

NYCHA University / Macombs Apartments RFP
Pre-submission Conference Questions and Answers

The following is a summary of the questions and answers that were discussed at the pre-submission conference held on July 31, 2003.

FINANCING

Q. How is HDC going to underwrite the debt as related to the Section 8 contract? It is understood that the initial term of the Section 8 Housing Assistance Contract is ten (10) years, while the mortgage period is likely to be longer.

A: HDC is willing to underwrite to the Section 8 rents for the term of the permanent mortgage, so long as the borrower obtains third party credit enhancement, such as mortgage insurance from the State of New York Mortgage Agency (SONYMA) for the same term. The cost of SONYMA insurance is assumed in the permanent rate provided in the RFP.

If SONYMA or other third party credit enhancement is not obtained, or if the proposal assumes a non-renewal of the Section 8 contract, for any reason, then the loan will be underwritten to the current year's tax credit rents, for the term not covered by the initial Section 8 contract.

For purposes of your proposal you should assume Section 8 Reasonable Rents for the entire mortgage period. You should also assume 100% project-based Section 8 in your basic proposal. The current Section 8 Reasonable Rents are stated in Exhibit G of the RFP.

Q. The RFP states that 75% of the developer fee will be deferred. Is that an HPD requirement? Over what period can the developer fee be taken?

A. The exact amount of developer fee to be deferred will be determined upon final underwriting. Generally, a high percentage of the developer's fee needs to be deferred in order for the project to work. Moreover, this deferral releases a higher proportion of the tax credit equity for up front costs and therefore minimizes the amount of additional subsidy required. Please note that the amount of subsidy required is a competitive selection factor.

The tax credit investor generally limits deferred developer's fee to no more than the 10 year net cash flow, therefore the developer must be able to establish that the deferred fee can be recovered over the first 10 years of project operation.

- Q. Once the \$1,000 per unit operating reserve is attained, must the developer add to it?
- A. An initial capitalized operating reserve of \$1,000 per unit must be provided at permanent conversion and maintained for the term of the HDC mortgage, meaning that if any of these funds are used they must be replenished; that amount is included in the financial forms in the RFP. An annual operating reserve payment is not required by HDC, however there is a minimum \$300 per unit per year building or replacement reserve requirement that must be provided from operating expenses. If the project's tax credit investor (or any other financing partner) requires higher operating or building reserves those should be assumed in the underwriting.
- Q. What are the form and the terms of the NYCHA subsidy?
- A. The NYCHA subsidy is gap financing to be provided only if and to the extent needed. The specific terms would depend upon your proposal and be negotiated after developer selection. The subsidy would be in the form of a non-amortizing zero-interest loan for up to 30 years.
- Q. Can we assume that the Section 8 Payment Standard will be the basis for rents at initial occupancy? The Payment Standard may change by the time the buildings are completed.
- A. The Section 8 Reasonable Rents then in effect, not the Section 8 Payment Standard, will be the basis for the Contract Rent at initial occupancy. However, for purposes of your proposal you should assume the current Section 8 Reasonable Rents stated in Exhibit G of the RFP.
- Q. Re rent increases, you have said that they will be based on rent stabilization increases. Why will they not be based on increases in the Section 8 Payment Standard, which are generally greater? With Section 8, you usually get an exemption from Rent Stabilization.
- A. The buildings will be subject to Rent Stabilization because of the tax abatements available to the project. The Contract Rents established at initial occupancy will therefore be registered with DHCR under the Rent Stabilization Program and will be considered the Section 8 Reasonable Rents for this project. Any increases in rents for existing tenants or upon re-rentals will be governed by the percentage increases authorized under the Rent Stabilization Program. Escalations and adjustments for capital improvements are allowable under Rent Stabilization. NYCHA does not give an exemption from Rent Stabilization for Section 8 rentals.
- Q. Would HPD contemplate providing 9% tax credits, at least for the new construction portion of the project?
- A. No.
- Q. Will 421(a) Certificates be available for this project?
- A. No.

