

MEMORANDUM

DATE: March 24, 1997

TO: Atlanta/Savannah AHRB 1997 Application Workshop Attendees and non attendees who purchased Application Manuals.

FROM: Affordable Housing Resource Bank

RE: Answers to questions raised during the Workshops concerning the 1997 Application and application review procedures and clarifications of application.

Section 1 of this memorandum provides a list of questions we have received from attendees of the Atlanta and Savannah workshops and non-attendees who ordered application manuals. If you have written us with a specific question and answer is not included below, please resubmit your question to the Affordable Housing Resource Bank by FAX at (404) 679-0667. The Resource Bank will respond within five (5) business days. All questions must be received no later than the close to business on April 11, 1997.

Section 2 of this memorandum provides clarifications on certain aspects of the Resource Bank's Program Descriptions and the application process.

Section 3 of this memorandum provides corrections in the Application manual.

In addition, this memorandum transmits:

- a state map locating the counties in which the Department does not administer the Section 8 certificate program;
- an index page for the Policy Guide section of the Application Manual
- a revised copy of the HOME regulations to replace the incomplete copy at TAB 9 of the HOME manual.
- a listing of 1994-1996 Affordable Housing Resource Bank funded projects, as mentioned at TAB E, Market Study Guide.

Note: All applicants for 1997 Affordable Housing Resource Bank financing must adhere to the information contained in this memorandum, which shall be considered by the Affordable Housing Resource Bank as an amendment to the Application Manual. As such, the provisions of the required Application Certification Letter shall apply.

SECTION 1 QUESTIONS AND ANSWERS

Question: Does the Resource Bank maintain a list of local government-designated economic revitalization areas that meet the Combined Qualified Allocation Plan's (CQAP) definition?

Answer: *No.*

Question: Can (project) financing commitments be subject to "normal" criteria?

Answer: *For application threshold requirements, financing commitments may be subject to various lender conditions.*

However, for the purpose of obtaining project selection criteria "scoring" points for firm debt financing commitments, execution by the proposed lender of the Certification Letter for Debt financing (template is located at Tab B of the Application Manual) is required in addition to a debt financing commitment letter executed by the lender and the borrower.

Question: To whom should the various required application supporting documents (i.e., financing commitment letters, site zoning confirmation, utility "will serve" letters) be addressed to in the event the proposed ownership entity is not formed at the point of application submission?

Answer: *The proposed project ownership entity must be formed at the point of application submission. Supporting documents must be addressed to the ownership entity. Specifically, they must be addressed to the managing general partner of the ownership entity.*

Question: Can a waiver of the Market Study requirement be obtained?

Answer: *No. All applications must contain a market study in accordance with the Market Study guide.*

Question: How recent must the required Market Study be?

Answer: *The required Market Study (or update) must be no older than six (6) months old at the application submission deadline, April 21, 1997.*

Question: Are waivers available for the required Phase I Environmental Study?

Answer: No.

Question: How recent must the required Phase I Environmental Study be?

Answer: *The required Phase I Environmental Study must have been conducted (or updated) no earlier than 180 days from the application submission deadline, April 21, 1997.*

Note: *Updated Phase I Environmental studies must:*

- *meet the requirements contained in the Environmental Review Guide located at TAB F of the Application Manual;*
- *be in compliance with all DCA Phase I Environmental Phase I requirements;*
- *include a new reconnaissance with new (dated) photos;*
- *include an update of all regulatory reviews including federal and state lists;*
- *include all original material and updates; and*
- *provide a professional opinion on any changed conditions by the engineer completing the update.*

Question: How recent must the Tenant Relocation Plan be?

Answer: *The Tenant Relocation Plan must be recent enough to comply with Section 5 of the HOME manual.*

Question: How recent must the Physical Needs Assessment be?

Answer: *The Physical Needs Assessment must have been conducted no earlier than 90 days from the application submission deadline, April 21, 1997.*

Question: Will the Resource Bank accept copies of building permits rather than the originals?

Answer: *Yes. However, the required accompanying letter from the local government building permit official must be the original.*

Question: Are the Site and Neighborhood Standards set forth in the application materials applicable both to Low Income Housing Tax Credits and HOME loans?

Answer: *No. These site and neighborhood standards must be complied with by HOME loan applicants only.*

Question: The site control threshold is July 31, 1997, but according to the schedule, HOME and LIHTC reservations will not be made until mid-August. Is this a misprint?

Answer: *No. Site control through July 31, 1997 is an application threshold requirement. As a practical matter, applicants should have legal site control until they are able to close the real estate purchase.*

Question: Can the local government support resolution required for points be dated after the application submission deadline?

