

**City of Oakland, Housing & Community Development
Notice of Funding Availability (2019) – Question & Answering, Response #2 (9/12/19)**

Q&A for Questions of general applicability received outside of the NOFA pre-application meeting.

Scoring Criteria:

Q. How are you treating Developer Fee in the leverage calculation when – especially for 4% tax credit projects – we're showing a larger fee in the development budget but then a combination of GP Equity and Deferred Developer Fee in the sources to net down to the \$2m cash fee? Can the amount of developer fee in the budget over the \$2m be netted out for the definition of Total Development Cost or alternatively, can GP Equity and Deferred Fee be counted as committed?

A. With respect to the Leveraging calculation as a scoring criteria, Deferred Developer Fee and GP Equity are to be **excluded** as an eligible source, i.e. not to be counted as a leveraged resource. That is in addition to City of Oakland resources and Tax Credit Equity. The corresponding amounts of Deferred Developer Fee and GP Equity in the development budget as a use are to be excluded as well, i.e. not to be included in Total Development Costs (TDC). So yes, netted out for the definition of TDC when calculating leveraged financial resources as a percentage of TDC.

Q. Are cooperatives considered rental or ownership? It would appear the NOFA strongly prioritizes rental as it offers 31 points for rental and 10 for ownership. If we are using a coop ownership structure and achieving rental income threshold targets, would we be eligible to receive those points (for rental)? Can we apply as a rental with a plan to convert to ownership in order to take advantage of the rental preference?

A. In the City NOFA, housing cooperatives are an ownership model, not rental. Thus, a housing co-op would be subject to the scoring criteria for an ownership project, and not a rental. If your end goal is ownership, then you must apply as an ownership project.

If you apply as a rental project, receive a City NOFA award as a rental project, and at some point, after receiving a City commitment you decide to convert to ownership, then you have the option to request that the City convert the loan from a rental award to a homeownership project award. If approved by City Council, HCD/HDS staff will remove the Regulatory Agreement and underlying loan documents for the rental project and replace them with an Affordability Agreement and underlying documents for an ownership project.

Q. Will points be awarded for projects that do not require discretionary approvals and are ready to go? Or must a discretionary approval be required? If required, what is the minimum level of discretion required?

A. Yes, points will be awarded and even if you are streamlined through planning & zoning, you should still have some documentation from the Planning Department verifying your entitlements. Documentation officially provided by the Planning Department will suffice to receive full points.

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Q: As our acquisition/rehab project is for seniors/special needs rental housing, the OUSD Elementary School Boundary/Report Card don't seem relevant to our project. How is the City handling the point score of such projects?

A: The Educational Quality point category is not applicable for 100% senior or special needs properties not targeted to families. If your project is 100% senior/special needs and since the worksheet, i.e. Self-Scoring tab, does not allow you to modify white cells, you may add the total possible point to your self-score. Please add a reference in your application, behind the self-score, confirming items “not applicable”.

Minimum Requirements:

Q. For an Acquisition-Rehab project that includes the addition of units, can funds be used to acquire a site that currently has less than 5 units if the rehab plans to add additional units?

A. Through the Acquisition, Rehabilitation, & Preservation NOFA, funding may be used to acquire, rehab, and preserve existing affordable housing currently regulated as well as unregulated for converting to regulated housing, 5 units or more. If your proposed scope of work for adding additional units involves rehabilitating existing infrastructure, then the additional units may count towards your proposed project. Therefore, yes, you may acquire the site with 5 units with the intent to add units.

If your proposed scope for adding additional units involves constructing new structures not previously erected, then the additional units may not count towards your proposed project. Thus, you may acquire the site with acquisition-rehab funds at 5 units but City HCD will not award financing for the additional units with acquisition-rehab funds. The scope for new construction may only be considered in the New Construction NOFA. Please note however the new construction NOFA for the current round is limited to existing pipeline projects.

Please consult with the Planning & Building Department to verify that your additional scope is considered rehabilitation. The City HCD/Housing Development Services unit does not make the final determination whether your project is considered rehabilitation or new construction. The acquisition-rehab NOFA “instructions”, page 15 item 12, requires evidence of meeting with the Building Code Department to research all building code requirements and to determine if additional code regulations may be triggered by the proposed scope of work. This will be a good opportunity to discuss your project. It will be to your advantage to have this discussion sooner rather than later.

Q. A Phase 1 report is typically done in escrow as part of due diligence for acquisition projects. Does the city require a separate phase 1 to be ordered ahead of the escrow and acquisition process?

A. Yes, as stipulated in the guidelines. For acquisition-rehab, please see the application instructions, page 15, item 13 and for new construction, page 16, item 13.

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Q. Are there any specifics on suggested format or other specific requirements for non TCAC project cost certifications? Our auditor found the info insufficient to offer an estimate of cost for the cost certification?

A. The specifics on formatting are stipulated in the application instructions. Please see page 35 for acquisition-rehab and page 36 for new construction. The detail is provided. A cost certification is not required with your NOFA submission. If your project receives a funding award, it is required on the back-end after project completion and before project close out. We do not have a suggested format other than what the NOFA provides.

Q. If we are applying as a coop project, how is the Affordable Housing Cost calculated?

A. Please see NOFA Addenda #2: Affordable Homeownership Development Program.

Q. For community outreach, does project instigation by a community group in the district and meetings with council member qualify as outreach? Or must it be a community group separate from the resident and immediate neighborhood association?

