2020 Clarifications

All references to the QAP in this document refer to the 2020 Qualified Allocation Plan. ***This is the final edition of clarifications to the 2020 QAP. ADOH looks forward to receiving your Application by the April 1, 2020 4:00 pm Mountain Standard Time deadline.***

Received by February 28, 2020

Question 32:

Section 7.1(C)(3)(b)(vi)(1) of the QAP requires that the Debt Service Coverage Ratio (DSCR) of the primary loan is not greater than 1.20:1 or less than 1:10:1 at loan maturity. For certain projects, this is not possible. Projects with long-term project based operating subsidy, mixed-income projects that include market rate units or projects with a majority 3- and 4- bedroom units are a few examples of projects that may have ascending DSCRs through the initial 15-year compliance period and the term of the primary loan. Our primary loan lender requires a 1.2 DSCR in Year 1. Will ADOH consider the applicant to be maximizing its lending sources if they submitted competitive loan terms and a minimum year 1 DSCR of 1.20, but due to an increasing NOI, cannot meet the 1.20 requirement at the time of loan maturity?

ADOH Response:

> *Section 7.1(C)(3)(b)(vi)(4) and (5) explain how ADOH will treat a loan where it is not possible to meet the test in 7.1(C)(3)(b)(vi)(1).*

Question 33:

The QAP in Section F states that all projects are eligible for income averaging as long as they comply with the list of restrictions and requirements in addition to any federal requirements under this minimum set-aside election.

1. Only Projects requesting Tax Credits through an Application submitted under this Plan are eligible to elect the "average income" set aside. Prior Applications are ineligible.
2. The average income of the units shall be limited to 60%.
3. The Project shall maintain the average income promised in the Application for scoring through the Extended Use Period.
4. Owners shall pay the applicable increased fee in Section 6.6
5. 100% of the Units in the Project shall be LIHTC Units;
6. Project is not a re-syndication of a prior Allocation of Tax Credits;
7. Project's capital stack shall not include USDA Rural Development, Rental Assistance, RAD, or National Housing Trust Fund;
8. Income and rent levels shall be limited to four of the following income bands: thirty percent (30%) of AMGI, forty percent (40%) of AMGI, fifty percent (50% of AMGI, sixty percent (60%) of AMGI, seventy percent (70%) of AMGI, eighty percent (80%) of AMGI
9. All buildings in the Project shall be included as one multiple building Project, as referenced on line 8b of IRS Form 8609

10. Units shall be represented in the Application for Tax Credits as fixed with the defined AMGI percentage and all AMGI levels shall be dispersed evenly among all Unit sizes
11. Any changes to the fixed defined AMGI percentage shall be a Material Change under Section 5.5 of this Plan, subject to ADOH approval. Approval after Forms 8609 are issued shall be processed through ADOH's compliance division
12. Written approval of the syndicator, all lender(s) and the Property Manager shall be required in the Application, and with the equity closing submittal described in Section 3.2 of this Plan (if applicable), and with the 8609-package set forth in Section 3.4 of this Plan
13. The Market Demand Study described in Exhibit C shall evidence sufficient demand for all Unit designations and rent levels proposed in the Application

Tribal Projects according to the QAP are eligible for income averaging as long as they meet the above requirements.

We would like it clarified that a Tribal Project designating 40% of its units to 50% AMGI or less and designating the other 30% of its units to 40% AMGI or less could still select income averaging and have the remaining 30% of its units in one or two more "income bands" and maintain an average income of 60% for the project. Therefore, the project would target low income levels for full points in the Targeting Low Income Levels category in Tab 25 and meet all of the requirements and restrictions set forth above in Section F.

However, the Form 18 for the Tribal Set Aside does not have a section to go up to 80% units for income averaging. If we put the 60-80% units in the 60% category with a note that those units may be up to 80%, will that suffice or is it possible for ADOH to update the form? We could also use the General Pool Form 18 if that would make more sense with a note that we are applying in the Tribal Set Aside with income averaging. Please let us know how you would like us to proceed.

