

APPENDIX J

WHEDA'S Developer Fee Policy for Loan and/or Tax Credit Developments

WHEDA currently uses the same developer fee standards for LIHTC and multifamily loans. The following items and activities are to be combined under the developer fee limits described herein: developer fees, consultant fees, construction supervision, and developer overhead.

New Construction Developments

The developer's fee calculation is based on the total development budget, excluding the developer's fee in the sum.

WHEDA allows a 12% maximum fee for developments of 25 or more units, EXCEPT that the fee is reduced to 9% for all units beyond 55.

WHEDA allows a 15% developer's fee for developments of 24 units or less.

Rehabilitation and Adaptive Reuse Developments

The developer fee calculation on Rehabilitation and Adaptive Reuse developments is based on two components: the Acquisition Fee portion and Rehabilitation Fee portion.

The maximum eligible Acquisition Fee is based on the ratio of rehabilitation hard costs compared to the acquisition cost of the property. The eligible fees for the acquisition portion of the total developer's fee are calculated as follows:

| Percentage of Rehabilitation: Hard Rehab Costs Divided by Acquisition Cost | Eligible <u>Acquisition</u> Fee for Projects with 25 or more Units** (See the Identity of Interest limitation outlined below) | Eligible <u>Acquisition</u> Fee for Projects with 24 or Fewer Units, or for Preservation Projects Involving HUD/RD** (See the Identity of Interest limitation outlined below) |
|---|--|--|
| 10 – 19% | 5% | 8% |
| 20 – 39% | 6% | 9% |
| 40 – 59% | 8% | 11% |
| 60 – 79% | 10% | 13% |
| 80% and over | 12% | 15% |

The Rehabilitation portion of the fee is calculated at 12% of hard costs plus soft costs (excluding the developer fee) for developments with 25 or more units, or 15% for developments with 24 or fewer units or for Preservation Projects Involving HUD/RD.

Based on the above information, the following example shows the total developer fee calculation on a 36-unit acquisition/rehabilitation project with minimal rehabilitation, involving negotiations with HUD and no Identity of Interest limitation.

| | |
|--|-------------|
| Total project hard rehabilitation costs | \$132,000 |
| Total project soft costs(excluding developer fee) | \$150,000 |
| Building acquisition cost (including land cost) | \$1,100,000 |
| Rehabilitation hard costs divided by acquisition cost | 12% |
| Acquisition Fee portion – 8% of acquisition cost | \$88,000 |
| Rehabilitation Fee portion – 12% of hard costs plus soft costs | \$33,840 |
| Maximum Developer Fee allowed | \$121,840 |

** The Identity of Interest limitation, as outlined below, restricts the fees for the acquisition portion of the developer fee to 3%.

Developer’s Fee and Identity of Interest Situations

Those developments that include an “Identity of Interest” will be limited on the amount of developer’s fee that can be charged. An Identity of Interest situation between the seller and buyer of real estate limits the fee for the acquisition portion to 3% of the acquisition cost or a minimum of \$5,000. The developer’s fee for the rehabilitation portion will be scaled to the amount of rehab as identified above.

The Identity of Interest definition that WHEDA will follow is provided by HUD and bond regulations. HUD’s Management Agent handbook (4381.5) defines Identity of Interest as:

“An identity of interest relationship exists if any officer, director, board member, or authorized agent of any development of any development team member (consultant, general contractor, attorney, management agent, seller of the land, etc.):

- (a) is also an officer, director, board member or authorized agent of any other development team member;
- (b) has any financial interest in any other development team member’s firm or corporation;
- (c) is a business partner of an officer, director, board member or authorized agent of any other development team member;
- (d) has a family relationship through blood, marriage or adoption with an officer, director, board member, or authorized agent of any other development team member; or
- (e) advances any funds or items of value to the borrower.”