

**PUBLIC COMMENTS AND QUESTIONS TO THE DRAFT OF THE
2022-QUALIFIED ALLOCATION PLAN**

Question/Comment		PRHFA Answers
QAP Reference	Inquiry	
<u>Foreword / (page viii)</u>	Please clarify the statement relating to the \$250,000,000 of CDBG-DR Funds being made available for Public Housing Authority Projects. Does this mean that there is no stated amount of CDBG-DR available for other Projects?	Correct; the CDBG-DR Gap to LIHTC program will only be available to projects of the PR Public Housing Authority.
<u>Foreword HOME Program</u>	PRHFA must provide a further detail on the amount of HOME funds to be included in the Notice of Funding Availability (NOFA) 2022.	Approximately \$40,000,000
	How many HOME funds are going to be allocated per unit?	To be established on a case by case basis (the underwriting & subsidy layering review will determine this amount per unit)
	What are the restrictions in terms of income and rents?	To be determined and published by HUD
<u>3.2: Social Vulnerability and FEMA Map/Page 4</u>	Where can we find a detailed version of the FEMA Map included in Page 4?	Please refer to this link: Action Plan Amendment 8 (Nonsubstantial Amendment): Effective on February 25, 2022 - CDBG (pr.gov), access the first document and go to pages 23 to 25.
<u>4.3.2 PRPHA Set-Aside-Right of waive</u>	Regarding the right of waive any basic threshold requirement, as long as any waiver does not violate Section 42 of the IRC, or any other applicable laws and regulations; is there a way that this could be open for all the projects submitted that meet the minimum point evaluation requirements described on Section 5.4?	This recommendation cannot be accepted. We need to keep the same rules for all applicants in order to have fair and balanced competition. We cannot give advantages to one applicant over the others. Therefore, PRHFA will limit the waivers to the PHA set-aside.
<u>4.3.3 – Unallocated Credits</u>	The QAP states that unallocated credits under the PHA Set-Aside will be made available for other eligible projects in the general pool. This has the potential to reduce the number of feasible projects submitted by a PHA.	The carryforward of unused Nonprofit set-aside is a requirement of section 42 that does not apply to additional set-asides.

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	Question/Recommendation – Similar to the Non-Profit set aside, can the unallocated credits be carryforward in the next year’s Authority Tax Credit ceiling, so that the total credits allocated for the PHA Set-Aside will remain \$12,727,977?	Nevertheless, should this situation arise, the Authority would evaluate it at that time and make the determinations deemed appropriate, reasonable and possible under the existing laws and regulations for the benefit of the program and its participants.
<u>5.1 Application Process</u>	By when it is expected to issue the instructions to complete and submit the application?	To be determined; these will be disclosed in the final QAP
	Once the application period opens, will PRHFA answer questions?	NO
<u>5.1.2(c)</u>	What constitute <i>business partner</i> ?	<p>In general terms a business partner is a commercial entity with which another commercial entity has some form of alliance.</p> <p>This relationship may be a contractual, exclusive bond and alternatively, it may be a very loose arrangement. Contractual relationships include general partnerships, limited partnerships, and limited liability partnerships (LLP), among others.</p> <p>Another type of business partner can be:</p> <ol style="list-style-type: none"> 1. A supplier 2. A customer 3. A channel intermediary (such as an agent or reseller), or 4. A vendor of complementary offerings
<u>5.1.2.1: Identify-of-interest Limitations: Developer Fee Limitation</u>	Restricting the entire developer fee to 20% make difficult to partner with developers from Puerto Rico who also are General Contractor. The 25% limitation does not take into account any joint venture developments where the Developer Fee is split between two (2) Partners	In case of joint ventures the participation of the entity with the identity of interest will prorated according to their percentage of participation. For example, if the developer has a 25% interest on the General Contractor company; then the 25% percent of the contractor fees will be considered part of the Developer Fees computation.
	Calculating the Developer Fee the following should not be included: consultant’s fee, and real estate attorney’s. Why consultant’s fee, and real estate attorney’s fee included?	This is a recommendation of the National Council of State Housing Agencies (NCSHA) and is the standard used in many state housing agencies. These professionals, consultant and real estate attorney, work directly for the Developer and represent them; therefore are considered part of the same.

