2020 4% HOME & 4% NHTF NOFA Questions and Answers as of February 14, 2020

General NOFA requirements

Question 1 (posted January 8): *I have a quick question on the HOME NOFA eligibility. Does the prohibition on probationary participation apply when it is a Joint Venture with a qualifying entity that has substantial control? The NOFA states that "No Probationary Participation will be considered under this NOFA".*

Answer: The eligibility requirements are the same as what is listed in the 2020 QAP under *XIX. Experience, Capacity, and Performance Requirements for General Partner and Developer Entities*. DCA generally encourages entities that have insufficient technical expertise and/or experience to partner with Certifying Entities to gain experience and capacity in the Tax Credit program. The Project Team must have a Certifying Entity for both the General Partner and the Developer entities of the proposed project. A Certifying Entity must meet the DCA experience requirements and be determined to have the capacity to complete the proposed project.

Question 2 (posted January 8): *In the past, I know that HOME funds have precluded income averaging. Does that still apply?*

Answer: Applicants for HOME funds may select the Income Averaging set-aside election.

Question 3 (posted January 28): *Part of the AH subsidy consists of 40% of the units with a Homeflex (PBRA) contract. Can the HomeFlex units count as 50% AMI HOME units as long as the tenant paid portion is less than 50% AMI and the HomeFlex rents do not exceed the High HOME rents? Stated another way, can the Low HOME units exceed 50% AMI rents if covered by the HomeFlex contract, and HomeFlex rents do not exceed High HOME rents?*

Answer: Yes. The owner may charge project-based program rent when:
- The unit is designated as a Low HOME unit; and
- Unit receives federal or state project-based assistance (not tenant-based); and
- Unit is occupied by very Low Income tenant; and
- Tenant does not pay more than 30% of adjusted income for rent

If the project-based subsidy unit is not designated as Low HOME the contract rent cannot exceed the HOME rent. Applicants may designate additional Low HOME units to utilize the project-based subsidy.

Question 4 (posted January 28): *Concerning the environment site assessment, do we need to provide all documents relating to HOME, or just the Phase I as indicated in the selection criteria?*

Answer: A phase 1 is sufficient as part of the NOFA application (due Feb 17). If selected for an award, the subsequent 2020 Pre-Application and Full Application must meet 2020 QAP & manual requirements for tax credit & HOME properties.

Question 5 (posted January 28): *What kind of documentation will be required under the National Environmental Policy Act when federal funds are involved?*

Answer: The NOFA submission does not require Phase 1 ESA, though having one could achieve Readiness to Proceed points. If awarded under the NOFA, the applicant will need to submit a Pre-Application. Then, once the Pre-Application is approved, the applicant submits a Full Application. The Phase 1 ESA is required during Full Application.

Question 6 (posted January 28): *We have a project that is currently existing but will be a tear down and new build. For the NOFA HOME app, should that be new construction or rehabilitation?*

Answer: If no dwellings on the property will be rehabilitated, the proposed development is considered New Construction for purposes of Selection Criteria applicability under the NOFA. Please note that all applicable policies for existing properties will still apply for purposes of the subsequent Pre-Application and Full Application if selected for an award under the NOFA (e.g., applicable relocation requirements).

Question 7 (posted February 5): *Does DCA ever provide pre-application advice for 2020 NOFA/HOME funding projects and would you be open to a meeting? We are looking to submit a 2020 NOFA HOME Application and wanted to see if a pre-application conference was a possibility.*

Answer: We cannot set up meetings for applications which come under competitive scoring or for NOFAs prior to application submission. If there are specific questions, they can be submitted per the instructions in the NOFA.

Financing requirements

Question 1 (posted January 28): *The NOFA says, "DCA debt does not have to be in first position due to HUD funds and/or tax-exempt bond debt." For the purposes of this NOFA application, will FHA insured debt be considered HUD funds?*

Answer: Yes.

