# LOW INCOME HOUSING TAX CREDIT (LIHTC) PROGRAM

## 2023-2024 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 2023-2024 Low Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP). DSHA will hold a virtual public hearing to discuss the proposed QAP starting at 10:00 a.m. on Monday, December 12, 2022 – details below:

**Please join the meeting from your computer, tablet or smartphone.**
https://destatehousing.webex.com/destatehousing/j.php?MTID=m7ab32d36da4ef9c5f358e2f453aded1f

**You can also dial in using your phone.**
+1-415-655-0001 US Toll Free

**Access code: 233 708 89333**

Oral and written comments will be accepted until 4:30 p.m. on December 12, 2022. Written comments may be sent to DSHA, 18 The Green, Dover, DE 19901, Attn: Tara Rogers OR via e-mail to tara@destatehousing.com. Written comments must be submitted utilizing the public comment form at the following link: http://destatehousing.com/Developers/lihtc/2023/qap_public_comment_form.docx 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 Tara Rogers, Housing Program Specialist by phone at 302-739-4263, or 888-363-8808 or via e-mail to tara@destatehousing.com.

EQUAL HOUSING OPPORTUNITY

## DSHA 2023-2024 QAP Public Hearing Agenda

2023-2024 Low Income Housing Tax Credit (LIHTC)
Qualified Allocation Plan (QAP)
**Virtual** DSHA's Public Hearing
December 12, 2022
**Agenda**

1. Welcome and Opening Remarks
2. Discussion of 2023-2024 Draft QAP:
    - **Credits Available**: Estimate $2,975,000 for 2023
    - **Definitions, Threshold and Policy Changes**
        - Two Year QAP (Annual Allocations and Applications)
        - Updated Areas of Opportunities Maps
        - DDDS
        - HOME ARP
        - Preservation
        - Tax-Exempt Bonds
        - Mandatory 30-year Compliance Period
        - Development Team
    - **Point Categories Modifications and Clarifications**
        - Increase in Extended Use Period
        - Preservation
        - Energy Conservation Measures
        - Community Revitalization, Opportunity Zones, and Downtown Development Districts

- Access to Transit
  - Serving Lower Income Residents
  - Integrated Housing for Special Populations and Permanent Supportive Housing
  - Cost Balance
  - Minority-Owned/Women-Owned/Veteran-Owned/Service Disabled Veteran/Individuals with Disabilities -Owned Businesses
  - Management Team Performance and Social Services

- **Guidelines**
  - Underwriting
    - Developer Fee
  - DSHA Funding Availability
  - Design and Construction/Rehabilitation Standards
  - National Housing Trust Fund, HOME ARP and SEU Funding

- **Timetable**

3. Comments, Questions, Adjournment

| PRELIMINARY 2023 DSHA LIHTC TIMELINE | |
|---|---|
| December 12, 2022 | 2023-2024 QAP Public Hearing- held virtually at 10:00 a.m. |
| January 2023 | 2023-2024 QAP released |
| February 10, 2023 | Deadline to apply to Delaware Transit Corporation for Access to Transit Certification |
| February 10, 2023 | Deadline to request DelDOT technical assistance for Connectivity |
| March 3, 2023 | Deadline for pre-inspection written notification if applying for 2023 Preservation/Rehabilitation/Conversion projects |
| March 10, 2023 | Deadline for DSHA General Contractor approval and/or updates |
| March 31, 2023 | Deadline for tax credit comparable rents, if seeking HDF funds |
| April 7, 2023 | Deadline for all applicants to schedule site visit of development |
| **April 28, 2023** | **All LIHTC applications due to DSHA by 3:00 p.m.** |
| On or before July 7, 2023 | Preliminary ranking notifications released |
| October 27, 2023 | Commitments for all financing must be submitted to DSHA<br>*DSHA will make tax credit allocations for selected projects 30-60 days after financing commitments are received* |
| December 15, 2023 | Deadline for pre-closing documents for DSHA-financed projects |
| December 15, 2023 | DSHA will execute carryover allocations for selected projects on or before this date |

