

2008 DCA Qualified Allocation Plan General Questions and Answers Posting #2

1. We are looking into EarthCraft certification for a 2008 application. Per my understanding of the 2008 QAP, we need to submit only a draft EarthCraft Multifamily worksheet to DCA. Is that correct? If not, please let me know what must be submitted to DCA by April 15.

Please be aware that there are two separate programs administered by EarthCraft under which you may receive points in the 2008 round:

1. The EarthCraft Communities program (divided into Piedmont and Coastal Communities) can be used to obtain points under the Sustainable Communities category (2 points). You must submit the EarthCraft Communities scoring sheet at pre-application to demonstrate your commitment to following this program. See also: <http://www.earthcrafthouse.com/About/communities.htm>

2. The EarthCraft MultiFamily program can be used to obtain points under the Energy Efficiency category (14 points). The EarthCraft Multifamily program does not require any submissions at pre-application. See also: <http://www.earthcrafthouse.com/About/multifamily.htm>

2. As it relates to the 2008 LIHTC round, we are working with our development partner in submitting the environmental reports for two separate project sites that are currently part of a single larger parcel. Both Phase I and Phase II environmental assessments have been completed on this single larger parcel. In preparing the Phase I for each site, the Environmental Professional will be reviewing and considering the information from all available sources, including the assessments, reports, testing, data, etc. relative to that site as it is contained in the already completed Phase I and Phase II assessments for the entire larger parcel. We would like to confirm with you that, other than a requirement by the Environmental Professional or DCA to conduct additional Phase II work, there will be no need to create additional/new Phase II reports, assessment, testing, etc. as part of the submission to specifically match the project defined area of each site. Subsequently, we will simply include with the new Phase I for each site copies of previous relevant Phase I and Phase II reports as Appendix I and Appendix E, respectively, as specified in the Environmental Manual.

From the information provided, other than additional Phase II testing that DCA may require, no other documentation appears to be required. As a part of your application, you should provide documentation that clearly shows the location of the two sites within the larger parcel and evidence that the environmental report and testing, in particular, cover the two projects that will be submitted for funding. Any ambiguities could result in a longer period of review for environmental threshold. Please note that DCA cannot determine definitively that no additional documentation is required until it has reviewed the site and the total documentation submitted.

3. When the final QAP came out DCA indicated that there had be no changes to the Draft QAP that had been posted on the website. The draft QAP had a score of 4 points

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for Sustainable Communities but when the Final QAP came out the score was reduced to 2 points, so did scoring change on the Final QAP?

The Sustainable Communities category is worth 2 points. There were no changes from the second draft posted following the closing of the public comment period until the draft document was signed by the Governor. There were changes from the original draft to the draft posted at the completion of the public comment period. The Final Draft of the 2008 Qualified Allocation Plan is the official document from which DCA will administer the Tax Credit and HOME funding for 2008.

4. Please confirm that if a site is part of a master planned community DCA will look at the entire redevelopment tract to measure the 1 mile distance to Desirable Activities.

DCA defines a Master Planned Community as a tax credit project that will be developed in several adjacent phases with different allocations of credits under a common planning document. DCA also define "Adjacent" to mean either immediately contiguous to, across the street from, or diagonally opposite across an intersection. To be eligible for points for desirable activities, DCA stipulates that the activity and/or characteristics must be located within a 1.0 mile walking/driving distance from the proposed site. Therefore, if your proposed site is a phased development within a "Master Planned Community" the measured distance would be from the proposed project property boundaries of the tax credit property under consideration in this round (not the entire Master Planned Community site). DCA will initially determine that a desirable is within the required distance by measuring the 1 mile radius surrounding the proposed site.

5. Under the Maximum Ownership Interest exception, can a GP that has met the Ownership Tax Credit Cap serve as the developer for an experienced owner? In this scenario, the (GP) developer would not have an ownership interest in the proposed development. In the QAP, it states that a proposed owner must demonstrate at least three continuous years of prior ownership experience in at least two multi-family rental housing projects of similar size to the proposed project. Would ownership of multi-family rental housing projects that were not developed under the Section 42 program qualify for the purpose of determining experience?

