

QAP NOTES
LEGAL DEPARTMENT MEETING
March 4, 2010

Terri Ricks stated that the following provisions should be incorporated in the 2010 QAP:

1. Asset Management - Any developers having outstanding financial obligations to LHFA would be precluded from participating in the LIHTC funding round.
2. Rental Information – A provision needs to be included in the document that requires developers to provide information monthly on the number of vacancies and the unit mix. The Agency is working to establish a portal for tracking such information. Maintaining the number and type of vacancies will be helpful for locating or identifying emergency housing during a disaster.
3. Penalty Scheme – A scheme needs to be devised that includes a penalty assessment for non-compliance that addresses both material and non-material changes. Options will need to be brought before the Board. There should also be a process for establishing state debarment that is similar to Federal debarment.

Terri wants to be in on the review of the QAP after Leslie's and Marjorianna's review.

Nicole C. Carter

From: Dr. Roger Tijerino
Sent: Friday, June 18, 2010 8:53 AM
To: Brenda Evans; Marjorianna Willman; Louis Russell; Nicole C. Carter
Subject: RE: 2010 QAP- Construction information requested

The only comment I have is that the last bullet now reads "*Change in construction...*" whereas it previously read "*Change of construction materials...*"

My concern is that it's not clear what "change in construction" means. But I'm glad this one came up as it SHOULD read "*Change in the **type and quality** of construction materials.*"

The problem is that by just saying change in materials, this does NOT cover a change in the QUALITY since the SAME material (say roof shingles) comes with 20 year and 30 year warranties.

... I have inserted the change below.

From: Brenda Evans
Sent: Thursday, June 17, 2010 5:47 PM
To: Dr. Roger Tijerino; Marjorianna Willman; Louis Russell; Nicole C. Carter
Subject: FW: 2010 QAP- Construction information requested

See my revisions below – if they add an amenity that is fine – so I changed to "deletion or change" of an amenity.

From: Dr. Roger Tijerino
Sent: Thursday, June 17, 2010 1:14 PM
To: Marjorianna Willman; Brenda Evans; Nicole C. Carter
Subject: RE: 2010 QAP- Construction information requested

After further evaluation, when I wrote $\pm 10\%$, it is not clear as to what happens when the developer builds say 15% less units. So we should say "or greater" after the 10%. I also deleted the \pm since a 10% or greater means ANY change greater than 10%. The new edits are in blue below.

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From: Dr. Roger Tijerino
Sent: Monday, June 14, 2010 2:47 PM
To: Brenda Evans
Cc: Marjorianna Willman; Joseph Durnin; Todd Folse; Nicole C. Carter
Subject: RE: 2010 QAP- Construction information requested

Brenda,

Material Change Comments

As promised, I reviewed the current QAP definition of "Material Change" and as written I have particular difficulty with the last sentence since "*building configuration*" is too subjective; I cannot understand the sentence "*increase or decrease in the number of buildings greater than 10%*," and "*Change in construction type*" is also subjective. Thus, I offer the following modifications in red:

MATERIAL CHANGE: Notwithstanding the provisions of any prior Qualified Allocation Plan, a material change for any project, including projects receiving a reservation or allocation from a prior Calendar year credit Ceiling, shall mean any reprocessing change which results (i) in the project deemed not feasible or not viable or (ii) a reduction of points from the Selection Criteria below the minimum score or below the score of the highest ranked project on the waiting list for the year in which the credits were allocated. Any change caused by force majeure or circumstances beyond the control of an Owner will not be a material change if the Agency's Board of Commissioners concurs that such change was beyond the control of the Owner. The Agency also considers being material changes the following changes to the submitted application:

- Removal of any managing general partner;
- Bankruptcy of any managing general partner;
- Change of development location (site change);
- Deletion or change of resident amenities and/or services such as activity centers, children centers, community centers, computer rooms, laundry rooms, etc.;
- Changes in residential unit design that increases or decreases by 10% or greater the number of units, unit mix, square footage of each unit, etc.;
- A 10% or greater change in the total number of structures;
- Change in the type and quality of construction materials, as well as mechanical and/or electrical systems that result in a 10% or greater change of the total construction cost.