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	Who will define the fees?	As always, fees are defined by the market, the industry, the professionals and/or the Developer, but must stay within the required parameters.
	States that the Developer fee for acquisition portion preservation projects involving HUD/RD is limited to 5%. We suggest to include Law 173 on this limit as well as HUD/RD. Law 173 is aging, and the lack of subsidy increases have made difficult its preservation. This might be a good opportunity to keep these projects safe, decent and in sanitary conditions for many more years, providing housing to elderly families.	Recommendation accepted and will be incorporated to the 2022-QAP.
<u>5.1.1.4 Pro-forma income and expense cash flow</u>	We request a shorter feasibility period of fifteen (15) years should be considered, and withdrawals from reserves should be allowed to show feasible operations. Given the low LIHTC rent caps, and high insurance costs, deals without significant operating subsidy will have a very hard time meeting this threshold requirement.	The feasibility period is aligned with the programs compliance period: <ul style="list-style-type: none"> • HOME/HTF/CDBG-DR: 20 years • LIHTC: 30 years. Since LIHTC requires the longest compliance period, 30 years, it is PRHFA’s mandatory feasibility term for all projects and will not be changed.
<u>5.1.1.7 Compiled or revised financial statements</u>	This requirement should not apply for those Developers that do not include natural persons in their net worth determinations, or guaranties. Is there a way that PRHFA could grant a waiver for those Developers that demonstrate that they do not include natural persons in their net worth determinations, or guaranties?	This recommendation cannot be accepted. The Authority requires compiled/revised financial statements of natural persons because most of the entities involved in each project are new and don’t have any economic activity. Also, we need to keep the same rules for all applicants in order to have fair and balanced competition. We cannot give advantages to one applicant over the others.
	Agency eliminate or waive the requirement in the forthcoming Qualified Allocation Plan (“QAP”) for the provision of personal financial statements by directors of a Sponsor that are: (1) federally tax-exempt nonprofit corporation who’s Board of Directors are volunteers. The Board of Directors are not responsible for the debts of HHDC and are not compensated in any way for their services.; (2) entity is exclusively a mission-oriented developer, owner, and operator of affordable rental housing; (3) non-profit has access to considerable financial resources, including credit lines and it has strong banking relationships.; (4) the non-profit recently purchased and currently operates a 100-unit elderly property that it hopes to	After evaluation of the request PRHFA agrees and will eliminate this requirement for non-profit entities under Section 42(h)(5)(C).

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	recapitalize in Puerto Rico’s forthcoming LIHTC round for the purposes of upgrading and generally improving the property. The non-profit mission is to preserve the affordability of its properties; and (5) Strict adherence to Section 5.1.1.7. would put the non-profit’s Directors at risk of unintended disclosure of personal financial information, and potentially compromise their privacy rights despite having no economic interest whatsoever in the non-profit.	
<u>5.1.6.2: Unexpired evidence of site control</u>	Is an Option to Purchase Agreement acceptable (instead of Contract of Sale)?	Yes, as long as the Option to Purchase Agreement is valid/unexpired. Section 5.1.6.2 of the QAP was amended and updated.
<u>5.1.6.5: Section 106 – 36 C.F.R. Part 800, SHPO Technical Assistance, or Final Determination Letter</u>	Could the SHPO process for the project submission be clarified? The Developer first submits to PRHFA to verify completeness of the documentation, and after the clearance of the Authority the Developer submits the documentation to PRDOH, or the Authority, does it?	The PRHFA-HOME Program will be the liaison with SHPO; they will send the documentation to SHPO and request the technical assistance. PRDOH will assume this responsibility for projects applying under the PHA-Set Aside.
	It seems unclear whether a SHPO letter is required at the time of submission of the application or if a letter from the SHPO can be submitted later. Typically, the SHPO takes some time to respond. Question – At what point is the letter from the SHPO required? Will there be sufficient time to obtain the letter from the SHPO?	The SHPO letter must be requested (to PRHFA or PRDOH, see comment above) prior the submission of the LIHTC Application. If at the time the application is filed the SHPO letter has not being issued, then evidence of submittal to PRDOH or PRHFA must be presented with the application. The application instructions will provide all the necessary information to comply with this requirement.
<u>5.1.6.14</u>	Will a separate application for the HOME funds be available?	NO, it will be one application for all programs
	What other financing source(s) is referred on this section?	At the moment HOME and Housing Trust Funds
<u>5.1.6.15 – Development Team</u>	This section indicates that the Development Team in place must include an accessibility coordinator. Recommendation – Consider amending Section 5.1.6.15 to state that the Development Team “shall” include the list of parties to allow time for development of this position and a scope of work.	This recommendation cannot be accepted because it affects compliance with section 5.1.6.16; which stipulates that the accessibility coordinator has to certify compliance of the architectural drawings with the Oversight & Quality Assurance Program-Accessibility Standards Manual (Annex F of the QAP)

