Portland Housing Bureau

TO: Development Partners of GO Bond-Funded Projects

FROM: Portland Housing Bureau, Housing Production Team

DATE: November 5, 2011

SUBJECT: Eligible uses of housing bond proceeds

The Portland Housing Bureau is frequently asked to clarify policies that determine eligible uses of Portland Bond and Metro Bond funds during the development of affordable housing. To address these questions, PHB has developed the enclosed *PHB Eligible Uses Guide for the Use of Housing Bonds* (see p. 3-4). **Please refer to this resource and consult with a Certified Public Accountant (CPA) to determine the eligibility of particular uses.**

During the course of project development, the Borrower (i.e. the recipient of Portland/Metro bond funds), the Borrower's accountant, and PHB staff all have responsibilities for ensuring that Portland Bond and Metro Bond funds are used appropriately:

- Borrower: responsible for submitting eligible disbursement requests including signed Exhibit G-2 (with backup documentation of eligible expenditures) of the PHB Loan Agreement and remedying any errors in disbursement submittals. In the event remedies are not satisfactory, continued ineligible use of Bond funds is an Event of Default under the PHB loan.
- Borrower's accountant (CPA): responsible for certifying eligible uses of Bond funds at time of the project's conversion to permanent financing (final disbursement of PHB holdback); encouraged to review the initial draw and advise Borrower regarding eligible uses of funds.
- PHB Staff:
    - Finance Coordinator/Underwriter: responsible for negotiating PHB terms and conditions for financing, initial communication with Borrower regarding eligible uses of Bond funds, and working with Borrowers to clarify which funding sources are expected to pay for which project costs prior to financial close.
    - Senior Housing Construction Coordinator (SCC): responsible for reviewing and checking Borrower's disbursement requests in accordance with PHB approvals and loan agreements including for non-eligible uses of Bond funds, and for reiterating Bond policies in communications with Borrower.

It is not the responsibility of PHB staff to issue a final or official certification of Bond eligibility – this is the sole responsibility of the Borrower and Borrower's accountant. However, PHB SCCs and Underwriters are responsible for reiterating policies determining Bond eligibility, flagging questionable uses, and urging Borrowers to seek professional accounting advice regarding Bond eligibility.

NEW PHB PROCESSES TO ENCOURAGE ELIGIBLE USES OF BOND FUNDS

On all PHB-funded projects:

1. PHB will encourage Borrowers to seek CPA review for all *initial* disbursement requests (i.e. first disbursement request at financial close)
2. PHB has revised language in new Bond loan agreements and distributed a revised Exhibit G-2 to include the following statement: "*We [the Borrower] acknowledge that Borrower may have to reallocate costs to eligible sources or repay PHB if costs charged to the Portland Bond are later found to be non-certifiable."*

If you have questions about the resources, policies, or processes outlined in this memo, please contact the Finance Coordinator and/or Senior Construction Coordinator currently assigned to your project. Managers of the PHB Planning and Construction Services (P+CS) and Housing Investments Portfolio Preservation (HIPP) teams will also be available to assist.

PHB Eligible Uses Guide for Use of Housing Bonds

Expenditure Eligibility

The Portland Housing Bureau's use of General Obligation Bond proceeds is used to fund affordable housing in the City of Portland. “Affordable housing” means land and improvements for residential units restricted at 60% or less of area median income.

Permissible project types: 1) Development and construction of new affordable housing; or 2) Conversion of existing market-rate housing to affordable housing burdened by a restrictive covenant/ regulatory agreement.

General Obligation Bond proceeds initiated by the Portland Housing Bureau (Portland Housing Bond or Metro’s share of the Regional Affordable Housing Bond to Portland) may only be used for capital costs of affordable housing, which are capitalizable under Generally Accepted Accounting Principles (GAAP) and Oregon law. Under the Portland Housing Bureau’s “gap funding” model of loans to private affordable housing project developers, Financial Accounting Standards Board (FASB) standards are conventionally utilized to define capitalizable expenditures.

Definitions of Capitalizable

- Both bond-funded and non-bond funded projects throughout the City of Portland may include capitalization of both direct and indirect development costs attributable to a capital asset. In other words, both “soft” and “hard” development costs are capitalizable.
- Tangible and intangible assets can be capitalizable, as long as it supports an asset with a useful life of one year or more. The Financial Accounting Standards Board (FASB) defines an intangible asset as an asset, other than a financial asset, that lacks physical substance.
- The indicated expenditures can only be capitalized if the City can document the actual costs incurred in a manner that traces them to individual projects.
- Capital costs generally include costs that are necessary to get a project approved and developed; regulatory fees incurred like system development charges, building permits and inspections, environmental impact studies and assessments; project planning and engineering – in addition to the actual costs of property acquisition and construction.

Costs that are eligible for PHB bond funding include but are not limited to:

- Payments for land acquisition and leasehold interest but not annual lease payments
- Acquisition and rehabilitation of buildings and improvements
- Construction of new affordable housing and related project/site improvements, such as parking, infrastructure improvements, and community space

- Construction of community space, and resident amenities, as long as ancillary spaces and amenities are part of buildings that contribute toward unit production targets
- All necessary and required site work and infrastructure for the above projects' predevelopment costs, including third party reports, design studies, financial modeling and community outreach specific to the proposed project, which may be reimbursed upon closing of construction financing of an affordable housing project, but does not include pre-development work prior to a project being identified
- The improvements constructed or purchased with bond funds may be composed of a mix of unit sizes, and may include spaces for community and resident needs and services, such as, spaces for the affordable housing residents for childcare services, healthcare services, onsite utility and building facilities

Costs that are ineligible for bond funding include but are not limited to:

- Costs related to the construction of market rate housing units
- Retail space not associated with providing resident support services
- Construction contingency
- Project operating costs, including provision of resident support services
- Rental assistance
- Any kind of reserves, including lease-up reserves and capitalized operating reserve
- PHB's Program Delivery Fee
- Compliance fees or any other fee that should be included in the operating budget
- Financing costs incurred in obtaining financing, such as the borrower's legal and administrative costs associated with seeking and getting loans approved, developing terms of the loan, negotiating loan provisions, and costs incurred to close the loans
- Financing costs including risk premiums and/or interest rate premiums and discounts assessed to the borrower – whether paid out of loan proceeds or paid separately
- Relocation costs for residential or commercial tenants

Reminder – A Certified Public Accounting firm is required to certify Housing Bond uses as capitalizable.