## Minutes from the 2023-2024 QAP Public Hearing @ Virtual @ 10:00 a.m. on December 12, 2022

**DSHA 2023-2024 QAP Public Hearing Transcript**

## Minutes from the 2023-2024 QAP Public Hearing @ Virtual @ 10:00 a.m. on December 12, 2022

Cindy Deakyne (DSHA) started the meeting at 10:01a.m. by welcoming the attendees, introduced Stephanie Griffin, Director of Housing Development, Rachael Preston, Housing Development Administrator, and Tara Rogers, who is taking over the tax credit program. Cindy then introduced Director Eugene Young who welcomed all and was glad to be with you all. Mr. Young thanked everyone for all of the questions, comments and thoughts received regarding the QAP Draft. He also encouraged everyone to continue to engage with DSHA on what we can to do better and stressed the need for more affordable housing. Mr. Young's and DSHA's main goal is to have more affordable units throughout the state. We will get back to you as quickly as we can with the final plan. Cindy reminded everyone to put their names and contact information in the chat and proceeded to go through the agenda items and timeline one by one.

At 10:28 a.m. Tara Rogers opened up the meeting for public comments. The comments were as follows:

Ben VanCourvering, (HDC MidAtlantic) – Can you tell me the payment standards for the new PSH units.

Cindy Deakyne (DSHA) – We should have that information for you after the Final and we will send out with a list serve.

Susan Kent – (Better Homes of Seaford) – On that same vein, is an opportunity to take the referrals for the regular special populations or the PSH or do you have to choose one or the other?

Cindy Deakyne (DSHA) – asked Susan to repeat her question. You cannot do both the way it is written. You must choose between one or the other (PSH or Special Populations).

Grant Seafross (Severn Development) – The Director's main objective is for more units. I think it would be helpful that the limit of 2 allocations per Developer. I know there is only a handful of developers that work in Delaware compared to much larger states. I think maybe to limit to 2 - 9% allocations and maybe allowing two or more 4% allocations something like that would be really be helpful for giving Developers the ability to have more projects going and not take away from the 9% pool.

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

Ryan Bailey (PennRose) – I agree with the last comment if the goal is to create more housing. We have a situation because of the current QAP stands, we are going to finish up Phase II and not be able to break ground for at least another year. We also going after a CNI Grant and we won't be able to finish the overall project in 8 years which we would forfeit $50MM in federal funding so we would like someone to look at this rule too.

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

Sean Kelly (LNW&A) – We absolutely agree with the previous comments. One of the Directors goals when we gathered a few months ago we looked at ways of increasing units on line with the utilization of the 4% credit and we should look at an avenue to do that and we should strike that from the draft. We also wanted to the overarching language changed for Preservation at risk of losing affordability in the next five years. For most tax credit projects put them at year 25. That essentially looking at the life expectancy chart it puts the project at obsolescence. We would like to see the five-year re-considered.

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

Ben - Regarding the definitions of MBE/WBE/VBE/DBE, I think you should consider alternative certifications. We have situations we are considered a MBE/WBE through board composition, as a non-profit, but not through the small business administration. I think you should expand qualifications through self-certification or an affidavit or find some alternative means in defining that, it would expand inclusion of other types of MBE/WBE.

Cindy Deakyne (DSHA) – Thank you for your comment. We have received a lot of written comments, so this is a reminder if you don't feel comfortable in this setting, to place your written comments on our public form and send it into Tara Rogers at Tara@destatehousing.com by 4:30 today.

Larry DiSabatino (DiSabatino Construction)- on the diversity topics, it only list as a few subcontractors such as security. I would ask if it only says such as, how are the list of subcontractors be determined.

Cindy Deakyne (DSHA) - Do you mean listed with Office of Supplier Diversity?

Larry Disabatino (Disabatino Construction)- Restate any subcontractor that is a diversified contractor can they gain a point, how to clarify which subcontractors. Which means they have to be pre-contracted which you really can't do at application.

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

Sean Kelly (LNW&A) – I am on the DSHA website right now and having trouble finding the MVA for 2020. I cannot locate this document. It does drive the balanced housing opportunities of the map. We are seeing more hyper specificity in the maps that previous years. We would like access to that data. The city of Wilmington have micro areas that were not there before so we would like to see that data linked in the QAP.

Cindy Deakyne (DSHA) – Thank you for your comment. Just a reminder, please send your written comment by 4:30 today, you still have time. We will give you a few more minutes, feel free if you want to leave, but Tara and I will stay here if you have more comments. We will take all comments in consideration for the Governor's approval and post early January or sooner and we will update the pro forma's and send you a list serve when they are posted.