ADOH Response:

There are several issues:

1. *Are Tribal Projects eligible to elect the Average Income Set-Aside? The answer to this question is that there is nothing in the QAP that prohibits a Tribal Project from electing the Average Income Set-Aside.*
2. *The second issue is the scoring criteria under the Tribal Set-Aside. The Form 18 for the Tribal Set-Aside is designed to meet the scoring under the Tribal Set-Aside. This requirement must be maintained for scoring purposes. Only Units designated at 60% AMGI are permitted to be included on the 60% AMGI line. Any Units designated at higher incomes must be included in the "Market Rate" line and be further described in the General Pool Form 18 (see below) and the Form 3.*
3. *How may a Tribal Set-Aside Application demonstrate the Average Income test? Applicants under the Tribal Set-Aside who wish to elect the Average Income Set-Aside on Form 8609 must also complete the General Pool Form 18 to demonstrate the average income for the Tribal Project and that the AMGI levels are evenly disbursed among all Unit sizes. The General Pool Form 18*

would be used to evidence the Tribal Project's score, should the Tribal Project not rank high enough among the Tribal Applications to receive an award under the Tribal Set-Aside.

Question 34:

Is there a specific separate additional financial worksheet that we need to use when the project includes solar? I don't see anything in ADOH additional forms that fits.

ADOH Response:

No. The Applicant may use their financial worksheet to explain how the amount listed on line 133 of pp.8-11 on Form 3 has been calculated.

Received by December 20, 2019:

Question 1:

I'm looking at a potential site. Most of the site is within Flood Zone AO (Depth 1 Feet). I know that Zone A (crosshatched) is ineligible for tax credits. Is Zone AO also ineligible?

ADOH Response:

Applicants considering sites where any portion of the land is in Zone AO should refer to 2020 QAP Section 2.9(G)(3)(a)(ii) for further guidance. Flood Zone AO is one of the designations used by the Federal Emergency Management Agency (FEMA) to describe areas in the 100-Year Floodplain. Section 2.9(G)(3)(a)(ii) stipulates:

> *Projects located in a 100-Year Floodplain (dark shaded A zone of a FlRM 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****.*

Question 2:

The bottom of page 111 refers to Section 2.7(G): "appraised value of the land (as further limited by Section 2.7(G) of this Plan)". I went to section 2.7(G) and that is "Targeting Low Income Levels". Can you please tell what section that statement should be referring to?

ADOH Response:

In 2020 QAP Section 7.1(C)(4)(a)(i)(1), Examples #3 and #4 beginning on page 111 refer to Section 2.7(G). It should read Section 2.9(G), where appraisal requirements and appraisal validation clauses are found.

Question 3:

3a: We have land under contract for two really great developments and would like to see both of them come to fruition. We will be developing one of them. Are we able to act as a consultant to a developer that we trust on the other? This developer has no shared interest in any of our companies or projects, but shares a similar vision for providing mission driven affordable housing. We would have no other interest in the developer, owner, or applicant on that project.

3b: May our related A&E and GC companies act as the architect/engineer and/or general contractor on both?

3c: I know that the consultancy fee is paid from developer fee. Is there any limit on that fee?

ADOH Response:

3a: *Section 2.2 of the 2020 QAP limits the Maximum Reservation to "one* ***(1) Project in any Application Round for any Developer****." This means that a neither a Developer, nor any of its Affiliates may participate in another Project as a Consultant and earn a fee for doing so. 2020 QAP Section 7.1(C)(4)(f) states that the Developer Fee includes "all consultant fees to perform development work including but not limited to preparation of applications, and representation of the Applicant to obtain entitlements, coordinate utilities, inspect construction, purchase furniture and fixtures."*

3b: *Yes. The 2020 QAP does not limit who an Applicant may hire as an Architect or Builder, nor does it limit the number of Projects they may participate in. A Builder's cost certification would be required under 2020 QAP Section 3.4(E) if there is an identity of interest between the Builder and any member of the Development Team.*

3c: *The Developer Fee is limited by the provisions in the 2020 QAP. (See Section 7.1(C)(4)(f) et seq.) The portion of the Developer Fee that is paid to the Consultant is determined between the two parties based upon the services to be performed. (See 2020 QAP Section 2.9(I)(4))*

Received by January 27, 2020:

Question 4:

Under G.2., which has the heading "Appraisal Validation", there is a set of requirements that may apply to various types of Site Control (see p. 51 of the QAP). G.2.b.ii. applies to "Land Leases" and G.2.b.iii. applies to "Land Lease Options." In each case, the QAP requires the following: "The lease agreement must describe the land to be leased using a legal description, site address and parcel size, or parcel number."