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<u>5.1.6.16 – Architectural Drawings</u>	Under the second sub-bullet replace the word “compression” with the word “comprehension.” The intended meaning is most likely to ensure understanding of the Oversight and Quality Assurance Program.	Dully noted and amended.
<u>5.1.6.16 and 5.16.22: Accessibility Coordinator/Inspector</u>	Are these two separate individuals or the same? Can the person who does the accessibility inspections also do some other type of inspections? (i.e.: OGPe and accessibility inspector roles)	Yes, these should be two separate individuals. The Accessibility Coordinator is required by the <i>PRHFA-Oversight & Quality Assurance Program-Accessibility Standards</i> (annex F of the 2022-QAP) where its duties and responsibilities are clearly defined.
<u>5.1.6.16</u>	The availability of architects/engineers in Puerto Rico right now is limited, especially architects/engineers with this kind of expertise/experience. Considering that the accessibility standards are federal and apply equally in the United States as in Puerto Rico, we suggest that the agency also allows the use of an engineer with license, in the States, demonstrated expertise/experience in this matter and professional liability insurance.	PR laws and regulations stipulate that professional engineers and registered architects have to be licensed and registered with the respective Examination Boards of the PR Department of State and be members of the <i>Colegio de Ingenieros y Agrimensores</i>, and the <i>Colegio de Arquitectos y Arquitectos Paisajistas de PR</i>, respectively, to certificate work done in Puerto Rico.
<u>5.1.6.17 - Implementation of Green Building Standards</u>	Would this requirement apply to deals that does not have CDBG-DR funds?	Although these are requirements of the CDBG-DR Gap to LIHTC program, PRHFA decided to extend them to all projects, regardless the funding requested.
<u>5.1.6.18 - Broadband Infrastructure Requirements</u>	Would this requirement apply to deals that does not have CDBG-DR funds?	Although these are requirements of the CDBG-DR Gap to LIHTC program, PRHFA decided to extend them to all projects, regardless the funding requested.
	QAP states that “ <i>Projects excluded from this requirement only if one of the below exclusions can be documented and validated by the Authority.</i> ” Can you please provide details as to when, where and how to procure an exclusion request?	The documentation should be provided with the application and, if the project is selected for a reservation, PRHFA will validate it through the Technical Feasibility Review.
<u>5.1.6.19 Accessibility Requirements</u>	Would this requirement apply to deals that does not have CDBG-DR funds?	The Accessibility Requirements do not stem from CDGB-DR guidelines or regulations. These are the result of a Conciliation Agreement and Voluntary Compliance Agreement (VCA) between PRHFA, PRPHA and HUD-Office of Fair Housing and Equal Opportunity and apply to every PRHFA and PRDOH projects.