Question 2 (posted January 28): *Can HOME be in a second position, cash flow terms to a Freddie Mac Tax Exempt Loan (TEL) or Fannie Mae M.TEB program?*

Answer: The NOFA has been updated to reflect the variety of loan products which commonly finance construction in place of directly utilizing the tax-exempt bond debt. The update is:

i. "The DCA HOME loan must be in first position, with the exception of the following loan types:

- Any HUD funding
- Any tax-exempt bonds or other tax-exempt debt
- Up to one (1) construction loan and/or permanent loan intended to serve in place of tax-exempt bonds, such as those within a direct bond purchase program, loans provided on a draw-down basis, etc."

Question 3 (posted January 28): *The NOFA states that "If the applicant uses loans from another lender, the applicant must provide a letter of intent from lender(s) acknowledging that their debt will be subordinate to the LURC and LURA." Does this apply across the board?*

Answer: The NOFA language has been amended as follows: "if the applicant uses loans from another lender *that do not qualify to be in the first position under the guidelines of this NOFA,* the applicant must provide a letter of intent from lender(s) acknowledging that their debt will be subordinate to the LURC and LURA."

Question 4 (posted January 28): *Please provide guidance on structuring permanent DCA HOME with permanent HUD 221(d)(4) financing. Can we structure repayment of DCA's HOME with the lesser of 50% of project cash flow versus fully amortized payments based on the HUD amortization period? Under what circumstances can the DCA HOME loan be cash flow contingent?*

Answer: Yes, the NOFA has been updated to state that *any* DCA HOME loan awarded under this NOFA can be cash flow contingent. Per the 2020 QAP, *HOME Underwriting Guidelines, 16. Non-Fully Amortizing Loans* (page 90 of 131), the final repayment structure will be determined by DCA during the HOME underwriting process which occurs after NOFA awards during Full Application review. For purposes of NOFA application submission, the only baseline requirement is that "the outstanding interest and a portion of the principal must be paid every year (no negative amortization)." Please note that all applications under the NOFA are eligible to be non-amortizing, not only those in rural areas (this is a deviation from the QAP provision referenced above.

Question 5 (posted January 28): *If the Period of Affordability is 30 years and HUD debt is 40 years, is it permissible to have a DCA HOME balance at the end of 30 years?*

Answer: Yes. A balance may remain at the end of 30 years. If DCA debt is not in first position due to one of the exceptions listed in the NOFA (see *IV. Funding Source-Specific Requirements, HOME Seniority*) the DCA HOME amortization period and term must match that of the first permanent loan if the term of the first loan exceeds the term and period of affordability outlined in the NOFA (HOME loan term and period of affordability will be 20 years for new construction and 15 years for rehabilitation.)

Application process and documents

Question 1 (posted January 8): *Why are there no New Construction or HOME folders in the NOFA AppBindr?*

Answer: Selection Criteria that do not have distinct required minimum documentation separate from AllApps or GeoDiversity do not have a corresponding folder in the AppBinder. Any documentation supporting New Construction Selection Criteria should be submitted in the GeoDiversity folder, and any additional documentation relevant to the application should be submitted in the AllApps folder.

Question 2 (posted January 8): *The point values in the NOFA worksheet and the published NOFA don't match. Why?*

Answer: Please be sure you're reviewing the most recent NOFA. An update to the NOFA was published on January 6, 2020 updating HOME/NHTF subsidy limits and Selection Criteria score values.

Question 3 (posted February 5): *Am I overlooking the 2020 Pre-App Performance Workbook & Questionnaire required as part of the NOFA, or are we to use the 2019 version?*

Answer: For purposes of the NOFA application, applicants may use either the 2019 Performance Workbook or the 2020 Performance Workbook (once posted). However, if selected for an award, the subsequent 2020 pre-application and application must meet 2020 QAP and manual requirements.

Question 4 (posted February 5): *Can I submit my NOFA application using 2019 manuals and forms or do I need to use 2020 manuals and forms?*

Answer: For purposes of the NOFA application, applicants may use 2019 manuals and forms or 2020 manuals and forms (once posted). However, if selected for an award, the subsequent 2020 pre-application and application must meet 2020 QAP and manual requirements.

Question 5 (posted February 13): The NOFA says that under the NOFA only 6 points can count towards Desirables/Undesirables, yet in the NOFA Workbook it says "10 points" under maximum score. Which is it?