The statement is ambiguous on its own – it's not clear what the "and" and "or" apply to and how many of "legal description" / "site address" / "parcel size" / "parcel number" are required. Please clarify.

ADOH Response:

In each case, the lease agreement must describe the land to be leased. The commas set apart each of the three options to describe the land to be leased. The description may be in the form of a legal description. The description may also be in the form of a site address plus a parcel size. Finally, the description may also be in the form of an assessor's parcel number.

Question 5:

Under G.2., it seems as though the QAP may not be numbered correctly and the entire section could be read as part of the "Appraisal Validation" section until you look at the end of the paragraph in the middle of P. 51 which ends with "…the second Appraisal. Site Control." The next paragraph seems to outline all of the requirements for "Site Control" (not more requirements applicable to appraisals). It would make sense to assume that the "Site Control" at the end of the "Appraisal Valuation" should be the heading in a new paragraph and should be a standalone requirement applicable to all transactions as laid out in the paragraphs that follow.

Please clarify if the "Site Control" requirement should have been its own new section.

ADOH Response:

Yes, beginning with the second paragraph in Section 2.9(G)(2) beginning on page 51 of the 2020 QAP, where it reads, "Applicant must have Site Control as of the Application Deadline", the QAP discusses the Site Control requirements for each type of Site Control. It is not a part of the Appraisal Validation process.

Question 6:

At the application training I recall someone saying that 9% projects are not eligible to apply for state gap funds is this round. Is that correct, or is the definition in the QAP "Gap Financing" which allows for $500,000 for 9% projects still correct?

ADOH Response:

*ADOH Gap Financing is **not** available in the competitive 2020 Tax Credit Round. Section 7.1(D) on page 117 of the 2020 QAP states: "ADOH Gap Financing is not available to competitive 9% LIHTC Projects during the program year covered by this Plan. While funding is not anticipated to be available, ADOH may, in its sole discretion and subject to funding availability, provide up to $1,500,000 for tax-exempt Projects that are submitted by Non-Profit Organizations under Section 4 of this Plan."*

Received by February 5, 2020:

Question 7:

In regard to the Developer Compliance Training, the QAP states that the Developer, Co-Developer, or Consultant must attend Compliance Training as defined in this Plan at a minimum of every five (5) years. Developer must provide a Compliance Training certificate as a part of the 2020 LIHTC Application.

Does the "Developer, Co-Developer or Consultant" include employees of the Developer? In other words, does the Managing Member of the development organization need to attend compliance training and hold the current certificate, or can an employee of the development entity hold the certificate necessary to be compliant with the QAP requirements? Asking another way, can a person on the development team, although not listed specifically on the LIHTC application, hold the certificate that is submitted or does the owner or managing member of the development entity have to be the holder of the compliance certificate?

ADOH Response:

Yes. An employee of the Developer, who is listed as the principal contact or secondary contact on Form 3, may attend Compliance Training in lieu of the individual who is able to execute documents on behalf of the Developer. However, third party management agents may not attend Compliance Training in lieu of their clients to meet this requirement.

Question 8:

We are currently working on a LIHTC project in Tempe, AZ, and we were wondering if SHF are expected to become available in the next year?

ADOH Response:

*ADOH Gap Financing is **not** available in the competitive 2020 Tax Credit Round. Section 7.1(D) on page 117 of the 2020 QAP states: "ADOH Gap Financing is not available to competitive 9% LIHTC Projects during the program year covered by this Plan. While funding is not anticipated to be available, ADOH may, in its sole discretion and subject to funding availability, provide up to $1,500,000 for tax-exempt Projects that are submitted by Non-Profit Organizations under Section 4 of this Plan." ADOH does not have any plans at this time to publish a NOFA to provide ADOH Gap*

Financing for LIHTC projects beyond what is available for 4% LIHTC Projects that is included in the 2020 QAP. Until it is published, ADOH cannot forecast what will or will not be included in the 2021 QAP.

Question 9:

The formula that totals payroll in Cell L15 on page 5 of Form 3 is missing.

ADOH Response:

Form 3 was amended to add this formula back in and re-posted on January 30, 2020.

