LOW INCOME HOUSING TAX CREDIT (LIHTC) PROGRAM

2018 Qualified Allocation Plan (QAP)
Public Hearing

Contents

DSHA 2018 QAP Notice of Public Hearing

The Delaware State Housing Authority (DSHA) is in the process of finalizing the State of Delaware's 2018 Low Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP). DSHA will hold a public hearing to discuss the proposed QAP from 9:30 – 11:30 a.m. on Monday, December 11, 2017.

The public hearing will be held at the Department of Natural Resources & Environmental Control's (DNREC) Auditorium, located at 89 Kings Highway, Dover, Delaware.

Oral and written comments will be accepted until that time. Written comments may be sent to DSHA, 18 The Green, Dover, DE 19901, Attn: Cindy Deakyne. After considering the comments received, DSHA will recommend the final QAP to the Governor for approval. Once approved, the QAP will be available to the public on DSHA's website (www.destatehousing.com). If you have any questions about the LIHTC Program, please contact Cindy Deakyne, Housing Development Administrator by phone at (302)739-4263, or (888)363-8808 or via e-mail at cindy@destatehousing.com.

EQUAL HOUSING OPPORTUNITY

DSHA 2018 QAP Public Hearing Agenda

2018 Low Income Housing Tax Credit (LIHTC)
Qualified Allocation Plan (QAP)
Public Hearing

Department of Natural Resources & Environmental Control's (DNREC) Auditorium
89 Kings Highway, Dover, Delaware
December 11, 2017
9:30 a.m.

AGENDA

1. Welcome and Opening Remarks

2. Discussion of 2018 Draft QAP:
   There have been many changes as DSHA revamped the QAP for 2018. We will briefly highlight the most commented-on aspects and open the floor for comments.
   - Credits Available/Pools
     - Credit Amount Estimate $2,557,322
     - Pools and Set Asides
   - Definitions and Threshold Clarifications
     - Developer Fee
     - Community Revitalization Plan
     - Liquidity
     - Violence Against Women Act
     - Site Visit
   - Ranking Modifications and Clarifications
     - Organization
     - New Castle / Kent / Sussex County Distinctions
     - Community Revitalization Scoring
     - Site and Neighborhood / Transit
     - Readiness to Proceed
     - Bonus Points
   - Guidelines
   - Timetable

3. Comments, Questions, Adjournment

PRELIMINARY 2018 DSHA LIHTC TIMELINE	
December 11, 2017	2018 QAP Public Hearing-held from 9:30 -11:30 at the Department of Natural Resources and Environmental Control Auditorium
January, 2018	2018 QAP released
February 16, 2018	Deadline to apply to Delaware Transit Corporation for DRAFT Memorandum of Agreement
February 28, 2018	Deadline for pre-inspection notification if applying for 2017 preservation, rehabilitation, or conversion projects
March 9, 2018	Deadline for DSHA General Contractor approval and/or updates
March 16, 2018	Deadline to request DelDOT technical assistance for connectivity point category
March 29, 2018	Deadline for tax credit comparable rents, if seeking HDF funds
April 10, 2018	Deadline for all applicants to schedule site visit of development
April 30, 2018	**All LIHTC applications due to DSHA by 3:00 p.m.**
On or before July 6, 2018	Preliminary ranking notifications released
October 26, 2018	Commitments for all financing must be submitted to DSHA *DSHA will make tax credit allocations for selected projects 30-60 days after financing commitments are received*
December 14, 2018	Deadline for pre-closing documents for HDF-financed projects
December 14, 2018	DSHA will execute carryover allocations for selected projects on or before this date

Minutes from the 2018 QAP Public Hearing @
DNREC's Auditorium in Dover, DE @ 9:30 a.m. on December 11, 2017

Cindy Deakyne, Susan Eliason and Jack Stucker started the meeting at 9:40 a.m. They welcomed the attendees, went over opening remarks and proceeded to go through the agenda items one by one.

At 10:05 a.m., Cindy opened up the meeting for comments. The comments were as follows:

Ian Rauhauser, HDC MidAtlantic – Regarding the new liquidity requirement, so just as an example, say you have a million dollars in permanent financing, the liquidity requirement would then be what $30,000 – 3% - is that right?? OK. Does that include non-recourse debt??

Cindy to Jack – I think it did, didn't it??

Jack – Yes the example is correct and it does include non-recourse debt.

Ian Rauhauser, HDC MidAtlantic – OK, thank you.

Kevin Wilson, Architectural Alliance – I have a question in regard to ready to proceed requirement. It's more of a clarification. In paragraph B, where the point distribution is one point each, there is subparagraphs A – F, and further subparagraphs underneath that. The question really is: How are the points distributed in that category and which line items are eligible for it??

