

The client needed to excavate the basement by one (or more) foot in order for the space to meet code for occupancy – is this an eligible cost?

No. Any excavation to enlarge the volume of the existing space is an ineligible cost. Please also be aware that in addition to the actual excavation costs being ineligible for rehabilitation tax credits, the work in the expanded volume of the space is similarly not eligible for credits. Finish work in the newly enlarged space or systems work for that expanded interior volume should be classified as ineligible for credits.

In cases where only part of the work is attributable to an expansion of volume, the following guidance on apportionment can be found in DHR regulations 17VAC10-30-110 D(4)(b):

“If expenditures only partially qualify because some of the expenditures are attributable to the enlargement of the building, the expenditures must be apportioned between the original portion of the building and the enlargement. The expenditures must be specifically allocated between the original portion of the building and the enlargement to the extent possible. If it is not possible to make a specific allocation of the expenditures, the expenditures must be allocated to each portion on a reasonable basis. The determination of a reasonable basis for an allocation depends of factors such as the type of improvement and how the improvement relates functionally to the building.”

We understand that there may be unique circumstances for these sorts of situations, so please contact the DHR Reviewer assigned to the project if you would like to speak further about the details of the project and what costs should be classified as eligible or ineligible.

Are Feasibility Studies, Market Studies, or LEED certification costs eligible?

No. These should be listed as ineligible for credits.

The client had a legal dispute with a contractor/vendor over work done at the property for the Historic Rehabilitation Tax Credit Program project – are the costs for this eligible?

No. Legal costs associated with contractor/vendor disputes, even those related to the tax credit project, are ineligible for credits. Furthermore, any such disputed costs are not qualified until the dispute is settled and costs are paid.