Question 10:

The regulations for income averaging found on page 125 of the 2020 QAP state that projects that include Rental Assistance are not eligible for income averaging. Is this something the department can waiver?

ADOH Response:

For reference, Section 7.1(F)(7) states that the Project's capital stack shall not include USDA Rural Development, Rental Assistance, RAD or National Housing Trust Fund. ADOH will not waive this provision in the QAP.

Received by February 13, 2020:

Question 11:

In order to be eligible to apply for 4% LIHTC, does the Developer need to attend ADOH's Application Training before applying?

ADOH Response:

No, the Application Workshop is not required for Tax-Exempt Bond Applications seeking 4% Tax Credits.

Question 12:

Are 4% applications required to submit a self-score sheet?

ADOH Response:

No, 4% Applications should include a slip-sheet at Tab 2 indicating that this Tab is not applicable.

Question 13:

Are threshold tabs that relate to scoring required for 4% apps? I.E. Tab 15: Transit Oriented Design.

ADOH Response:

Applicants should include the Tab with a slip-sheet noting that this Tab is not applicable.

Question 14:

Does ADOH have a preference or priority for workforce housing?

ADOH Response:

The 2020 QAP includes scoring for Occupancy Preferences under Section 2.7(F) beginning on page 41. Households with Children, Housing For Older Persons Projects, Veterans Projects, and Special Populations Projects all receive five points.

Question 14:

It was mentioned at the application workshop in January that if developers have large volumes of properties, that potentially their own REO could be used in lieu of some of the forms in tab 6. The two developers for an application I'm working on have around 60 properties combined. May I use an REO such as the attached instead of forms 6-1 through 6-3? Also, our management company has over 50 properties they manage, and they have a form 6-4 filled out from a previous year's application, may I include that form 6-4 (updated) instead of having them type an entirely new one out?

ADOH Response:

You may not use the REO attached, since it does not have all of the information that is requested on Form 6-3. If all of the information in Form 6-3 is presented in the same manner as is requested in the form, the Applicant may request a waiver to submit another form of REO in lieu of Form 6-3. However, ADOH requires that Forms 6-1 and 6-2 be completed and submitted with the Application. Form 6-4 is not required until Equity.

It is possible to copy some of the information from past versions of 6-1 and 6-2 to the 2020 forms.

Question 15:

Does the owner/applicant entity need to be registered to do business in AZ or does the GP of that entity need to be as well?

ADOH Response:

2020 QAP Section 2.9(D)(3) requires that the "Applicant, Owner (if formed), Developer, and Co-Developer are duly formed legal entities authorized to transact business in the State of Arizona and [be] in good standing with the Arizona Corporation Commission or the Office of the Secretary of the State of Arizona."

Question 16:

Assuming that a Market Study in conducted in compliance with the requirements in Exhibit C, could a project be disqualified and/or found unfeasible if it has a gross capture rate of 16% and a New Households capture rate of – 994%? In this particular situation the PMA has a declining population which is the contributing factor to large negative new households capture rate.

There are no projects in the pipeline, the existing market rate and LIHTC projects have 100% occupancy and all of the LIHTC projects have waitlists ranging from 16 to 50 people. As the proposed complex would have 30 units, it is conceivable that the project could be filled from the waitlists alone, thereby not cannibalizing the existing projects to a significant extent.

Pg. 125 refers to "excessive gross or net capture rates" but does not define what these levels need to be to deny an application due to market conditions.

ADOH Response:

ADOH does not pre-score or issue determinations regarding an Application's feasibility prior to submittal. Section 10 of the Market Demand Study Guide provides guidance regarding the conclusions of the market study with respect to capture rates as follows: "If the gross household capture rate exceeds 10% or the new household capture rate exceeds 20%, this summary must include a discussion of the other factors considered in analyzing demand to result in the market analyst's conclusion that there is strong demand for the proposed project (i.e., household growth, units in pipeline, vacancy rates in the market, absorption levels, market balance, market segmentation, number of potential income qualified households, unit distribution, AMI distribution, turnover of existing tenants during rehabilitation, market saturation, etc.)"