Answer: *No. All supporting documents for point scoring must be dated no later than April 21, 1997, and must be included in the application at the point of application submission, April 21, 1997.*

Question: Will all persons and entities be held to the ceiling of 20% of 1997 LIHTC resources available?

Answer: Yes

Question: To score the general partner's 1% equity participation points under Item G of Section 13 of the CQAP, must the general partner be required to actually fund 1% of the project's total development cost?

Answer: *Not necessarily. However, to score these points, the general partner(s) must demonstrate the control of cash equal to 1% of the total project development budget. To meet this requirement, you must include all of the following items in the application:*

- *a signed written statement by the general partner(s) certifying that the general partner(s) will have cash equal to 1% of the projected total project development cost at the projected closing of the project construction loan and will invest this amount in the project as a cash equity contribution, if required;*
- *a signed and dated financial statement indicating liquid assets equal to 1% of the projected total project development cost; and*
- *a third party confirmation of the general partner's ability to fund 1% of the projected total project development cost provided either by the general partner's CPA or bank.*

Note: The general partner's 1% equity contribution must be entered on Form AH 11, Project Financing Summary.

Note: The above information must be submitted for each application submitted to the Resource Bank. The third party's confirmation of the general partner's ability to fund the required 1% equity must recognize all of the general partner's applications to the Resource Bank.

Question: Are templates available for the general partner's equity contribution?

Answer: No. However, the answer to the previous question will provide guidance in preparing the required submissions.

Question: Is there a difference between the documentation for meeting the threshold requirement and obtaining "scoring" points for general partner equity contributions?

Answer: Yes. For meeting the application threshold requirement, applicants must include the following in the application:

- a signed written statement by the general partner(s) certifying that the general partner(s) will have cash equal to 1% of the projected total project development cost at the projected closing of the project construction loan and will invest this amount in the project as a cash equity contribution, if required; and
- a signed and dated financial statement indicating liquid assets equal to 1% of the projected total project development cost.

Note: The general partner's 1% equity contribution must be entered on Form AH 11, Project Financing Summary.

Question: How is the maximum 15% developer fee calculated?

Answer: For applicants who do not have an identity of interest with the general contractor:

Total items 2. through 53. in Column 1, FORM AH 06.
Multiply the result by .15

For applicants who have an identity of interest with the general contractor:

*Total items 2. through 53. in Column 1, FORM AH 06.
Subtract item 17. Multiply the result by .15*

Question: Does Section 9 of the CQAP, Geographic Over-Allocation, apply to the Credit set-asides and HOME loans?

Answer: Yes.

Question: Do the subsidy limits defined in Paragraph 4. of Section 12 of the CQAP apply to projects seeking Historic designation.

Answer: Yes. *The subsidy limits apply to all projects, except in the event the Resource Bank has provided a waiver as set forth in Section 11 of the CQAP.*

Question: Can Low Income Housing Tax Credits be used for assisted living units?

Answer: No. *Section 42 of the Internal Revenue Code states that Credit is not available for nursing homes, hospitals, or intermediate care facilities.*

Question: Do all application documents have to be bound in three ring binders?

Answer: Yes, *with the exception of site plans, architectural drawings and construction specifications.*

Question: Will the loan amortization period for HOME loans be greater than the 20 year loan term?

Answer: *See the attachment to this memorandum entitled "Repayment Terms for HOME Loans".*

Question: Are the Fair Market rents set forth at Tab C of the Application Manual applicable to all Resource Bank financing programs?

Answer: No. *The Fair Market rents are applicable only when HOME funded loans are made by the Resource Bank.*

Question: Do the fee schedules set forth in the CQAP apply to all applicants, including applicants for additional Credits?

Answer: Yes.

Question: What is the USDA program?

Answer: *For information on United States Department of Agriculture rental housing programs, contact USDA at (706) 546-2164.*

Question: Define “standard” equity factor referred to in Section 13, Paragraph F of the CQAP.

Answer: *For scoring purposes, the standard equity factor of \$00.65 was selected as the baseline “net” equity factor for point scoring. Applicants who are able to negotiate a higher net equity factor than the baseline or standard equity factor will receive scoring points as described in the CQAP.*

Question: Define “lock in” as it pertains to the above referenced CQAP section as it applies to point scoring.

