LOW INCOME HOUSING TAX CREDIT (LIHTC) PROGRAM

2021-2022 Qualified Allocation Plan (QAP)
Public Hearing

Contents

NOTICE OF VIRTUAL PUBLIC HEARING

The Delaware State Housing Authority (DSHA) is in the process of finalizing the State of Delaware's 2021-2022 Low Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP). DSHA will hold a virtual public hearing to discuss the proposed QAP starting at 2:00 p.m. on Wednesday, December 16, 2020 – details below:

Please join my meeting from your computer, tablet or smartphone.
https://global.gotomeeting.com/join/587266533

You can also dial in using your phone.
United States (Toll Free): 1-877-568-4106
United States: 1-571-317-3129

Access Code: 587-266-533

Oral and written comments will be accepted until 4:30 p.m. on December 16, 2020. Written comments may be sent to DSHA, 18 The Green, Dover, DE 19901, Attn: Cindy Deakyne OR via e-mail to cindy@destatehousing.com. 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). Accommodations are available in reading this Notice for anyone with Disabilities by calling DSHA at 302-739-4263 or 888-363-8808. TTY/ ASCII/ VOICE/ VCO users may utilize the Telecommunications Relay Service (TRS) at 800-676-3777.

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 to cindy@destatehousing.com.

EQUAL HOUSING OPPORTUNITY

DSHA 2021 QAP Public Hearing Agenda

2021-2022 Low Income Housing Tax Credit (LIHTC)
Qualified Allocation Plan (QAP)
Virtual DSHA's Public Hearing
December 16, 2020

Agenda

1. Welcome and Opening Remarks
2. Discussion of 2021-2022 Draft QAP:
    - **Credits Available**: Estimate $2,866,671 for 2021
    - **Definitions, Threshold and Policy Changes**
        - Two Year QAP (Annual Allocations and Applications)
        - Updated State Strategies and Areas of Opportunities Maps
        - Resiliency
    - **Point Categories Modifications and Clarifications**
        - Removal of Section 811 Category
        - Amenities
        - Energy Conservation Measures
        - Management Performance
    - **Guidelines**
        - Underwriting
        - DSHA Funding Availability
        - Design and Construction/Rehabilitation Standards
        - National Housing Trust Fund
    - **Timetable**
3. Comments, Questions, Adjournment

PRELIMINARY 2021 DSHA LIHTC TIMELINE	
December 17, 2020	2021 QAP Public Hearing-held from 1:00-3:00 p.m. at the Department of Natural Resources and Environmental Control Auditorium
January, 2021	2021 QAP released
February 12, 2021	Deadline to apply to Delaware Transit Corporation for Access to Transit Certification
February 12, 2021	Deadline to request DelDOT technical assistance for Connectivity
March 5, 2021	Deadline for pre-inspection written notification if applying for 2021 Preservation/Rehabilitation/Conversion projects
March 5, 2021	Deadline for DSHA General Contractor approval and/or updates
March 31, 2021	Deadline for tax credit comparable rents, if seeking HDF funds
April 9, 2021	Deadline for all applicants to schedule site visit of development
April 30, 2021	**All LIHTC applications due to DSHA by 3:00 p.m.**
On or before July 9, 2021	Preliminary ranking notifications released
October 22, 2021	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 17, 2021	Deadline for pre-closing documents for HDF-financed projects
December 17, 2021	DSHA will execute carryover allocations for selected projects on or before this date

Minutes from the 2021 QAP Public Hearing @
Virtual @ 2:00 p.m. on December 17, 2020

Cindy Deakyne (DSHA) started the meeting at 2:05 p.m. by welcoming the attendees, going over opening remarks and proceeded to go through the agenda items and timeline one by one.

At 2:09 p.m. Cindy opened up the meeting for public comments. The comments were as follows:

Cindy Wasser (Home Innovation Research Labs) – Shared her support of the current green building and resilience strategies. The way that they are structured recognizes certain credits and practices that people would already be aware of because they're already doing selective green building, that's really smart – it's going to be really streamlined. For the users, it's going to take a lot of time and resource development off of your team's shoulders, that's a really great approach and winning strategy all the way around.

Cindy Deakyne (DSHA) – Thank you for your comments.

Susan Eliason (DSHA) – Does anyone have any last-minute comments they would like to make about the two-year QAP – the annual allocation cycle?

Tom Ayd (Green Street Housing) – I support it.

Cindy Deakyne (DSHA) – Thank you.