Received by February 25, 2020:

Question 17:

Regarding the requirements for Tab 15: Transit Oriented Design, can the letter from the transit authority confirming no changes to the route or schedule come from the transit manager in that city? The QAP says the letter should come from the transit authority, but "transit authority" isn't defined. The transit manager is a city employee as opposed to a Valley Metro employee.

ADOH Response:

A transit authority is a government agency or a public-benefit corporation that provides public transportation within a specific region. Valley Metro is the transit authority for the Phoenix metro area and Sun Tran is the transit authority for the Tucson metro area. These transit authorities have provided letters for LIHTC Applications in the past. The letter may come from a Local Government transportation official where the Local Government operates the transportation.

Question 18:

Regarding Form 6-3 - Does “date purchased” refer to the date that the PA was signed, or some other date if there was maybe an option to purchase?

ADOH Response:

Date purchased refers to the date the property was purchased (i.e. the date the Deed was recorded for the transaction). It does not refer to the date that the transaction was first contemplated.

Question 19:

Regarding Form 6-3 - What number are you looking for when you refer to “market value” of previous properties we’ve developed? Should it be obtained from previous third party market studies that were completed prior to development?

ADOH Response:

Market value on Form 6-3 refers to the purchase price that a buyer would pay for the property today. The Applicant may use various sources upon which to base this value, including, but not limited to: cost/sf based upon current market appraisals, market cap rates, etc.

Question 20:

Regarding Form 6-3 – Does original loan amount and current outstanding balance refer to perm loan?

ADOH Response:

Yes, it refers to the permanent loan. If there is more than one hard permanent loan, the information for the additional hard debt should be listed in the space where the next property would ordinarily be listed.

Question 21:

Regarding Form 6-3: Are we supposed to be including properties on form 6-3 that are still under construction or have not been stabilized yet?

ADOH Response:

Yes. The Form 6-3 includes all properties owned, including those under construction. If the property is under construction or has not yet closed on permanent financing, the Applicant may indicate that on the Form 6-3.

Question 22:

We wanted to clarify how Income Averaging (IA) will be implemented with respect to the LURA. We have read Section 7.1 pages 120 – 121 of the QAP and wanted to confirm whether or not the LURA would specify the units at each AMI level.

For example, will the LURA state something to the effect:

10 units at 40% AMI

10 units at 50% AMI

10 units at 60% AMI

Or will the LURA just specify project must income average to 60% AMI and allow flexibility for units to float while still meeting the 60% AMI Average requirement?

ADOH Response:

The LURA will set forth the following. (The numbers below are for illustrative purposes only based upon the number of units in your question 22 and assumes a 9% competitive transaction with two-, three-, and four-bedroom Units. Unit distribution has been added to the example below to address the requirements in the QAP.)

1. *Under Occupancy Restrictions in the body of the LURA:*

    i) *Minimum Set-aside Requirements. Consistent with Section 42(g)(1) of the Code, the Project shall meet the requirements of a "qualified low-income housing project" in that, subject to the election of the Owner:*

        (1) 20% or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50% or less of area median gross income; or

        (2) 40% or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60% or less of area median gross income; or

        (3) 40% or more of the residential units in such project are both rent-restricted and occupied by individuals whose income does not exceed 30%, 40%, 50%, 60% 70% or 80% of area median gross income so long as the average of the incomes designated for such units does not exceed an average of 50% of area median gross income. 50% is applicable in this instance due to the scoring of a competitive application.

2. *In Attachment II – Occupancy Restrictions and Project Unit Characteristics the LURA will set forth:*

Owner initially elected the unit mix designation for purposes of 'Average Income' under I.R.C. Section 42(g)(1)(C) as set forth in Section 4 below, which shall apply to the Project unless otherwise modified by the Owner, with the prior written approval of the Department, so long as such modification continues to meet the 'Average Income' under I.R.C. Section 42(g)(1)(C). The most current unit mix designation applicable to the Project must be provided annually to the Department

with owner's Certificate of Continued Compliance, or its equivalent. Income limits must be equally distributed among unit sizes (other than a single unit per AMGI limit if necessary due to odd numbers.)