Answer: *By “locking in” the equity factor at the point of application submission, the applicant agrees that this is the equity factor used at Credit reservation, Credit carryover, and final Credit allocation. However, if the project owner is able to negotiate a higher equity factor between application submission and final Credit allocation, Section 42 of the Internal Revenue Code dictates that the higher equity factor be used in underwriting the Credit.*

Question: Is a \$10,000 per unit “hard cost” investment in rehabilitation projects a minimum for LIHTC allocations and HOME loans?

Answer: *No. A minimum per unit hard cost investment of \$10,000 is required only to score the points specified in Section 13, Paragraph 1 of the CQAP.*

Question: Is there a sliding scale for points under Section 13, Paragraph 1 of the CQAP, “Rehabilitation of Existing Structures”?

Answer: *No.*

Question: In view of Atlanta current sewer moratorium, will Atlanta projects be required to submit letters from the City of Atlanta concerning the availability and capacity of public sewer in order to meet application threshold requirements?

Answer: *Yes. See Clarification Item 4 in Section 2 of this memorandum.*

Question: To receive scoring points under Section 13, Paragraph B of the Combined Qualified Allocation Plan, what documentation must a

for-profit general partner submit in the application to certify the women/minority ownership?

Answer: *To receive scoring points under this section, for-profit general partners must submit documentation as to the composition of the general partnership in terms of its minority and gender ownership. This must be in the form of a joint venture agreement between the parties composing the general partnership and a copy of the general partners' articles of incorporation together with the resumes of all parties comprising the general partnership.*

Note: *These scoring points are intended to encourage the bona-fied participation of minorities and women in the ownership of state-assisted affordable rental housing projects. The Department of Community Affairs will regularly monitor the participation in project development and ownership of the designated minority or woman represented by the applicant as being the 51% + owner of the general partnership ownership entity. In the event that the minority or woman represented by the applicant as having a 51% + ownership of the general partnership ownership entity is deemed by the Department to be a "front" only for the purpose of application scoring points, the Department will take appropriate action, which may include, but not limited to the recapturing of Credit and the cancellation of loans.*

Question: Will projects which received LIHTCs in earlier rounds and plan to request an additional allocation of LIHTCs during the 1997 application cycle be required to pay the new compliance fee for all units?

Answer: Yes.

Question: Do the builder's overhead, general requirements, and profit percentages of 2%, 6% and 6% apply to all Resource Bank programs?

Answer: Yes.

Question: In determining the actual dollar amounts of the above builder's percentages, should the contingency item (Item number 13 of Section B of Form AH 06) be included?

Answer: *No. Add items 4. through 12 of Section B only. Then multiply the sum by the allowable percentages.*

Question: Can a CHDO establish a wholly owned for-profit subsidiary to serve as a project's general partner-owner or must the CHDO serve directly as the general partner-owner?

Answer: *Yes. Either ownership structure is acceptable.*

Question: If two projects score equally, but, for any reason, they cannot both be funded, how will the Resource Bank select the winner?

Answer: *In the event two or more applications receive the same scoring point total and the Resource Bank does not have resources available to fund them, the available resources will be equally divided between the applications. Both will be required to submit evidence of replacement financing within fifteen business days of notification. The Resource Bank may explore other options, at its sole discretion to ameliorate the problem.*

Question: For scoring points, can amenities other than those listed on page 16 of the Combined Qualified Allocation Plan be substituted?

Answer: *No, with one exception. Owners of projects proposed for elderly tenancy may substitute a lighted, weather sheltered, equipped shuffleboard court for a tennis or basketball court.*

Question: Would development financing assistance or operating assistance from a local public housing authority qualify for scoring points under Section 13, Paragraph E., Subsection 2 of the CQAP?

Answer: *No. To score under this category, the financing assistance must be provided by the local government.*

Question: To obtain scoring points for the installation of ceiling fans, which rooms in an apartment are considered "living areas".

Answer: *Living room, kitchen, dining room and bedrooms.*

Question: In order to score points for having building permits in hand must the building permits have been paid for?

Answer: *Yes.*

Question: Do non-HOME construction loans have to be personally guaranteed?

Answer: *This decision will be made by your lender.*

Question: Is there a energy efficiency threshold for rehabilitation projects?

Answer: *No, but all rehabilitation projects will be required to meet the Resource Bank's Rehabilitation Standards set forth at TAB G in the Application manual.*

Question: Does a resolution and/or ordinance by local government approving an enterprise zone for a project qualify as "local government support" to score points under Section 13, E.,1 of the CQAP?

Answer: *The "local government support" resolution described in Section 13, E., 1., of the CQAP must clearly establish the local legislative body's support specifically for the proposed project. If the proposed project is specifically mentioned in the local government's enterprise zone resolution and/or ordinance, it will qualify.*

Question: Does an applicant proposing an all electric project have to submit a "will serve" letter from the local gas company?