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	<p>During construction, the Developer/Owner must: Certify compliance with the Accessibility Standards on a monthly basis. A final certification of compliance regarding Accessibility Standards must be completed prior to project delivery.</p> <p>The project resident inspector, and/or architect could certify the compliance with the Accessibility Standards?</p>	<p>The Accessibility Standards Certification must be prepared by the project's Designer and the Accessibility Coordinator, as required by the <u>PRHFA-Oversight & Quality Assurance Program-Accessibility Standards</u> (annex F of the 2022-QAP)</p>
	<p>This Section of the QAP mentions the Conciliation Agreements and Voluntary Compliance Agreements filed July 21, 2016, and April 26, 2021.</p>	<p>The abbreviation VCA refers to both agreements</p>
<u>5.1.6.20 Housing Trust Funds</u>	<p>How many Housing Trust Funds are going to be allocated per unit?</p>	<p>Close to \$7MM, final amount will be published in the NOFA.</p>
	<p>What are the restrictions in terms of income and rents</p>	<p>To be determined and published by HUD</p>
<u>5.1.6.22 Architectural Drawings</u>	<p>A certification from a qualified architect/engineer retained for the accessibility inspection duty licensed in Puerto Rico. Same as 5.1.6.16.</p>	<p>PR laws and regulations stipulate that professional engineers and registered architects have to be licensed and registered with the respective Examination Boards of the PR Department of State and be members of the <i>Colegio de Ingenieros y Agrimensores</i>, and the <i>Colegio de Arquitectos y Arquitectos Paisajistas de PR</i>, respectively, to certificate work done in Puerto Rico.</p>
<u>5.2.1 Development Budget and Pro Forma Assumptions Review-Description</u>	<p>"Projects requiring funds other than Tax Credit allocation must conform to the corresponding layering review to determine the appropriate level of funding under each program." PRHFA must provide further details on the layering review</p>	<p>Details will be provided with the application package</p>
<u>5.2.2.1 - Intermediary Costs</u>	<p>AIA rates for architecture range close to 8% plus supervision. Limiting 5% for intermediary including the Architecture, is too low for all the risks included. We would like you to consider an increase of 7% or establish limits for an architect to only 5%, and other professional fees that will include all others except the architect for 5% or maintain the previous formula.</p>	<p>This is a recommendation of the NCSHA and is the standard percentage used in many state housing agencies.</p>

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<u>5.2.2.2 – Developer Fee</u>	The process for calculation of the developer fee is unclear. Can clarity be provided on the calculation of the developer fee?	<p>See example below</p> <table border="1"> <tr> <td>Total Units</td> <td>120</td> <td>Total/Per Unit</td> <td></td> <td></td> </tr> <tr> <td>Total Dev. Cost</td> <td>18,000,000</td> <td>150,000</td> <td></td> <td></td> </tr> <tr> <td>Land</td> <td>(250,000)</td> <td>(2,083.33)</td> <td></td> <td></td> </tr> <tr> <td>Developer Overhead</td> <td>(160,000)</td> <td>(1,333.33)</td> <td></td> <td></td> </tr> <tr> <td>Developer Profit</td> <td>(1,500,000)</td> <td>(12,500.00)</td> <td></td> <td></td> </tr> <tr> <td>Developer-Consultant</td> <td>(220,000)</td> <td>(1,833.33)</td> <td></td> <td></td> </tr> <tr> <td>Real Estate Attorney</td> <td>(70,000)</td> <td>(583.33)</td> <td></td> <td></td> </tr> <tr> <td>Adjusted Total for Developer Fees Determination</td> <td>15,800,000</td> <td>131,667</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>Cost per unit tier</td> <td>Max % Per tier</td> <td></td> </tr> <tr> <td>Max Dev Fee</td> <td>First 75 units (cost p/u *75)</td> <td>\$9,875,000</td> <td>\$1,481,250</td> <td>15% of cost p/u</td> </tr> <tr> <td></td> <td>Units 76 to 120 (cost p/u *45)</td> <td>\$5,925,000</td> <td>\$474,000</td> <td>8% of cost p/u</td> </tr> <tr> <td></td> <td>Total Development Cost</td> <td>\$15,800,000</td> <td>\$1,955,250</td> <td>Maximum Total Developer Fees Allowed</td> </tr> <tr> <td></td> <td>Developer Fees requested on Application</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>Developer Overhead</td> <td>\$160,000</td> <td></td> <td></td> </tr> <tr> <td></td> <td>Developer Profit</td> <td>\$1,500,000</td> <td></td> <td></td> </tr> <tr> <td></td> <td>Developer Consultant</td> <td>\$220,000</td> <td></td> <td></td> </tr> <tr> <td></td> <td>Real Estate Attorney</td> <td>\$70,000</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>\$1,950,000</td> <td></td> <td>OK-Amount requested is less than maximum allowed.</td> </tr> </table>				Total Units	120	Total/Per Unit			Total Dev. Cost	18,000,000	150,000			Land	(250,000)	(2,083.33)			Developer Overhead	(160,000)	(1,333.33)			Developer Profit	(1,500,000)	(12,500.00)			Developer-Consultant	(220,000)	(1,833.33)			Real Estate Attorney	(70,000)	(583.33)			Adjusted Total for Developer Fees Determination	15,800,000	131,667					Cost per unit tier	Max % Per tier		Max Dev Fee	First 75 units (cost p/u *75)	\$9,875,000	\$1,481,250	15% of cost p/u		Units 76 to 120 (cost p/u *45)	\$5,925,000	\$474,000	8% of cost p/u		Total Development Cost	\$15,800,000	\$1,955,250	Maximum Total Developer Fees Allowed		Developer Fees requested on Application					Developer Overhead	\$160,000				Developer Profit	\$1,500,000				Developer Consultant	\$220,000				Real Estate Attorney	\$70,000					\$1,950,000		OK-Amount requested is less than maximum allowed.
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<u>5.2.2.2 – Developer Fee</u>	Also, is the developer fee calculation the same for a 9% award as a 4% award?	Yes, for new construction projects refer to section 5.2.2.2.1 and for acquisition/rehabilitation projects section 5.2.2.2.																																																																																													
	Could the developer fee for a 4% project not be subject to the tiered approach, but rather have the Developer defer a portion of the developer fee that is in excess of the 15% and 8% split?	As recommended by the NCSHA, the Authority only allows deferred developer fees to fund operating reserves (section 5.2.3.5) and it has to be repaid within 10 years and meet IRS standards.																																																																																													
<u>5.2.3.1 Vacancy Rate</u>	For LIHTC projects will the 5% vacancy rate apply as well?	The 5% vacancy rate applies to projects with rental assistance/subsidy. If the proposed LIHTC project has a rental assistance program commitment/contract then the 5% vacancy rate applies, but if no rental assistance is available the vacancy rate will be 7%.																																																																																													

