



The Los Angeles Housing + Community Investment Department (HCIDLA) is posting the following Questions and Answers (Q & A - Set 3) regarding the 2021 Affordable Housing Managed Pipeline proposed regulations. A tentative timeline has also been added to the end of this document. A full announcement will be sent once the final regulations have been approved.

	Section	Question	Answer
	Section 5 Selection Criteria		
1	Section 5.1.2 - Leverage of Committed Funding Sources	On the 2/10 AHMP Stakeholder call, HCID indicated the value of donated land from private entities would be considered leveraged funds within the “Leverage of Committed Funding Sources” scoring section. However, in the “Questions and Answers Set 2,” HCID’s response to Question 23 seems to imply points will only be awarded to projects with land donated by a public-entity. The ability to leverage donated land from a private 3rd party significantly reduces the total development costs for a project, thus decreasing the total amount of public financing necessary for feasibility. This is consistent with TCAC’s definition of donated land. Under the “Leverage of Committed Funding Sources” scoring section, we formally request that HCIDLA include the value of donated land from private entities as leveraged funds.	<p>The land value of publicly-owned land shall be considered committed funds. If land will be donated through a seller’s note, the term of the seller’s note must have the same terms as the “soft” loans as described above. If the terms of the land purchase include requirements or restrictions that are not part of the conditions of zoning requirements, e.g. replacement parking, the value of the land shall be reduced by the costs that are associated with those requirements.</p> <p>Land Donations from a privately-owned entity will receive points in this category under the following conditions. To qualify for points, the private entity must be an unrelated third-party. For partial land donations, at least 50% of the land value must be donated. For leasehold donations, HCIDLA will accept the property’s “Below Market Value of Ground Lease (BMV) as the committed funds. The “Below Market Value” is defined as the difference between the appraised value minus the actual capitalized ground lease amount. The BMV amount shall be further reduced by the aggregate amount of any land lease rent and/ or residual receipts payments over the initial lease term.</p> <p>All land values must be supported by an “As-Is” appraisal that is consistent with Section 2.12.1.</p>
2	Section 5.1.2	Under the current draft regulations, projects	The Committed Funding Sources category intends to

	Section	Question	Answer
		requiring no public agency financing (i.e., projects financed solely with conventional private loans and tax credit equity) receive zero points in the “Leverage of Committed Funding Sources” scoring section. City of LA projects with this structure only need admittance into the AHMP to compete for 9% tax credits, and have no need for additional gap financing. We formally request that HCID allow projects without the need for additional public agency financing to score full points in the “Leverage of Committed Funding Sources” scoring section.	award points to projects which can leverage the HCIDLA funding resources. Historical data shows projects with no HCIDLA money require a higher request of LIHTC, which is a funding source that is limited and which HCIDLA monitors, therefore, it is considered an HCIDLA funding resource.
3	Section 5.3.2 Extremely Low-Income Units	In describing the points available for unsubsidized, non-Special Needs units targeted to extremely low-income households, the regulations state that points are available to “...Large Family or Senior projects that are not proposing Project Based Vouchers.” The use of the word “ <u>projects</u> ” could be construed to mean that a Large Family project that includes some Special Needs units with PBVs but also includes unsubsidized, non-targeted ELI units would not be eligible for points simply because the project includes PBVs. We believe this was perhaps unintentional, and it runs counter to HCIDLA’s interest in incentivizing non-targeted ELI units. Recommendation: Clarify that the points are available for non-targeted, unsubsidized ELI units in Large Family or Senior projects regardless of whether those projects include PBVs for Special Needs units included in the population mix	Given the highly competitive nature of the project based voucher program, HCIDLA’s intent is to incentivize projects that can “internally subsidize” extremely low-income units (ELI) by blending ELI units with units at higher income limits. Applications that are proposing PBVs shall not be awarded points under this subsection. All applications must demonstrate financial feasibility without project-based vouchers with reasonable assumptions, i.e., reasonable incomes from the target populations. Additionally, all project’s unit mix will have more than 10% of the total units targeted as ELI. Special Needs project may qualify for points under this subsection if all of these conditions are satisfied: 1) The project is not proposing PBVs or operating subsidy; 2) Must meet the TCAC definition of Special Needs (at least 45% of total units targeting Special Needs population); 3) Must meet the CTCAC average income requirement (i.e. Average income of 50% of AMI

