



Section 105(a) of the 2015-16 AHSC Program Guidelines states (page 19):

- (2) Where a **Public Agency** has a real property interest in the proposed **Project**, the application will be required to either include the Public Agency as a joint applicant or otherwise include a commitment to enter into a contractual agreement to develop the **Project**, if it is awarded.
- (3) Joint applicants for the **Project** will be held jointly and severally liable for the completion of the **Project**.
 - (A) A recipient of Department funds must remain liable for performing all requirements of the award of funds as those requirements are set forth in the Standard Agreement. Where there are multiple recipients, all such recipients must remain jointly and severally liable to the Department for that performance. Notwithstanding the foregoing, recipients may indemnify each other and enter into agreements amongst one another as to which shall bear responsibility as to particular portions of the award. If a particular recipient is not statutorily required to maintain eligibility for award funds, that recipient may request to withdraw from the award at any time, and the Department shall, in its reasonable discretion, allow such withdrawal if agreed to by the remaining recipients and not otherwise prohibited by law.

The following provides clarification related to joint applications and required documentation for AHSC applicants who are parties to a joint application.

PURPOSE OF AHSC'S JOINT AND SEVERAL LIABILITY REQUIREMENT

Joint and several liability is required to ensure all components of the Project is completed. AHSC applicants and future funding recipients become jointly liable upon submittal of Concept proposal. If the Project is successful in securing funding, all parties to a joint application remain jointly liable pursuant to the terms of the standard agreement, AHSC loan documents, and AHSC grant documents, as applicable.

DOCUMENTATION REQUIRED FOR PARTIES PARTICIPATING IN A JOINT APPLICATION

- At Concept Proposal, all parties to a joint application must sign and submit the "Concept Proposal Certification and Identity of Interest Disclosure" document, available as a downloadable file on the FAAST site in the AHSC application.

PLEASE NOTE: Parties to a joint application **do not have to answer in the affirmative** with regard to "possession of legal authority to submit this application on behalf of the entity identified in the signature block" at the time of Concept proposal submission, and can select "NO" for this question from the drop down menu (see excerpt below). However, should the applicant be invited to Full Application, all parties to a Joint Application must have legal authority to submit an application as identified, and certification of such will be required by the Full Application deadline.



Excerpt from AHSC FY 2015-16 Self-Certification Form, Page 3

-	The information, statements and attachments included in this concept proposal application are, to the best of my knowledge and belief, true and correct.
NO	I possess the legal authority to submit this application on behalf of the entity identified in the signature block.
YES	I acknowledge that all information in this application and attachments is public, and may be disclosed by the State.
NO	For Housing-Related Infrastructure, Sustainable Transportation Infrastructure, and Transportation-Related Amenities capital project(s), the public owner of the facility is responsible for the long-term operation and maintenance of the capital project has approved the technical feasibility of the project.
-	I understand, should this concept application be invited to submit a full application, that all application threshold requirements as detailed in Sections 102-106 of the Program Guidelines must be achieved by the full application submittal date.

Signature Date

Printed Name of Signatory

Printed Title of Signatory

Entity Represented

- No other formal documentation is required of joint applicants at the Concept Proposal phase.
- All parties to the Concept Application must continue to be joint applicants in the Full Application and sign all application forms required by Program applicants, which evidences each party’s responsibility for the completion of the AHSC-funded activities according to AHSC Program requirements.
- HCD is not requiring private liability agreements as a condition of AHSC program eligibility, and will not request nor review the terms of any private liability agreement.
- HCD **will not** provide template or sample language for private liability agreements, as HCD is not a party to those agreements.

ADDITION OR DELETION OF PARTIES INVOLVED IN A JOINT APPLICATION

- A joint applicant may elect to not continue as a party to a joint application during the solicitation process. However, the proposed project’s Enforceable Funding Commitment ratio (as demonstrated in



Section 105 (c) (3) (B) of the 2015-16 AHSC Program Guidelines, p 20) cannot decrease from Concept to Full Application. In addition, the Project scope or funded components cannot change. Applicants must provide notice to HCD if such changes in application take place.

- Additional parties to a joint application cannot be added at Full Application, even if scope or budget does not change.

TERMS OF LIABILITY

The applicant's liability is subject to the terms of the Standard Agreement, Disbursement Agreement and Covenant, and Loan Documents as applicable, including but not limited to timing of the issue and components of project (housing loan, infrastructure grant, or program grant). The owner of the affordable housing development is responsible for complying with the housing affordability covenant and affordable housing regulatory agreement.

ADMINISTRATION OF AWARD BETWEEN JOINT APPLICANTS

The payee(s) of the AHSC funds would be determined relative to the funded activities. For example, an award with an Affordable Housing Development, Transit Infrastructure, and Transit Ridership Programs would be structured with two components: an affordable housing loan and a transit infrastructure and program grant.

CHANGES TO AWARD AS A JOINT APPLICANT

If a party to a Joint Application cannot complete their project as scoped, HCD will work with the parties in the Joint Application to ensure completion of the funded activities. The entire award may be jeopardized if the remaining activities render the application as ineligible, uncompetitive, or infeasible, however HCD will work with awardees and resolve on a case-by-case basis.