

Questions and Answers for RFA 2023-213 SAIL Funding for Live Local Mixed Income, Mixed-Use, and Urban Infill Developments

1. If we intend to use a condominium structure to separate the LIHTC project from the workforce project for §42 and §142 purposes, we have the following questions:

a. Should we list both the LIHTC project owner and the Workforce project owner as applicants?

Answer:

There is one Applicant per Application. The Applicant must be a legally formed entity [i.e., limited partnership, limited liability company, etc.] qualified to do business in the state of Florida as of the Application Deadline. Site control must be in the name of the Applicant. Details of the financing structure will be reviewed during credit underwriting.

b. Can we submit the legal description for the overall master site, understanding a condominium will be created on the master site at a later date, one condo unit of which will be leased to the LIHTC project owner?

Answer:

It is permissible to submit documentation demonstrating site control of a large master site. The financing and legal structure of the proposed Development will be reviewed in credit underwriting.

c. If we can submit the legal description for the overall master site, will FHFC consider the condominium of the master site a “change in development site”?

Answer:

This question will need to be vetted more thoroughly during credit underwriting. Generally speaking, any change to the legal description would constitute a “change in development site.” However, through credit underwriting, it will need to be determined if there will be different legal descriptions reflected in the LURA versus the EUA. If the legal description differs in either the LURA or the EUA from what is reflected in the site control documentation attached to the Application, this would constitute a “change in development site,” which would be reviewed during credit underwriting.

d. Can we submit the site control for the overall site, understanding a portion will be leased to the LIHTC owner?

Answer:

Yes, submit the site control documentation for the overall site as stated in Section Four, A.7. of the RFA. Any changes to the legal description will be vetted through credit underwriting, including the separation of units through a condominium or other legal structure.

- e. If we can submit the site control for the overall site, will FHFC require a separate site control document for the portion that will be leased to the LIHTC project owner?

Answer:

Submit the site control documentation for the overall site as stated in Section Four, A.7. of the RFA. During credit underwriting, if a condominium structure is utilized, it is anticipated that the underwriter would request structural, legal, financial, and other applicable documentation in regard to the development and structure of the condominium.

2. What year is FHFC using for HUD's Basis Boost (QCT, SADD, etc.)? I thought it was 2023, yet I clicked on the hyperlink in the RFA and it takes me to 2024 basis boost areas.

Answer:

The hyperlink takes users to HUD's most current webpage which is now the 2024 webpage. Because the RFA Application Deadline is in 2023, the 2023 HUD-designated Small Area DDA, HUD-designated Non-Metropolitan DDA, and HUD-designated QCT must be used unless the Application is utilizing Non-Corporation-Issued Tax-Exempt Bonds and submitted a complete application for the Non-Corporation-Issued Tax-Exempt Bonds in the previous year. In that instance, the Corporation will need to utilize the qualifying criteria tied to when the complete application was submitted to the agency issuing the County HFA-issued Tax-Exempt Bonds. If the Applicant is requesting Non-Competitive Housing Credits that will be used with County HFA-issued Tax-Exempt Bonds and the Applicant indicates that the proposed Development is eligible for the basis boost, during the credit underwriting process the Applicant will be required to provide a letter certifying the date the bond application was deemed complete. There are also means for a Tax-Exempt Bond transaction to utilize a 2024 HUD basis boost, but at time of Application, the criteria is not applicable.

3. At the application deadline date the Census tract location of our site is currently not located in a HUD designated basis boost for the 2023 year, but the census tract is already designated as of today for a basis boost for the 2024 year. My question is, if we apply in 2023 without utilizing any basis boost, could we utilize the basis boost later if approved to enter credit underwriting since the 4% credits are non-competitive?

Answer:

For Application purposes, we utilize the effective lists of QCTs and DDAs as of the date that the Applicant submits a complete application to the bond-issuing agency. During credit underwriting, if it is determined/verified that the Development qualifies for a QCT or DDA boost under a later year's list of qualifying QCTs and DDAs, this may be applied to the credit underwriting assumptions.

4. Can you please confirm that the Non-HC Live Local Housing Units will not be subject to Utility Allowances?

Answer:

Under sec. 420.50871, F.S., the non-HC Live Local units are considered SAIL units subject to sec. 420.5087, F.S., including sec. 420.5087(6)(k), which sets forth, "[r]ent controls shall be set at the

income set-aside levels committed to by the sponsor at the applicable income limitations established by the corporation for federal low-income tax credits.” Accordingly, the non-HC Live Local units are subject to Utility Allowances.

5. Mixed-Use Commercial Space: There is conflicting language in the RFA regarding the requirements, do we need the broker contract and letter of intent or just one of these documents?

RFA states: To qualify for the Subcategory of Mixed-Use Commercial Space, the Applicant **must have both of the following** prior to the Application Deadline: ▪ a contract with a third-party commercial broker; **or** ▪ a letter of intent including terms, cost, length of time, etc., with the commercial entity that will occupy the space.