	Section	Question	Answer
			for 9% LIHTC, and 60% of AMI for 4% LIHTC); Additionally, HCIDLA will not consider a waiver to allow projects with existing PBV's to garner points in this category.
4	Section 5.3.2	<p>We are concerned about the provision stating that “Special Needs/Supportive Housing projects shall not be awarded points under this subsection.” Without such points, special needs projects will automatically lose 10 points. The result would be that in any ranking of projects under the fifth priority outlined in Section 5.6.6 (if additional funds are still available) such a scoring rubric would result in such Special Needs/Supportive Housing projects being effectively excluded.</p> <p>We suggest that special needs projects be allowed to score in this category when they all compete against non-special needs projects so that they can compete on an equal basis for any remaining funds.</p>	Please see above.
5	Section 5.3.2	<p>If the scenario that a project includes PSH and a separate allocation of special needs units, and only the PSH units will propose PBV's, will the ELI scoring allow for additional points for the Special needs units that will not be assigned PBV's and restricted at 30% AMI? In other words, if the project is 58 units of low income family, 30 units of PSH, and 12 units of Special needs individuals, and only the 30 units of PSH are eligible for vouchers due to the population, will the 12 units of special needs restricted at ELI qualify for points as described in the regulations?</p>	Please see above.

	Section	Question	Answer
6	Section 5.3.2	Because “Special Needs/Supportive Housing projects shall not be awarded points under this subsection,” special needs projects will be disadvantaged because they will not be able to achieve maximum points. Special needs projects should be allowed to score full points in this category when they all projects compete against each other so that they can compete on an equal basis for any remaining funds.	Please see above.
7	Section 5.3.2	While we agree and support incentives for affordable housing developers to restrict units to Extremely Low-Income tenants without utilizing project based vouchers, 10 points is a significant barrier for Supportive Housing developments that are not eligible for these points. We recommend, like in other County and State programs when a scoring criteria does not apply, that the points are automatically applied. Granting these points to supportive housing projects automatically will allow PSH projects to compete for a spot in the pipeline beyond the set-asides, otherwise the unintended consequence is that PSH projects will likely be limited to the 250-unit set-aside.	Please see above.
8	Section 5.3.2	This requirement puts special needs projects at a disadvantage. For the initial 250 units of supportive housing, please confirm that projects will only be scored against each other for a maximum of 90 points. Following the initial tiers, however, 4% special needs projects would be competing at a disadvantage.	Please see above.

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9	Section 5.3.2	We note because Special Needs/Supportive Housing projects are not eligible for points under this subsection, special needs projects will be disadvantaged when completing for any funds that may be available once project type goals are met. We request that special needs projects be allowed to score full points in this category when all projects compete against each other for remaining funds. We understand the goal is to incentivize deep targeting in affordable housing projects, but inasmuch as supportive housing qualify as Extremely Low Income and are also much needed in the City, such projects should not be disadvantaged in the process.	Please see above.
10	Section 5.3.2	If this policy is intended to reward and grown extremely low-income units in Family and Senior Projects, it does not make sense that those which have project-based vouchers would be excluded from receiving up to 10 points. Any extremely low-income unit should be eligible for maximum points in this category and should not be penalized if they have obtained a voucher commitment, giving the projects an advanced standing in the “Project Readiness Category.” HACLA is redeveloping its old public housing properties either through HUD’s Section 18 Demolition/Disposition approval or a Section 8 Rental Assistance Demonstration (RAD) conversion or a combination of both. To make the redevelopment financially feasible and viable, HACLA works with HUD in obtaining Replacement Tenant Protection Vouchers or RAD Project Based Voucher funding	Please see above.

