the following section of the 2021 QAP: Section 7.1(C).(4)(a)(i)1) dealing with Acquisition Costs and transactions with Principals in Common.

The referenced section states the following:

1) Principals in common between the seller and buyer: (See definition of Principal in the definitions section of this Plan.) With the sole exception of Tax Exempt Bond Projects with no ADOH Gap Financing, all Projects that include existing buildings which are currently or have been used for affordable housing, any equity or appreciation in value realized over time by a Project Principal will remain in the Project as a seller carryback loan, at an interest rate, if applicable, that does not exceed the average conventional arms-length permanent loan interest rate in both the current Projects under consideration for an award of Tax credits and Projects which have closed on equity during the six-month period preceding ADOH’s announcement of Tax Credit Reservations for the current round.

The description of this section of the QAP appears to apply only to a sale of a project with existing buildings where there are Principals in common.

The QAP’s example #3 in this section describes the situation to which I am inquiring. If there is a seller carryback note associated with the land only purchase between Principals in common,

would a seller carryback note be subject to the same interest rate limits described in the referenced section for projects that include the purchase of existing buildings?

ADOH Response:

*Similar interest rate limits would apply. The excerpt from the QAP you provided refers to a sale of land with improvements. Please refer to Section 7.1(C)(3)(b)(iii)(1) describing the interest rate limits on non-arm's length loans more generally:*

*"Financing provided by a non-arm's length lender must be on terms at least as favorable as competitive market rate product provided to other Projects within the same tax credit round. Inclusion of prepayment penalties, or other penalties that allow the non-arm's length lender to foreclose or create excessive interest accruals will not be permitted. The interest rate may not be higher than the highest arm's length primary debt transaction in the 2021 Tax Credit round."*

Question #40:

When I try to enter "market" or "mkt" in the AMI level (column E) of page 6 on the Form 3, it forces the corresponding cells in columns K, N and O to show up as "#N/A". If I leave the AMI cell blank for a market rate unit then the rents carryover to net and total monthly rent. I wanted to see if this is a cell error or a human error on my part!

ADOH Response:

*The AMI level should be left blank for market rate units.*

Question #41:

For market rate units, do we include a utility allowance estimate in the unit mix rent structure on page 6 of Form 3? Or do I simply include the proposed market rent in column L (market/subsidy adjustments).

ADOH Response:

*There is no requirement to provide a utility allowance for market rate units. Enter the rent charged in the column asking for the Maximum Tax Credit Rent and that rent will carry over to the Net Rent column.*

Question #42:

Page 51 of the QAP cites the following measures to be taken for projects that have a portion of 100 year floodplain on the site.

4. → Environmental Reviews.¶

Except as may be required to complete the documentation specified below, the Phase I Assessment and HUD Format Environmental Review described in Section 3.1(L) -- (M) are due 120 days from the date of the Reservation letter.¶

a. → Projects in a Floodway or 100-Year Floodplain¶

i. → Projects with any improvements located in a Floodway (crosshatched in the A zone of a Flood Insurance Rate Map ("FIRM" map) are ineligible for an award of Tax Credits.¶

ii. → Projects located in a 100-Year Floodplain (dark shaded A zone of a FIRM map must submit either:¶

1) → evidence that the site has received a conditional or final Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), or Letter of Map Revision Based on Fill (LOMR-F) that removes the property from a FEMA-designated floodplain location; or¶

2) → submit evidence that the decision-making process described in 24 CFR §55.20 has been completed including all analyses and other documentation that the 8-Step Process has been completed and that no practical alternative location exists.¶

For projects that include a portion of the site located in a 100-year floodplain but are not requesting any soft funding, are the items identified in 4ai 1 and 2 (page 51) required at application submission or 120 days from the date of a Reservation Letter?

ADOH Response:

2021 QAP Section 2.9(G) describes documents that must be submitted with the Application by the Application Deadline that would normally be part of the Phase I and/or HUD Format Environmental Review. Notably, 2021 QAP Section 3.4(T) requires proof of flood insurance or verification that the property is not in a flood zone. Thus, if the Project has no Federal funds or Project Based Vouchers, only flood insurance would be required for a Project that includes a portion of the site located in a 100-year floodplain.