Grant Seafross (Severn) – The only other comment I have is the Section 234 Eligible Basis limitations, my fear is that with construction costs increasing and HUD one -two years behind in data analysis, it could get to a scenario where it is limiting for the credit ask in a way that could be destructive to small projects. There are ways to get around this and again I don't have a solution, but I think it's worth does this still makes sense and cut a credit amount based on an arbitrary number from HUD. The other question is if its verbal comments or put in writing.

Cindy Deakyne (DSHA) – all oral/verbal comments today are part of the public comments. If you want to put in writing or clarify your comment that is fine too. Anything said today is considered a public comment.

Phil Hoffert (Neighborgood Partners) – The only question I have is related to the Balanced Housing Opportunities. Anything, not in stable or any area of opportunity is not eligible?

Cindy Deakyne (DSHA) – Any project located in Stable, Area of Opportunity, or Distressed is eligible. Preservation projects in Saturated Distressed Areas are eligible to apply as well as tax credit projects that are in Saturated Distressed Areas that do not need DSHA funding can apply.

Phil Hoffert (Neighborgood Partners) – Can you tie areas of opportunities to access to transit?

Cindy Deakyne (DSHA) – asked Phill Hoffert to send in a written comment for clarification.

There was discussion on DSHA's map between Ryan Bailey and Sean Kelly and how to view the map by choosing the map viewer to find the Saturated Distressed Areas.

Sean Kelly (LNW&A) – Can I ask a question on school proficiencies scores. Are these just public school scores.

Cindy Deakyne (DSHA) – I will have to get back with you Sean. I believe it is public school. Are there any other oral comments? You have until 4:30 today to make any public comments on our public form and send to Tara Rogers at tara@destatehousing.com.

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. Please know that we will be posting all written and verbal comments to the website. 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 10:52 a.m.

Respectfully submitted,

Cynthia Deakyne
Housing Program Specialist

# DSHA 2023-2024 QAP Responses to Comments Received

## Preservation Definition

*Comments*

We request the removal of Eligibility provisions in the draft 2023-2024 QAP which place a timeframe, specifically "*within the next five (5) years*" on the ability to make application in the Preservation/Rehabilitation pool. The physical needs of a property are documented through a rigorous process with 3rd party professionals and follow the DSHA designed Life Expectancy chart found in the QAP Guidelines. Adding a blanket 5-year timing requirement conflicts with the physical needs of the existing inventory as evidenced in the Life Expectancy chart, as we believe most projects that have been previously financed with tax credits will be prohibited from competing until they reach Year 25 in extended use, well beyond the useful life of most property infrastructure. We are also concerned about unforeseen consequences of this policy in a rising interest rate environment, with many Permanent loans for affordable housing structured to run for a 15-18 year term and may be without a re-syndication option at that time.

Please remove all language referencing "within the next five (5) years" and "the project has not been syndicated with tax credits" in Threshold requirements as DSHA is already prioritizing aging preservation projects in the scoring on page 43 by removing the long-standing PIS date scoring.

*Response*

DSHA is prioritizing Preservation projects for the 9% tax credit application that have not been syndicated. In addition, DSHA is prioritizing Preservation projects that have previously received an allocation (re-syndication) for tax-exempt bonds. DSHA will clarify that all re-syndication Preservation projects only have to complete the initial 15-year compliance period to apply for the 4% tax-exempt bond program and DSHA funding.

## Development Team

*Comments*

We propose to eliminate completely the restriction on two active LIHTC deals. No other state has these restrictions on affordable housing creation. Use your developer and readiness scoring criteria to vet the feasibility of deals instead.

A possible compromise could be – keep the restriction to two or more Delaware LIHTC projects that have not achieved financial closing and 4% applications are excluded from this requirement.

To increase 4% tax-exempt bond production, limiting the number of 4% projects a developer is allowed, does not go along with the Director's mission to create new units.

Our ownership entity includes three Managing Members, one of whom, also owns and continues to develop new affordable housing in Delaware. Under the proposed QAP, we would be ineligible to apply for 4% credits to finance our project due to the extensive development activities of one of the partners.

*Response*

The current capacity of all Developers working in Delaware, including their Development Team members, have proven that projects are not able to proceed in the two-year time limit. In the last three years, Developers have had to return their credits for a new timeline. DSHA will leave the definition as written.

