# Questions and Answers –Middle Market Loan Program, as Amended 09/14/23

*The following questions have been posed as provided for under NOFA §10.7. This document is a formal response, corresponding with NOFA §10.6 "Posting by LHC of FAQ in response to written inquires (Amendment of NOFA—if required)" Developers considering submitting an application for CDBG funding under this program are strongly advised to review and consider these responses, the amended NOFA and the amended MMLP-LDI Scoring and Structuring Tool.*

**Q1.** **Allow deferred developer fee for historic adaptive reuse projects.** The NOFA and the August 23rd Developer Forum Presentation note that deferred developer fee is not permitted under the LDI MMLP program. However, for historic adaptive reuse projects, which are allowed under this program, permitting deferred developer fee in addition to a $25,000/unit non-deferred developer fee would generate additional Historic Tax Credit (HTC) eligible basis to increase the amount of HTC equity and, thus, reduce the need for additional financing. This, in turn, would allow developers to breathe new life into once prominent buildings that currently languish dilapidated and underutilized, turning them from community affliction into much-needed, vital workforce housing. As a program priority, the NOFA wisely emphasizes CDBG efficiency and leverage, so allowing already challenging historic rehabilitation projects to maximize non-CDBG financing resources is consistent with the NOFA and of benefit to advancing its objectives. We respectfully offer that LHC and OCD allow deferred developer fee for historic adaptive reuse projects of up to $10,000/unit (the 2024 QAP developer fee maximum of $35,000/unit less the LDI MMLP allowable developer fee of $25,000 unit) as long as those projects are otherwise compliant with all other terms of the LDI MMLP program.

**Answer:** Section 2.2 of the NOFA has been revised to permit a developer fee of no greater than $35,000 per unit for properties qualifying for and receiving historic tax credits, provided no less than $10,000 per unit is deferred and payable from the borrower's share of cash flow, refinancing proceeds and/or sales proceeds.

**Q2.** **Reconcile market-rate rent trending differences.** §6.1.2. of the NOFA states that for the purposes of deriving the affordability value generated by applicants, "market rent would be trended at 2.75%." However, the MMLP LDI Scoring and Structuring Tool ("Scoring Model") trends market rents at 3% (cell C98 on the Basic Input tab of the Scoring Model). We request that LHC and OCD reconcile this conflict, providing a uniform trending percentage for market-rate rents. We suggest trending market rents at 3% provided operating expenses are trended at 3.25%.

**Answer:** Section 6.1.2 of the amended NOFA has been revised to clarify that market rents are trended at 3.0%. The NOFA and the (revised) MMLP LDI Scoring and Structuring Tool are now consistent on this trending assumption.

**Q3.** **Allow statewide utility allowances for PSH units in the Scoring Model.** The Scoring Model utilizes applicant-entered utility allowances for the workforce units in cells G20:G24 of the Basic Input tab. However, the Basic Input tab does not allow for the inclusion of statewide utility allowances that are published by LHC and used in the Permanent Supportive Housing (PSH) program. We respectfully request that LHC and OCD consider updating the Scoring Model to enable the input of statewide utility allowances for the PSH units and the separate input of local housing authorities' utility allowances for the rest of the units affordable at 80% AMI, 90% AMI and 100% AMI.
**Answer:** The MMLP LDI Scoring and Structuring Tool has been revised to permit separate utility allowance inputs for PSH units (Statewide) and 80%, 90% and 100% AMI restricted units (applicable housing authority).

**Q4.** **Update gross AMI rents in Scoring Model.** The Scoring Model appears to use 2022 AMI levels to calculate gross rents at 80% AMI, 90% AMI and 100% AMI. We respectfully request that LHC and OCD update the Scoring Model with the 2023 AMI levels.
**Answer:** This has been done. The revised MMLP-LDI Scoring and Structuring Tool now reflects the 2023 AMIs.