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		authority. HACLA’s goal is to ensure deepest levels of affordability for the replacement units to ensure its existing tenants, most of whom are in the extremely low and very low income levels category, have the ability and right to return to move back to the redevelopment. Therefore, HACLA projects should not be penalized for ensuring the rights for extremely low income residents to return to the redevelopment through project based subsidy assistance.	
11	Section 5.3.2	Family Projects which already have a commitment of Project Based Vouchers should be eligible for maximum points in this category and should not be penalized if they have already obtained a voucher commitment, especially as this Call for Projects is prioritizing projects which are in an advanced stage of “Readiness.”	Please see above
12	Section 5.3.4 Cost Efficiency	We support HCIDLA’s desire to implement cost containment measures and understand the drive to do so through a scoring incentive as proposed in the regulations. We have significant concerns with proposed point category, however, and do not believe it will result in the desired outcomes for the City of Los Angeles. - <u>Size of data set</u> : The regulations establish average TDC based only 9% projects in the City of Los Angeles geographic apportionment from the two preceding rounds. This is an exceptionally 4 small data set and ignores the large volume of cost data at HCIDLA’s disposal, including 9% set aside applications sponsored by HCIDLA, recent bond applications, and even recently	After consideration of all of the comments, HCIDLA intends to change the proposed language. First, the data set used to calculate the average total development cost will include all developments that executed construction loan closings starting January 2020 up to the date of the NOFA application. We will publish the Average Total Development Cost at the time of the NOFA announcement. Second, in the calculation for the Adjusted Total Development Costs: 1) the development cost of the project’s commercial component shall be subtracted from the TDC, provided that these costs are for viable commercial space that are supported by private sector financing, and are excluded from the calculation of basis in accordance with TCAC

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		<p>completed, cost-certified projects. In expanding the data set, HCIDLA would need to make adjustments to create consistency, including controlling for developer fees, which are typically much larger for bond projects, and adjusting cost certification data for inflation. <u>-Incentive for manipulation:</u> While we applaud the regulations’ focus on incentives for cost efficient construction, the proposed structure opens the door to simple, penalty-free cost manipulation at the time of application to achieve maximum points. The regulations do not propose any penalties for subsequent cost increases, and based on TCAC’s efforts to impose cost controls, we believe they would be difficult to impose. Even if there were penalties or disincentives, there is every reason (based on ample precedent in the City of Los Angeles) to believe that developers who later had major cost increases would seek the intervention of relevant city council members to maintain committed funding levels, keep the projects moving forward, and avoid penalties in the face of an enforcement actions by HCIDLA. For this reason, we think it is in the city’s interest to move away from a scoring incentive and impose threshold cost guidelines using a framework based on a large, robust data set.</p> <p>Recommendation: Develop a threshold cost framework based on a large data set</p>	<p>guidelines.</p> <p>2) any non-residential costs that are required by a government agency as part of the land disposition and non-zoning related requirements, e.g. replacement parking, etc., up to a maximum of \$40,000 per residential unit, shall be subtracted from the TDC.</p> <p>Comments received suggested formulating penalties for projects which choose to lower their costs at the application stage with the intent to increase after admittance into the AHMP program. As a result, HCIDLA is proposing to revise Section 5.5 Negative Points. The City, at the discretion of the HCIDLA General Manager, will impose negative points to general partners, co-developers, management agents, consultants, guarantors, or any member of the Development Team identified in the application. All negative points will be assessed to future applications for two years from the date of the issuance of a letter assessing the respective negative points.</p> <p>5.5.1 The HCIDLA will impose 20 negative points to developers that submit an application to the CTCAC 9% program prior to acceptance into the AHMP program, for the same project.</p> <p>5.5.2 The HCIDLA will impose 2 negative points to the development team whose project’s total development cost increases between 11% - 15% from the TDC at time of application to the construction loan closing. Five points will be imposed on the development team whose project’s TDC increases above 15% from time of application to the construction loan closing.</p>
13	Section 5.3.4	We understand the HCID’s interest in a cost	Please see above.

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		<p>containment framework; however, we are concerned with this method. By awarding points for projects whose “Adjusted Total Development Cost Per Unit is lower than the Average Total Development Cost (TDC) Per Unit of the CTCAC 9% L.A. City Geographic projects in the last two rounds,” HCID runs the risk of <u>some applicants submitting budgets just to match that cost level</u> – only to see costs will go up once construction actually starts. On top of that, <u>4% deals</u> tend to be a little more expensive because of the financing costs and would not be competitive at all. In addition, this point award <u>disadvantages</u> projects that need parking or are in high cost areas.</p>	
14	Section 5.3.4	<p>Evaluating projects based on their costs per unit disincentivizes large family projects, which have larger building square footages (and building area) than many permanent supportive housing projects of equal unit count. In order to evaluate cost efficiency, a <u>cost per square foot</u> comparison is a more accurate unit of measure. Additionally, the cost efficiency needs to take into account the higher labor cost requirements associated with <u>Project Labor Agreements</u> and the need to pay Commercial Prevailing Wages for denser multi family project that are over four stories.</p>	Please see above.
15	Section 5.3.4	<p>The <u>sample size</u> of the comparable properties for this calculation is too small. It can also be problematic to rely on application numbers as design and costs have not been finalized. We recommend that HCID include in its average, costs of projects that closed within the last 6</p>	Please see above.