Note that in some items I say "addition or deletion" and "increase or decrease." What I'm trying to do is to identify not only negatives but POSITVES so that the developer is recognized for going above and beyond.

Thanks

Roger

Nicole C. Carter

From: Dr. Roger Tijerino
Sent: Friday, June 04, 2010 11:28 AM
To: Nicole C. Carter
Cc: Louis Russell; Marjorianna Willman; Brenda Evans; Todd Folse; Joseph Durnin
Subject: RE: 2010 QAP- Construction information requested

I have researched the issues and have the following recommendations:

1. Brick exterior finish (Section D: page 15):

The problem is that as written, a brick exterior finish should NOT be an equal to materials such as cement boards and stucco -- we should make this clear in this QAP. Brick has superior thermal and sound qualities, as well as literally able to "stop a bullet," which for some of our developments is not irrelevant. So what we should do is allow additional points to those developers that use "solid masonry units" (which is the generic term for brick), but it also allows for masonry products other than brick. So we should have a minimum threshold of cement boards, wood boards, and stucco. Then additional points awarded for solid masonry units.

2. Storm Windows (Section D: page 15 & Section D: page 66):

We agree with the storm window comment, but it should read **"Double Insulated Windows with a "U" Factor of .4 or less, and a SHGC of .4 or less"**.

Paragraph 6 in page 66 must match these requirements.

3. 30 year roof (Section D: page 15 & Section C: page 66):

We should KEEP the 30 year roof requirement. The cost difference between the lower architectural roofs and a typical 30 year roof is minimal. And we should eliminate ALL references to architectural roofs since there is a wide variety of architectural roofs between manufacturers. Moreover, 30 year roofs have a higher wind rating.

4. Agree that we should change R21 to R13 (Section C: page 65).

5. HVAC Ducts -- R6 & R8 (Section C: page 65 & 66):

Not sure what the comment is. This is an International Building Code (IBC) requirement. May want to bold the words **"conditioned"** and **"unconditioned."**

6. Moisture resistant Gyp: Must remain, with caveat for renovations.

7. Ducted Vents:

Must remain, this is an IBC requirement. And as I previously stated, we should include language for not having them in renovations, as long as this does not violate regulations building codes such as IBC.

8. Data requirements: Agree with comment.

9. Agree with comment but not sure how to achieve as most jurisdictions set minimum lot coverage and type of use. Will have to discuss with Developers as to final language.

...

Additional 2010 QAP edits:

1. Section C page 65: Item 2: should read **"R30 per IECC."**
2. Section C page 65: Item 3 should read **"R-13 for Region 2, and R19 for Region 3."**
3. Under Electrical Systems: page 67: item 4 should read **"Carbon Monoxide"** not CO2.

That's all for now.

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-----Original Message-----

From: Dr. Roger Tijerino

Sent: Tuesday, May 25, 2010 3:31 PM

To: Nicole C. Carter; Construction

Cc: Louis Russell; Marjorianna Willman; Brenda Evans; Todd Folse; Joseph Durnin

Subject: RE: 2010 QAP- Construction information requested

I'm out of the office till Friday but I'll try to address each of the comments given the limitations of this BlackBerry:

1. Brick exterior: I will need to research this, but I'm inclined NOT to accept as the comments pertain solely to the exterior "look," while a solid brick has to do with a complete WALL SYSTEM, which has superior thermal and sound qualities, not to mention durability and safety.
2. Storm windows: This appears reasonable.
3. 30 year roof: Will have to research but it appears that we may be able to compromise.
4. R21/ R13 Exterior walls: This appears reasonable but will have to do more research.
5. R6 to R8 Ducts: Will have to research.
6. Moisture resistant Gyp: Must remain.
7. Ducted Vents: Must remain, but we should allow for not having them in renovations.
8. Data requirements: agree with comment.
9. Scattered Sites: Will have to research, although I agree with your comment that this should be a local community decision rather than a QAP requirement.

Todd:

If you are in the office, please start to research those items that I mention as needing further evaluation.