**Q5.** **[Re: Market Rents, 100% AMI Requirement]** I don't believe you will find any submarkets in the Laura//Delta impacted parishes where market rents are at 100% AMI and above. See that attached table with parish AMI rents along with selected market rate property rents. Most market rents are well below 100% AMI. The only markets where rents would be high enough appear to be downtown locations in Baton Rouge and New Orleans. I suggest you remove the requirement that to be eligible, a project must be located in an area where market rents are in excess of 100% AMI, at least in Laura/Delta parishes. [Note: this question was accompanied by a table showing a 100% AMI rent for various locations, alongside data representing market rents at various properties].
**Answer:** The LHC has carefully reviewed the submitted data. Critically, we point out that when determining the '100% AMI' equivalent rents, the LHC's approach adjusts for utility allowances. For an apples-to-apples comparison, either the utility allowance must be added to the market rent and compared to the gross AMI rent, or the market rent must be compared to the net AMI rent (i.e., gross rent, less utility allowance). Applicants are advised to refer to the formula in the MMLP-LDI Scoring and Structuring Tool, at 'BASIC INPUT', C49, which adjudicates the 'Market Affordability Level' (determining whether it is in fact equal to or greater than the required 100% of AMI), by comparing the sum of all 'Market Rent + Utilities' (C43:47) to the 'Rents + Utils Affordable at 100% AMI' (D43:47). LHC intends MMLP properties to operate at the higher end of the market; and

it intends for there consequently to be a material reduction in rent for the 80% AMI units. However, it also does not intend to exclude certain submarkets with the '100% AMI Market Rent' requirement. Accordingly, the NOFA is revised to require market rents at 100% AMI only for East Baton Rouge and Orleans Parishes, and to require market rents at 90% AMI otherwise. The MMLP Scoring and Structuring Tool has also been revised to recognize this distinction. Applicants are reminded that 'Affordability Value' (the difference between the restricted rents and the market rents) is a central component of CDBG Efficiency, and an application proposing a property with lower market rent potential will score lower than an otherwise equivalent application with higher market rent potential.

**Q6.** Will we be receiving an MMLP application model and scoring tool given all of the various options. I don't think we can create one from scratch accurately?
**Answer:** Refer to NOFA §10.3. the revised 'MMLP-LDI Scoring and Structuring Tool' will be posted along with the amended NOFA and this document. We will not be providing an application model for this program.

**Q7.** Will the LHC be providing a self-scoring tool and simplified model for developers to utilize prior to the required market study submission deadline?
**Answer:** See Q6.

**Q8.** Where can the application be found for the middle market loan program it is not posted on the LHC website.
**Answer:** The scoring tool and revised NOFA will be posted here: https://www.lhc.la.gov/mmlp. However, we will not be providing an application model.

**Q9.** How do I determine if I qualify for the middle market loan program?
**Answer:** Refer to NOFA §1.4 and 1.5. Note also the scoring framework for Prior Experience (§6.2.1.)

**Q10.** What does PSH stand for?
**Answer:** Permanent Supportive Housing. See NOFA §12.

**Q11.** Which parishes constitute as "Ida, Laura, Delta" parishes?
**Answer:** See NOFA §11, 'Laura Delta Eligible Parishes' and 'Ida Eligible Parishes'.

**Q12.** Will the PowerPoint be available? If so, how will it be accessed?
**Answer:** https://www.lhc.la.gov/mmlp

**Q13.** If a project is in an area where the FMR is lower than the 80% rents, is it ineligible to apply?
**Answer:** The HUD Fair Market Rent (FMR) is relevant only for purposes of setting the FMR-based PSH rents for the requirement that two-percent (2%) of units be set aside for PSH households. This program is otherwise concerned with rents corresponding to the HUD-published Area Median Income (AMI).

**Q14.** NOFA indicates PSH vouchers at 120% FMR: discrepancy between the presentation and the NOFA.
**Answer:** The NOFA is the governing document. Any statements in the presentation that conflict with the NOFA should be interpreted in favor of the NOFA.