4. *Income Restrictions for Tenants of Low-Income Units*

a) *No (0) Low-Income Units comprised of 3 One-bedroom Units, 3 Two-Bedroom Units and 3 Three-bedroom Units, shall be required to be occupied (or treated as occupied as provided herein) by individuals or families whose income is* ***thirty (30)%*** *or less of the area median gross income as determined in accordance with the Code (said tenants to be referred to herein, collectively, as "30% AMGI low-income tenants"). Gross rents for these Low-Income Units shall be restricted to no more than the allowable rent limit as established by the Arizona Department of Housing as published for the applicable year for the 30% AMGI low-income tenants, or the applicable Gross Rent Floor that was elected for the Project.]*

b) *At least ten* ***(10)*** *Low-Income Units comprised of three* ***(3)*** *two-bedroom Units, three* ***(3)*** *three-bedroom Units and four* ***(4)*** *four-bedroom Units shall be required to be occupied (or treated as occupied as provided herein) by individuals or families whose income is* ***forty (40)%*** *or less of the area median gross income as determined in accordance with the Code (said tenants to be referred to herein, collectively, as "40% AMGI low-income tenants"). Gross rents for these Low-Income Units shall be restricted to no more than the allowable rent limit as established by the Arizona Department of Housing as published for the applicable year for the 40% AMGI low-income tenants, or the applicable Gross Rent Floor that was elected for the Project.*

c) *At least ten* ***(10)*** *Low-Income Units comprised of four* ***(4)*** *two-bedroom Units, three* ***(3)*** *three-bedroom Units and three* ***(3)*** *four-bedroom Units shall be required to be occupied (or treated as occupied as provided herein) by individuals or families whose income is* ***fifty (50)%*** *or less of the area median gross income as determined in accordance with the Code (said tenants to be referred to herein, collectively, as "50% AMGI low-income tenants"). Gross rents for these Low-Income Units shall be restricted to no more than the allowable rent limit as established by the Arizona Department of Housing as published for the applicable year for the 50% AMGI low-income tenants, or the applicable Gross Rent Floor that was elected for the Project.*

d) *The remaining ten* ***(10)*** *Low-Income Units comprised of three (3) two-bedroom Units, four (4) three-bedroom Units and three (3) four-bedroom Units shall be required to be occupied (or treated as occupied as provided herein) by individuals or families whose income is* ***sixty (60)%*** *or less of the area median gross income as determined in accordance with the Code (said tenants to be referred to herein, collectively, as "60% AMGI low-income tenants"). Gross rents for these Low-Income Units shall be restricted to no more than the allowable rent limit as established by the Arizona Department of Housing as published for the applicable year for the 60% AMGI low-income tenants, or the applicable Gross Rent Floor that was elected for the Project.*

e) *No* ***(0)*** *Low-Income Units shall be required to be occupied (or treated as occupied as provided herein) by individuals or families whose income is* ***seventy (70)%*** *or less of the area median gross income as determined in accordance with the Code (said tenants to be referred to herein, collectively, as "70% AMGI low-income tenants"). Gross rents for these Low-Income Units shall be restricted*

to no more than the allowable rent limit as established by the Arizona Department of Housing as published for the applicable year for the 70% AMGI low-income tenants, or the applicable Gross Rent Floor that was elected for the Project.

f) *No **(0)** Low-Income Units shall be required to be occupied (or treated as occupied as provided herein) by individuals or families whose income is **eighty (80)%** or less of the area median gross income as determined in accordance with the Code (said tenants to be referred to herein, collectively, as "80% AMGI low-income tenants"). Gross rents for these Low-Income Units shall be restricted to no more than the allowable rent limit as established by the Arizona Department of Housing as published for the applicable year for the 80% AMGI low-income tenants, or the applicable Gross Rent Floor that was elected for the Project.*

g) *The determination of whether an individual or family remains a low-income tenant at one of the AMGI levels specified in subparagraphs (a), through (), above ("a stated AMGI level"), shall be made at least annually on the basis of the current certified income of such the AMGI low-income tenant(s) and the current year applicable income limit. Any Low-Income Unit occupied by a individual or family who is at a stated AMGI level at the commencement of occupancy shall continue to be treated as if occupied by a qualifying low-income tenant so long as the qualifying tenant's income does not increase above 140% of the current year applicable income limit. For each qualifying tenant whose income subsequently exceeds 140% of the current year applicable income limit, such qualifying tenant's Low-Income Unit will continue to be treated as if occupied by a tenant with income at the stated AMGI level so long as during the period of noncompliance each available Low-Income Unit of a comparable or smaller size is rented to a tenant who is at the stated AMGI level. Once the percentage of Low-Income Units in the Project (excluding the over-income units) equals the percentage of Low-Income Units set-aside for the stated AMGI level, failure to maintain the over-income units as Low-Income Units has no significance.*

h) *In the event the occupant exceeded the designated income level at the time of initial certification, i.e. at the time of initial move-in, to qualify to occupy the Low-Income Unit, the Owner must obtain the Department's prior written approval to redesignate such Low-Income Unit to a higher approved income designation.*