Thanks,

-----Original Message-----

From: Nicole C. Carter

Sent: Tue 5/25/2010 9:50 AM

To: Construction

Cc: Louis Russell; Marjorianna Willman; Brenda Evans

Subject: 2010 QAP- Construction information requested

Good Morning,

As you are aware, the tax credit staff is in the beginning stages of drafting the 2010 QAP. This year we have requested input from developers (and others) prior to completing the draft to allow ample time to review issues within the 2009 QAP and how to make the 2010 QAP more functional. In doing so, we have receive several comments regarding some construction issues that we would like to ask your opinion on. Please see the summary below and the actual comments/ suggestions attached. If you can response by the close of business Wednesday (May 26th), we will greatly appreciate it.

Design Features- Threshold Requirements

- o Brick exterior: Change exterior to allow thin-set brick or any fiber-cement type product that has a manufacturer warranty of 30-years. 75% brick exterior may not be appropriate design solution. Brick is not a characteristic of "Costal" design and "Craftsman" design.

§ In lieu of this requirement, simply require a 30-year warranty and allow stucco, hardy-board or any fiber cement product. Thin-set brick should be allowed as an alternative. A new product made by "Nichiha" (www.nihiha.com <<http://www.nihiha.com>>) is a great alternative that is just as durable and looks just like brick.

§ Provide a process for a developer to apply to have a new product added to the list of acceptable durable materials after review by LHFA's Construction Staff. (Have list of acceptable durable materials in QAP)

§ Do you think the materials suggested to replace the brick requirement is a comparable material?

o Storm Windows: Remove requirement for storm windows when energy efficient insulated windows are used. Storm windows add no energy value when used on top of an insulated window and add maintenance costs. Storm windows should only be required in a rehabilitation project that is preserving the existing non-insulated windows.

§ Currently, I believe the project can have storm windows only, not both storm and insulated windows. But as an energy requirement it states " All windows and doors Energy Star Qualified & matching correct climate zones: Windows- U-value of 0.4 or less (R-value 2.5 min); Solar Heat Gain Coefficient of 0.4 or less; ten-year warranty from date of delivery against breakage of the glazing panel's seal." So, according to the above, is this saying both storm and insulated windows are required because the storm windows and the excerpt from the energy requirement are threshold items.

o 30-50 Year Roof: Many owners replace a roof before 30 years due to hail, wind or other storm damage. A 30-year roof warranty does not cover such damage; only covers a failure of the product, such as delamination. Another option is to require an Architectural 20 or 25 year roof.

§ How do you feel about this? While the developer has a point as far as storm damage, we want to ensure that the roof will last an extended period of time. Is there a substantial cost difference between the 30 year roof and the 25 year architectural roof?

o Construction requirement for RD-21 (installation) is costly and not necessary. RD-13 is typical in residential properties and RD-21 is more common in commercial properties. Possibly make the RD-21 as a point selection, but not as threshold.

§ What is the difference between the two?

o The following standards, which per the QAP applies to rehabs, could be cost prohibitive or impractical to achieve for an existing building

§ Exterior Walls: R-21 Insulation

§ R-6 to R-8 HVAC ducts

§ All bathroom areas to have moisture resistance gyp board

§ Exhaust fans in baths and kitchens shall be ducted to the building exterior

§ Would the items above be impractical for a rehab as the developer states? What items could be compromised on?

· Minimum Internet/ Cable Capacity Requirement - Threshold Requirement

o Rather than 3 distinct networks, allow owner or manager to decide on the best system that will provide cable TV, Telephone and Internet access for the tenants. If the 3 services can be provided with one or two networks, that should be sufficient. Agency can confirm prior to 8609 issuance.

· Scattered Site Applications: The need for points for a competitive application forces many developers to the scattered site or homeownership categories; even if the development is not conducive for the type of housing being offered (i.e. elderly). Should encourage the option to build a single-family style development on a single parcel that is unplatted as a residential subdivision. The housing could still have a private yard, garages or carports, but its infrastructure can be developed in a multi-family approach with master water mains, check meters and private streets. Should also perhaps encourage scattered "in-fill" housing approaches. This is a much "greener" approach and will gain greater support in many communities.

o Is this even possible? Would this type of project need to be approved by the city?