**Q15.** If the units cannot be below 80%, would the 2% units set aside for PSH be 80% also in regards to HH income limit?
**Answer:** The 2% PSH units count as 'below 80% AMI' only for purposes of satisfying the requirement that 51% of units be 'below 80% AMI'. To be clear, 2% of units should be set-aside as PSH, *additional* units equaling a total of 51% of units should be set aside at 80% AMI. Consequently, PSH plus 80% units will total the fewest number of units needed to represent 51% of residential rental units. PSH units are expected to be awarded a PSH voucher contract at rents equivalent to 120% of Fair Market Rent. In the event a PSH contract is not provided, the PSH requirement shall not apply and the 'PSH unit' will become a moderate-income (i.e., 80% AMI) unit. See NOFA §3 and footnote 7.

**Q16.** Will there be a geographic, aggregate amount or unit limitation for these funds?
**Answer:** Refer to NOFA §1.2. and §2.

**Q17.** Is there a mandate to sell these developments or is the sales scenario a scoring tool? Many non-profit developers do not affordable communities.
**Answer:** A sale at Year-20 is not required. The LHC will agree to a provision in which it is repaid based on appraised value at YR20, corresponding to the proceeds it would otherwise receive were the property sold, at the appraised value, pursuant to the Loan terms.

**Q18.** **Q18**—If we already own the land and it was purchased in the last 24 months, should we use the purchase price as a contribution for the value of the land?
**Answer:** When there is an identity-of-interest between the seller and purchaser of the land, the property can be sold into the transaction at an amount up to appraised value. If an applicant owns land and proposes to sell it to the transaction for less than appraised value, that 'discount' would reduce the amount of CDBG required, and would improve the score of the application (all else equal). However, there would be no other consideration for a below-market sale of land to the transaction. Note that while an applicant could propose seller take-back financing, that Note would be repayable only from the borrower's share of cash flow, and/or refinancing and/or sales proceeds. Contributions or donations of property to the project owner will be recognized as income to the project at its fair market value.

**Q19.** If we have already incurred development cost that are paid for, can we include these costs as contributed cost to the project?
**Answer:** Yes, costs incurred after the issuance of the NOFA may be included.

**Q20.** Awards are announced in January 2024, closing deadline is August 2024, and we are required to be complete with construction and leased up by March 2025. These developments often take at least one year with entitlements, permitting, and construction, etc....how can we meet this deadline?
**Answer:** The March 07, 2025 date was not correct. It should be March 6, 2026. See the amended NOFA.

**Q21.** Will the market study analyst look at the rents of the parish as a whole or create a PMA like a typical LIHTC market study?
**Answer:** The market rent study will be specific to the proposed property, as reflected in the Market Study Checklist.

**Q22.** There is a typo in the NOFA that has been corrected on the call. Just confirming that the total funds are $56.1M and split into $28.05M. NOFA says $23.05M split
**Answer:** The correct amount is 56,100,000, with $28,050,000 available to applications in the Laura-Delta Eligible Parishes, and $28,050,000 available to applications in the Ida Eligible Parishes. See NOFA §1.2.

**Q23.** Is it possible to apply if the total unit counts will be above the 66 minimum requirement but will be split into 2 phases of construction? We could realistically finish construction within the award expenditure timeline. EX: Phase 1, 36 units, Phase 2, 50+ units. The award would be used during the phase 1 construction however total financing will be attained before phase 1 begins. [this question included a PDF of the site.]
**Answer:** The buildings must be financed as a single entity, under a common ownership and financing structure. While construction could, if these conditions are met, be completed in phases the project must be comprised of all construction phases and affordable units would be required to be dispersed evenly across the total project. The LHC would not agree to invest CDBG in one phase, only. All phases of the project would also have to meet the deadlines in the NOFA.

**Q24.** General Program Terms, on page five of the NOFA, states that "The Program's objective is to create multifamily rental units by primarily using conventional financing and CDBG-DR funds. Question: What is the definition of conventional financing? Are Freddie Mac/Fannie Mae programs allowable?
**Answer:** Conventional or government-program loans are permitted. See the amended NOFA.