Answer: 6 points. Per the NOFA Workbook "Instructions" tab, applicants use the "Geographic diversity" tab solely for purposes of entering the information necessary for DCA to review eligibility for points under the section. For then determining how many of those points count towards their NOFA score, DCA uses what is entered into the "New Construction," "Rehabilitation" tabs, etc. These latter tabs reflect the scores listed in the NOFA (6 points).

Selection criteria

Question 1 (posted January 8): *I am working on the environmental assessment for a NOFA project, and I do not see the 2020 environmental manual and supporting documents available on DCA's website. Do we use 2019 documents to complete the assessment?*

Answer: For the purposes of Readiness to Proceed (Selection Criteria), supporting documentation in the NOFA application submission (due Feb. 17, 2020) that meets the requirements of either a 2019 manual or a 2020 manual will suffice. Some but not all 2020 manuals and forms will be available prior to the 2020 NOFA application deadline.
However, if selected for an award, the subsequent 2020 Pre-Application and Full Application must meet 2020 QAP & manual requirements.

Question 2 (posted January 8): *I have a question about Rehabilitation Selection Criteria 6. Accessible Units. As part of the NOFA app, is it acceptable for the architect to write a letter stating the number/percent of accessible units? Or does it have to be an accessibility consultant?*

Answer: The NOFA states the Accessibility Consultant must provide a letter substantiating that the lesser of current and proposed percentages of accessible and adaptable units fall within one of the ranges listed in the selection criterion.

Question 3 (posted January 28): *On page 120 of the QAP, under Favorable Financing, Section A. Qualifying for Favorable Financing, there is a list of 10 sources that qualify. Number 10 lists Other Federal, State, or local grant funds or loans. I'm wondering if HUD flexible subsidy debt, FHA insured debt (223f, 221d4, etc.) and long/short term tax-exempt bond debt be considered favorable financing per this section?*

Answer: Yes. In order to qualify as Favorable Financing, the loans must have a maximum interest rate of long-term monthly AFR. No project participant or affiliate may guarantee, fund, advance, or otherwise provide direct or indirect funding for the purpose of an application claiming points in this category. If the seller of the land/property (or any related party) is providing funds to finance the development and claiming these points, the sales price will be reduced from the total funds provided, to calculate the favorable financing points allowable.

Question 4 (posted January 28): *Per page 99 of the QAP, photos of Desirable Activities are not required under Minimum Documentation. However, there is a column for Photos included in the Desirable/Undesirable Site Certification workbook. Given the presence of this column in the workbook, and the fact that photos have been required in prior year QAP's, I would like to know if photos of Desirable Activities are required as part of the NOFA application.*

Answer: Photos are only required for Desirables under construction for which Applicants are claiming points. The column in the Desirable/Undesirable Site Certification workbook is for Applicants to indicate pictures for Desirables under construction. If Applicants are not providing photos for any purpose in the Desirables Scoring section, Applicants can enter N/A in those cells in the workbook.

Question 5 (posted January 28): *For the accessible units Selection Criteria category, why do applicants need to submit both existing and proposed percentages of accessible and adaptable units?*

Answer: Applicants need to submit both existing and proposed percentages of accessible and adaptable units as unit modifications may result in a lower percentage of accessible and adaptable units after the rehab. Points will be based on the lesser of the existing and proposed percentages.

Question 6 (posted February 13): *Given that accessible unit points are based on the lesser of the existing or proposed accessible units, isn't DCA losing the opportunity to incentivize increasing the number of accessible and adaptable units?*

Answer: DCA's experience in reviewing applications is that there is often a difference between the number of accessible units proposed initially and what is determined to be feasible (given building limitations) in the end. The purpose of this section is to provide a competitive advantage to those properties for which DCA can be certain about the minimum number of accessible and adaptable units.

Question 7 (posted February 13): *Given that accessible unit points are based on the lesser of the existing or proposed accessible units, can proposed developments exceed the existing number of accessible at the property under this NOFA?*

Answer: Yes. While points will be based on the lesser, there is no limit on the number of accessible or adaptable units that can be in the proposed unit mix if awarded under this NOFA.

