QCO Guideline Comment Responses

Topic #1: Expenses for Paid Wages (Temporary and Job Training)

Comment: "A significant percentage of Beacon Group's program expenses pay wages of low-income people with disabilities who have limited employment options or are not competitively employable. A significant percentage of those expenses provide paid training programs for low-income individuals who have never worked or have not worked in many years. Our paid training allows them to be less reliant on government benefits as they gain the necessary work experience to become competitively employed. Under the new guidelines, we would not qualify for this program in spite of our success in training hundreds of low-income individuals every year to learn job skills and become self-sufficient." (Beacon Group, Greg Natvig gnatvig@beacongroup.org)

Response: We appreciate the good work that Beacon Group is doing for some of the most vulnerable populations within our communities. That said, as an administrative body, we do not have the authority to step outside the bounds of what the statute currently allows. Current law requires that 50% of the organization's budget be spent on "services" that meet the requirements of the statute. An employment relationship is different from such services, and we cannot read something into the statute that does not exist. In order to accomplish your goal of having these expenditures count toward the 50% expenditure test, it would be necessary to amend the QCO/QFCO statute legislatively to allow temporary and job training employment expenditures to count toward the 50% expenditure requirement. Moreover, while cash assistance is a qualifying expenditure, treating an employment arrangement as such (which would not be a natural or apparent reading of "cash assistance") would undermine the legitimacy of the employment arrangement, which could have any number of unintended consequences (see the Department's responses in Topics #2 and #3).

Topic #2: Cash Assistance in Exchange for Work

Comment: "These guidelines allow for cash assistance to count as a qualifying "50% of program expenses", but wages paid to low-income individuals with disabilities are not a qualifying expense. This is encouraging organizations to perpetuate systemic poverty by providing temporary help rather than solve this issue by creating meaningful employment. Many organizations won't qualify because they actively fight poverty and support people in becoming self-sufficient." (Beacon Group, Greg Natvig gnatvig@beacongroup.org)

Response: We certainly understand and respect Beacon Group's position regarding the risk of perpetuating systemic poverty. That said, please understand that, as an administrative body, our authority is limited by current statutory language. The statutory language does not permit an organization to require services from a cash recipient in exchange for the money provided. Rather, the cash assistance must be akin to a gift or a grant. Should you wish to pursue a legislative solution, we would be happy to review the draft language to ensure it can be implemented as intended while minimizing the risk of unintended consequences. Please note

that any assistance we may provide with draft legislation would be solely technical in nature, only to further the goal of administrative feasibility. The Department's efforts in doing so should not be construed as supporting any such proposed legislation, as supporting a legislative effort would exceed the Department's administrative role.

Topic #3: Assisting with GED

Comment: "These guidelines allow for cash assistance to count as a qualifying "50% of program expenses", but helping an individual get a GED, thereby becoming more employable and not needing cash assistance is not considered a qualifying expense. As mentioned above, this is encouraging organizations to perpetuate systemic poverty by providing temporary help rather than solve this issue by creating meaningful education and employment opportunities. Many organizations won't qualify because they actively fight poverty and support people in becoming self-sufficient." (Beacon Group, Greg Natvig gnatvig@beacongroup.org)

Response: Again, we understand and respect the perspective outlined above. Nevertheless, the Department is limited by the scope of the current statutory language. For expenditures associated with GED help to be counted toward the 50% threshold, such help must be considered a "service." A.R.S. § 43-1088(M)(6)(a) defines services for QCO purposes as "cash assistance, medical care, child care, food, clothing, shelter, job placement and job training services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state." Because it fails to fall within the scope of any of the specifically enumerated categories of qualifying services, the only remaining option for including GED help is for it to be considered assistance that is necessary to meet "immediate basic needs."

While obtaining a GED may be important to such needs as workforce development, general education attainment falls short of the sort of need that is both "basic" *and* "immediate," as required by statute. This is an issue that can only be addressed properly through the legislature by amending A.R.S. § 43-1088(M)(6)(a). Again, we would be happy to review any proposed legislation to ensure it can be implemented as intended while minimizing the risk of unintended consequences.