There seems to be two distinct questions here:

- 1) Yes. A General Partner who has an ownership interest in a proposed project submitted in this round, may also act as a developer in no more than two additional projects in which they have no ownership interest. (Applicants are limited to four applications in which they are acting as a general partner).**
- 2) Multi-family housing does not have to be developed under the tax credit program to meet DCA experience requirements. However, all of the requirements of the QAP must be met.**

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6. Will the 2008 area median incomes be published prior to the 2008 OAH application deadline? Will DCA rent tables be generated for use by applicants in the 2008 funding round using those new AMIs and the 2008 fair market rents published in October, 2007?

Yes. DCA will generate rent tables for use by the applicants in the 2008 funding round using the 2008 area median incomes (AMI) and the 2008 Fair Market Rents (FMR). The AMIs and FMRs are posted, but have not yet been approved for use in the HOME program by HUD. As soon as HUD issues approval, DCA will post the tables.

7. On page 16 of the Core Plan, the QAP indicates 'the average per unit rehabilitation hard costs must equal or exceed \$20,000 for properties 20 years old or less, and the average per unit rehabilitation hard costs must equal or exceed \$25,000 for properties that exceed 20 years old.' How does DCA define hard costs - is this the average per unit value of the construction contract or is it the average per unit value of construction materials?

DCA defines construction hard costs as the total of the on-site site improvements, on-site unit/building construction costs, plus construction contingency, and contractor services. Contractor Services are defined as the Builder's Overhead, Builder's Profit, General Requirements, and the Payment and Performance Bonds or the cost of the letter of credit or construction loan when used in lieu of a Payment and Performance Bond.

8. If units with project based rental assistance are not designated as tax credit units, and the PBRA rents are higher than the tax credit units' rent, can they be considered market rate?

No, units designated as Market Rate can not have any income or rent restrictions on them. Units with PBRA are restricted to the contract rents and therefore can not be classified as Market Rate units.

9. The Applicant Commissioned Appraisals section of the Threshold Criteria (page 8) states that when an identity of interest between a buyer and seller exists, an applicant shall commission an appraisal prepared in accordance with the DCA appraisal requirements. It further states that the appraisal shall provide the "as-is" value and conform to the USPAP standards. Do these two requirements comprise the "DCA appraisal requirements" applicable when an identity of interest exists? If not, what are the requirements?

Section 5(B) of Threshold, Appraisals, indicates that: (1) an applicant shall commission an appraisal prepared in accordance with the DCA appraisal requirements... it further states that (2) the appraisal shall provide the "as-is" value and (3) conform to the USPAP standards. Thus, the appraisal should also

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conform to USPAP for the State of Georgia and should be prepared in accordance with the methodology and guidelines set forth in the DCA Appraisal Manual.

When an identity of interest exists, DCA requires an as is value of the property with a separate valuation for the land. If the site is improved, the value should include site plus improvements; if the site is not improved, then a land value is sufficient; if the site is leased, then the lease hold improvement must be appraised. In sum, the appraisal should reflect the interest being transferred – for instance, if the interest is a fee interest, then the appraisal should reflect the value of the land, if the interest is a leasehold interest, the appraisal should reflect the value of the lease interest.

Please note that, if points are being sought, then an appraisal is required so DCA can determine the value for scoring purposes. However, if points are sought and the transfer is for a nominal amount (i.e. \$1, - \$200 etc), an appraisal is not required. The applicant should instruct the appraiser to prepare any other values needed when the applicant is claiming points.

Applicants are instructed to refer to the DCA Appraisal Manual for additional DCA appraisal requirements.

10. Do Options/Purchase and Sale Agreements have to contain original signatures in the application?

No. Copies are acceptable. Purchase and sale agreements as evidence for site control must clearly show the name of the General Partner or proposed LP (or which provides for an assignment to the General Partner or proposed LP), must be executed prior to the Application Submission deadline, must include a legal description of the property and must provide legal control of the site to the proposed General Partner or proposed LP at least through September 30, 2008.

