Why no 9% Projects?

Q. Please explain why 9% projects are currently being excluded?

A. HUD has tightened up the rules for commitment of funds and completion of projects. Projects funded from this NOFA must be completed and be ready for occupancy within 4 years of the commitment ("set-up") date. Although HOME contracts already require completion well within the 4-year period, this rule limits HCD's flexibility to extend contracts if delays in securing financing occur. If, as a result of missed deadlines, the project is not completed within 4 years, there is a risk that the Department will lose HOME funds. Our experience over the last two years shows that HOME projects have difficulty in obtaining 9% credits, are often not competitive in the tie-breaker score and have (on one occasion) withdrawn their HOME award because 9% credits could not be secured. We will continue to monitor this situation and make a determination regarding 9% tax credits on an annual basis.

Vacancy Rates

Q. Is a 10% vacancy rate for Special Needs Units permissible when required by another lender (i.e. CalHFA/MHSA loans)?

A. UMR section 8310(a) states that the "vacancy rates shall be assumed to be 5%, unless a different figure is required by another funding source…"

In this case the applicant will need to explain and provide documentation that the higher rate is required. Also, where the higher rate is only applicable to some of the units, the applicant must explain and show calculations for how the overall vacancy rate for the project was determined.

Disbursements

Q. Will HOME consider disbursing 90% of its funds upon certificate of occupancy and the remaining 10% at permanent loan conversion?

A. Home activity funds may be used as construction financing, permanent (takeout) financing or any combination of both, provided that the funds are drawn in accordance HOME section 8215 and the project's Standard Agreement. For example:

- The project has completed "Set-up"; and
- HOME funds are disbursed on a reimbursement basis for eligible costs.

HOME retains 10% of loan proceeds to ensure completion and compliance with all HOME requirements. Retention is released when the Project Completion Requirements are met, including submission of the following to the Department:

- Project Completion Report;
- Final Wage Compliance Report (Davis-Bacon only);
- Final Relocation Report (if applicable);
- Final Cost Certification; and
- Other documents, certifications, or evidence deemed necessary by the Department.

In the example here (90%/10%), this would probably be fine, provided that the project completion requirements have been met for the release of retention. Using funds at conversion takes a bit of planning—remember that it can take 6-8 weeks for a check to arrive, so having some flexibility regarding the conversion date is highly recommended.

Payment and Performance Bonds

Q. In the scenario above (where HOME funds are drawn at C of O and conversion), will HOME waive the requirement for payment and performance bonds?

A. In this scenario, it appears that the Borrower plans to close the HOME loan at construction, but draw funds later. Payment and Performance bonds are required on HOME construction loans.

Maximum Rents for Units Receiving Project-Based Section 8

Q. Are the limits on total rent charged where residents have tenant-based rental assistance an HCD or federal HOME requirement?

A. This is a federal requirement. (See HOME Supplement pg. 18-20 for relevant regulatory references and HUD CPD Notices.) For a very good explanation of the rationale behind this requirement, see HUD's CPD HOMEfires—Vol. 3 No. 10, November 2001.

Monitoring Fees

Q. Regarding annual monitoring fee, assuming there is amortized debt, if included as a mandatory debt payment, the annual monitoring fee will reduce the amount of senior debt the project might carry. In this case, will payment of the monitoring fee be allowed "below the line".

A. If making the mandatory payment negatively impacts the amount of supportable senior debt the Department may authorize payment "below the line". As the questioner points out, the mere fact that the fee is mandatory debt will reduce the total amount of senior debt the project may carry. The question though, is whether the mandatory fee will cause a negative impact (i.e. the project is unable to secure sufficient financing for the project). Applications will need to be analyzed on a case-by-case basis to make this determination. (NOFA pg. 12-13)

Q. Are State Recipients required to charge monitoring fees?

A. No, the decision as to whether or not a fee will be charged on a state recipient project is entirely at the discretion of the state recipient. If a fee is charged, it must not exceed the amounts charged by the state for CHDO projects. (NOFA pg. 12-13)

Q. If a project receives funding from two different HCD Programs (i.e. MHP and HOME) would the project need to pay both fees?