Jack – So the way in which it's currently envisioned, as you said there's the "a" categories, which are all 3 point categories, and then there's the B category, each for 1 point. Under B, there are subsections a – f, a – e are all 1 point each, under f, there's numbered items 1 thru 8, and each of the numbered items under f is eligible for a point. So there's a maximum of 10 points available for readiness, and there's significantly more than 10 points possible, so it's envisioned as sort of a large list to choose from what makes the most sense for the particular project, but all of the numbered items under f are eligible for 1 point.

Cindy – Does anyone else have any more comments? We are going to stay here for a little while longer. We'll give everyone a few more minutes. Don't forget, when you get back to the office, if you have some other comments that you would like to make, feel free to send them to Jack or myself via e-mail by 6:00 tonight, but just know that the written comments will be part of the record that we will post, which is OK. OK, well we will be here for a little while if you want to come up and talk to us. Thank you for your participation all year long, it's been great. We're still reaching out to the construction folks. We have sent e-mails out to our construction-approved contractors to set up meetings and talk about our process. So if you are working with certain contractors you know, give them a ring and ask them to participate – that's still one of our things that we still have to do. Again written comments will be received until 6 p.m. So thank you for coming today and we will talk with you soon I'm sure.

The meeting was adjourned at 10:10 a.m.

Respectfully submitted,

Mabel Jean Hayes
Administrative Specialist II

NCALL Research, Inc.

Waiver Requests page 24:
We would prefer that the approved waiver requests were made public prior to the application submission deadline. If kept the same as stated in the draft QAP, please specify how many days after awards are announced that waiver requests will be made public and the format that will be used to publish them.
Response-
Waiver request determination will be made public at the time of preliminary awards and published on DSHA's website.

Readiness to Proceed page 53:
We appreciate the variety of ways one can demonstrate readiness. We are assuming that under f. Architectural Progress, that all applicable items of the eight subcategories must be submitted and will only garner you one point for category f. Please clarify.
Response-
Each numbered item under category f. is eligible for 1 point. There are many ways to achieve the total of 10 points in the category.

New Rental Subsidies page 51:
Points should be provided for projects that bring new or have existing rental assistance. While not new, existing rental assistance is like gold and helps to ensure that very low-income households continue to be housed.
Response-
DSHA agrees that existing subsidy is vitally important and is given scoring consideration in the preservation category.

Replacement Reserves:
page 6 of 15 -- that existing federally-financed or subsidized properties that have replacement reserve funds must use these funds for capital improvements. We would prefer that the decision to use replacement reserves for capital improvements or to keep the reserves in the replacement account be an owner decision for the application or at least part of negotiations with DSHA. We feel it is prudent that some replacement reserve is left and applied towards the replacement reserve requirement. Wouldn't it be better to leave at least some of the replacement reserve balance in the replacement reserve account? There is often not enough replacement reserve with the way we are structuring affordable housing projects.
In addition, DSHA states that the reserve funds cannot be counted towards eligible basis. Are you saying that the capital improvement costs paid for with reserve funding cannot be used as part of the eligible basis and if so, why? If the reserve funds are left in the replacement reserve, can they not be counted towards eligible basis? Please explain.
Response-
Reserves are required to be funded from equity contribution, freeing up existing reserves which must stay with the project in the form of capital improvements. Costs paid with existing reserves are eligible for basis calculation, as long as used for basis eligible items. Expanded replacement

reserves amounts may be considered on a case-by-case basis, and existing reserve funds used to fund any such expanded reserves would not be eligible basis qualified.

Funding Supplement Distressed Areas page 6:
On page 6 of 14 under the general criteria for all DSHA funding, #4. states that new creation applications for the HDF or HOME program within the Distressed Areas of DSHA's maps will only be accepted if it contributes to a qualifying Comprehensive Community Revitalization Plan. This will definitely eliminate some applications and thus developments that may have been in the works for a while. It will also eliminate many rural and small town housing applications. If a new creation project is ranked high enough to receive a LIHTC allocation, it should be able to apply and receive HDF and HOME funding. In addition, most new creation projects will need HDF and HOME funding to make it feasible. We would prefer that all new creation projects could apply for HDF and HOME funding regardless of location and let the LIHTC ranking criteria determine the project's fate. If an application, does not receive a LIHTC allocation, it will not receive HDF or HOME funding.

Response-
Allowing DSHA funding in Distressed Areas is a change that reflects the importance of utilizing resources as a tool of place based investment and community revitalization. However, the nexus between the investment and the revitalization must be demonstrated in order to prevent unnecessary concentration of affordable housing and fair housing concerns. Communities in Distressed Areas may develop or adopt new revitalization plans and would then be eligible for consideration.

LEON N. WEINER & ASSOCIATES, INC.