Answer: *No.*

Question: Are building permits for new construction or rehabilitation projects a threshold criteria?

Answer: *No. Building permits are required for obtaining "readiness to proceed" scoring points.*

Question: Under Section 13, D.,1. (CQAP), please define "hold and rent" as it applies to public housing tenancy as it pertains to scoring points.

Answer: *To obtain these scoring points, the project owner must agree to hold and rent a percentage of the total proposed dwelling units to existing public housing tenants exclusively for a minimum period of five (5) years.*

Note: *If, during the five (5) year period, one or more of the dwelling units reserved for public housing tenants is vacated, it must be re-rented to other existing public housing tenants or must remain vacant.*

Question: Under Section 13, D., 1. (CQAP) please define the minimum capital investment of operating subsidy the local public housing authority must provide in order to obtain scoring points.

Answer: *There is no minimum contribution. The local public housing authority's contribution to the proposed project must make*

economic sense given the applicant's commitment to hold and rent the proposed percentage of units exclusively to existing public housing tenants for a continuous period of at least five years.

Question: To be qualified for Low Income Housing Tax Credits under the Elderly set-aside, must all dwelling units incorporate the unit features set forth in Section 14 in the CQAP?

Answer: *No. The unit features set forth in Section 14 of the CQAP are illustrative of the type of features usually found in dwelling units for seniors. These and others not mentioned in the CQAP may be incorporated. The Department's architect will determine whether or not the proposed senior dwelling unit amenities and amenities-in-common are consistent with senior needs.*

Question: Would a local government's initiation of condemnation of a development site planned to be subsequently deeded to an applicant meet the "site control" threshold if the local government sent a letter of explanation?

Answer: *No. Site control must be in the either of the two forms prescribed in Section 12 of the CQAP.*

Question: What utility allowances must I use?

Answer: *This depends on the type(s) of financing assistance requested. Page 5 of the application instructions set forth which utility allowances must be used.*

Question: Define "homelessness".

Answer: *The Resource Bank shall apply the U.S. Department of Housing and Urban Development's definition as set forth at 24 CFR, 91.5 which is summarized as follows:*

A "homeless" person or family as a person or family who lacks a fixed, regular and adequate nighttime residence and currently have a primary nighttime residence that is:

- a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelter and transitional housing for the mentally ill);*
- an institution that provides a temporary residence for individuals intended to be institutionalized; or*

- *a public or private place not designed for or ordinarily used as sleeping accommodations for human beings.*

Question: Are the lender and equity provider letters included at Tab B of the Application Manual required for Threshold?

Answer: *No. These letters are required for point scoring only.*

Question: Are applicants proposing rehabilitation projects required to include local building permits in the application.

Answer: *No. This is not a Threshold requirement.*

Question: Is it permissible to change lenders and equity providers (limited partners) after the point of application approval?

Answer: *Yes. However, the Resource Bank, at its sole discretion, must approve such lender and limited partner substitutions.*

Question: For scoring point purposes, how large must a lender commitment be or scoring points for “firm” construction and/or permanent loan commitments?

Answer: *Applicants who request HOME loans in an amount less than the \$2,000,000 maximum and obtain private debt financing equal to less than fifty percent (50%) of the total debt financing required will not receive points for construction and permanent financing commitments.*

In order to receive points for construction and/or permanent financing, the commitments must total the required debt financing necessary to complete the project.

Question: What requirements must non-traditional lenders meet for scoring purposes?

Answer: *Non-traditional lenders, including individuals, must provide audited, third party financial statements supporting the lender’s ability to make the proposed loan to the project owner.*

Question: To score amenities points for the common laundry under amenities-in-common, does the owner have to purchase the laundry equipment directly or can the owner contract with a vendor to provide the laundry equipment?

Answer: *To score points under this category, the laundry must be equipped with clothes washing and drying equipment. This equipment can be purchased by the project owner or leased by the project owner as long as it is installed in the laundry at the point of Certificate of Occupancy of the initial residential building.*

Question: In preparing FORM AH 09, Project Operating Forecast, should the First Year of Operations be the first year of operations or the “stabilized” year of operations.

Answer: *The first year of operations.*

Question: For the purpose of obtaining limited partner experience for threshold, which limited partner should be used - the limited partner listed on the certification of limited partnership or the limited partner contributing equity, which will replace the limited partner identified in the limited partnership certification filed with the State of Georgia?