A. Applicants must contact neighborhood organizations in the vicinity of the proposed development and provide evidence of community outreach, which may include involvement by the City Councilmember's office to facilitate discussion and clarification of community concerns. Involvement by the Councilmember's office may include recommendations for meetings with relevant community groups. Meeting solely with the Councilmember's office will not qualify as community outreach.

Q: We were planning on using our upcoming community meeting on 9/23 as the required meeting but want to make sure that it will be sufficient. We are inviting everyone from the neighborhood organizations to the meeting and can provide evidence of that.

Will that be sufficient for meeting the threshold? Or do we need to host another meeting with the organization to meet the requirement?

A: It is fine for the developer to convene a meeting of their own, however, they should also at least try to attend a meeting of the local neighborhood association. It is most important for the developer and architect to attend. Neighbors generally have more questions about design elements and affordability. Some neighborhoods may not have a formal association. If a developer does not know the neighborhood association, they should check with the district Councilperson to find out which meeting(s) they should attend, contact the group(s) and request to be put on the agenda.

If a developer is un-able to confirm their attendance on a neighborhood organization's agenda prior to the NOFA due date, then please do so and provide your evidence **no later than November 1, 2019**. Confirm in your NOFA application the schedule you intend to follow to comply.

City of Oakland, Housing & Community Development
Notice of Funding Availability (2019) – Question & Answering, Response #2 (9/12/19)

Q: We are planning on substantial rehab and replacement construction — is a replacement reserve analysis for the current structure required?

A: As per the NOFA program description for acquisition-rehab projects, page 32, yes, a replacement reserve analysis for the existing structure is required.

Q: If full entitlements for planning & zoning have expired and we are in the process of getting an extension, is that still considered “full entitlements”? In other words, if we have expired entitlements, do we need to submit a zoning letter?

A: If your documentation evidencing planning entitlements has expired then we will not consider your documentation as evidence of full entitlements. An extension approval letter will suffice as documentation of entitlements. In the absence of an extension letter, provide evidence of an application for an extension and a zoning compliance letter. If your permit is expired, you should visit the Permit Center on the second floor of 250 Frank H. Ogawa Plaza to determine what your options may be for moving forward.

Q: In the excel workbook, Replacement Unit Analysis tab, the worksheet does not allow identifying subsidized rents, from otherwise targeted restricted rents. For example, a Mod/Rehab unit receiving a monthly rent of \$1,005 is at or below 30% AMI, but the \$1,005 gross rent does not reflect the =<30% AMI. In addition, a buyer of a market property has no access to the household income, nor the right to secure that at this time. How do I proceed?

A: Please show the tenant contribution towards monthly gross rent and do not include any subsidy contributions. The intent is to understand the monthly tenant contribution. Regarding household income, if household income is not available, leave the household income column blank and provide a corresponding explanation as to why the information is not available.

Q: The NOFA states that we need to “submit an appraisal completed within 6 months of its purchase.” My appraisal is dated 11/15/2016 and land was purchased 6/15/2017. This is 1 month over requirement. Can you please confirm that our appraisal will be accepted as is or what we should do?

A: If your appraisal is beyond the 6-month window as stipulated by the guidelines, please provide an update to your existing appraisal.

Q: Section 19 makes reference to CHDO Recertification. Do you know how we determine if this applies?

A: The City of Oakland, Housing & Community Development receives an annual allocation of federal HOME funds from HUD for a variety of local housing activities including the development of affordable housing. Units developed with HOME funds must serve low and very low income households. Fifteen percent (15%) of the annual funds received by the City of Oakland must be set aside for housing to be owned, developed, or sponsored by HUD Community Housing Development Organizations (CHDO). Through the City of Oakland HCD NOFA, it is not a

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requirement for an un-certified organization to certify itself as a CHDO nor be a CHDO to receive HOME funds. However, the greater the amount of organizations who qualify as a CHDO, the greater the chances are the City can meet its threshold requirement by awarding HUD HOME funds to eligible CHDOs.

Therefore, each applicant applying to the City NOFA is not required to certify as a CHDO but encouraged, to help increase the pool of potential organizations who may qualify as a HUD CHDO. Not all organizations who apply will qualify, so an organization needs to complete the City of Oakland CHDO forms to determine if they qualify. To certify, use the same certification forms that are used for the recertification, found on the City HCD website for NOFA opportunities. Conversely, organizations who are certified as a HUD CHDO are required to recertify through the NOFA, to help ensure the City can meet its threshold requirements.

Q: Would the City of Oakland accept an Alameda County CHDO certification?

A: Federal HOME funds are administered by HUD and are awarded annually to participating jurisdictions. The City of Oakland is a participating jurisdiction. HUD requires the City to have its own process for certifying organizations as a HUD CHDO. Thus, through the City NOFA, City of Oakland CHDO certification forms must be used. If you have an Alameda County CHDO certification for instance, you may use the same information as presented to the County but your formal submittal to the City of Oakland through the Oakland NOFA must be submitted on City of Oakland certification forms.

Q: We have an MOU with our development partner that clearly describes the roles and responsibilities of each partner (as required in the NOFA materials). Can you confirm that this MOU is sufficient to meet the NOFA's joint venture agreement requirement?

A: If your agreement complies to the guidelines of the NOFA as it pertains to a Joint Venture Agreement, then your agreement shall suffice.

Q: The form required for #20, "Certifications and Campaign Contribution Limit Acknowledgement," appears to apply to Contractors. How would you like us to fill out this form?

A: The named entity listed as the applicant(s) requesting funding through the City of Oakland HCD NOFA, for certifying the required Certifications and Campaign Contribution Limit Acknowledgement, shall be referred to as "Contractor". Each applicant must provide their acknowledgement with signature.