Question 23:

On a 4% Tax Credit project application, is it acceptable for the developer to have already started construction on a phase of the project's units at the time of application to ADOH? The units will not be complete until after funding is closed. We didn't see anything in the QAP/design guidelines prohibiting this arrangement but wanted to double check.

ADOH Response:

2020 QAP Section 4.1(A) states "If applicable, rehabilitation costs claimed under §42(h)(4) which are incurred prior to the submittal of the Application must meet the requirements described in Exhibit D. The Applicant shall be responsible for the costs of ADOH's third party reviewer who reviews the proposed scope of work and inspects the work for compliance with Exhibit D." However, as a practical matter, if ADOH's independent cost estimator review of the scope of work, required at 2020

QAP Section 2.9(T)(2)(b), is not performed prior to the beginning of construction, it is possible that the cost estimator would not be able to include all of the work in ADOH's determination of the maximum allowable Eligible Basis for the Project, as described at 2020 QAP Section 7.2(A)(3), because ADOH did not inspect the conditions prior to the commencement of work.

Question 24:

We are a one-building project and will not treat this as a multiple building project on Form 8609. Would we have to pay the higher compliance fee?

ADOH Response:

No. The higher compliance fee is charged to a Project when the Project consists of more than one residential building and each residential building is a Project for monitoring purposes.

Question 25:

Does a project being developed with a long term ground lease require an appraisal to be submitted with the Application?

ADOH Response:

It depends upon the facts and circumstances of the Application. Applicants in the 9% Tax Credit Round who would like the value of the land to be counted in the Tie-Breaker must submit an Appraisal with the Application to support the value of the land in the calculation. (See 2020 QAP Section 2.8) Further, if the lease payment is greater than a nominal amount, then supporting documentation, which could include an Appraisal, would need to be included in the Application to justify the amount of the lease payment included in the proposed Operating Expenses. (Lease payments must be evenly distributed through the term of the lease and paid as an Operating Expense through the operating budget. See 2020 QAP Section 2.9(G)(2)(b)(ii).)

Question 26:

How do we demonstrate site control of a property owned by a PHA, to be redeveloped by an owner entity (the applicant) of which the PHA is a member? Would we follow the requirements in Section 2.9(G)(2)(b)(i) or Section 2.9(G)(2)(c)?

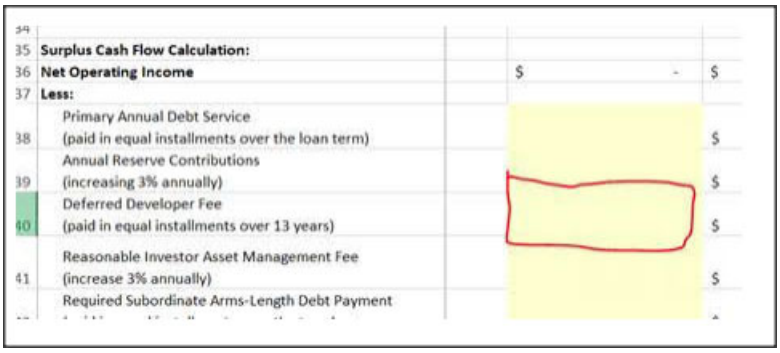
ADOH Response:

Since the land is owned by the PHA (a governmental entity) and assuming that a local governing body must approve the terms of any land transfer or lease prior to the close of escrow, then the Applicant must follow 2020 QAP Section 2.9(G)(2)(c), which requires all of the documentation in