Answer: *The limited partner providing the equity should be used.*

Question: In the policy statements, when the phrase “DCA funded” is used, does this mean allocated Credits or DCA loans?

Answer: *Accompanied this memorandum is a index for the Policy Guide which indicates the policies applicable to DCA loans, only.*

Question: Where can I find a reference concerning the applicability of HOME rules and regulations governing projects where LIHTC and HOME loans are awarded?

Answer: *At page 9 of the Policy Guide located at TAB D of the Application Manual under the Section entitled, “Unit Distribution With Multiple Resource Bank Funding.*

Question: At Section 13.,D.,2, A., of the CQAP, it states that to obtain scoring points for HTF funding, the applicant must “apply for and obtain” a three year contract with DCA for rental housing assistance for the homeless. Is it possible to obtain a firm commitment from DCA for this funding prior to the application submission deadline? If not, how can one score these points?

Answer: *DCA will not provide firm commitments for HTF rental housing assistance in advance of the application deadline. To score points under this point category, the applicant must only apply for the HTF assistance and provide the items listed in the CQAP.*

Question: Please give an example of the proper application of the policy concerning the Deferred Development Fee section of the Policy Guide located on page 3 of the Guide.

Answer: *The deferred developer fee will not be included in the Credit “gap” calculation (see page 3 of FORM AH 06). Therefore, the gap and Credit determined by the gap calculation will be larger than if the deferred developer fee had been included.*

Question: Will the Resource Bank rely solely on the applicant’s market study in order to determine the market for the units comprising the project?

Answer: *No. The Resource Bank reserves the right to also take into account the Department’s knowledge of the local housing market, other current market studies conducted within the market and comments concerning the local housing market received from local government.*

SECTION 2 CLARIFICATIONS

1. Projects Eligible for HOME Loans

In addition to projects proposed for development in local government designated economic revitalization areas and rural counties, projects located in Difficult Development Areas and Qualified Census Tracts or serving Special Needs populations, anywhere in the State are eligible for HOME loans._

2. Non-Compliance with DCA Programs

Applicants who are determined to be in non-Compliance with any DCA administered programs will be precluded from receiving assistance through the Resource Bank’s 1997 application/funding cycle. This includes non-Compliance which occurs at any point between the application submission deadline through the reservation of Resource Bank resources, loan closing and 8609 application.

3. “Grace Period” for Submitting Overlooked Application Documents

While Applications must be received by the Resource Bank by 5:00 PM, April 21, 1997, for funding consideration, applicants will be afforded the opportunity to submit required documents inadvertently left out of their applications until 12:00 PM, April 22, 1997. No monetary penalty will be assessed.

Note: No documents affecting application point scoring will be accepted after 12:00 PM, April 22, 1997.

4. Clarification of fifteen (15) day “grace period” - how it will work

The Resource Bank will review all applications received by the 5:00 PM, April 21, 1997, application deadline for completeness. The Resource Bank will send deficiency letters to all applicants whose applications lack one or more of the following required Threshold documents during the week beginning May 26, 1997. Applicants receiving such letters will be required to submit the missing Threshold documents to the Resource Bank no later than 5:00 PM, June 16, 1997. The Threshold documents to which this pertains are:

- Site Control Documentation
- Site Owner’s Environmental Assessment Certification
- Phase I Environmental Report
- Site Zoning Documentation
- Operating Utilities Documentation
- Public Water and Sewer Documentation
- Market Study
- Project Plans and Specifications
- Preliminary Financing Commitments
- Energy Efficiency Documentation

Note: Only the above listed Threshold documents are the subjects of this “grace period”.

The document reprocessing of \$500 per each document listed above remains in force.

5. Repayment terms for HOME loans

See the attachment for a description of HOME loan repayment terms.

SECTION 3 CORRECTIONS

1. Application Instructions: Correction

TAB 12 at page 8 of the Application Instructions is incorrectly titled “ Site Control Documentation. The correct title is: “Site Zoning Documentation” .

2. Application Instructions: Correction

TAB 7 Project Economics, FORM AH 08, page 6 of the Application Instructions incorrectly states the reserves for new construction projects at \$200 per unit per year. Reserves for replacement for new construction projects are \$150 per unit per year.

3. Combined Qualified Allocation Plan: Correction

Section 12, Paragraph 10 of the Combined Qualified Allocation Plan states that tax-exempt bond financed projects requesting 4% Low Income Housing Tax Credits outside of the State's Credit authority are not required to submit documentation concerning the availability and capacity of public water, sanitary and sewer. This is incorrect. Tax-exempt bond financed projects must provide evidence of availability and capacity of these public utilities.