<u>Page 7, Definitions: Concerted Community Revitalization Plan</u>
Please provide a clarification on what is considered updated for CCRP's. We would suggest that, at a minimum, the update include evidence of new community stakeholder meetings and modifications to the original strategic goals based on that stakeholder feedback.
Please consider allowing County Based Comprehensive Plans to have 10 years of validity as a CCRP. Comprehensive Plans are specifically updated every 10 years with a longer term (10 year) planning horizon than regional or local plans.
Response-
DSHA will adopt standards for definition of updated that include stakeholder engagement. County Based Comprehensive Plans are an important planning tool in the community revitalization ecosystem. However, as macro-scale endeavors, these County level plans are unlikely to have the census-tract-level specificity necessary to qualify for consideration under this category and will not receive a special exemption for 10 years.

<u>Page 8, Definitions: Extended Use Period</u>
Please remove waiver of right to participate in the Qualified Contract Process as a mandate for receiving tax credits. As an example, future projects might benefit from broader income strata as a means of diversifying the resident base.
If a preservation project wanted to move from 100% LIHTC to a partially mixed income model in which some units are eligible for 80% AMI, the new language would prevent this. This language fails to prepare projects for future market shifts that could result in larger neighborhood revitalization.
Response-
This threshold item does not impact a project's ability to re-syndicate or take advantage of DSHA's Year-15 policies, which allow for adjustments to the project's income mix. These important tools are not impacted by this change, remain available as always, and allow significant opportunity to respond to market shifts. The Qualified Contract Process waiver limits the premature termination the project's affordability and exiting Delaware's affordable housing portfolio. DSHA encourages a conversation about the large variety of options available to respond to market shifts that do not involve permanent termination of affordability.

<u>Page 8, Definitions: Developer Fee:</u>
Please consider removing relocation from exclusions when calculating developer fee. The relocation process is very labor intensive and requires robust coordination with management, construction and the Agency. We feel this results in legitimate project overhead for which there should be reasonable compensation.
Response-
The 2018 updates to Developer Fee represent significant changes to recognize the effort involved in applying for and executing LIHTC projects. DSHA understands the costs involved with relocation. However, developer fee calculation closely tracks eligible basis inclusions. Relocation costs are not an eligible basis item and can vary significantly and will not be included in the calculation for developer fee.

Page 24, Application Process: Waivers
Placing a hard cap on waivers (3) should only apply to 9% LIHTC applications. We feel that this cap does not adequately consider the differences in housing product (midrise vs. garden, etc.). For example, many older buildings in the Delaware affordable housing stock will require more than 3 waivers just to meet modern minimum design standards. We understand if this policy is used to maximize competitiveness in the 9% process, but it will have unintended consequences in the overall affordable housing portfolio where some properties cannot meet modern design standards without a negotiated scope of work.
We feel strongly that if a waiver request is being granted for a scoring category that the waiver be published prior to the submission deadline {15- day minimum) for the benefit of all applicants.
Response-
The 3 waiver threshold will only apply to 9% application. Waivers granted for scoring categories will result in consummate reduction in scoring as to maintain level criteria for all applications. Waiver requests and disposition will be published on DSHA's website at the time of preliminary ranking.

Page 34, Environmental Threshold: Wetland
Please clarify that the presence of Wetland on the site does not deem an application ineligible. The application is ineligible only if the proposed structure (building, road, parking, other structure) disrupts the wetland as determined by the various environmental reports.
Please confirm that a Wetland Delineation Report, prepared by a Certified Wetland Scientist, is an appropriate method for determining compliance. As an example, our project was penalized last year despite providing a third-party report demonstrating that the FEMA map provided in the Phase 1assessment was in error. The wetland onsite was created through the storm water runoff system installed with the original development. This category can unjustly disadvantage preservation projects.
Response-
Previously, presence of wetlands within the delineated distances on project site prevented any scoring consideration for the Protecting Environmental Resources category. Under the new changes, scoring for sites may still be considered so long as building on wetlands is avoided which is now a threshold issue. It is correct that application is ineligible only if the proposed building, structures, roads or other parking areas fail to avoid wetlands. DSHA will continue to use FEMA maps as the authority on the presence and boundary of wetlands.

Page 37, Development Characteristics: Preservation
Please consider adding a Preservation Factor providing sufficient scoring to projects that pay back legacy Housing Development Fund (HDF) dollars. We do not see meaningful incentive in this QAP to return Agency soft debt.
Response-
DSHA will add scoring consideration for applications that are able to pay back existing DSHA debt in full under the Preservation Category.