**Q25.** Does this program require the first 3 feet of the building to consist of "Flood Hardy construction" regardless of building footprint/site location (like the previous PRIME and PRIME-2 programs)? Or, is "Flood Hardy construction" just one mitigation/floodproofing method that would only be required if the building footprint is located in the 2016 great flood area (as described in Section 4, bullet point 3 of this NOFA) or if the building footprint is within the CPRA Flood Event area (as described in section 4, bullet point 4)?

**Answer:** The MMLP-LDI NOFA does not require 'flood hardy construction'; however, such an approach would be a viable mitigant to any site that flooded in 2016, or that is within the CPRA flood event area. See Mandatory Resiliency Criteria NOFA §5. Note that the Mandatory Resiliency Criteria are required regardless of siting of the Project. See NOFA §4. Both elements (proper siting and mandatory resiliency) must be met.

**Q26.** I do not see min. sq. ft. listed. Based on the webinar, I gather that the 2023 QAP minimums apply.
**Answer:** QAP minimums do not apply. However, applicants are reminded that the market rents of units is material to their application, and units below the minimum requirements in the QAP are unlikely to achieve adequate market rents relative to the restricted rents (which do not correspond to unit square footage).

**Q27.** The NOFA requires a 10-year term on the permanent mortgage. If the loan is prepayable at year 10, but does not mature until a later date, does that meet the requirement?
**Answer:** Yes. However, there should be no prepayment penalty or yield maintenance cost at Year-10.

**Q28.** Clarification Request. Does twenty-year payoff in Section 1.1 mean we have to pay off through cashflow or can we show ability to pay off with refinance. If so, what are backend assumptions? 7.3 states that LHC will forgive remaining balance off the CDBG loan, is this after refinance at year 10 or at year 20-refinance?
**Answer:** NOFA §1.1 has been amended to clarify that 'full' repayment is not a requirement. The CDBG-DR loan will be repaid through cash flow, refinancing proceeds and sales proceeds, pursuant to the terms of the loan. This may correspond to full repayment; however, if these payments in total do not fully repay the loan (at Year-20) the remaining balance will be forgiven. Applicants are advised that proposed loan terms which project a portion of the loan to be unrepaid are less competitive in the scoring structure than proposals in which the loan terms project full repayment.

**Q29.** Are firm funding commitments required at application submission? Or are conditional commitments acceptable?
**Answer:** A conditional commitment is acceptable.

**Q30.** Can both the 1st mortgage and CDBG mortgages be prepaid before year 10?
**Answer:** Yes, however, the CDBG loan documents will contain a provision regarding yield maintenance. If the CDBG is prepaid, the LHC loan will require that the prepayment amount reflect the return anticipated on the loan. Note additionally that in any prepayment prior to Year-20, the CDBG Use Agreement will survive until Year-20.

**Q31.** Does the LURA (associated with the CDBG funding) survive payoff of the CDBG loan?

**Answer:** The Land Use Restrictive Agreement (LHRA) or CDBG Use Agreement will survive until Year-20. It will be released at Year-20, corresponding with payment on the CDBG Loan pursuant to the loan terms.

**Q32.** Are AMI rent limits based on MSA, census tracts, or to a percentage of market rents as determined by the market study?
**Answer:** The Area Median Income (AMI) rent limits that apply are the 'HUD Income Limits' corresponding to Parish, as found at https://www.huduser.gov/portal/datasets/il.html. Note that these are reflected in the MMLP-LDI Scoring and Structuring Tool, as amended to reflect the current (2023) HUD Income Limits.

**Q33.** Section 1. General Program Terms 1.2 Funding • Please note we believe the funding allocated to projects within Ida Eligible Parishes and Laura-Delta Eligible Parishes should read $28,050,000 (as opposed to $23,050,000).
**Answer:** See Q22

**Q34.** Q35—1.4 Eligible Projects • We recommend revising the requirement that eligible projects must have a market rent determination in which market rents are in excess of rents restricted at 100% AMI down to those where market rents are in excess of rents restricted at 80% AMI. This is in better alignment with the Louisiana market; specifically, the eligible disaster impacted areas. While a market rent may be affordable to 80% AMI household today, the inflation of rent has risen at a much higher rate than income and there is strong evidence to support that this gap will continue to widen over the 20-year affordability term of the MMLP.
**Answer:** See Q5.