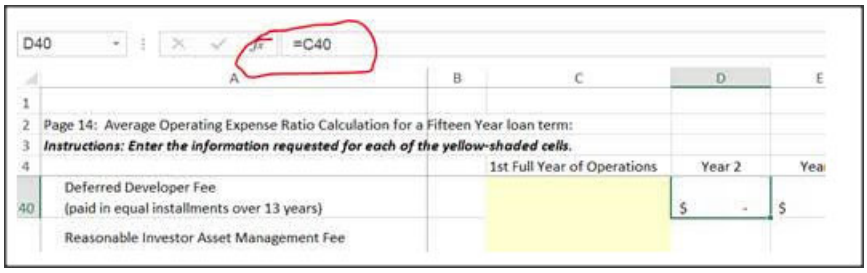
Sections 2.9(G)(2)(a) – (b)(iv)(1) plus evidence that the local governing body has approved all terms of the land transfer or lease.

Question 27:

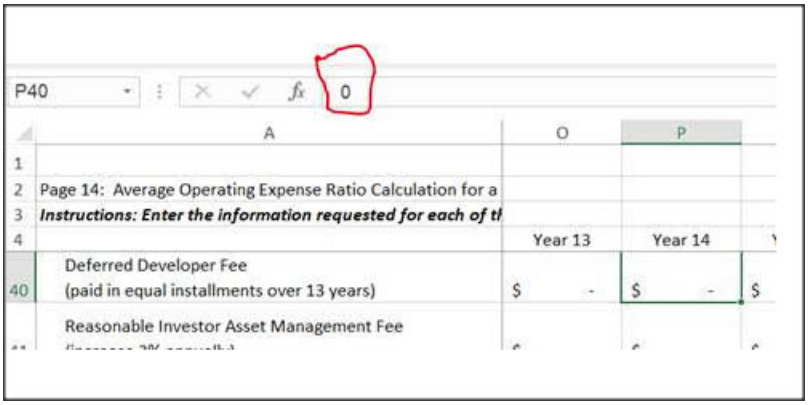
Line 40 of Tab 14 of Form 3, the surplus cash flow test, appears to be inconsistent with the QAP, which states on page 109 that "for purposes of this analysis, ADOH will assume the yearly increases described in 7.1(C)(3)(a), that Deferred Developer Fee will be paid in equal installments over the first fifteen years of the loan…" However, Tab 14 allows the deferred fee to be amortized only over 13 years. The annual payment is to be hard-entered by the applicant at cell C40:



, and it carries over for the first 13 years of operation from cells d40 to o40:



However, cells P40 and Q40, representing years 14 and 15, are hard-entered with a zero with no ability to override:



As a result, the surplus cash flow is calculated in the final years of the project without reference to the deferred fee, assuming as permitted in the QAP that it is repaid over 15 years.

Is it possible to send you Form 3 to be reformatted to amortize the deferred fee over the 15 years?

ADOH Response:

ADOH has updated the Form 3 to reflect a 15-year period over which Deferred Developer Fee will be paid in equal installments. It has been posted on the ADOH website. If an Applicant submits the Form 3 that was posted on January 30, 2020 with the Application, then ADOH will calculate the ratio during underwriting.

Question 28:

What should be included in response to the question on Form 8 regarding the description of "any remaining processes to pull permits and begin construction of the Units described above."

ADOH Response:

The Form 8 must include all processes that must be completed in order to pull permits. Examples include, but are not limited to: administrative processes such as plan review, lot splits, lot combinations, plat approval, etc.

Question 29:

Wanted to confirm what criteria you are looking for when requesting a Scatter Site application for projects that are more than 15 miles apart (QAP page 19)?

ADOH Response:

ADOH reviews the Applicant's past experience developing and operating scattered site projects, thus the Applicant would need to submit a waiver request and provide data to support their experience and identify which past developments were scattered sites located more than fifteen miles apart and operated as a single project.

Question 30:

Wanted to confirm that I'm reading the QCT/DDA section right, that you will still consider a Scatter Site application, but if one of the properties is in a QCT and another is not, then we would have to elect no basis boost.

ADOH Response:

Part "C" of the Scattered Sites definition states "Since I.R.C. §42(d)(5)(B) provides an increase in credits for buildings rather than projects, Scattered Site Projects situated on QCT/DDA and non-

QCT/DDA parcels are not entitled to the Eligible Basis boost on all buildings…" The buildings which are situated on QCT/DDA parcels are entitled to the basis boost.

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.