Q. You had mentioned that the rehabilitated buildings would be eligible for J-51 tax abatement. If those benefits are for 20 years, I would assume that HDC will not underwrite to no taxes beyond the 20 year period.

A. Assuming enriched J-51 benefits, HDC will underwrite based on zero taxes for 20 years. If the proposed mortgage is more than 20 years, the underwriting will need to allow for payments of existing taxes for each year between years 20-30. Please see Exhibit D in the RFP for details of the J-51 program.

Q. Is mortgage recording tax required?

A. No mortgage-recording tax is required for HDC bond financing. If a NYCHA subsidy in the form of a loan is provided, the developer will be responsible for the mortgage recording tax payment on that part of the financing unless otherwise independently exempt. The mortgage recording tax would also be required for any private financing. For purposes of the proposal, both profit-motivated and not-for-profit applicants shall assume payment of mortgage recording tax for these sources of financing.

Q. Can HDC financing be utilized for improvements to the retail space?

A. Yes, so long as the numbers work, and the retail/non-residential income does not exceed 20% of the total project income. Typically development costs for the retail space would include all items required for a certificate of occupancy and to make the space rentable, such as storefronts, basic utilities and plumbing, a bathroom, and sheet-rocking. Tenants generally provide the build-out for their special needs.

Q. Are letters of interest from prospective tenants of commercial space required?

A. No. However, proposals must state assumptions re rent levels and we will evaluate whether those are realistic in terms of local market rents for such space.

Q. Do residential rents include utilities?

A. Assume that residential rents include gas service and that buildings will be master metered. Assume that tenants will pay their own electric bills.

SOCIAL SERVICE REQUIREMENTS

Q. What are the social service requirements for this project? Will the HUD waiver eliminate the requirement regarding provision of social services?

A. This RFP assumes that the project will receive 100% project based Section 8 subsidy. Under HUD Regulations, project-based Section 8 subsidy may not be provided for more than 25% of the apartments in a project or in a building except where such apartments are for elderly or disabled tenants or for tenants receiving social services from the developer. NYCHA wants to avoid applying to HUD for a waiver of the social services requirement. Developers are required to submit a social services plan for proposals that seek to utilize more than 25% of project-based Section 8 Housing Assistance. Developers shall therefore include costs of social services in the operating budgets contained in their basic proposals.

If Developers submit alternative proposals that require that assume 25% or less project-based Section 8 subsidy, the operating budgets in such proposals are not required to include social service costs.

- Q. What social services must be included? Does the developer have to have an individual on staff? Would the social service plan be considered in the selection of the developer, or is it basically to meet federal (HUD) requirements?
- A. The developer has flexibility in the type of social services. This could range from providing referrals to established social services providers under contract to the developer for this purpose or direct on site delivery of services to tenants in areas such as counseling, job training, and day care services. Each proposer has flexibility in how to fulfill the social service requirement. The social service plan is not a selection factor for this project. However, the selected developer would be expected to work with NYCHA in providing a social services plan to be included in the request for the HUD waiver to permit project based Section 8 subsidy to the project.
- Q. Can the new construction be exempt from the social services requirement?
- A. The four existing buildings and the new construction are considered as one project and the requirements will apply to the project as a whole. Since the basic proposal is required to assume 100% project-based Section 8, you should assume that social services are required for the entire project. If your alternative proposal assumes less than 25% project-based Section 8, it would not require a budget for social services.

SUBMISSION REQUIREMENTS.

- Q. What letters of interest are required for private and public funds? Are letters required from HDC?
- A. No letters are required from HDC. HDC is our partner in this project and is prepared to provide tax-exempt bond financing for any qualified proposal that is selected through this RFP.

The proposal should include letters of interest from private lenders who would provide third party credit enhancement for the project. There are two types of credit enhancement required. During construction, credit enhancement is required from a qualified construction lender who would also in effect act as HDC's servicer. Upon lease-up/conversion to permanent financing, permanent credit enhancement in the form of mortgage insurance, from an entity such as SONYMA, is required. Letters should be included from any private lender expected to provide credit enhancement, however SONYMA can be assumed in the underwriting, without obtaining a letter of interest.