Question #43:

Section 2.9.H.3 – Tab 8 - For a development that has septic systems instead of sewer, confirm that a letter from the partnership/owner of the project confirming that septic systems will be installed meets the “will serve letter” requirement in the QAP

ADOH Response:

2021 QAP Section 2.9(H)(3) reads: “For new construction, provide will-serve letters for water and sewer dated within 180 calendar days of the Application Deadline signed by an Authorized Signatory of the utility

*provider acknowledging that the utilities provided are anticipated to meet the needs of the Project.” The Applicant would need to submit a waiver request for consideration of such a request with the Application.*

**Question #44:**

Section 2.9.S – Tab 19 – confirm that townhome buildings with 3, 4 & 5 units qualify for Eventual Tenant Ownership

**ADOH Response:**

*2021 QAP Section 2.9(S)(1) states: “Tenant lease purchase Projects are limited to single family, duplex, four (4)-plex or **townhome** [emphasis added] style Projects.” The number of townhome units in a particular building is not specified in the QAP.*

**Question #45:**

Section 2.9.Y.1. – Tab 25 - Confirm that any CARES Act or competitive IHBG funding that Tribes receive do NOT count towards a Tribe’s annual NAHASDA funds since these are either single awards made under unusual circumstances (CARES) or competitive funds (competitive IHBG)

**ADOH Response:**

*Section 2.9(Y)(1) states that scoring is based upon the expenditure of funds available to the Tribe through HUD’s NAHASDA funding. The CARES Act funding is not NAHASDA funding. The IHBG formula based grant program authorized under NAHASDA is the funds available to all Applicants and subject to scoring, while the competitive IHBG is not available to all Applicants. The LOCCS report must indicate the amount of unexpended formula grant and the amount of the total formula grant awarded in the most recent fiscal year.*

**Question #46:**

If a property has not been given a street address yet in the City of Phoenix zoning maps, can the Form 8 be filled out using the Assessor's parcel number to identify the property?

**ADOH Response:**

*Yes.*

**Questions Posted on February 12, 2021:**

**Question #47:**

Section 2.9(Y)(2) Service Enriched Location. The QAP reads: “In the event the Project is comprised of Scattered Sites on Tribal Land, Applicant must demonstrate that the Grocery Store is within the required distance to the parcel that would earn the most points in conjunction with Tab 15 based upon its location in the subdivision that contains the most housing Units to be developed in this Project.”

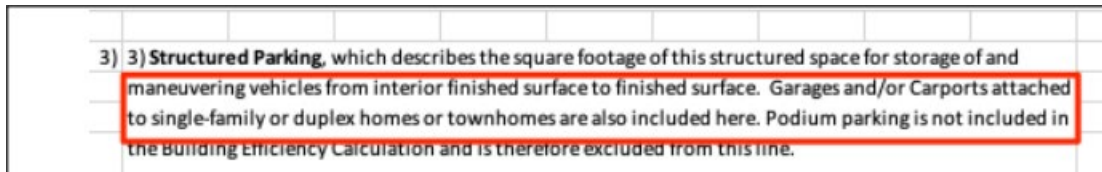
Should the reference to Tab 15 (Transportation) instead be Tab 11 (Service Enriched Location)?

ADOH Response:

Yes.

Question #48:

Section 2.9(L)(6)/2.9(Y)(8) Building Efficiency. The QAP reads that “Applicants developing Single-Family or Duplex Homes located in Balance of State or on Tribal Land may also build an attached Garage or Carport for each Unit.” (emphasis added). We are working with an Applicant developing a project on Tribal Land that includes 3 to 5 unit townhome buildings. Can this Tribal developer build an attached garage for each townhome unit? We acknowledge that any attached garage cannot be included in RFA when calculating Building Efficiency, however, it would be an odd outcome for the QAP exclude a tribal developer’s ability to provide such a marketable amenity just because more than two units are connected to each other. The instructions to Form 12-1a seem to indicate garages can be built on townhome units and are classified as structured parking:



ADOH Response:

*Garages and attached Carports are not prohibited by Exhibit D Section (IV)(D), which states: “Garages and Carports attached to a unit are limited to 300 net square feet for a two- or three-bedroom Unit, and 600 net square feet for a four- or five-bedroom Unit. Garages and Carports are excluded from Residential Floor Area. However, Projects that are not “Single Family or Duplex Subdivisions located on Tribal Land” would be scored based upon the “All other Projects” percentage criteria at 2021 QAP Section 2.9(Y)(8).*

Question #49

When calculating the net square footage of an attached garage, do we include the exterior walls or is the measurement taken from the interior of the garage walls?

ADOH Response:

*Net square footage to determine the maximum size of the attached garage is measured to the interior of the wall (i.e., paint to paint). This measurement is placed on Form 12-1 where it says “Structured Parking” with the area between the interior wall and exterior building envelope added to “Other Inside Walls”.*

**Questions Posted on February 19, 2021:**

Question #50:



I've been reviewing this year's QAP and it makes reference to the required attendance of the application workshop, of which it appears we would need to wait for next year's application workshop to be eligible, and developer compliance training but I'm not finding the definition referenced in 2.5 C. Is the compliance training required to be received from an Arizona specific 2 day training session or can this requirement be met with a similar type of training if received it from another state or national organization?