Topic #4: Expenses Incurred to Provide Jobs for Low-Income People with Disabilities

Comment: "Beacon Group operates businesses, often at a substantial loss, for the sole purpose of creating real job opportunities for low-income people with disabilities who are not competitively employable. These businesses require significant expenses that don't appear to qualify as part of the "50% of program expenses"—while these businesses are programs and services. Tax credit funds, in part, help sustain the financial losses on these businesses, thereby ensuring these employment opportunities exist for the individuals who are meant to benefit from this ADOR program." (Beacon Group, Greg Natvig gnatvig@beacongroup.org)

Response: For an expense to be included as a qualifying expenditure for purposes of the 50% threshold, the current tax credit statute requires that the expenditure be related to providing a qualifying service to eligible individuals, without expectation of something being provided in return. What this means is that, in order for the expenses to count toward the 50% threshold under the current law, the payment of those expenses must not be conditioned on the recipient providing employment services in return. Thus, wages do not count toward the 50% threshold. To the extent that the expenses referenced involve amounts other than wages, those expenses *could* possibly be counted toward the 50% threshold, provided that they are incurred in order to provide services to qualifying individuals, such as providing employment opportunities when such individuals are not competitively employable.

Topic #5: Depreciation Expenses

Comments: "We feel that depreciation expenses should be included as an eligible program expense because they are integral in providing a service to the eligible population. Example: a building where programs are delivered is vital to the program being delivered or a vehicle providing transportation to the eligible population is required for specific services to be offered." (Beacon Group, Greg Natvig gnatvig@beacongroup.org)

Response: A.R.S. 42-1088(M)(4) defines a "qualifying charitable organization" for the purposes of the tax credit. This definition imposes several requirements on an organization to allow its donors to receive tax credits pursuant to the statute, including a requirement that the organization "spend at least 50% of its budget" on qualifying services. The statute does not define "spend."

When a statute's context does not suggest that its drafters "intended a special meaning, we are guided by the . . . ordinary meaning" of undefined words. *Vangilder v. Ariz. Dep't of Revenue*, 252 Ariz. 481, 489 (2022). In determining the "common or ordinary meanings" of words, it is appropriate to refer to "established and widely used dictionaries." *Stout v. Taylor*, 233 Ariz. 275, 278 (App. 2013). The common or ordinary meaning of the verb "spend" is "to pay out or away; to disburse or expend." *Oxford Dictionary of English* (3d ed. 2010). Depreciation, on the other hand, is an accounting concept that does not involve a payment out. Rather, depreciation is defined as "a fall in the market value of an (esp. durable) asset, brought about by age, wear and tear, etc." *Id.*

Based on this understanding, the Department believes it inappropriate to include depreciation in the calculation of how much of an organization's budget that organization spends on qualifying services, because it does not represent a payment, disbursement, or expenditure on the part of the organization. As such, depreciation amounts should not be included in either the numerator or the denominator of the qualifying services calculation. By taking this approach, we are ensuring that an organization's satisfaction of the 50% spend threshold is not hindered by the amount of depreciation it claims from time to time, just as it likewise is not benefited by such depreciation. Moreover, this exclusion makes sense from a big-picture perspective: it is the cash that is donated to the organization that generates the tax credit, and how that cash is spent

is what determines (at least in part) whether the organization should be allowed to receive tax credit donations.

Topic #6: Intellectual and Developmental Disabilities

Comment: "Regarding eligibility, you say an organization that provides employment training would be eligible, but then you disregard people with intellectual & developmental disabilities. This appears to be rather discriminating to qualify someone for a physical disability over someone with an intellectual disability." (Desert Survivors, Inc, Karen Wilson Karen@desertsurvivors.org)

Response: We certainly understand and appreciate your concern regarding the tax credit statute's qualitative distinction of physical disabilities over intellectual and developmental disabilities. That said, as an administrative body, we do not have the authority to step outside the bounds of what the statute currently allows. Under A.R.S. 43-1088(M)(4), the organization "must spend at least fifty percent of its budget on services to residents of this state who receive temporary assistance for needy families benefits, to low-income residents of this state and their households **or to individuals who have a chronic illness or physical disability and who are residents of this state"** (emphasis added).