A. For HOME CHDO projects: It is not the intent of the Department to "double charge" projects which receive two or more awards from different Department programs. If a project has an MHP award, the applicant must include the .42% MHP required payment as mandatory debt. There will be no additional monitoring fee for the HOME CHDO project. For State Recipient projects the decision to charge a fee is entirely at the discretion of the state recipient. If a fee is charged, it must not exceed the amounts charged by the state for CHDO projects. (NOFA pg. 12-13)

Revisions to the UMRs

Q. If the revised UMRs become final before close of the HOME loan, would the new provisions be applicable to projects funded under the 2014 NOFA?

A. This is not actually a NOFA question, but UMR section 8300 (b) states "These regulations establish terms, conditions and procedures for funds awarded after the effective date of these regulations". The date of the award, not the date of the loan closing is determinative.

Site Control—Land Previously Purchased with RDA Funds

Q. Site control: If a city owns a site which was purchased with RDA funds, is any special documentation required (i.e. from Dept. of Finance) or is a current "clean" title report sufficient?

A. No special documentation is required if the land has already been purchased. Here, the city must show evidence of fee title (i.e. grant deed, title report).

Appraisals

Q. Is an appraisal needed for all new construction projects? If it's required, is the appraisal for the land only, or is a project appraisal required?

A. An appraisal is required EXCEPT in cases where the land is being donated to the project, no land costs will be included in the development budget, and the land value is not being claimed as a capitol contribution for the purpose of increasing the developer fee. An appraisal for a new construction project must be for the unrestricted fair market value of the land. (HOME Supplement pg. 56-57) For rental rehabilitation projects the appraisal is for the value of the project (HOME Supplement pg. 64)

Q. If you (developer) own the land already and plan to sell it to the limited partnership is an appraisal required?

A. The only exception to the appraisal requirement is for land donations. Here, an appraisal is required and it must support to land cost stated in the development budget. Specific rules apply for transactions between related and unrelated parties as well as situations where land value has either increased or decreased. (See UMR section 8311 and HOME Supplement pg. 57 or 64 for rules regarding costs charged to the project)

Q. What is the impact if the current appraised value is less than the land cost at time of purchase?

A. Where the land value has decreased HOME funds may be used for the cost of land up to the actual purchase price (sale between unrelated parties) or up to the price at the price at last arm's length transaction (sale between related parties). In addition to the current appraisal, the applicant must include evidence supporting the purchase price (i.e. the appraisal done in conjunction with the purchase). (See also HOME Supplement pg. 57 or 64)

Q. If the project is part of a larger, master-planned community, do you submit appraisals and reports for the entire site, or can the reports just examine the project?

A. It depends on the specific facts of a particular application, but generally the appraisal must support the land cost or value stated in the development budget. If the appraisal is for a larger parcel, which will be split in the future, the appraisal must clearly identify the project site and describe how the cost attributed to the project is calculated.

In all reports, the project site must be clearly identified and facts relevant to the project site discussed.

Applicants should contact Laura Bateman at lbateman@hcd.ca.gov or 916-623-1302 with questions specific to their project.

Q. Is an appraisal required when land is donated by the Master Developer? Can the land value be claimed as a capital contribution for purposes of increasing the developer fee?

A. An appraisal is required EXCEPT in cases where the land is being donated to the project, no land costs will be included in the development budget, and the land value is not being claimed as a capitol contribution for the purpose of increasing the developer fee (HOME Supplement pg. 56-57). A developer cannot claim land donated by the Master Developer as a capital contribution for the purpose of increasing the developer fee.

Rating and Ranking/Set-Asides

Q. Please clarify the rating and ranking process in regard to meeting minimum set-asides. Do Rural and CHDO projects get funded first?