Sean Kelly (Leon N. Weiner & Associates) – Cindy, you mentioned the Section 811 and we understand that there's been a change in federal policy and the amount allocated at the state level. I would note that you have points in the QAP for existing operators of 811 that have been put in there. I think as a matter of policy, there's no way for other participants to gain capacity there if for some reason someone's management company chose not to pursue that in the last number of years that it was available. So, at a bare minimum, those points should be limited to one (1) application cycle and that entity should not repeatedly be able to come in and secure those points because that's just a strategic decision that certain management companies have made for whatever reason and now we don't have an ability to look back and change the course of what we've decided to do there.

I've made this comment before, and I will make it again, the way in which HOME is treated in the leveraging category downstate and in New Castle County, I just think there should be parity there. I firmly believe that DSHA is acting in their role as the housing authority when allocating HOME, rather than the housing finance agency if I can make that distinction. So, when you are being allocated HOME in New Castle County and it's being considered in your leveraging calculation, I don't think that should be looked at differently than how HOME is looked at when we're in Kent and Sussex. I do think it's prohibitive of downstate deals from scoring certain leveraging points. I'll put the rest in writing.

Cindy Deakyne (DSHA) – thank you. Well, I'm going to leave the meeting open for a few more minutes. Thank you for always participating in our QAP process. We consider all your comments and we will be presenting a final QAP after considering all the comments and any other changes we made later this month. Then we will be presenting it to the Governor for approval probably the first week of January. So, thank you again. You're welcome to leave the meeting, but I will be here for a few more minutes to take any other comments.

The Public Hearing was adjourned at 2:30 p.m.

Respectfully submitted,

Mabel Jean Hayes
Administrative Specialist II

DSHA 2021-2022 QAP Responses to Comments Received

Development Team

Comments

Threshold: Development Team (f - IOI) – The 10% test requirement was agreed upon after a lot of conversations with the development community. This should not be removed.

Response

For clarification purposes, this threshold requirement is only for developers that have not closed their first LIHTC project in Delaware. The change should have no material effect on the development community, and the change will remain as written.

Developer Fee

Comments

Please remove "assumed DSHA debt" from the calculation for developer fee, we feel it is particularly detrimental to 4% Tax Exempt bond transactions as it artificially limits eligible tax credit basis.

Response

Most developments that apply for LIHTC typically qualify DSHA's maximum developer fee cap even if assumed debt is not included. However, DSHA is reviewing the developer fee definition and will consider many recommendations to simplify the definition particularly for 4% tax exempt bond projects.

Development Consultant

Comments

The addition of the RAD Consultant as an eligible expense in Eligible Basis and TDC is welcome but begs the question why the Development Consultant cannot also be paid in the same manner? NCALL is requesting that the same consideration be extended for the Development Consultant who can be at risk of losing part or all of their share of the Developer's Fee in the tax credit process. Both entities may be needed for a RAD Conversion and the disparity is quite concerning.

Response

We have clarified the definition of Consultant as Development Consultant. Development Consultants are part of the development team and the entire development process. The fees paid to these Development Consultants has historically been tied to the developer fee earned. Development Consultants are also included in the experience ranking points. RAD and Historic Consultants are temporary and have short term roles.

HOME Funds

Comments

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 does not allocate its HOME funds in a manner similar to other jurisdictions. HOME funds are not awarded at the time of application, so there is no reduction to the HDF request that is at the heart of the leveraging calculation. HOME funds, and to some extent HTF awards, are used to substitute for the HDF request, so there is no change to the total amount of funding received from DSHA. Also, HOME and HTF awards are often made after preliminary awards have been made as the underwriting proceeds.

Eligible Basis Limitations

Comments

The impact of the Eligible Basis Limitations on various types of projects
over the years and have found that the "lessor of" criteria using the Section 234 limit from HUD for the maximum amount of credits creates an undue hardship for small rehab projects that are located in areas that do not benefit from a 130% basis boost. This has rendered some projects infeasible that would have otherwise been feasible.

We recommend a change to the definition as follows:

Eligible Basis Limitations

"…A project whose total eligible basis exceeds the above limit may participate in the program; however, the maximum amount of credits allocated to a development is limited to the lesser of permitted eligible basis or the eligible basis limit.

A Project that meets all of the following criteria will be eligible to receive a 120% increase to the Eligible Basis Limits for the determination of the maximum amount of credits: (a) is eligible to compete in the Preservation/Rehabilitation Pool, (b) meets the definition of Substantial Rehabilitation, (c) is not eligible to receive a State Basis Boost at the time of application and (d) is not located in Qualified Census Tract or Difficult to Develop Area…"

Response

We have made an update to this threshold:

9% LIHTC projects that meet **all** the following conditions will be subject to a total eligible basis cap of the lesser of 115% of the Section 234 Basic Mortgage Limits or the amount of actual eligible basis:

- Project competes in the Preservation/Rehabilitation pool;
- Project meets the definition of Substantial Rehabilitation;
- Project is not located in a QCT or a DDA and is not otherwise automatically eligible for the 130% basis boost;

- Project contains 40 units or less, including any newly constructed units included in the overall development proposal; and
- No more than 15% of the existing units may be reconfigured to increase the bedroom count within the unit.