Page 41, Community Impact: Community Revitalization and DDD
Please edit the sentence, "Applicants demonstrating weak or merely tangential contribution to the CCRP may not receive the full 10 points" to "Applicants must demonstrate direct contribution as evidenced by page number and narrative correlation to receive 10 points. Weak or tangential correlation or contribution will receive no points." We feel the policy language in this ranking category offers significant subjectivity and should be clarified given the significant weight of this category.
Response-
DSHA will revise this category to remove the mentioned subjectivity. Applicants will not be eligible for any scoring if there is weak or tangential correlation to the revitalization plan.

Page 42, Site and Neighborhood Standards: Access to Transit
Please add sufficient ranking criteria for projects that have Existing Transit options. This will incentivize smart site selection.
Please consider maintaining the use of a radius versus a "right of way" to measure amenity distances. Right of way methodology in planning typically does not consider pedestrian walkways on private property such as a supermarket's sidewalks.
Response-
Existing transit is provided scoring consideration within the delineated distances. Distances along the right of way provides a more accurate measure of amenity accessibility. Measurements along pedestrian walkways is acceptable if appropriately demarcated by market study provider.

Page 44, Community Compatibility: Residential Appropriateness
Please clarify if each Residential Appropriateness bullet is worth (1) or more points. Please confirm that Preservation Projects will be eligible to receive points in the Residential Appropriateness category based on existing characteristics. Preservation is extremely disadvantaged in this category if features such as visibility or participation in civic associations "must be new."
Response-
Each bullet in residential appropriateness is eligible for 1 point. Preservation applications are eligible for this scoring. The new features limitation is in reference to design features. Existing design features will not receive scoring under Community Design. However, new, improved design features as part of a preservation application are eligible for consideration under Community Design.

Page 50, Leveraging
Please consider categorizing HOME funding the same way in Leveraging regardless of the originator of funds. While we applaud the effort to balance New Castle County with Kent and Sussex Counties in the calculation, we feel this category is still skewed to the advantage of NCC proposals.
Response-
DSHA controlled funds will not be included as leveraging.

Page 53, Readiness to Proceed
Please include additional language in section (A) b. to consider the requirements of the Section 106 process. Our suggested language would be: Local municipality design and/or site plan approvals including Section 106 clearance if applicable.
Response-
The addition of requiring Section 106 clearances at application is infeasible because the applicability of 106 requirements is frequently unknown at the time of application due to the triggering by federal funds, which are often yet-to-be committed. Further, DSHA does not control what is required by local design and site plan approvals.

NCALL's Comments on DSHA's 2018 draft LIHTC QAP

Unfortunately, I will not be able to be there on Monday. Maggie, Trish and I are going to a NeighborWorks Training Institute all next week. Therefore, I wanted to share NCALL's comments in writing with you. I hope that Phil will be able to attend the QAP hearing.

2018 draft QAP

Tax Credit Allocations and Pools page 21:

Thank you for clarifying that the highest ranking nonprofit application will first receive the requested amount of credits up what is needed to be feasible and that the remaining housing credits will then be divided equally between the New Housing Creation and Preservation/Rehabilitation pools. I believe this clearly states how the allocation process will occur. You may get push back from some of the for-profit sponsors/owners about this but by fully funding the highest ranking non-profit application, DSHA fulfills the requirement that 10% of the housing credits allocation is provided to a qualified nonprofit organization. It also ensures that an affordable housing project that is more likely to stay affordable for perpetuity is funded.

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Income targeting page 46: Good change to the draft but we still don't understand why DSHA eliminated the balanced weighted targeting approach for this category – what was the reasons for that?

Readiness to Proceed page 53:
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Other Scoring and Ranking criteria:

We still want to express our concern with:
Pg. 41 Promoting Balanced Housing Opportunities (0-15 points) – we understand that the points are proportional to the total of points as was in the QAP for 2017, but we still feel that 15 points is high in terms of points for this criteria as a project will either get points for this or not based on its location.

Pg. 51 New Rental Subsidies – Points should be provided for projects that bring new or have existing rental assistance. While not new, existing rental assistance is like gold and helps to ensure that very low-income households continue to be housed.

Underwriting Guidelines

We are very concerned with the following statements:

1. Replacement Reserves, page 6 of 15 -- that existing federally-financed or subsidized properties that have replacement reserve funds **must** use these funds for capital improvements. We would prefer that the decision to use replacement reserves for capital improvements or to keep the reserves in the

replacement account be an owner decision for the application or at least part of negotiations with DSHA. We feel it is prudent that some replacement reserve is left and applied towards the replacement reserve requirement. Wouldn't it be better to leave at least some of the replacement reserve balance in the replacement reserve account? There is often not enough replacement reserve with the way we are structuring affordable housing projects.

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Overall, we are still concerned about how rural projects vs suburban and urban projects will rank with the draft QAP ranking criteria.

Karen Speakman
Deputy Director
NCALL Research, Inc.
December 8, 2017

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December 11, 2017

Anas Ben Addi
Director
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18 The Green
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