A.R.S. 43-1088(M)(1) further provides that "'[i]ndividuals who have a chronic illness or physical disability' means individuals whose primary diagnosis is a severe physical condition that may require ongoing medical or surgical intervention."

The Department's guidelines must be consistent with the language of the governing statute. A.R.S. 43-1088 expressly requires that the eligible population be composed of individuals suffering from a severe *physical condition*, necessitating an individual to have such an illness or disability in addition to any intellectual or developmental one. While individuals are not part of the eligible population based on their intellectual and developmental disabilities alone, they may still qualify under other criteria such as low-income or having a secondary diagnosis that is physical in nature.

Topic #7: Medical Care

Comment: "The Alliance believes the language in the draft guidelines needs to be clarified to ensure all care by medical professionals is included. We recommend specifying that medical care includes services provided by health professionals licensed pursuant to A.R.S. Title 32 or Title 36.
"• See A.R.S. 32-3201, definition of "health professional"
"• This clarification would help resolve the confusion caused by referencing licensed therapists (e.g., does "therapy" include mental health therapy, physical therapy, speech therapy, and occupational therapy?)
"• ADOR may need to add to this list; for example, doulas have a voluntary licensing

program, so not all doulas will be licensed but their care should still be included similar to midwives." (Alliance of Arizona Nonprofits, Laurie Liles lliles@azgrantmakers.org)

Response: Thank you for your comment. We try to find a balance between providing some level of specificity in the guidelines, avoiding overly technical explanations or including more statutory and legal references than necessary. Not all of our QCOs have access to professional legal assistance and we try to be mindful of that.

That said, the Department agrees that there is room for improvement in this area of the guidelines and we will revise them in the hopes of bringing more clarity. To that end, the revised guidelines will specifically add to the list to include doulas and various types of therapists. The revised guidelines will likely include some variation of following new language:

Care provided by a medical professional equals medical care, so long as the services are customarily provided by the medical profession.

While the Department does not require that medical professionals necessarily be licensed, a licensed health professional under Title 32 would absolutely be considered a qualified medical professional.

Please be aware that the list in the guidelines is not intended to be exhaustive.

Topic #8: Description of Job Placement and Job Training Services

Comments:
"The Alliance continues to believe that the definition of job placement and job training services in the draft guidelines are too specific and exclude many opportunities that are generally accepted as basic needs toward employment. At a minimum, this should be expanded to include programs that support high school graduation. A high school diploma or GED is often needed as a basis to gain employment.
"• Please see the "work activities" definition in A.R.S. 46-101 for welfare programs, including the Temporary Assistance for Needy Families Jobs program. Work activities to continue to qualify for welfare programs include: unsubsidized employment; subsidized private or public employment; work experience; on-the-job training; job search and job readiness assistance; community service programs; vocational educational training; job skills training directly related to employment; education directly related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency; satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalency, in the case of a recipient who has not completed secondary school or received such a certificate." (Alliance of Arizona Nonprofits, Laurie Liles lliles@azgrantmakers.org)