**Q35.** 3.1 Set- Aside Requirements • Top of page 13, "All affordability restrictions will have a duration of twenty years." Please confirm that the loan agreement will obligate OCD to release this deed restriction upon achievement of twenty years of affordability or earlier full repayment of the CDBG-DR MMLP Loan.
**Answer:** All affordability will be deed-restricted for 35 years. However, to correspond with the anticipated maturity of the Refinanced First Mortgage LHC shall agree within the loan documents to release the affordability after 20 years, provided the property has performed in compliance with the deed restriction, and the CDBG-DR loan principal and outstanding accrued interest is repaid (in full or in part) pursuant to the terms of the CDBG Loan Agreement. The deed restriction will not be released prior to year 20, regardless of prepayment of the CDBG loan.

**Q36.** Section 10. Application Submission 10.5 Methods of Submission • Please confirm that applicants may submit electronically to development@lhc.la.gov.
**Answer:** Confirmed. No paper submission is required.

**Q37.** To date, has a historic building that has historic tax credits been able to meet the IIBHS Fortified Multifamily Gold Standard requirements? If not, would you anticipate a historic building with historic tax credits could qualify for IIBHS Fortified Multifamily Gold Standard requirements? (NOFA Section 5.1)
**Answer:** The LHC will confirm that there are prior projects with both historic tax credits and commitment to the Fortified Gold standard. Applicants interested in submitting an application for a project with historic tax credits are advised to perform adequate due diligence on the Fortified Gold requirements to ensure their particular project can meet those requirements.

**Q38.** Is there a requirement for flood resistant materials if the first floor is above 100-year flood elevation? If it is required, where do we find the requirements for those materials in the NOFA? (NOFA Section 5.9)
**Answer:** There is no NOFA Section 5.9. See also Q25.

**Q39.** Will a project that has to undergo an environmental remediation with an LDEQ approval qualify under the NOFA? (NOFA Section 9.1)
**Answer:** Yes. Environmental remediation does not inherently constitute an 'environmental issue which cannot be addressed timely and cost-effectively'; however, extensions based on delays in the remediation process will not be granted.

**Q40.** [Paraphrased for clarity and brevity] We respectfully submit that the MMLP scoring criteria specified in Section 6.2 is not conducive to applications from smaller non-profit developers. The Corporation should simply require proof of financing. Relative developer liquidity and unit counts under operation should not matter when it comes to points and awarding the best application submitted as long as the developer meets the threshold financial requirements as outlined in the QAP**.**
**Answer:** The requirements at 6.2.1, 6.2.2, and 6.2.3 are justifiable requirements intended to ensure that the awarded applicants are adequately experienced in large-scale multifamily development, and have adequate financial resources to complete the projects. The LHC does not believe that the intended MMLP projects are suitable for applicants without prior experience at-scale, and without sufficient resources to address up-front capital requirements, the potential for cost overruns, or other unknowns and the LHC intends that these costs and risks be carried by the developer and not the LHC.

**Q41.** Section 1.1 - Must the CDBG loan be repaid in full? Section 7.3 and 8.7 mention loan forgiveness for any unpaid balance, but the Overview states that the loan will be fully repaid in year 20. Please clarify.
**Answer:** See Q28. Note the amended NOFA provides clarification.

**Q42.** Section 1.1 – there are 20 Ida eligible parishes and 15 Laura-Delta eligible parishes. Ida eligible parishes have more competition for the same amount of funds. Can the LHC split the funds proportionally rather than 50/50 to each storm?

**Answer**: The funds will not be split differently. Note that the LHC projects there will be sufficient funding for two developments in Laura-Delta Eligible Parishes, and two developments in Ida-Eligible Parishes.