11. Is there a prohibition this year in doing a mix of acquisition/rehab and new construction in one contiguous project?

DCA is not sure what you are talking about when you say “one contiguous project” but you can do both rehab and new construction on the same project site.

12. Can a HOME project’s debt service be structured as non-fully amortizing balloon loan for 35 years in a rural area?

Yes, the “Additional DCA Policies related to the funding of DCA HOME Loans” Section (9.2) of the QAP under Loan Terms and Non-Fully Amortizing Loans indicates that the HOME amortization period can range from 15 to 35 years and that non-fully amortizing loans are available to projects in Rural Areas.

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13. Under Appendix II, XV. Local Government Support B. for 2 points, where do we find if our site is located in a Signature Community, Georgia Institute for Community Housing or Community of Opportunity?

For Communities of Opportunity, the following communities have committed to be Co-Op participants and participate in the pilot program: Burke, Glascock, Hancock, Jefferson, Jenkins, Lincoln, McDuffie, Taliaferro, Warren, Washington and Wilkes and Elbert. See also (<http://www.dca.state.ga.us/communities/regionalism/programs/co-op.asp>).

Projects in these communities will be eligible for points. The list of Signature Communities can be found here: <http://www.dca.state.ga.us/communities/regionalism/programs/signatureComm.asp>, while Georgia Institute for Community Housing information can be located at <http://www.fcs.uqa.edu/newfacs/hace/hdrc/gich.html>.

14. My understanding is that none of the pre-application materials are mandatory by April 15 but may be recommended in order to clarify any further issues. For instance, my firm is not yet qualified in Georgia but I may be allowed to submit all information with June 5 full application. Is that correct?

As detailed in the Core Plan, the following pre-applications/Waivers are required: Compliance Score Determination (pg 27 of 45), Market Study Determination (pg 27 of 45), Environmental Threshold Requirements (pg 27 of 45), Special Needs service provider and PBRA source (pg 28 of 45), all waiver requests (pg 42 of 45), all unrelated third party entity funding (pg 18 of 32) and Sustainable Communities Certification (pg 24 of 32). The following may be submitted, but is not required: HOME/HUD Site and Neighborhood Standards (pg 28 of 45), Eligibility for Credit under the Nonprofit Set-Aside (pg 28 of 45) and Redevelopment/ Revitalization Plans (pg 28 of 45). DCA will accept all pre-applications through April 15th. Please note that, if you fail to be qualified in Georgia for experience during application, it is an automatic application failure and can not be corrected. However, if you are deemed inexperienced during the pre-application process, you have a chance to correct the issues or consider options for inexperienced owners and developers.

15. In the QAP Selection Criteria. Page 18 of 32 item 3. Is there a form to be fill out? How much funding is necessary to get the points? What do you need by March 15? Do you need an official LOI or just the name of the funding entity?

Yes, there is a form. It is called Third Party Unrelated Contribution Form. You need sufficient documentation (including but not limited to a commitment) to allow DCA to validate that points should be awarded. (Please note that these are due by April 15 and not March 15).

16. For two of our proposed applications this year, we will be purchasing a portion of a larger parcel of land from the seller. For example, the seller has agreed to sell us 18 of 36 acres for our project, and has also agreed to give us a right of first refusal on the

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balance of the land for a future phase, such as for us applying in a future competitive round. The seller will also give us some flexibility in determining the boundaries of the parcel for the first phase, which we will determine based on our environmental investigation and land planning over the next couple of months. However, by the time of our application to DCA, the parcel and legal description will be determined.

Therefore, we would like to engage the Environmental Engineer to perform an ESA on the parent tract (38 acres in this example) of which we will be a part. I expect that this strategy may have some possible pitfalls, such as if there are some recognized environmental hazards on part of the site, but no others. In this case, we will negotiate with the seller to carve out the piece for Phase I that does not have any potential hazards and have the Environmental Engineer write a supplemental letter commenting on the final boundaries of our parcel and how it relates to their ESA. If there are no recognized environmental conditions, it seems like us showing how we are a part, would satisfy DCA. Another possible concern is how to prorate the fee to Phase I land, which we could prorate in our application with comment.