4% Tax Exempt Bond deals will be subject to a total eligible basis cap of the lesser of 200% of the Section 234 Basic Mortgage Limits or the amount of actual eligible basis.

All caps are subject to final subsidy layering review and DSHA reserves the right to reduce the allocation of credits to any project that is in excess of the amount required to provide the proposed affordable housing.

Provision of Social Services

Comment

Please consider offering an increased scale of Social Service points for Rural areas of the State given the distances between communities and service providers. We would suggest 3/4/6 points for 1/2/3 qualifying Services. Rural designation should be made by using USDA RD Property Eligibility Maps for Multifamily Housing ***https://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=mfhc***

Based on the distribution of affordable housing across the counties, please consider offering an increased scale of social services points for Sussex County given the distance in between service providers and the affordable communities.

Response

We recognize that Sussex County is at a disadvantage for the distance to various services. However, based on our previous applicant awards in Sussex County, there are many service providers that will provide services on-site at our affordable housing properties, many times for free. At this time, we do not have enough data to support a different scale for Sussex County.

Energy Conservation Measures

Comments

On behalf of Home Innovation Research Labs, I commend DSHA on continuing to include third-party green buildings certifications within the Delaware QAP. Comprehensive green building programs support true housing affordability and ensure that funded buildings are designed to support the comfort and health of residents. The green rating systems recognized for three base points – Enterprise Green Communities, the National Green Building Standard (NGBS), and LEED – are all credible ratings systems that are comparable in terms of comprehensiveness and rigor. We support recognizing these programs for three points each.

We support DSHA’s approach to building resilience. By recognizing the resilience practices included within the third-party green rating systems, DSHA can achieve resiliency goals with limited investment of staff time. HFA staff are also supplemented by the technical support teams of the green building programs for technical assistance and interpretations. Funding applicants are directed to the green building rating systems with which they are already familiar and are supported by the local green verifiers that understand the critical threats in the areas where they work.

Please clarify the expectations for the NGBS option for resilience points. The NGBS Resilient Construction practice (613) includes several sub-items that are mutually-exclusive. I suggest clarifying the specific sub-item / percent above IBC/IRC structural requirements that must be achieved for the three threshold points.

Response

DSHA will update and clarify with any new requirements or definitions.

Promoting Balanced Areas of Opportunity / Distressed

Comments

Please incorporate into the Area of Opportunity definition and Balanced Housing Maps “Central Business Districts” that **COULD** qualify as “Downtown Development Districts” per the Office of State Planning Coordination definition. These geographies align with DSHA’s definition of Area of Opportunity and should be considered regardless of the status of the Application for Designation or other local factors. Examples would include: Main Street Newark, Delaware Corridor

Response

DSHA recognizes developments in areas of opportunities presently have unique challenges (higher costs, land use issues, community opposition), and we are incentivizing properties that can overcome those barriers. In addition, the most recent Analysis of Impediments has indicated that there needs to be more importance given for providing new affordable housing families in these opportunities’ areas.

Properties cannot be both an area of opportunity and in a CCRP and QCT. However, there are scoring opportunities for both types of projects.

However, we do agree that Central Business Districts can play an important role in projects in the neighborhood. We have added Central Business Districts to the Sites and Neighborhood amenities category and increased the scoring category.

Sites and Neighborhood Standards

Comments

Rural and Unincorporated areas of the State should receive 2-mile radius allowance. 1.5x does not provide parity in Kent and Sussex when compared to New Castle County.

Response

While we recognize that rural and incorporated areas have fewer amenities close to many developments, we are incentivizing applications that have amenities that are as walkable as possible. We have made considerations for scoring for Kent and Sussex.

Section 811 Participation

Comment

We understand a change in federal policy and the amount allocated at the amount allocated at the state level. I would note that you have points in the QAP for current operators of the 811. As a matter of policy, there is no way for other participants to gain capacity if other management agents did not choose to participate in the Section 811 program. At a bare minimum, those points should be limited to one application cycle and not allow other entities to make those points year after year.

Response

In the 2021-2022 QAP, DSHA added 5 points to the Management Experience for performance of any Target Unit or Section 811 units that were required. In the 2021-2022 QAP, DSHA kept these points but moved them under the Section 811 Target Unit Category. Therefore, the points are still attainable for all applicants that have received an allocation since 2014. The point category weighs target units and/or 811 units evenly.