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<u>5.2.3.6 – Project Based Rental Assistance:</u>	In case of Section 8, if PHA-owned units are assisted, evidence of completion of the section review process will have to be provided prior to underwriting”. If the project has a Notice of Anticipated RAD Rent does this satisfy the requirement?	Yes, as long as the notice is valid and has not expired. If the notice is qualified to compliance with additional requirements, the acceptance on such notice will depend on the nature of the requirements.
<u>5.2.3.7 Profit and Return on Operations</u>	We object. No limits should be imposed on profits. This is a very risky operation with too many restrictions and no limits as low as 10% should be imposed.	This limit is a requirement of HUD’s CDBG programs (HOME, HTF, CDBG-DR, Section 8) and since NOFA-2022 will combine LIHTC with HOME and HTF it was necessary to include this limitation in the 2022-QAP. Also, PRHFA has decided to extend this HUD-CDBG requirement, and others, to all projects regardless the funding requested
<u>5.2.5 Cure Period</u>	Is it possible that the cure period is longer; between 5-7 days?	The cure period is 5-working days
<u>5.4/Project Scoring Preferred Project Locations</u>	Please clarify the details of the FEMA Map on page 4—these are Preferred project Locations	Please refer to this link: Designated Areas FEMA.gov The municipalities designated under the FEMA’s disaster declaration 4473 are: Adjuntas, Aguada, Arecibo, Barceloneta, Cabo Rojo, Ciales, Coamo, Corozal, Guánica, Guayanilla, Hormigueros, Jayuya, Juana Díaz, Lajas, Lares, Las Marías, Maricao, Mayagüez, Moca, Morovis, Naranjito, Orocovis, Peñuelas, Ponce, Sabana Grande, Salinas, San Germán, San Sebastián, Utuado, Villalba, and Yauco.
<u>5.4 Project Scoring - b. Table I.2.1/1,500 Meters from Certain Amenities</u>	Would a longer distance from amenities/resources be considered for rural sites? Taking into consideration that, in general in rural cities/towns resources/amenities are located at longer distances and/or these cities/towns have less of such resources/amenities	The purpose of this criteria is to stimulate the development/rehabilitation, repopulation and revitalization of economic activity in urban centers (<i>cascos urbanos</i>) around the Island. Currently many are very deteriorated and abandoned.
<u>5.4/Project Scoring - c. Table I.3.2/Gas Station</u>	This should be eliminated as an Undesirable Activity. Many housing sites may be adjacent to a gas station	This is an environmental issue regulated by CFR Part-58; therefore cannot be eliminated.
<u>5.4/Project Scoring - Table II.5.3 Building Amenities</u>	We suggest the following, instead of: <i>Community or meeting center with and area of no less than 15 sq. ft. per unit, with kitchen and public bathrooms.</i> Revise to: <i>"Community or meeting center with and area of no less than 15 sq. ft. per unidad de vivienda basica (UVB) in Single Building</i>	The principle behind this scoring criteria is to provide tenants amenities beyond any minimum requirements. Since the UVB is the minimum required by the <i>Reglamento Conjunto de PR</i> we will award points for complying with current codes.