In addition, the proposal should identify the proposed tax-credit syndicator and include a letter of interest from that entity.

Finally, if you propose to secure financing from an entity other than HDC, the proposal should include a letter of interest from that organization.

All letters of interest should be on the letterhead of the organization providing the letter and include the information specified in Section VI.A.6 of the RFP.

Q Does the proposal have to include a letter from SONYMA?

A. No. You may assume SONYMA insurance for the purpose of your proposal and we will negotiate with SONYMA for the selected developer.

Q. Can the same management company be identified as proposed managing agent by more than one applicant?

A. Yes, so long as the management company is not a principal in either proposal but is prepared to work with either applicant. Please note that no change in managing agent will be permitted without HPD approval after submission of a proposal.

Also please note that if any individual or organization is included as a principal in more than one applicant entity, we will not consider any of the proposals that include such individual or organization. As stated in the addendum, we will consider an alternative financing strategy that is included within a proposal from an applicant who wishes to present two options. However, we will not consider multiple proposals from the same individuals.

Q. Would consideration be given to breaking up this group of buildings into more than one project?

A. No.

ENVIRONMENTAL ISSUES

Q. Has an environmental assessment been performed regarding the vacant lot and have any hazardous waste or similar issues been identified?

A. A Phase 1 Environmental Assessment is being performed by HPD and anticipated to be completed by August 31, 2003. The review to date has not disclosed the presence of any hazardous waste materials. The historic Sanborn Maps confirm that the vacant parcel was formerly residential prior to improvement as a passive seating area maintained by NYCHA. HPD has been declared to be the lead agency for a coordinated environmental review for University Ave./Macombs Apartments for the purposes of disposition of the property in the manner authorized by HUD.

Q. Was any asbestos or lead abatement done as part of the previous rehabilitation?

A. The buildings at 1611 and 1615 University Avenue have been tested for Lead Based Paint. The results were positive but no lead abatement has been performed at that location. NYCHA has no records of lead based paint or asbestos abatement in the buildings located at 1669 -75 University Ave. or 1645-55 Macombs Rd. Developers should therefore include the costs of asbestos and lead abatement in their proposals.

SELECTION FACTORS & PROCESS

Q. What are the minimum selection factors that must be met? Is this a pass/fail situation?

A. Please refer to Section V.A. of the RFP. The factors include completeness and conformance of the proposal with the requirements of the RFP; feasibility of the development proposal; ability of the applicant to meet equity requirements; comparable development and management experience, current capacity to undertake a project of this size; and lack of any adverse findings that would prevent HPD and NYCHA from doing business with the applicant.

Please note that the development experience requirement must be met by at least one principal acting in the role of an at-risk developer. The management experience requirement may be met by the proposed third party managing agent. If all threshold requirements are not met, the proposal will not be considered

Q. If there are two proposals that are equal in every respect, but one requires less project-based section 8 than the other, would we give preference to the one that requires less Section 8?

A. As stated in the addendum, an applicant may include an alternative proposal that assumes less than 100% project-based Section 8 for our consideration. However, a reduction in the proportion of Section 8 units may result in an increase in the amount of NYCHA subsidy required. If the applicant can realize cost savings that would make the project feasible with less than 100% project-based Section 8, the developer should first apply such savings to reducing or eliminating the need for NYCHA subsidy.

Q. Will a proposal requiring no subsidy be considered?

A. Yes. However, such proposal must assume that 10% of the units will be rented to homeless individuals and families referred by NYCHA, and up to 25% of the units will be rented to former occupants of the buildings who wish to return, with both groups consisting of individuals who currently hold or are eligible to receive Section 8 Existing Vouchers from NYCHA. The remainder of the units must be affordable to families with incomes that do not exceed 60% of AMI, with the tenants paying no more than 30% of their incomes for rent.

Q. Is there a place for a locally-based not-for-profit to be one of the principals? Is there any preference for not-for-profits?