As a part of your application, you should provide documentation that clearly shows the location of the two sites within the larger parcel and evidence that the environmental report and testing, in particular, cover the two projects that will be submitted for funding. Any ambiguities could result in a longer period of review for environmental threshold. The proration of the fees should be reasonable for the services performed.

17. If a 2008 Application selects targeted population points per the 2008 QAP Appendix II Scoring Section XII A and sets aside the required number of units with a 30% rent and income restriction can these units be released from the deeper targeting rent and income election after the required 2 year period?

If the Applicant selects targeted population points per the 2008 QAP Appendix II Scoring Section XII A and sets aside the required number of units with a 30% rent and income restriction and the applicant does not seek points for these units under the 2008 QAP Appendix II Section III Deeper Targeting, the units may be released from the deeper targeting rent and income election for the special needs units for which the applicant received points per the 2008 QAP Appendix II Scoring Section XII A. (Please note that project based rental contracts may have a longer commitment period).

18. Please define “impact” as it relates to wetland and flood plains?

DCA relies on Executive Order 11988 and 11990 respectively. Impacts are direct or indirect effects or influences to the floodplain, wetland, people or property, including the proposed development, which are caused by the action. For example, adverse impacts on a floodplain could include the potential for flood damage to nearby structures, increased flooding due to displacement of water from the normal floodplain by the construction of the project, and increased

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potential for erosion of floodplain soil and sediment near the construction sites. Please refer to the Executive Orders, National Environmental Policy Act (NEPA) and other provisions of laws that further the purposes of NEPA, as specified in 24 CFR §58.5 and referenced in 24 CFR §58.1(b).

19. What support documentation should we put into our application regarding farmland protection? How do we determine whether or not our project affects farmland protection?

Please refer to the HUD and HOME Environmental Questionnaire Guidance. It is posted on the DCA website under the form section. Attach a letter from the local planning agency which states that the proposed project site does not include prime or unique farmland, or other farmland of statewide or local importance. Please note that, if your project is already zoned for residential development, your zoning letter, as a part of your site control documentation, should be sufficient. However, you can contact the local UDSA representative for additional information. This information is also included in the Guidance.

20. If you are getting local HOME funds, not DCA HOME funds, are you required to complete the 8 step process? Does this apply to PBRA regardless of the source of the PBRA?

Please refer to Page 10 of 29 which the Core (HOME Projects and projects that have other HUD funded sources including but not limited PBRA)

21. If I have PBRA for the Special Needs units that will be set-aside for targeted populations, are we required to complete the HUD/HOME questionnaire? Do we have to obtain a HUD approval to develop our project?

Yes. Also refer to Page 10 of 29 which the Core (HOME Projects and projects that have other HUD funded sources including but not limited PBRA). If it is from DCA, you must complete the questionnaire and HUD approval for the release of funds is required to develop the project.

22. Do I need to meet the 40/50 rule for every building if I am using a HOME loan for my project, even if the HOME units are in only one building?

Yes. Because DCA collateralizes the entire projects with the HOME loan, if you are claiming 9% credits, even if HOME units are located in only one building, all buildings must meet the 40/50 rule (as long as the HOME loan is below AFR and the HOME loan is included in eligible basis).

23. Please define what documentation must be provided to obtain DCA approval of PBRA?

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DCA is not sure what PBRA you are referring to, but if you are referring to special needs PBRA issued by DCA, you will need to fill out the Special Needs pre-application Approval form and check the box requesting DCA PBRA. (Please note that these are due by April 15.)

24. How do we calculate rental income when PBRA is used for threshold purposes?

You have not provided enough information for DCA to properly answer your question. Please submit a revised question with additional information on the type of PBRA, the purpose and the threshold criteria that you are referencing.

25. Please clarify what happens to the compliance scoring if a 2008 eligible entity has compliance issues that occur after 2/1/08.

Generally, DCA has determined that only completed bankruptcies, Judgment of Foreclosures and uncured compliance findings made prior to 2/1/08 will be considered in this round. (Please note that some major issues may be considered under capacity and eligibility to compete if they arise after 2/1/08 but will not affect this year's scoring).