Answer:

This inconsistency has been corrected through the modification issued on December 1, 2023. The language now states:

- (1) Mixed-Use Commercial Space such as retail or office

To qualify for the Subcategory of Mixed-Use Commercial Space, the Applicant must have one of the following prior to the Application Deadline:

- a contract with a third-party commercial broker; or
- a letter of intent including terms, cost, length of time, etc., with the commercial entity that will occupy the space.

6. Did the Corporation unintentionally include in the Urban Infill Development definition the following language which was deleted from the Urban Infill form? “...and The proposed Development meets one of the following: ▪ The proposed Development meets the definition of an Urban Infill as set forth in Section 163.3164(49), F.S.; or ▪ The proposed Development is located on a site or in an area that is targeted for infill housing or neighborhood revitalization by the local, county, state or federal government as evidenced by its inclusion in a HUD Empowerment/Enterprise Zone; a HUD-approved Neighborhood Revitalization Strategy; a HUD Choice Neighborhoods Initiative program grantee; area designated under a Community Development Block Grant (CDBG); or a Community Redevelopment Area as described and defined in the Florida Community Redevelopment Act of 1969.”

Answer:

Yes. Per the modification issued on December 1, 2023, the definition of Urban Infill Development now states the following:

Urban Infill Development, means:

- o The proposed Development meets the description of Urban Infill as set forth in Section 420.50871, F.S.; and
- o The site is in an area that is already developed and is part of an incorporated area or existing urban service area.

7. Exhibit A produces an error in Section 4.A.6.d, where the Prorata ELI Distribution calculates incorrectly if Average Income Test is selected. It currently caps the maximum number of ELI units at 15, however per the RFA there is no cap on ELI units if Average Income Test is selected.

Answer:

This was an error. The Exhibit A was corrected and posted to the RFA Webpage on December 1, 2023. Applicants are advised to use this Exhibit A for all correct calculations.

8. What if the new market study has different information than the original market study?

Answer:

Per the modification issued on December 1, 2023, the underwriter will order a new market study to confirm that these requirements are met and also the requirements as set forth in Rule 67-48.0072(10), F.A.C. Although the Corporation has not experienced differentiations with the average market rents and the assumptions made in the Application using this approach in prior RFAs, such as RFA 2021-208 SAIL and Housing Credit Financing for the Construction of Workforce Housing, any Applicant concerned with significant changes to average rents in the submarket should use conservative assumptions in order to ensure compliance with Rule 67-48.007(10), F.A.C.

9. If the proposed development site is located in a city, can the Urban Infill form be signed by the applicable appointed county staff or county manager or does it need to be signed by city staff or the city manager?

Answer:

As stated on the form, the certification must be signed by the applicable appointed official (staff) responsible for determination of issues such as the City Manager, or County Manager/Administrator/Coordinator.

10. Does the mixed use commercial component have to be within the residential Buildings?

Answer:

No. The mixed use commercial component has to be on the Development site but not necessarily within residential buildings. A description of the intended service(s) and the benefit to the intended residents must also be provided in the Application. This would include the distance, if not within a residential building. As stated in the RFA, the Applicant understands that the Corporation will review the Mixed-Use Commercial Space and Mixed-Use Institutional Space to confirm that it meets the statutory and RFA requirements. If it does not meet the requirements, it may result in a consequence, including, but not limited to, de-obligation of award or limitation on future funding opportunities.

11. If mixed use commercial component is located on a separate site, is this considered Scattered Sites?

Answer:

Not if the entire site where the mixed use commercial component is being offered consists only of non-residential structures. As defined in subsection 67-48.002(106), F.A.C., each such non-contiguous site that contains, or will contain upon completion of the Development, at least one residential building within a Scattered Site Development, is considered to be a "Scattered Site".

A modification will be issued next week stating the following:

(3) Written description required

A description of the intended service(s) and the benefit to the intended residents must also be provided in the Application. [Although the Mixed-Use Commercial or Institutional Space must be located on the Development site, the commercial or institutional component can be on a separate site that may or may not include residential units. In this event, the written description must state this and must also confirm that the distance between the site with the most units and the site with the commercial or institutional component is no more than 1/16 mile.](#)

NOTE: The Applicant understands that the Corporation will review the Mixed-Use Commercial Space and Mixed-Use Institutional Space to confirm that it meets the statutory and RFA requirements. If it does not meet the requirements, it may result in a consequence, including, but not limited to, de-obligation of award or limitation on future funding opportunities.

12. The RFA states "The Developments must be located in submarkets where the average market rental rates are at least 10 percentage points higher than the highest AMI set-aside identified on the set-aside chart." Does "average market rental rate" literally mean the average rental rate in the submarket, including older housing stock? Or does this mean the fair market rent of a comparable new construction unit in the submarket? The language in the statute is "fair market value rent", which I interpret as different from average market rental rate.