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	<p><i>projects and 5 square feet per UVB in multiple separate Building projects, with kitchen and public bathrooms.”</i></p> <p>Or revised to:</p> <p><i>“Community or meeting center with and area of no less than 15 sq. ft. per UVB, with kitchen and public bathrooms.”</i></p>	
<u>5.4.2, sub-section IV.1 (Experience)</u>	How is experience defined?	<p>The concept is defined on the application instructions as follows:</p> <p>Experience. Developer, General Partner or Managing Partner can demonstrate successful record and full compliance participating in same capacity in the development of Tax Credits projects, or other low-income housing programs, in Puerto Rico. Up to 6 points, a point will be awarded for each documented project, up to a maximum of 3 projects, for each one of the following comparable characteristics:</p> <hr/> <p>If proposing to use only LIHTC, project demonstrating utilization of program, or in combination with other programs; if proposing to use LIHTC in combination with any other federal or state program, project utilization of similar program mix subsidizing development costs, long-term operations or providing long-term rental assistance.</p> <hr/> <p>Similar or deeper share of income targeted populations.</p>
<u>11.1.2 Tax Credit Application Fee</u>	Can the fees of projects not awarded in the 2020 QAP be used towards a project in the 2022 QAP?	Yes, and it is already stated in section 11.1.2 of 2022-QAP draft: “The application fee will be waived, up to the amount previously paid, to previous participants that are re-applying for the same project that did not receive a LIHTC reservation during NOFA-2020.”
<u>Other Questions/Comments:</u>	A project that has an award under NOFA 2020:	YES
	a) May apply under NOFA 2022?	
	b) If the answer is yes:	
	i) Losses its previous rank under NOFA 2020?	YES, the NOFA 2022 will be a competitive round (9%-LIHTC) which requires compliance with the current basic threshold and point ranking evaluation.
	ii) Must pay for application fees for LIHTC; CDBG-DR or HOME?	YES, for LIHTC and HOME fees; there are no application fees charged for CDBG-DR funds. The application fees will be waived to projects that did NOT received reservations in NOFA-2020

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	A project that has an award under NOFA 2020: a) Has a priority for the set aside of \$250,000.00 from the Puerto Rico Department of Housing?	Only if such project complies with the requirements set forth in section 4.3.2 of the QAP.
	Will electronic submittals be allowed (or only hard copies; note that some of the information like the Phase I/Phase II Reports for certain properties/projects may be several hundred pages)?	Application documents are to be submitted in an USB drive.
	Will Applications be allowed to be submitted in English?	YES
	<u>ARPA Funds</u> : Is the PRHFA contemplating the use of ARPA funds?	At the moment ARPA funds have not been granted to PRHFA
	Do sites acquired by PRPHA but that have not been under an Annual Contribution Contract (ACC) qualify for the PHA set-aside?	Only if the site and proposed project comply with the requirements set forth in section 4.3.2 of the QAP.