26. If you become a member of the ownership entity for a project that is troubled, how does that affect your compliance score?

Any noncompliance that occurs from the take over period forward would affect the new ownership entity compliance score. If DCA has received proper notification of the change and has approved a plan for correcting any existing issues of noncompliance (prior to the takeover) should not affect the compliance score for the agreed upon period.

27. How do you determine that a project is a "successful" project?

DCA will look the project as a whole including but not limited to: the history of the project, the feasibility of the project, compliance issues, physical issues, foreclosures, and all other issues that affect the viability, feasibility, physical appearance, failure to meet requirements and deadlines, as well as the owner's commitment to the project in determining whether a project is successful.

28. Is the drop in credit prices an 'unforeseen circumstance' for which a project can submit an application for additional credits?

No.

29. How does DCA view Market-to-Market debt, as it relates to points received for Governmental Financial Assistance? It is our interpretation that you would included the entire mortgage balance (1st, 2nd and 3rd) when calculating the percentage reduction in total development cost. Your guidance on this matter is greatly appreciated.

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The entire amount of the Loan which has been restructured by HUD should be utilized in calculating the appropriate percentage reduction in total development costs. (Sufficient documentation of the restructuring must be submitted)

30. I believe that the 2008 QAP and Q&A #11 of Posting #1 are not in tune with what is the historic designation process. DCA requiring a building to be already a Certified Historic Structure (aka/Register Listed) does not alleviate any risk for the LIHTC program, whereby the building would obviously be rehabilitated for housing. I would think the goal of the program in encouraging adaptive reuse of historic buildings is to 1) encourage the rehabilitation to comply with SHPO/NPS and 2) obtain another source of financing to help with overall sources of financing. For projects contemplating historic tax credits, DCA should accept the GA SHPO nomination letter as fulfilling the requirements of the program. This should be required by application for points and required by July 31st for claiming as a financing source. The NPS letter should not be required because there is very little risk that that NPS will not accept the SHPO recommendation.

To qualify for Historic Designation points, DCA will accept: (1) buildings listed individually in the National Register of Historic Places, or (2) buildings potentially eligible to be listed, or (3) buildings located in a "registered historic district" or (4) buildings located in a potentially eligible district that contributes to the significance of the district. For scoring purposes, Criteria (2) through (4) must be evidenced by a State SHPO nomination letter/approval. For feasibility purposes only, DCA will accept these designations/approvals for the subject project on or before August 15, 2008. For scoring, they must be included in the Application on June 5th. DCA encourages Applicants to see <http://hpd.dnr.state.ga.us> for further guidance on the requirements and associated timeframes for the development of projects with historic tax credits. DCA also encourages Applicants to seek the advice of a qualified attorney and/or tax professional before proceeding with any project of this nature.

31. DCA Notice of Procedure for Claiming Points for Targeted Units" will be posted on the DCA web-site. We can't find it. Is it on the web-site yet? If so, please give us location.

The procedure for claiming points for targeted units is further defined in the 2008 Application Instructions under the Scoring section.

32. DCA's PBRA trigger the need for the pre-contract agreement that is used when we use HOME funds?

No.

33. In QAP, Page 42 of 45, Exhibit A, DCA Pre-Application Deadlines and Fee Schedule, Pre-Application/Market Determination, 9% Deadline, April 1, 2008, but in the

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2008 Core Application Instructions; Pre-Application Submittal Instructions, page 12 of 43, 3. Market Study Determinations has before April 15th. Question: is deadline to submit April 1st or April 15th?

April 15th.

34. To apply to DCA for award of Section 8, PBRA for the specific use of Special Needs Targeted Units, 5% of total units to targeted population. Where to find forms, instructions, deadlines, fees, etc. Since I am located in Rural Georgia, not MSA, where and how do I apply or find instructions?

The procedure for claiming points for targeted units is further defined in the 2008 Application Instructions under the Scoring section. Applicants must complete the Targeted Population Pre-application and submit required documentation by April 15, 2008.

35. Core Application Instructions page 2 of 43, Targeted Population Project Waiver. What does this form request to waiver? Where do I find waiver form?