A. Applications are scored and awarded in descending order. Rural and CHDO applications are funded first only to the extent necessary to meet the set-aside requirement. (See NOFA section XXIV, pg. 34-36)

Penalty Points/Missed Deadlines

Q. If an applicant received a 2010 HOME award and later received a 2011 Supplemental award, would they be subject to performance penalties for missed deadlines?

A. For those projects which were stalled as a result of the 2010 economic decline and later received supplemental HOME awards in 2011 the following is applicable:

"No performance penalties will be assessed by the Department for failure to meet HOME deadlines as a result of heightened competition for tax credits in 2010. No waiver requested is needed if this is the only reason that the HOME deadlines were missed. Waiver requests are still necessary for all other causes of delay, including inability to receive a tax credit/exchange allocation in 2009." (quoted from the 2012 HOME NOFA)

Q. Can an applicant receive confirmation of penalty point deductions prior to submitting an application?

A. Sorry, but no. Due to time constraints and other priorities, penalty point deductions are not evaluated until after the applications are submitted. Penalties assessed during scoring of the applications are subject to appeal.

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Similar Project Experience

Q. For similar project experience where the development team includes a for-profit GP and a non-profit MGP, can the experience of either or both be counted for points?

A. Be sure that Schedule A is filled in completely, accurately and the certification is properly dated and signed, because it will serve as a record of your previous experience. Applicants are reminded that previous participation pertains to the individual principal within an entity as well as the entity itself. (See UA form XX and HOME Supplement, pg. 25)

HOME ONLY - to receive points for similar project experience, this information must be provided by the applicant, developer, owner, and managing general partner for subsidized projects of the same type proposed in the application. Such projects must have been completed during the 5-year period specified in the HOME NOFA. To receive points you must indicate whether the project is a rental new construction or rental rehabilitation project by entering "yes" or "no" underneath the P-I-S date.

For co-partners, each must complete a separate Schedule A. The experience of both may count toward experience points except where both co-partners claim the same project.

Market Study Standard

Q. Does the Market Study need to state that it meets the "HCD HOME Standard"?

A. There is no "HOME Standard". Points will be awarded for a Market Study prepared in 2014 in accordance with the 2014 TCAC Market Study Guidelines. (See HOME Supplement pg. 54)

Phase I/II Reports

Q. Regarding the Phase I report: if there are buildings known (or suspected) to contain lead-based paint or asbestos and these buildings will be demolished prior to construction, is testing required prior to application and must the reports be included with the application?

A. A Phase II soils report is required when it is recommended by the Phase I. In the example given, soils testing may or may not be required prior to demolition (it depends on what the Phase I says). Typically, if this project were to receive an award there would be Special Conditions added, such as requiring a remediation/removal procedures manual and post-demolition soils testing.

Q. If the Phase I report recommends further investigation of a potential REC, does the Phase II need to be completed and submitted with the application?

A. To receive points, the Phase II report—if recommended by the Phase I report, must be included with the application. (See HOME Supplement pg. 57)

Q. In regard to the "Positive Factors" for Phase I reports (HOME Supplement, pg. 58), item #9 states "the Department is listed as one of the entities to which the report provides reliance." Are reliance letters required? If so, what is the impact if they are not submitted with the application?

A. Reliance letters are not required.

"Committed" Financing

Q. Are both federal and state 4% tax credits considered "committed" for scoring purposes?

A. Yes. Projects proposing 4% tax credits qualify for these points if all commitments other than tax-exempt bonds, 4% tax credit proceeds, AHP and deferred developer fee are in place. (See State Objectives scoring, NOFA pg. 39)

Q. Re: Points for permanent financing committed: what rates/terms are required by HCD? Where can these terms be found?

A. For permanent financing commitments other than 4% tax credits, bonds, AHP and deferred developer fee, the applicant must include evidence of an enforceable commitment by the lender with the application. Generally, a commitment must include the borrower's name, project name and location (address/parcel number/legal description), the loan amount and terms. (See HOME Supplement pg. 74-75 for complete discussion).