## Developer Fee

*Comments*

Increasing the developer fee is a great way to create another source of funding – with the cash flow and deferred fees - that can fill financial gaps in projects, which is always useful, but has proven to be critical over the past two (2) years. This update to maximum developer fees for tax-exempt bond financed projects could increase the amount of financially feasible projects, particularly acquisition/rehabilitation projects, but would require a tweak to other requirements to be effectively utilized (assuming a project is using DSHA financing).

If a project is a tax-exempt bond and DSHA-financed development, it will not be possible for a project to repay its cash flow fee (minimum 50%) and any additional deferred fee (up to 50% of the balance) over 15 years, with an up to 2% or $75,000 limitation. It would have to reduce its developer fee below what it would otherwise be eligible for (reducing tax credit basis, too). If equity distribution requirements were revised to allow for **2.5% or $150,000** each year, **until the time the cash flow fee has been repaid (at which point the guideline could remain the same or be modified down)**, this update to the QAP will be able to realize its potential (with more financially feasible tax-exempt bond and DSHA-financed projects) by creating an effective gap filling source of funding that also further incentivizes developers to pursue LIHTC projects.

On the proposed requirement for 4% Tax-Exempt Bond projects that 50% of developer fee must be deferred, this significantly reduces the incentive to consider 4% credits. The proposed developer fee limited is increasing but without a corresponding increase in the % developer fee calculation, a project is generating the same fee as before but with 20-30% less non-deferred fee. Further, a large deferred fee leads to conflating developer fee and the owner's ongoing annual incentive management fee long into the initial compliance period. This proposed change sharply reduces the incentive to complete a project and the incentive to maintain ownership of a project. A 25% deferred fee threshold for bond deals would sufficient if DSHA wants to ensure the developer has a stake in the ongoing operations to pay off a significant deferred fee.

We suggest eliminating the hard dollar caps on developer fees for all 4% developments and suggest raising the developer fee percentage limitation from 15% to 18 to 20%. We further suggest that for properties where there is an identity of interest to use this same methodology but limit the fee on acquisition costs to 15%. We recommend retaining the current policies on deferred developer fee.

*Response*

DSHA has made an update to the Tax-Exempt Developer Fee equity distribution as follows:

DSHA will permit an equity distribution of 2% up to a cap of $200,000 for 10 years or until such time as the required cash flow fee is repaid per projections of the construction closing pro forma, whichever is less (defined as the Cash Flow Fee Repayment Period). Upon such time as the Cash Flow Fee Repayment Period ends, the equity distribution will remain capped at the lesser of 2% or $200,000 but will be split 50% to the development, 50% to DSHA to repay deferred debt. Cumulative distribution will not be permitted.

## Eligible Basis Limitations

*Comments*

Eliminate the 234 Basic Limits for small projects.  It limits the amount of credits allowed to request and it is a concern for smaller projects.

*Response*

DSHA will continue to provide flexibility for small projects as applicable and in accordance with the current 234 Basic Limits for all projects.

## Balanced Areas of Opportunity / Highly Distressed

*Comments*

Good intended policies can work against the end goal of building inventory. We do not believe the location should solely determine if a location for a project should be a disqualifier. We believe consideration for all projects, no matter the location, should meet threshold and be considered for all the merits of the project, not just if the location fits the preferred criteria. Projects in Saturated Distressed Areas should be allowed to apply for DSHA funding.

Regarding the balanced housing category, one difficulty with developing in many of the areas of opportunity in addition to land costs and reluctance of community support, is that often these areas are relatively isolated further from city or municipal centers where public transportation is more available. Lower income residents may benefit from increased access to public transportation.

This raises the possibility of making the transportation point category in projects in areas identified as priorities for new development, (areas of opportunity and/or stability) so there are increased transit points available. In other words, if a new project is located in an area of opportunity or stability it could qualify for additional priority transit points if new transportation options are brought to the area that can be utilized by residents.

Is the data used for the area of opportunity maps school proficiency, only public school data.

*Response*

DSHA has added highly distressed areas that have a disproportionate share of affordable housing. New affordable housing that would further highly concentrated areas of poverty and exacerbate racial inequities should be discouraged. Instead investment should focus on stabilizing neighborhoods.

Preservation applicants and Tax Credit Applicants that do not need DSHA funding still may apply.

DSHA is prioritizing areas of opportunity throughout the QAP. These areas do not have any affordable housing and tend to have much higher land costs. This change will assist projects in areas of opportunity to compete. In addition, these areas do tend to have access to transit and high performing schools.

