

DAL 11-09: Architectural Third Party Certification Frequently Asked Questions (FAQ)

FAQ DAL 11-09 Third Party Architectural Certification (TPAC)

1) **Question:** Will the Department accept third party certification from a Professional Engineer (PE) instead of a Registered Architect (RA)?

Answer: Certification by a NYS Professional Engineer is acceptable.

2) **Question:** Definition/Clarification of third party in the case of an architect who has or has had other projects with the applicant.

Answer: If the architect is currently working on any other construction project for the applicant then they would not qualify as a "third party". The issuance of a certificate of occupancy and/or an applicable operating certificate on another project that the third party applicant was working on for the applicant would be considered as a finish date for that project and thus the architect could be "third party" after that project.

3) **Question:** Does the Department still want the applicant to submit plans/drawing, explanations, descriptions or any other documentation in response to CON's or ALR's for record keeping?

Answer: As written the TPAC does requires electronic submission of final construction documents. It is assumed that the ACF CON application will still include a general description (i.e., Required Schedules) of the facilities to be constructed/renovated and/or modified as part of the application.

4) **Question:** Does the DAL eliminate the need for any architectural submission?

Answer: The TPAC eliminates the need for an architectural submission except for an electronic copy of final construction documents and the ACF CON Schedule 12C , ALP Schedule 4 or the ALR Schedule D.

5) **Question:** Will acknowledgement letters that are sent out to new applicants need to be revised to include notification that the TPAC is required?

Answer: Acknowledgement letters will be revised to include notification that the TPAC is required.

6) **Question:** Does the form require the third party architect to inspect and monitor construction progress during the construction period?

Answer: The requirement for the third party architect signing the TPAC is not ongoing oversight of the project.

7) **Question:** Will the Department notify the applicant of acceptance of the submitted TPAC?

Answer: Yes

8) **Question:** Can you confirm that for Adult Care Facilities (Enriched Housing, Adult Home, ALP) projects will be required to have third party architectural certification while for other facilities (hospitals, nursing homes, ADHCP, ambulatory care and rehab facilities), self certification will be allowed as long as project costs are no more than \$15 million? Would the \$15 million rule apply to ALPs as well? Are there any circumstances under which ALPs would be allowed to self certify, or will they always require third party certification?

Answer: There are no exceptions and no self-certifications allowed for ACF's at this time, however the use of self-certification is being evaluated further by the Department as a whole.

9) **Question:** Will the Department ever reconsider the "No Exceptions" rule in regard to the third Party Architectural requirement? Requests have been made for alternative solutions. Depending how much of the Architectural review was actually completed by the Department's Architect.

Answer: At this time the Department is not re-considering the "No Exceptions" rule. Any project that did not receive full Department architectural approval prior to the issuance of the TPAC requirement will be obligated to conform to that requirement. There are no alternative solutions to the TPAC available at this time.

10) **Question:** Will the Schedule 12C of the application be revised to include language reflecting the TPAC?

Answer: Yes, as well as Schedule 12D.

11) **Question:** For applications that are ALR only that no longer need an ARCH review, except that there is a documented issue or concern that needs to be addressed, where does the project manager refer them to on the TPAC to cite that issue?

Answer: That will be handled on a case by case basis. In some cases the TPAC may be not applicable or an addendum to the TPAC may be needed.

12) **Question:** The implementation of this new process, on certain individual license applications, the Department's former architects had previously required applicants to submit a certification by their project architect that they were in compliance with Department's architectural standards. If an applicant complied with such a request and provided such a certification, then the architectural component of the application should have been approved by the former Department architect and the applicant should be exempt from this new process. Will such applicants that previously provided a project architect certification at the request of the Department's former architects be exempt from having to now obtain an additional Third Party certification?

Answer: This will be handled on a case by case basis.

13) **Question:** Does the Department plan to issue a "preferred" or "certified" list of third party architects in the future that the industry can select from?

Answer: The Department has no plans to issue "preferred" or "certified" list of third party architects.

14) **Question:** For construction projects commenced prior to the establishment of this new third party certification process, there may be certain statements in Form 5042 that are beyond the scope of services the project architect was originally retained to provide. In such cases, can the project architect modify Form 5042 to accurately reflect the scope of services it provided on the project?

Answer: No Changes to the form will be allowed. It has been clarified that the Third Party Architectural Certification is not ongoing oversight of the project.

15) **Question:** On the "Attachment" checklist to the Certification, there are items that are "operational" in nature and may be beyond the scope of architect services on a project (e.g., cleaning supplies will be kept separate from food storage, water temperature levels). Will the Department accept applicant verification of such "operational" items in lieu of architect certification where such items are beyond the scope of architect services on a project?

Answer: The architect's certification is to establish that the design of the structure is sufficient to allow the operator to comply with those requirements but does not provide any guarantee of the performance of the operator to those requirements.

16) **Question;** Since "change of operator" applications generally do not require architectural review, will such application generally be exempt from this third party certification process?

Answer: The Department will not require architectural review for applications that are change of owner only unless there are known or already identified issues in which case TPAC may be needed.