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		<p>months, and 4% Bond Applications from the last round. Normalizing cost by deducting the <u>developer fee</u> as contemplated in this section would allow bond and 9% LIHTC projects to be comparable. Also, in order to not disadvantage mixed-use developments, we would also recommend <u>deducting a flat dollar per square foot for commercial spaces</u>. Applying a standard reduction for commercial costs will ensure all mixed-use projects impacted equally.</p>	
16	Section 5.3.4	<p>Is it possible for the Adjusted Total Development Cost definition to subtract deferred developer fee/GP equity and <u>land donated by a public agency</u>?</p> <p>Some of our projects benefit from major land donations from public agencies. In these cases no money is trading hands for land and including in TDC incorrectly skews the true cost of a project.</p>	Please see above.
17	Section 5.3.4	<p>The cost efficiency category should be eliminated. As someone said during the Stakeholders Meeting, this is just asking for competing developers to game the system or lie. Additionally, requirements like this discourage high quality development, encouraging developers to look for cost saving anywhere they can which likely means cutting needed parking and other important amenities and quality standards. This also seems to be in direct conflict with HCID's bonus points for Enhanced Accessibility, high resource and transit-oriented sites, larger family units, etc.</p>	Please see above.
18	Section 5.3.4	<p>Revise the regulations to allow <u>non-profit</u></p>	Please see above.

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		<p>developers to create <u>priority</u> and subordinate deferred developer fee to address the portion of the deferred <u>developer fee</u> that has to be recontributed. Allowing the portion of developer fee above the TCAC limit for 9% projects and \$2.5 million for 4% projects to be paid from the developer's 50% of the cash flow distributions will help minimize how much non-profit developers have to set aside or "park" in an account for no purpose other than to "season" the recontributed fee.</p>	
19	Section 5.3.4	<p>HCID should eliminate this scoring category or eliminate scoring that awards more or fewer points based on cost estimates because cost estimates, even when completed by a certified cost estimator, will be based on very preliminary plans and is not likely to be an accurate reflection of actual costs. However, if HCIDLA needs to include a criteria associated with costs, it might be better to establish a threshold upper limit based on average actual cost of projects from recent construction closings adjusted for annual escalation and provide a way for developers with projects that exceed the threshold to obtain waivers several weeks before the application Deadline.</p> <p>It is critical that any threshold criteria or scoring criteria associated total development costs <u>utilize real and recent cost data</u> rather than cost estimates provided in applications, compare apples to apples costs, and not penalize projects with higher costs due to regulatory or city imposed requirements. Consequently:</p>	Please see above.

	Section	Question	Answer
		<p>a. The Average Total Development Cost per Unit should be calculated based on actual costs from recent construction closings for 4% and 9% projects in the City of Los Angeles and adjusted for annual inflation.</p> <p>b. In addition to the deductions already included in the proposed regulations. The calculation of Total Development Costs for this criteria should deduct <u>all non-residential costs</u>, the cost differential between commercial prevailing wages and residential prevailing wages, costs associated with podium/underground parking, costs associated with improvements required by the City as part of the entitlement process, and allow adjustments for the extra community space and offices supportive housing projects need.</p>	
20	Section 5.3.4	<p>Cost containment is an extremely important issue, but we are concerned about the methodology assumed in the proposed language. The draft regulations don't include language that would capture the nuances between types including <u>unit sizes, those with commercial uses</u>, parking, etc. The language also appears to assume that only projects in a previous 9% round will be included for comparison. At a minimum, we strongly recommend that all 4% projects be included in the data sample set for comparison. However, having said this, we hope HCID will consider removing this proposed language until a better methodology can be developed, and in the meantime relay on the TCAC methodology for</p>	Please see above.

	Section	Question	Answer
		the high cost test that already exists.	

PROPOSED TIMELINE

Table 1: Implementation Calendar – AHMP NOFA	
Publish Final Regulations- pending City Council/ Mayor Approval	March 26, 2021
Tentative Open NOFA Application	April 8, 2021
Bidder’s Conference	April 21, 2021
NOFA Application Deadline	May 10, 2021
Post List of Applications received	May 14, 2021
Initial Recommendations	June 2021
Appeals	June 2021
Final Recommendations to City Council and Mayor	June 23, 2021