[ADOH Response:](#)

*The Definition of Compliance Training found on page 7 of the 2021 QAP (p. 13 of the pdf on the Department's website) describes which vendors are approved for Compliance Training and the nature of the class required.*

Question #51:

Can a city require 100% of the units be under their funding rules and UA's for HOME or CDBG, or does ADOH limit the percentage of units that are allowable, or if 100% can be HOME or CDBG units BUT they must use the RESNET UA's to be eligible? The city is asking to impose CDBG restrictions on 100% of the LIHTC units. There is language in the QAP (Section 2.9(M)(2)(d) below) that would appear to stipulate that is not permitted.

“Projects where a Local Government is providing HOME or CDBG funds may use the method prescribed by the **Local Government for the HOME-assisted or CDBG-assisted Units only, which shall not be one hundred percent (100%) of the Units.** Therefore, these Projects will be required to submit the utility allowance prepared by the RESNET Certified Home Rater for the non-assisted Units.”

[ADOH Response:](#)

*This request would require a waiver for consideration by the Department. See Section 2.9(A)(5) of the 2021 QAP for further requirements.*

Question #52:

In 2020, Clarification 31 stated, in response to a detailed question about a potential issue under the surplus cash flow test resulting from the assumption that the Deferred Developer Fee would be repaid over 15 years in level payments:

Question 31:

The QAP states, with respect to the surplus cash flow test, that “for purposes of this analysis, ADOH will assume the yearly increases described in 7.1(C)(3)(a), that Deferred Developer Fee will be paid in equal installments over the first fifteen



years of the loan...” In our operating pro forma, we repay the deferred developer fee in uneven amounts, but it is fully repaid within 15 years; the payment amount is the lower of (1) cash flow after operating expenses, replacement reserve, primary debt service, and the asset management fee or (2) the remaining balance of the deferred fee divided by the remaining number of years in the 15-year term. If the deferred fee were amortized in equal installment over the 15-year term, the surplus cash flow chart shows negative cash flow for the first several years, but the project otherwise meets the surplus cash flow tests of DSCR no higher than 1.2 and no lower than 1.10 at maturity and an average operating expense ratio of less than 10%. Will ADOH either (1) consider a waiver to allow the Deferred Fee to be repaid in unequal installments over the 15-year term or (2) recognize that the negative cash flow shown in the surplus cash flow chart does not reflect the actual operating plan for the project?

ADOH Response:

*ADOH uses the analysis described in the Section 7.1(C)(3)(b)(iv) of the 2020 QAP to determine whether the Applicant has maximized the primary loan. No waivers will be granted that change the method of analysis stipulated in the QAP. Notwithstanding the foregoing, ADOH recognizes that Deferred Developer Fee is paid in accordance with the cash flow waterfall, which in many instances is not in equal installments through the Compliance Period.*

Does this remain the position of the Department?

[ADOH Response:](#)

*Yes. ADOH uses the analysis described in Section 7.1(C)(3)(b)(vi) of the 2021 QAP to determine whether the Applicant has maximized the primary loan. No waivers will be granted that change the method of analysis stipulated in the QAP. Notwithstanding the foregoing, ADOH recognizes that Deferred Developer Fee is paid in accordance with the cash flow waterfall, which in many instances is not in equal installments through the Compliance Period.*

Question #53:

Under the Occupancy Preference of Households with Children, if the project has both affordable and market rate units, is the 40% criteria determined by using the number of 2, 3 and 4 bedroom affordable units divided by the total number of affordable units in the project?

[ADOH Response:](#)

*Yes.*

*“Households with Children Project” means a Project in which forty percent (40%) of **all** [emphasis added] Units are offered on a preferential basis to households comprised of individuals with children under the age of eighteen. Such 40% of **all** [emphasis added] Units for Households with Children must include at least two of the three larger Unit sizes (i.e., 2- and 3- bedroom Units, or 3- and 4-bedroom Units, or 2- and 4-bedroom Units.)*

*In addition, Section 2.9(Q)(1)(a) states:*

*“Projects in which forty percent (40%) of **all** [emphasis added] Units are offered on a preferential basis to households with children under the age of eighteen. The 40% of **total** [emphasis added] Units must include at least two of the three following Unit types: two (2), three (3) and four (4) bedroom Units.”*