Question 8 (posted January 28): *Do units meeting the Accessibility Manual Accessibility Standards' 5% and 2% requirement count in the NOFA Accessible units scoring calculation?*

Answer: To receive points under the NOFA's Accessible units scoring section, units must meet the DCA Accessibility Manual's definition of accessible and adaptable units. All units that meet this definition are included in the scoring calculation.

Question 9 (posted February 5): *A local lender has agreed to provide a 10 year loan with interest at Applicable Federal Rate and we want to ask if this loan (more than 10% of TDC) qualifies as Favorable Financing.*

Answer: Any loan which meets the other requirements explicitly stated in Favorable Financing is a qualifying source under #10 in subsection A. Qualifying Sources for Favorable Financing.

Question 10 (posted February 5): *We have a property which we purchased that was an existing tax credit property. We never had a certificate of occupancy since we were not the original owners. Can we provide any alternate documentation to show property age?*

Answer: To meet the property age selection criteria minimum documentation requirement, applicants may submit either certificates of occupancy or IRS Form 8609.

Question 11 (posted February 11): *Our project team has owned the property that we are submitting since before 12/20/2019. The project team did not acquire the land through a conventional closing, so there is no closing statement. Can we provide a letter from a title agent stating that the property is in the ownership of our project team and provide the date in which we took ownership and still claim the 6 points under the Readiness to Proceed section?*

Answer: An applicant may include alternate documentation in lieu of a closing statement to be considered for points in this section so long as the following is clearly identifiable:

- Acquisition price
- Date of acquisition
- Seller
- Buyer

DCA reserves the right to request additional site control documentation if applicant is selected for a HOME or NHTF consent.

Question 12 (posted February 11): *In the last Q&A, DCA reiterated its position if the land owner finances all or a portion of the purchase price:*

If the seller of the land/property (or any related party) is providing funds to finance the development and claiming these points, the sales price will be reduced from the total funds provided, to calculate the favorable financing points allowable.

We understand the history of this position and the purpose. However, if the land owner is willing to finance all or part of the land purchase price with an interest of monthly, long-term AFR or lower, Purchase Money Mortgage, can DCA award favorable financing points based on the loan amount? In this specific case, there is no identity of interest and the land purchase price has not been inflated for this purpose. The land purchase price will be supported by a previously submitted 2019, 9% application contract. And, could be supported by an independent appraisal.

Answer: Even if there is no identity of interest between the buyer and seller and the applicant and seller provide assurances that the land purchase price has not been inflated for Favorable Financing points, the following QAP provision applies: "*If the seller of the land/property (or any related party) is providing funds to finance the development and claiming these points, the sales price will be reduced from the total funds provided, to calculate the favorable financing points allowable.*"

Question 13 (February 13). *Under minimum documentation for Relocation, it states "Copies of the "General Information Notices" sent to all tenants on the rent roll with tenants' signatures or sent Certified Mail, return receipt requested." Is it DCA's expectation that we will have sent these letters out* *at this point, or can we just show copies of the draft letters prepared in conjunction with the relocation plan?*

Answer:
For purposes of claiming these points under Readiness to Proceed, applicants will indeed need to submit either copies of the GIN notices with tenant signatures or confirmation that they were sent Certified Mail, return receipt requested.

Applicants submitting this documentation would be at the stage of issuing a voluntary acquisition informational notice and have entered into negotiations for the property. According to URA regulations, "Upon issuance of a voluntary acquisition informational notice and entering into negotiations for the property, tenant-occupants must be fully informed in writing of their potential eligibility for relocation assistance. The preliminary tenant notification may be accomplished through a General Information Notice (GIN)" (HUD Handbook 1378, Ch. 5, 5-3(D)).”

Question 14 (posted February 13): The 2020 QAP and the 2020 NOFA are inconsistent, in that in the NOFA it appears you can claim “Place-Based Opportunity” points regardless of whether you claim points in “Stable Communities” or “Revitalization/Redevelopment Plans.” Is this an error?

Answer: This is not an error, but an intentional deviation from the 2020 QAP. Under this NOFA, all applicants are eligible for “Place-Based Opportunity” points.