**Q43.** Section 3.1 – Please confirm whether units are allowed to be under 80% AMI to meet inclusionary zoning or other requirements of a local jurisdiction (excluding the PSH units) “Applicants should note that while 51% of units must be set aside at or below 80% AMI,”

**Answer**: See Q15. Note additionally that 80% units should have rents set at 30% of 80% of AMI, adjusted for household size, and less the applicable utility allowance. Qualifying household income cannot exceed 80% of AMI, and the LHC expects borrowers to establish a floor, for income-qualification purposes. Applicants may not enter into a Use Agreement for 80% units in which they are restricted lower rents/incomes than 80% AMI, nor will the LHC accept an arrangement driven by a local inclusionary zoning requirement supersedes its program design.

**Q44.** Section 3.1 – Please clarify the following: “Qualifying projects may not utilize any additional financing which imposes affordability requirements which differ from the above requirements.” Are funds ineligible if they differ but do not conflict?

**Answer:** The LHC would only permit such other affordability requirements if they (a) did not impose other income limits/rents than the LHC Use Agreement, and (b) if the LHC were completely satisfied that such requirements would not affect the refinancing or sale (which assumes market rents at YR20). It is the intent of the program to achieve a balance between workforce units at market units and the LHC would not accept a use agreement that impugned the property’s ability to offer market units.

**Q45.** Section 6.2.1 – Please clarify whether developer will receive points for developments that include a market-rate component or only for fully market-rate developments.

**Answer:** There are two possible meanings to this question, we answer both here: (1) All projects must have (a) 2% PSH, (b) 51% of units (including (a)) restricted at 80% AMI, (c) up to 10% of units restricted at 90% AMI (only if market rents are ≥110% AMI), and (d) up to the number of units at (c) restricted at 100% AMI (only if market rents are ≥120% AMI). All other units must be market units. These are qualifying criteria, and developers do not directly receive ‘points’ for these set-asides. Developers earn points for the factors enumerated in the Scoring Criteria. (2) With respect to ‘developer experience’ points, applications will earn points pursuant to §6.1.2. of the NOFA, points will be earned for all units in developments in which there is a market-rate component.

**Q46.** Section 6.2.2 – Please clarify the definition of market-rate multifamily developments relative to the construction and permanent financing letters. Will all financing for mixed-income developments be eligible?

**Answer:** All construction and financing letters for financing which is consistent with the program will be acceptable. See Q24.

**Q47.** Section 6.2.3 – Please clarify the definition of "liquidity" related to Developer Financial Strength.

**Answer**: 'Liquidity' refers to easily convertible assets which can be undoubtedly accessed, including cash, cash equivalents, money market accounts, marketable securities, short-term bonds, or certain accounts receivable. These are typically referred to on a Balance Sheet as 'current assets'.

**Q48.** We noticed the difference in the eligible parishes from the previous NOFA pertaining to the Hurricane Disaster Zones, referred to as Piggyback 2022 or PRIME-2. Is this intentional and if so, what determined the decision to leave out some of the other parishes such as Grant and Iberia?

**Answer**: In all programs, the State is required to expend 80% of funds in 'Most-Impacted and Distressed' (MID) areas, which are a subset of otherwise Eligible Parishes. PRIME-2 was funded at a level permitting a greater number of deals. As such, all parishes were eligible, but there was language in the PRIME-2 NOFA stipulating that "…80% of funding will occur in 'Most Impacted and Distressed (MID) Areas'. Consequently, the LHC reserves the right to ensure that no less than $119.2M in funds are awarded pursuant to this NOFA to MID areas. If necessary, applications in MID areas scoring lower than those not located in MID areas will be funded to accomplish this outcome, and doing so may result in a higher-scoring non-MID development being non-funded." In fact, despite this, more than 80% of the applications scoring highly enough for funding were in MIDs, and there was no need to amend the awards to comply with the 80% MID requirement. The same requirement applies to MMLP (i.e., >80% must be awarded to the MIDs within the otherwise Eligible Parishes). However, because we anticipate only awarding four deals, it was impractical to allow non-MID applications. As we would need to award all four to MIDs to comply with the requirement that 80% of the funds be awarded within MIDs, we simplified by requiring all applications to be in MIDs.