Answer:

Within the market study, the Appraiser, after researching, presenting and adjusting appropriate rent comparables, will conclude to a market rental rate for each unit type in the Development. The average market rental rate, based on unit mix and annualized rent concessions must be equal to at least 10 percentage points higher than the highest AMI set-aside on the set-aside chart.

13. Are these one time funds or will the \$100m allocation be an annual allocation?

Answer:

Section 420.50871, F.S. was created by the Florida Legislature under the Live Local Act of 2023. The Act allocated \$150 million in SAIL funding beginning in the 2023-2024 fiscal year and annually for 10 years thereafter. RFA 2023-213 was created to allocate \$100 million of the \$150 million, and targets many aspects of the statutory language. Additional RFAs are anticipated to use the remaining

funding and address outstanding aspects of the statutory language. It is unknown if an RFA will be created in 2024 to mirror RFA 2023-213 or if a new RFA will be created to target the aspects of the statutory language in a unique manner.

14. Please confirm whether a market study dated after the application deadline is acceptable or if the final study must be completed within 60 days **prior** to the application deadline.

Answer:

Within the Exhibit A, Applicants must confirm that the Market Study meets the criteria set forth in Section Four, A.5.f. of the RFA. To make this determination, the Market Study must have already been completed prior to the Application Deadline, and no more than 60 Calendar Days prior to the Application Deadline.

15. Can you please confirm that it is acceptable to propose a development that is both mixed-use institutional as well as part of an Urban Infill Program?

Answer:

Yes

16. For the Publicly Owned Land Goal Qualifications, the RFA states that “To qualify for the Publicly Owned Land Goal, provide a properly completed and executed Lease Agreement or eligible purchase contract demonstrating that the Applicant is leasing or purchasing the land from the unit of government”. Please confirm that sites with an existing DOT that provide an Option to Enter into a Ground Lease Agreement is a valid form of site control demonstrating that the Applicant is leasing the land from the unit of government in order to meet this Goal.

Answer:

Yes. A modification will be issued next week clarifying this. The new language will say the following:

To qualify for the Publicly Owned Land Goal, provide a properly completed and executed Lease Agreement or eligible purchase contract, or, if there is an existing Declaration of Trust recorded on the subject property, Option to Enter into a Ground Lease Agreement as described in Section Four, A.7.a.(3)(b) of the RFA, demonstrating that the Applicant is leasing or purchasing the land from the unit of government”.

17. Attachment 4 & Attachment 9 appear to be missing from the RFA. Should the Applicant still provide the corresponding Bookmarks for these Attachments and label them as being “intentionally omitted” from the RFA?

Answer:

These are intentionally omitted from this RFA. Applicants may provide the corresponding Bookmarks for these Attachments and label them as being “intentionally omitted” from the RFA.

18. Do we have to use Tax Exempt bonds or Noncompetitive Housing credits?

Answer:

Yes. Per Section One, B. of the RFA, the SAIL funding offered in this RFA must be used in conjunction with Tax-Exempt Bonds and Non-Competitive Housing Credits.

19. It appears the SAIL Base Loan Request Amount Limits reflected in question A.10.a.(1) on the Funding Tab in Exhibit A does not increase for our Non-HC 90% Live Local Housing Units or Non-HC 110% Live Local Housing Units. We selected the Average Income Test. Am I calculating this correctly?

Answer:

Florida Housing posted a revised Exhibit A regarding RFA 2023-213 SAIL Funding For Live Local Mixed Income, Mixed-Use, And Urban Infill Developments to the webpage <https://www.floridahousing.org/programs/developers-multifamily-programs/competitive/2023/2023-213>. On previous versions of Exhibit A, the SAIL Base Loan Request Amount Limits reflected in question A.10.a.(1) on the Funding Tab in Exhibit A did not include the per unit limits of either Non-HC 90% Live Local Housing Units or Non-HC 110% Live Local Housing Units when the Average Income Test was also selected, causing a reduction in the maximum SAIL Base Loan Request allowed for the Application. **Applicants that commit to the Average Income Test on question A.6.c.(1) on the “Units, Set-Asides, Bldgs” tab of Exhibit A with a commitment of either Non-HC 90% Live Local Housing Units or Non-HC 110% Live Local Housing Units must use the December 7, 2023 version of Exhibit A for submission to Florida Housing. Users who open the correct Exhibit A will see that the top line of the first page within the General Information tab of Exhibit A states the effective date of December 7, 2023.**

Please Note: The Q&A process for RFA 2023-213 is concluded and Florida Housing does not expect to issue any further Q&As regarding RFA 2023-213.

Submitted by:

Melissa Levy
Managing Director of Multifamily Programs
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, FL 32301
850-488-4197 or Melissa.Levy@floridahousing.org

The Q and A responses are based on the information presented in the question and the terms of the RFA. The responses to the Q and A are provided as a courtesy and shall not be construed as scoring of an application. If there is any conflict between the response to a Q and A and the RFA itself, the terms of the RFA control. These Q and A responses apply solely to RFA 2023-213.