Question 15 (posted February 14): *How is DCA going to be able to discern between applications that are likely and unlikely to be able to truly repay the HOME loan in 20 years?*

Answer: DCA is aware of current market conditions, and the review underlying *V. Selection Criteria, HOME Repayment*, conducted by DCA’s underwriting team will reflect that. As stated in the NOFA (footnote 6), “The DCA underwriting team reserves the right to adjust estimates or assumptions in the NOFA Core Application, and the review process for HOME repayment Selection Criteria will reflect any such adjustments.”

HOME and NHTF requirements

Question 1 (posted January 28): *If we elect Income Averaging, are we limited to the High HOME rents? Stated another way, can we exceed the High HOME rents under IA?*

Answer: Applicants will not be limited to High HOME rents for 70% and 80% units. DCA will not designate every unit on the property as a HOME unit. The Cost Allocation tool is the best tool to use (link on page 7 of NOFA). DCA will determine the final number of units at final underwriting (after construction pricing has been determined). For now, a pretty good estimate can be calculated: The rule is essentially the number of HOME units needed is a proportion of the [HOME Award / HOME Eligible costs] x total units on the property. DCA typically designates 10% more units than the formula above calculates.

Question 2 (posted January 28): *If we receive a HOME consent, are all of the units in the project required to be HOME units, or is there an alternative formula which is used to calculate the requisite number of HOME units? We are considering using income averaging on a potential NOFA deal, but would not be able to count the 80% AMI units as HOME units due to the HOME rent restrictions. Therefore, we hope that not all of the project's units must be considered HOME so as to serve as diverse a base of tenants as possible.*

Answer: DCA will not designate every unit on the property as a HOME unit. The Cost Allocation tool is the best tool to use (link on page 7 of NOFA). DCA will determine the final number of units at final underwriting (after construction pricing has been determined). For now, a pretty good estimate can be calculated: The rule is essentially the number of HOME units needed is a proportion of the [HOME Award / HOME Eligible costs] x total units on the property. DCA typically designates 10% more units than the formula above calculates.

Question 3 (posted January 28): *In the case of a NHTF NOFA application, must the NHTF units be fixed, floating, or is it the owner's choice?*

Answer: The Applicant may select to treat the HOME/NHTF assisted units as fixed or floating units at the time of the loan application. When HOME/NHTF assisted units are fixed, the specific units that are HOME/NHTF assisted (and therefore subject to HOME or NHTF rent and occupancy requirements) are designated and will never change. When HOME/NHTF assisted units are floating, the units that are designated as HOME/NHTF assisted may change over time (i) as long as the total number of HOME/NHTF assisted units spread across unit sizes in the project remains constant (Per the designations in the LURA); and (ii) the HOME/NHTF assisted units remain comparable to the non-assisted units over the affordability period in terms of size, features and number of bedrooms. If the applicant fails to make such an election at the time of loan application, DCA will deem that the Applicant has elected to treat the HOME/NHTF assisted units as floating.

Question 4 (posted February 5): *Does the possibility exist to apply for NHTF dollars without applying for 4% tax credits, that is, as the sole source of DCA-administered funding for a project?*

Answer: For the purposes of this NOFA, DCA will only award NHTF as additional funding to support a 4% Housing Tax Credit application. At this time this NOFA is the only avenue one can seek DCA NHTF funds.

Question 5 (posted February 13). *In the 2020 QAP, Section 13 Financing Resources – HOME Loans, subsection A. Eligibility, it says that developments in a QCT are not eligible for HOME loans unless the applicant is a CHDO. Does this apply to the NOFA?*

Answer: As stated in the 2020 QAP, Section 13 does not apply to bond-financed developments. All developments awarded under this NOFA must pair HOME or NHTF with 4% HTC and tax-exempt bonds, thus Section 13. does not apply.

Question 6 (February 13): *There is no place in the Revenues & Expenses Tab of the HOME NOFA core application to designate HOME units. Are applicants required to designate HOME units at this stage?*

Answer: Applicants for HOME are not required to designate HOME units at this stage.

Applicants for NHTF also do not need to designate specific NHTF units. However, per the NOFA see *Section IV. Funding Source-Specific Requirements*, subsection *B. Additional Requirements for NHTF Applications*, applicants must submit the HOME Cost Allocation Workbook substantiating the estimated minimum number of required NHTF units.