**Energy Conservation Measures**

*Comments*

1) We support the proposed increase from 8 to 10 points in this category – providing developers the opportunity to increase the competitiveness of their project through enhanced energy conservation, green building performance and resiliency supports responsible stewardship of this public investment by producing projects that are efficient, durable, resilient and healthy – providing maximum value for investment.
2) We encourage you to consider adding Green Communities Certification Plus as an option for obtaining the Intermediate TWO Additional Points for New Construction, in addition to Passive House certification and DOE Zero Energy Ready Home. Green Communities Plus is new for the 2020 version, an elite designation for projects moving toward (net zero ready) or achieving zero-energy homes. These projects meet the 2020 certification requirements, comply with Criterion 5.2b Moving to Zero Energy: Near Zero Certification or Criterion 5.4 Achieving Zero Energy, AND must certify to PHIUS or ZERH. Adding Plus synergizes with the existing QAP structure and offers developers an additional option.
3) Exhibit 32: Thank you for updating to 2020 Enterprise Green Communities. We encourage you to add Enterprise Green Communities Plus to "B. Adv Energy Measures' for New Construction as described above. Note that in 'C. Additional Resiliency Credits', there is an '8' in front of 5.9 and 5.10 that should be removed to eliminate confusion.

USGBC applauds the DSHA for including competitive points for projects that achieve the Passive House or DOE Zero Energy Ready Home standards. These two standards signify extremely high-performance homes, which is critical if we are to meet our decarbonization goals. To give developers more choice, and to incentivize the development of properties that go beyond just net zero energy, we respectfully respect that DSHA also include competitive points for LEED Zero. LEED Zero is a complement to LEED that verifies the achievement of net zero carbon, energy, waste, and/or water in buildings. By doing so, DSHA would join states like Michigan and Illinois, who also offer competitive points for projects that achieve LEED Zero. While we acknowledge that DSHA, like many state housing finance agencies, wants to minimize up-front development costs associated with low-income housing credits, the cost savings associated with net-zero buildings means quick payback periods. Consider Discovery Elementary, a public school in Virginia that earned LEED Zero Energy certification, which reports annual utility cost savings of $117,000 compared to a typical elementary school of the same size in the same school district. Thank you for your continued commitment to transparency in the annual QAP process, and the opportunity to provide comments on the 2023 draft QAP.

*Response*

We will continue to research additional energy measures and will consider updating our policy in the next QAP.

## Sites and Neighborhood Standards

*Comments*

Charter Schools open to the public should qualify for points.

Eliminate negative scoring or decrease distances for urban developments.

*Response*

Charter Schools are considered public schools and should not be differentiated for tax credits projects.

The sites and neighborhood standards capture many positive amenities and balances less positive like prisons and landfills so that all properties no matter where their location may score in this category.

## Minority-Owned/Women-Owned/Veteran-Owned/Service Disabled Veterans Owned/Individuals with Disabilities-Owned Business

*Comments*

In an effort to expand the pool of participation in the MBE/WBE owned business, we suggest setting points for participation based on percentage of total development cost. We believe this allows for multiple MBE/WBE owned businesses to be involved in a development project.

There are many non-profit organizations involved in LIHTC projects in Delaware. How will non-profit organizations be qualified for the minority-, women-, veteran-, service-disabled veteran, and individuals with disability- owned business participation points? Will the makeup of their boards of directors qualify them for the available points if they are 51% or greater made up of these individuals?

REACH respectfully requests increasing points for this section from five (5) to seven (7) to intentionally enhance the operational capacity of these targeted enterprises through the use of LIHTC funding development opportunities.

Several commenters suggested more subjective criteria or scoring similar to other states (i.e. DSHA certifications or points based on percentage of total development costs).

We propose that management companies be able to score in this category.

*Response*

DSHA will clarify with the Division of Office Supplier Diversity the percentage of ownership.

DSHA will further clarify which Development Team members are eligible for points in this category. DSHA has also updated the points so that 5 points will be awarded for the Development Entity/Developer/Applicant with a MBE/WBE/VBE business enterprise majority ownership stake and will provide 1 point for all other team members defined in the QAP in this section.

Non-profit boards will not qualify for this category.