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"We believe that the Department's interpretation of "job training" is too narrow. Job training

and soft skills essential for employability are embedded in LVMC's adult education services. Because the term "job training" is not defined in statute, we believe it should be given its ordinary meaning. Merriam-Webster has defined "training" to mean "to teach so as to make fit, qualified, or proficient" and "to form by instruction, discipline, or drill." Thus, the ordinary meaning of "job training" would be to teach so as to make fit, qualified, or proficient for a job. "The services LVMC provides teach and instruct its clients so that they are fit and qualified to work, generally, and not in specific industries and positions. We believe that the Department's interpretation of "job training" is too narrow. We view all the services provided by LVMC as the very first step in the continuum of job training and placement. Basic and secondary education provides skills that are the essential foundation and inextricably linked to further training. Without such skills, job training is, as a practical matter, inaccessible. Thus, we believe that the Department's interpretation of "job training" is too narrow, and, accordingly, we urge the Department to include basic and secondary adult education as a component of job training." (Literacy Volunteers of Maricopa County, Jesús Love jlove@lvmc.net)

Response: While we appreciate your point of view regarding the Department's interpretation of "job training" and "job placement," we do believe that our interpretation parallels the scope of the ordinary and common meaning of those terms. As you have pointed out, when a statute's context does not suggest that its drafters "intended a special meaning, we are guided by the . . . ordinary meaning" of undefined terms. *Vangilder v. Ariz. Dep't of Revenue*, 252 Ariz. 481, 489 (2022). In determining the "common or ordinary meanings" of words, it is appropriate to refer to "established and widely used dictionaries." *Stout v. Taylor*, 233 Ariz. 275, 278 (App. 2013).

In this case, the nouns "placement" and "training" are modified by the word "job." So while placement is "the temporary posting of someone in a workplace to enable them to gain work experience," and training is "the action of teaching a person . . . a particular skill or type of behavior," the common or ordinary meaning of "job" is "a paid position of regular employment." *Oxford Dictionary of English* (3d ed. 2010). Thus informed by these meanings, the Department reasonably interprets "job training" to be activities that teach individuals skills and/or behaviors particular to a paid position of regular employment and "job placement" to be activities taken to post individuals into a workplace for work experience.

Compare this to the amendment to the QFCO definition of "services" in A.R.S. 43-1088(M)(6)(b), which includes not only "job placement services" and "job training services," but also "workplace development programs," "secondary education student retention programs," and "housing or financial literacy services." These latter three categories of services and programs, while related to job placement or training services, remain distinct from and—we would assert—fall outside the scope of the common and ordinary understanding of what job placement and job training comprise.

Topic #9: Verification of Eligible Population

Comments:

“Frequently, the nonprofit itself is not the entity that verifies that an individual is on TANF or is low-income. This is often done by a state agency like the Department of Economic Security. For example, a nonprofit may be contracted with DES to provide services to families that qualify for a child care subsidy. DES determines whether the family qualifies for the child care subsidy. What information should a nonprofit include in the narrative provided to ADOR that proves it is serving eligible populations? Can ADOR revise the guidelines to acknowledge that this verification can come from sources other than the nonprofit?” (Alliance of Arizona Nonprofits, Laurie Liles lliles@azgrantmakers.org)

“The Guidelines address segments of the population that are eligible recipients of the “basic needs services” for purposes of the Law. The Guidelines provide that “Organizations claiming that their clients meet [the low-income] criteria [sic] are required to explain the verification process used to determine this criteria [sic] has been met.” [Emphasis added.] In addition,Section 5, The Application Review Process, provides that, in connection with the determination that the organization serves an eligible population, the organization is required to show “how it knows that its clients qualify as an eligible population.” We believe that further guidance is necessary regarding the type of procedures that constitute a compliant “verification process” under the Guidelines. If the Department intends to require further proof of low-income status, the methodology that will fulfill that requirement should be specified in the Guidelines. If that is, in fact, the Department’s intention, we have serious concerns about such a requirement and believe it should be specifically delineated in a subsequent rulemaking, subject to further public comment.Requiring organizations to implement income verification processes for each client to determine their eligibility will substantially increase expenses of the organization. It is unlikely those expenses would be treated as having been incurred in the provision of qualifying services, since those costs are attributable to the determination of eligibility to receive qualifying services, not to providing the services themselves. We believe that requiring such procedures will place an undue burden and impose unnecessary expenses, making it more difficult for organizations to meet the financial requirements of the Law.” (Literacy Volunteers of Maricopa County, Jesús Love jlove@lvmc.net)