DCA does not have an actual Targeted Population Project Waiver Form. All required information and documentation should be submitted in a narrative form.

36. Where can I find on website or can you give me or tell me where we will know total HOME allocation to DCA to determine our 25% maximum quota?

This information should be posted by April 15, 2008.

37. When is it anticipated that the 2008 utility allowances will be published for use in preparing the OAH applications, please?

It is DCA's goals that this information should be posted within the next three weeks. However, DCA is not sure of the exact timeline, but will post these allowances as soon as they become available.

38. I have in my notes from the Application Workshop that all LIHTC properties are required to be listed on the Georgia Housing Search site but I haven't been able to locate the exact written verbiage in any documents. Where can I find more information regarding this requirement?

That requirement is contained in the threshold criteria of the 2007 and 2008 QAPs. That criterion reads in verbatim: Applicants selected for funding under the Plan must list all available affordable Housing Units funded by DCA on the Georgia Housing Search website. Georgia Housing Search is a DCA sponsored database that assists Georgia residents in locating available affordable housing units. Once a project is selected for funding, the Applicant will have a period of six (6) months to complete the listing of existing developments. Applicants are

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required to notify DCA when they have completed the listing. Additional questions can be directed to sbarry@dca.state.ga.us.

39. Economic Investment Areas – Fulton County meets the requirements for points in this scoring category but it is not listed with the other counties. We have a proposed project located in Fulton County. Is the project eligible for points under the “Economic Investment Areas” scoring category?

DCA elected not to include Fulton County in the counties eligible for these points.

40. In Tab 12 of the Tabs Checklist there is a requirement for “Evidence of Off-Site Improvements for Master Planned Communities”. Is the documentation required only for scoring purposes?

Generally, yes. There may be some fact situations like off site access roads that may require submission of documents.

41. Are the Multi-state Release Forms sent directly to all of the State Agencies in which a participant has participated in the Low Income Housing Tax Credit, HOME or FDIC AFHD programs or is the form sent to DCA for them to send to the other states?

The form must be sent by the applicant directly to all states in which an applicant has participated in the LIHTC, HOME or FDIC AHD programs. Please stress to the State Agencies that the form must be returned to Nan Maddux at DCA no later than April 15, 2008. The completed form may be faxed to (404)327-6849. A copy of the completed form must also be included as part of the Performance Workbook in the Final Application Package.

42. In the Performance Workbook (last sentence on Page 3 of 6 of the Instructions) “all instances of major project failure/General Partner Failure that occurred on or before January 1, 2002 will be considered for point deductions.”

There was a typo in one section of the Performance Workbook in page 3 of 6. The correct language appears in Scoring Group F (page 4 of 6 last item) states: “General Partners Developers, principals or managing members who from January 1, 2002 through April 1, 2008 have been removed, debarred, or asked to voluntarily withdraw from a LIHTC partnership” will receive a 5 point deduction. That is the correct provision.

43. Please clarify if major project failure/General Partner Failure at a project that occurred on or before January 1, 2002 will result in a point deduction.

No. See answer 42 above.

44. Is an applicant still required to complete five (5) Uniform Release Forms?

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No, the applicant is not required to complete these forms at Pre-application or at Application. However, DCA, at its discretion, does reserve the right to request these forms as well as IRS Form 8821 at a later date.

45. If the appraisal is prepared based on 100 acres, and my site is only 10 acres can we divide the value by the 10 acres to derive the value for my site?

The appraiser should value the site specific to the development.

46. Environmental is due for pre-app approval. Are you saying we can't wait until full application to submit the environmental documentation? Where is the Improvement, Amenity and Facility Investment (form)?

For environmental, if you can not submit the environmental package by the deadline, you need to let DCA know by April 15th and request a waiver from the required pre-application date. The folder titled "Pre Application Forms and Waivers" folder contains the Improvement, Amenity and Facility Investment form. The form is titled "2008 Local Government Support and Financial Assistance" and it can be found at this web site: <http://www.dca.state.ga.us/housing/HousingDevelopment/programs/QAP2008docs.asp>.