DSHA LIHTC QAP Public Comment Form

Please submit one (1) Comment Form for <u>each</u> Comment, via email, to comdev@destatehousing.com
****Please submit this document in Word format. Do not exceed this one page.***

Comment Information (Required)

Application/Development Name: **Various**

Commenter Information (Required)

Entity: LNWA
Name: Sean Kelly
Email:skelly@lnwa.com
Date:12/16/2020

Comment Information (Required)

Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item:
☒Other: Definitions

Comment Explanation

Do not exceed the space below:

- **Pages 9 and 48- Area of Opportunity** Please incorporate into the Area of Opportunity definition and Balanced Housing Maps “Central Business Districts” that **COULD** qualify as “Downtown Development Districts” per the Office of State Planning Coordination definition. These geographies align with DSHA’s definition of Area of Opportunity and should be considered regardless of the status of the Application for Designation or other local factors. The statute and guidelines are available here: https://stateplanning.delaware.gov/ddd/documents/ddd-review-guidelines.pdf
- Examples would include: Main Street Newark, Delaware Corridor

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Comment Information (Required)

Application/Development Name: **Various**

Commenter Information (Required)

Entity: LNWA
Name: Sean Kelly
Email:skelly@lnwa.com
Date:12/16/2020

Comment Information (Required)

Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other: Definitions

Comment Explanation

Do not exceed the space below:

- QAP Guidelines: ***Developer Fee***: Please remove “assumed DSHA debt” from the calculation for developer fee, we feel it is particularly detrimental to 4% TEB transactions as it artificially limits eligible tax credit basis.

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- ***Scoring and Ranking*: Provision of Social Services:** Please consider offering an increased scale of Social Service points for Rural areas of the State given the distances between communities and service providers. We would suggest 3/4/6 points for 1/2/3 qualifying Services.
  Rural designation should be made by using USDA RD Property Eligibility Maps for Multifamily Housing ***https://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=mfhc***

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☒Points Item:
☐Other: Definitions

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Do not exceed the space below:

- ***Scoring and Ranking*: Amenities:**

  Rural and Unincorporated areas of the State should receive 2 mile radius allowance. 1.5x does not provide parity in Kent and Sussex when compared to New Castle County.

z

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****Please submit this document in Word format. Do not exceed this one page.***

Comment Information (Required)

Application/Development Name: **Generally Applicable to all Projects**

Commenter Information (Required)

Entity: **Green Street Housing, LLC**
Name: Tom Ayd
Email: **tom@greenstreethousing.com**
Date: **12/16/20**

Comment Information (Required)

Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

Comment Explanation
Do not exceed the space below:

I have reviewed the impact of the Eligible Basis Limitations on various types of projects over the years and have found that the "lessor of" criteria using the Section 234 limit from HUD for the maximum amount of credits creates an undue hardship for small rehab projects that are located in areas that do not benefit from a 130% basis boost. This has rendered some projects infeasible that would have otherwise been feasible.
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Comment Information (Required)

Application/Development Name:

Commenter Information (Required)

Entity: NCALL
Name: Trish Kelleher
Email:pkelleher2ncall.org
Date:
12/16/2020

Comment Information (Required)

Define Comment **Please define the comment*

☒Threshold Item:
☐Points Item:
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Comment Information (Required)

Application/Development Name: **Various**

Commenter Information (Required)

Entity: **Milford Housing Development Corporation**
Name: **Christina Stanley**
Email: **cstanley@milfordhousing.com**
Date: **12/16/2020**

Comment Information (Required)

Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other: Definitions

Comment Explanation

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☐Other:

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- ***Scoring and Ranking*: Provision of Social Services:** Please consider offering an increased scale of Social Service points for Rural areas of the State given the distances between communities and service providers.

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☒Points Item:
☐Other:

Comment Explanation
Do not exceed the space below:

- ***Scoring and Ranking*: Amenities:** Rural and Unincorporated areas of the State should receive a 2 mile radius allowance in lieu of the 1.5X noted.

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☐Points Item:
☐Other:

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Comment Information (Required)

Application/Development Name: **N/A**

Commenter Information (Required)

Entity: **Home Innovation Research Labs**
Name: **Cindy Wasser**
Email: **cwasser@homeinnovation.com**
Date: **12/16/2020**

Comment Information (Required)

Define Comment **Please define the comment*

☒Threshold Item: Energy Conservation Measures (pg 47-48)
☒Points Item: Energy Conservation Measures (pg 47-48)
☐Other:

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