Response: While acknowledging that the Department plays a gatekeeper role in the application and recertification process, we almost never decline an applicant for failing to demonstrate that the population the QCO serves is low-income. The Department is fairly flexible in this area and often relies on an organization’s self-confirmation that its client population is low-income. Verification from other state or federal agencies are perfectly acceptable forms of proof for purposes of the QCO program. Accordingly, the Department does not require QCOs to do their own intake forms to demonstrate that the population is low-income. If the applicant attests that the population is referred to by another agency or in a neighborhood known to be low-income (based on Title 1 schools and such), the Department will accept it as proof of eligibility.

Topic #10: Private Foundations and Pass-Through Services

Comments:

“As noted in the proposed Guidelines, the services provided by a QCO must be provided directly to eligible recipients, with few exceptions. Although the proposed guidelines indicate that additional guidance regarding organizations that provide pass-through services is forthcoming, the language in the proposed guidelines together with the discussion during December 7, 2022, listening session suggested to us that AZDOR may prohibit organizations which provide pass-through services, like DDAZF, from being certified as a QCO. We respectfully submit that such organizations should continue to be eligible to be certified as a QCO. DDAZF is one of several 501(c)3 private foundations in Arizona That accumulate a charitable fund via both transfers from a parent company and through voluntary cash contributions from individuals or couples claiming the QCO tax credit without taking any fees or administrative costs from those tax credit donations. One hundred percent of tax credit donations go directly to underserved individuals. DDAZF Utilizes it's extensive network of relationships to solicit donations from individuals and then utilize those funds to award grants to other programs, including small programs which might not otherwise attract direct donations from individuals. eliminating the ability of DDAZF and other similarly situated private foundations to solicit donations that qualify for the QCO tax credit will have a significant negative impact on the amount of funding that DDAZF and organizations like ours provide to qualifying nonprofit serving eligible recipients through our grants and other programs providing cash and in-kind donations. It has been suggested that the AZDOR is concerned that pass-through entities are not subject to the same public oversight as public charities. that is incorrect as a 501(c)3 organizations, private foundations are subject to Internal Revenue Service (“IRS”) rules and regulations as are other 501(c)3s, which include annual filings of extensive information with the IRS on Form 990. Also, permitting pass-through entities to be eligible as QCOs only furthers the legislative goal of Permitting tax credits when the funds are ultimately donated to needy Arizonans.” (Delta Dental of Arizona, Barb Kozuh BKozuh@deltadentalaz.com)

“The Alliance is aware that Delta Dental of Arizona Foundation—and possibly other organizations—submitted comments to ADOR outlining their concerns that the department may prohibit organizations that provide pass-through services from being certified as a QCO (see December 15, 2022 letter from Barb Kozuh, director of community benefit, Delta Dental of Arizona). The Alliance urges ADOR to carefully consider these concerns and the negative impact such a prohibition could have on the ability of DDAZF and similarly situated private foundations to solicit donations that qualify for the QCO tax credit and are provided to qualified nonprofits serving eligible recipients.” (Alliance of Arizona Nonprofits, Laurie Liles lliles@azgrantmakers.org)

Responses:

Response to DDAZF: The Department appreciates the great work that DDAZF does for the community. Our understanding of DDAZF is that it does not perform the services itself, but rather, uses its expertise or provides funds for other providers to perform the qualifying services. The Department and the QCO community have commonly referred to this arrangement as “pass-through services.” The Department believes that a statutory change is required for pass-through services to be considered qualifying services for purposes of the credit. Our QCO

staff welcomes discussions about DDAZF's existing services and whether they may qualify under the current guidelines. DDAZF status as a private foundation is not a QCO qualification issue; private foundations may qualify as a QCO as long as 50% of its budget is spent directly on qualified services to an eligible population. We would be happy to review any proposed legislation to ensure it can be implemented as intended while minimizing the risk of unintended consequences.