## CCRP, QCT, DDD and OZ

*Comments*

Equalize the point scaling for CCRP, QCT, OZ locations to 15 (set as the same point level as Areas of Opportunity)

*Response*

The IRS requires all Allocation Agencies to give some type of importance to QCTs. However, DSHA also recognizes that QCTs may have a concentration of poverty which exacerbates racial and economic inequities.

DSHA is prioritizing areas of opportunity throughout the QAP. These areas do not have any affordable housing and tend to have much higher land costs. This change will assist projects in areas of opportunity to compete. In addition, these areas do tend to have access to transit and high performing schools.

## DSHA Funding Supplement

*Comments*

Under the 2023 DSHA Loan Limits table in the Guidelines, it indicates all existing debt must be paid off at construction close and new DSHA loans will be issued. Is this the same thing as assuming or rolling over existing debt on acquisition/rehab deals? If it's considered paid off instead of assumed, can it be included in the developer fee calculation?

Can the QAP or Guidelines clarify that the $3.5M debt limit per project includes a single phase of an existing project proposing re-syndication, i.e. for the rehab of Woodland I & II, they'll be consolidated into one project so the total DSHA debt limit should be the lesser of $70,000/unit or $3.5M per existing project.

*Response*

DSHA has clarified the fund limits to $60,000 per unit up to $3.5MM unless projects that have opted for PSH units, they are eligible for $70,000 per units up to $3.5MM. For tax-exempt bond projects, the limit is $70,000 per unit up to $3.5MM per application.

## Permanent Supportive Houisng

*Comments*

Are we able to request PSH units and the Integrated Special Population Units on one application?

Will DSHA provide the payment standard for the PSH units?

*Response*

Applicants must choose for threshold and points either PSH or our current Integrated Special Populations, they cannot combine populations.

DSHA will provide the payment standards amount when the QAP goes Final.

## Design and Construction Standards

*Comments*

A. i. "Electronic door openers must be installed for all public access points, including internal and external doors." We suggest electronic door openers be required at all "**primary"** public access points. Other entry points around a building may have stairs/steps leading to them and would not benefit the residents.

The 2023 General Contractor certification and questionnaire in section A(a) lists 7% as the maximum for general conditions which has been raised to 10% elsewhere in various documents. Please confirm the maximum allowable general conditions and revise this document (or the others) to be consistent.

The 2023 QAP mentions that DSHA may require three bids if a general contractor self-performs trade work in several places. Please clarify that this requirement may only apply if the General Contractor was selected at application. For competitively bid projects, general contractors may not receive other trade contractor bids in a trade category that they may perform and requiring these other trade bids retroactively is unreasonable and contradicts the bid practices of the industry.

There are several links to the Cost Cert Guide that link to a previous year.

*Response*

DSHA will clarify that electronic door openers must be installed for all accessible public access points, including internal and external doors. Additionally, ALL public areas must be fully ADA accessible.

We will update all links and make consistent all documents as applicable.

## Extended Use Category

*Comments*

We understand the scoring beyond the initial 30-year extended use period, but why remove the DSHA right to allow a re-syndication for substantial rehabilitation within the 30-year extended use period? If it is in the best interest of the residents and the building to do a renovation before 30 years, shouldn't DSHA be able to acknowledge that and allow the re-syndication to take place?

*Response*

It is DSHA's experience with our loan portfolio that additional extended use periods would be beneficial to modifying loans as well as extending the affordability of the project.

## Development and Unit Amenities

*Comments*

On site Community Center – Phased developments that have community centers of sufficient size to accommodate all existing and proposed units, should qualify for these 5 points. Developments should not be financially burdened with creating extra square footage to compete for credits if the functional space already exists and it can be shown that proposed units will have access to the existing community center for the initial compliance period.

*Response*

The QAP provides points for the initial construction of the community center. It further allows for phased developments that share a community center space to earn points in subsequent phases by providing enhancements to the existing community center rather than constructing separate spaces for each phase. The cost savings of a shared community center provides scoring benefits in other categories.

## Mixed Income/Market Rate

*Comments*

To create vibrant mixed-income neighborhoods without further concentrating intergenerational poverty and helping to escalate Distressed Areas into Areas of Opportunities, DSHA should consider offering $60,000 per unit in development subsidy on all new market rate units developed within mixed-income developments in Qualified Census Tracts.

As DSHA is keenly aware, the market rate units are typically the most expensive type of unit to develop within a mixed-income neighborhood without the benefits of an established market.