A. We always welcome the participation of qualified not-for-profit organizations either as principals or as members of the development team. However, there is no special preference for not-for-profits in this RFP. The competitive selection factors include previous development experience, previous management experience, the least subsidy required, the likelihood of an early construction start, and the quality of design.

Q. What is the extent of NYCHA's involvement in this project?

A. NYCHA currently owns the property and will transfer title to the property to a developer, subject to HUD approval. NYCHA is represented on the developer selection committee. NYCHA is the source of all referrals of applicants for the project who receive Section 8 subsidy. Applicants will be pre-screened for Section 8 eligibility by NYCHA and be referred

to the developer from the current NYCHA Section 8 waiting list. NYCHA will be the source of any subsidy required for the project. NYCHA will also administer the Section 8 subsidy during tenancy through a Housing Assistance Payments Contract, if the development includes project-based Section 8, or under a Regulatory Agreement.

SECTION 8 REQUIREMENTS

- Q. Why is the income limit set at 50% of AMI?
- A. That is the cap for initial eligibility for the Section 8 program. At the time that an applicant is called from the NYCHA Section 8 waiting list, their income cannot exceed 50% of AMI. Subsequent increases in household income are allowed as long as the tenant pays 30% of income for rent, up to the amount of the contract rent. When 30% of income is equal to the full amount of the contract rent, the tenant is declared to be over income and cannot receive the Section 8 subsidy. If the unit is vacated, it must be re-rented to a tenant whose income does not exceed 50% of AMI and is eligible for Section 8.
- Q. What is the term of the Section 8 Housing Assistance Contract?
- A. The initial term is 10 years, which is the maximum duration under HUD Regulations. The contract can then be renewed by negotiation between NYCHA and the developer with no HUD restrictions on duration.

DESIGN AND CONSTRUCTION REQUIREMENTS

- Q. Is the retention of existing layouts an absolute requirement or would HPD consider modifications if the economic feasibility would be affected by that?
- A. We do not anticipate that retention of existing unit counts would affect economic feasibility. At most, it might affect the amount of subsidy required. Current layouts should be retained except where needed to deal with structural constraints, or to ensure that units are functional, for example, to improve kitchens, baths, and circulation. This is to meet our objective of maintaining existing unit counts and bedroom distributions as well as to control costs.
- Q. Do we have any preference re unit size distribution in the new construction part of the project?
- A. You should plan to build something that can be constructed as of right under current zoning, that contains dimensions and amenities required by HPD's new Construction Guidelines, and produces an attractive result that works economically. We have estimated that up to 30 units can be created on this site. While we are not requiring a specific distribution by unit size, we do prefer family-sized units.
- Q. When were the buildings previously renovated? Can potential bidders get information on the scope of previous renovations?
- A. The buildings were renovated in the early 1980's when they were acquired from the City of

New York and became part of the public housing portfolio. Until the time that the residential portion of the buildings were vacated, they were operated and maintained as public housing. No information as to the scope of previous renovations will be provided to applicants.

Q. When were the buildings vacated?

A. All residential units were vacated by the dates indicated below:

1611 University Avenue was vacated March, 1999
1615 University Avenue was vacated April, 2000
1647-55 Macombs Road was vacated February 2000
1699-75 University Avenue was vacated August 1998

Q. Can we get a statement of existing conditions, including major systems?

A. No. Please note that condition of buildings, and units within buildings, vary, and it is very important to inspect and make your own evaluations.

Q. Our understanding is that project requires payment of Davis-Bacon rates. Why is that?

A. Because we anticipate that there will be federal funding in the project, including project-based Section 8 as well as the possibility of a NYCHA loan whose source would be from federal funds. A project that requires no subsidy will not be required to comply with Davis-Bacon requirements.

OTHER

Q. Will this project require ULURP?

A. No ULURP is anticipated. The buildings and vacant lot are owned by NYCHA who will comply with HUD requirements for disposition of property. The new building to be constructed at 1605 University Avenue shall be designed so that it can be built as-of-right. Current zoning would permit up to 30 residential units to be constructed on this site but no commercial space.