Response to the Alliance: The Department appreciates the community benefit created by charities performing pass-through services. However, the issue with such charities from a QCO statutory perspective is that services are not being provided directly by the organization, but are instead being farmed out to other organizations and/or individuals. Charities with a focus on pass-through services are acting as a *facilitator* of services rather than a *provider* of services. The Department believes that a statutory change is required for pass-through services to be considered qualifying services. While the Department remains neutral in passage of particular tax legislation, it does assist both nonprofit and for-profit stakeholders with reviewing proposed legislation to ensure that it is both technically sound and administratively feasible.

The Department will include additional information on pass-through services in the revised guidelines, including information about perishable food, which is the only pass-through service the Department allows.

The revised guidelines will also include the following information:

What if my QCO no longer qualifies?

1. An organization informs QCO staff that the organization is no longer operating
    - If the organization has not taken any donations in the current year, the organization can be removed from the current year QCO list.
    - If the organization has taken donations during the year, the organization would be removed from the QCO list for the following year.

2. An organization informs QCO staff that it can no longer represent that the organization plans to continue spending at least 50% of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents, or who are individuals who have a chronic illness or physical disability.
    - If the organization has not taken any donations in the current year, the organization can be removed from the current year QCO list.
    - If the organization has taken donations during the year, the organization would be removed from the QCO list the following year.

3. An organization could also be removed from the QCO list during a recertification process, though such removal will be prospective only.

Topic #11: Umbrella Organizations and Pass-Through Services

Comment: "The Alliance is concerned about the impact on Arizona Gives of Section 3: Umbrella Charitable Organizations and, potentially, Section 4: Pass-through Services, both of which state additional information is forthcoming.
"• Arizona Gives, administered by the Alliance of Arizona Nonprofits + Arizona Grantmakers Forum, is a statewide website that allows the public to make personal donations to multiple 501(c)(3) organizations in one convenient place. Annually, the Alliance vets and ensures all nonprofits are legitimate 501(c)(3) organizations according to the IRS, while at the same time verifying whether a nonprofit is or is not state tax credit-qualified.
"• In 2017, the Alliance worked with ADOR to ensure Arizona Gives (AZGives.org) could provide a "one-stop shop" for the public to make donations to nonprofits and that those donations could qualify for tax credits if the nonprofit were approved. We worked with ADOR to make sure 1) nonprofits were properly marked as tax credit-qualified organizations based on the information provided on the ADOR website; 2) donors could search for organizations based on their tax credit qualifications; and 3) the language used and information provided in our donation e-receipts (sent via email) contained the proper information necessary for a donor to use when filing their state tax form regardless of whether the donor receives an acknowledgement letter directly from the
organization.
"• The Alliance also shared with ADOR how our administrative fees worked and there were no issues with these being a component of donations made on the website. We have been transparent about the administrative fees for both participating nonprofits and donors alike, explaining the annual costs to run the program and the amount of funds raised outside of these fees to continue it. All of that information is available on our website.
"• Each year, Arizona Gives sees a significant increase in donations on AZGives.org in December (year-end) and from February to early April (just before the annual tax filing deadline). Many of the donation amounts match the tax credit limits and are being specifically made for tax credit reasons. Taking this option away would be detrimental to the charitable-giving public that relies on Arizona Gives to find tax credit-qualified organizations to which they can give.
"• If Section 3 or 4 were to pertain to Arizona Gives, the Alliance would need to significantly change how we administer the program, impacting not only our organization, but thousands of nonprofits across the state and tens of thousands of donors. In the worst-case scenario, we would not be able to continue the program that has raised more than $36.4 million for Arizona nonprofits over 10 years (2013-2022). In 2020-2022 alone, AZGives.org raised $19.2 million for thousands of Arizona nonprofits serving our communities during one the most challenging times of our lives." (Alliance of Arizona Nonprofits, Laurie Liles lliles@azgrantmakers.org)