Audited Financials

Q. Our 2013 financial audit will not be completed before the application deadline, what should we do?

A. After publication of the NOFA, the Department was made aware that in many instances, financial audits could not be completed before the July 1st application deadline. If this situation occurs, the applicant must include their 2012 audited financials *and* their 2013 unaudited financials with the application. The Department may request the 2013 audited financials when they become available.

Non-Debarment Certifications

Q. Does the applicant need to include non-debarment certifications for the Applicant and Development Team Members with the application?

A. No.

Project Cash-Flow Analysis

Q. When projected cash-flow is trending negative, is a DCR higher than 1.2 permissible?

A. UMR section 8310 states that the DCR shall not be "greater than 1.20:1, except where projected cash-flow after debt service and required reserve deposits is equal to or greater than 12 percent of operation expenses, or *where a higher first year ratio is necessary to [maintain a positive cash flow for 15 years]".*

A DCR higher than 1.2 will not be permitted merely because the project is "trending negative", but may be permitted to ensure positive cash flow for 15 years. This would need to be determined on a case-by-case basis during feasibility review.

Q. If the project has positive cash-flow for 15 years, but goes negative in year 20 will HCD require additional capitalized reserves?

A. This would need to be determined on a case-by-case basis during feasibility review and in consideration of the specific facts for a particular project.

Deep Targeting

Q. For Deep Targeting, what percentage of units must be very low income? What does "some" mean (NOFA section X., pg. 20-21 and HOME Supplement pg. 18)?

A. Additional funds are available under Deep Targeting to reduce or eliminate mandatory debt for the purpose of lowering rents on some or all of the project's units to rents restricted at or below 40% AMI (DT units). There is no specific number or percentage of DT units required, but when compared to the applicant's "regular" application, it must be clear that the permanent debt has been reduced and that "a portion" of the units are restricted at or below 40% AMI (which may or may not have been possible without the Deep Targeting funds).

The actual number of DT units possible would depend on the project's overall feasibility, availability of subsidies, and so forth. Applicants should keep in mind that if Deep Targeting funds are over-subscribed, the funds will be allocated based on the following factors:

1. the higher the percentage of HOME units restricted at or below 40% AMI, the more Deep Targeting points awarded; and
2. the lower average rent, expressed as a percentage of AMI, the more Deep Targeting points awarded.

To be competitive, applicants may want to include as many DT units as is financially feasible.

State Objective Points--Special Needs

Q. In order to receive points for Special Needs projects (NOFA pg. 40), what type of documentation is required to show commitment of VASH vouchers or MHSA capital funding or subsidies?

A. The applicant must include sufficient documentation to show that the capital funds or subsidies will be provided to the project.

Veteran's Affairs Supportive Housing Vouchers (VASH): The HUD-VASH contract is required.

Mental Health Services Act (MHSA): The applicant must provide evidence that either capital funds or rental subsidies, or both have been committed to the project. The following documentation is acceptable:

1. CalHFA commitment letter (best evidence of commitment); or
2. Letter of intent from County Mental Health Department which states:
    a. The name of the project;
    b. The type of funding (capital or subsidies);
    c. Amount of funding; and
    d. The number of MHSA units to be included in the project; and
3. In addition to the letter of intent, the applicant must include evidence of publication of the Mental Health Department's 30-Day Notice.

Correction to the Scoring and Award Summary 2012-2013

Scoring and Award Summary 2012-2013

2012 (1550 Points Possible)

Total Applications: 25

Total Funding Requested: $60,392,000

Total Awards: 6

Total Funds Awarded: $22.2M

Score Range All Applications: 1104-1414

Lowest Scoring CHDO Award: 1286

Lowest Scoring State Recipient Award: 1271

2013 (1550 Points Possible)

Total Applications: 16

Total Funding Requested: $65,980,000

Total Awards: 5

Total Funds Awarded: $22.1M

Score Range All Applications: 1072-1425

Lowest Scoring CHDO Award: 1341

Lowest Scoring State Recipient Award: 1394

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