Response: The following language regarding umbrella organization will be added to the revised QCO guidelines:

Umbrella organizations are not certified by the Department. As long as the umbrella organization meets all of the following requirements, donations made through the umbrella organization can qualify for the tax credit :

1. The umbrella organization is an IRC § 501(c)(3) organization.
2. The umbrella organization simply acts as a conduit for the funds and does not place requirements on the use of the funds.
3. The funds collected are designated by the donor for a specified charity that is either a QCO or a QFCO found on one of the Department's lists.
4. 100% of the donation is passed through to the designated charity.
5. The receipt provided to the donor specifies the name of the charity and states that 100% of the donation is passed through to the specified charity.

The umbrella organization may charge a charity a fee for its services, but the fee may not be deducted from the amount distributed to the charity. The charity must receive the entire donation and then pay any fee. The fee counts towards the portion of the charity's budget that is not used for the required services.

The guidelines above represent the Department's long-standing position on umbrella organizations.

Topic #12: Financials

Comments:
"The Alliance requests that ADOR define what "high level" means in the first bullet point stating that "The organization engages in a high level of spending on advertising or fundraising." Because many nonprofits rely on fundraising, this statement seems odd to the Alliance.
"• Several nonprofit organizations rely on donated medical services or food, for example, which are considered in-kind donations and are required to be reported under Generally Accepted Accounting Principles but are not cash outlays. These in-kind contributions should count toward the 50% threshold, especially if this is a large part of a nonprofit's mission. It is important to ensure they are not penalized for their mission to serve qualified individuals in this way."
(Alliance of Arizona Nonprofits, Laurie Liles lliles@azgrantmakers.org)

"The Law requires that, to qualify as a QCO, at least 50% of an organization's budget must be spent on qualifying services to eligible residents. The Guidelines require that the financials and supplemental information should reflect the portion of the qualifying services that support the eligible population. If only some of the services provided are qualifying services, then the financials and supplemental information should reflect the portion of the expenses that support the eligible population. As one of the steps in the Department's proposed Application Evaluation Process, the Department indicates that it will evaluate all three qualification components: eligible population, qualifying services and the 50% spending threshold. As part of the evaluation, the Department queries whether "the organization demonstrated how the eligible population served

by the organization is represented in its expenses?" It is unclear what "represented in its expenses" means. We urge the Department to clarify or reword that provision. We assume, however, that it mirrors the previously quoted portion of the Guide requiring the attribution of a specific portion of expenses to members of the eligible population. Accordingly, we suggest that the Department clarify that an organization may rely on proportional attribution of expenses based on the size of the eligible population receiving qualifying services." (Literacy Volunteers of Maricopa County, Jesús Love jlove@lvmc.net)

Response: The phrase "high level of fundraising" should not be viewed as a new requirement; rather, it is an expense that could prove problematic for a QCO in the application or recertification process. To avoid any confusion, the phrase "high level of fundraising" will be addressed in Section 5(B) of the guidelines. Fundraising is not a qualifying service for purposes of the 50% threshold and therefore organizations that devote a large percentage of their budget to fundraising may have difficulty initially qualifying or remaining eligible under recertification.

In the area of in-kind donations, the Department prefers a bright-line test. The term budget is undefined in the QCO statute, but it is commonly understood to be a measure of expenditures, what an organization actually spends. An in-kind donation does not represent an outlay of cash, it is a donation of non cash item that is later passed on to an individual in need. While QCO's that help the needy community through in-kind donations are providing a great community service the value of the in-kind donations do not count towards the 50%. It is important to note that in-kind donations do not negatively impact QCO eligibility, the donations are not counted for or against the organization in terms of their budget, the amount of in-kind donations are removed from the numerator (qualifying expenditures) and denominator (all expenditures).

Finally, organizations may rely on proportional attribution of expenses based on the size of the eligible population receiving qualifying services. The revised guidelines will include an example of proportional attribution of expenses to provide additional clarity.