*Response*

DSHA supports mixed-income development. However, HDF funding is statutorily limited to households with incomes at or below 80% of AMI. Market rate units do not comply with this income limit and are not eligible for funding.

## Cost Balance and New Creation in Sussex

*Comments*

We would like to express our strong support for the change under the Cost Balance category that removes Land Costs from Total Development Costs for projects located in Areas of Opportunity. Key elements including strong economic conditions, high-quality schools and access to local amenities that characterize Areas of Opportunity tend to correspondingly encourage extreme competition for available parcels and increase the cost of land in these regions. Under previous QAPs, this high cost of land was factored into the calculation of soft costs considered under a project's Total Development Cost and created a disadvantage for deserving projects in these areas with high land cost, reducing or eliminating their competitiveness for both Cost Balance Points and Bonus Points. By removing Land Costs from the TDC calculation for projects in Areas of Opportunity, such projects now will be able to compete more realistically for scoring consideration under both points categories and will not be put at an undue disadvantage to projects with lower cost land not located in Areas of Opportunity.

*Response*

DSHA is prioritizing areas of opportunity throughout the QAP. These areas do not have any affordable housing and tend to have much higher land costs. This change will assist projects in areas of opportunity to compete.

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for <u>each</u> Comment, via email, to [Tara@destatehousing.com](mailto:Tara@destatehousing.com)***

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

**Comment Information (Required)**

**Application/Development Name:**

**Commenter Information (Required)**

Entity: Architectural Alliance, Inc.
Name: Kevin Wilson, Principal
Email: k.wilson@archalli.com
Date: December 9, 2022

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☒Threshold Item: (Guideline) Design & Construction Standards
☐Points Item:
☐Other:

**Comment Explanation**

*Do not exceed the space below:*

QAP Guidelines Design & Construction Standards

A. i. "Electronic door openers must be installed for all public access points, including internal and external doors."

We suggest electronic door openers be required at all "**primary**" public access points. Other entry points around a building may have stairs/steps leading to them and would not benefit the residents.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:**

**Commenter Information (Required)**

Entity: Architectural Alliance, Inc.
Name: Kevin Wilson, Principal
Email: k.wilson@archalli.com
Date: December 9, 2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item: Minority-Owned /Women-Owned/Veteran-Owned/Service Disabled Veterans Owned/Individuals with Disabilities-Owned Business
☐Other:

## Comment Explanation

*Do not exceed the space below:*

In an effort to expand the pool of participation in the MBE/WBE owned business, we suggest setting points for participation based on percentage of total development cost. We believe this allows for multiple MBE/WBE owned businesses to be involved in a development project.

*For Example (from Pennsylvania Housing Finance Agency):*

| **Firm/Entity** | **1%-4.99% of Total Development Cost** | **≥5% of Total Development Cost** |
|---|---|---|
| Professional Services | 1 point | 2 points |
| General Contractor | 1 point | 2 points |
| Sub-Contractors/Vendors | 1 point | 2 points |

| **Firm/Entity** | **Points for Participation** |
|---|---|
| Owner/Developer | 2 points |
| Management Agent | 2 points |

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for each Comment, via email, to [Tara@destatehousing.com](mailto:Tara@destatehousing.com)***
****Please submit this document in Word format. Do not exceed this one page.***

**Comment Information (Required)**

**Application/Development Name:** **Jamestowne Center**

**Commenter Information (Required)**

Entity: **Better Homes of Seaford, Inc**
Name:
Email: **director@betterhomesofseaford.org**
Date: **12/12/2022**

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

**Comment Explanation**
*Do not exceed the space below:*

As a non-profit provider of affordable housing, we see the wisdom of prioritizing specific locations of proposed new LIHTC projects. (For reasons such as a lack of housing in an area where workforce housing is really needed.) Offering incentives or points is a good and fair best practice for new projects – HOWEVER, limiting projects can cause unintended consequences. If creating housing inventory is a priority; eliminating projects because of their location alone, is working against adding affordable units to the market. It is difficult to find land to develop in Sussex County. We have land already purchased and a project ready to proceed after years of predevelopment expenses, that we cannot tell from the online map if our location will meet threshold.

BHOS develop elderly projects nearby or on adjoining properties creating Campuses of Care. These campuses allow for partnerships with established medical care services, services in place for an aging population, shared programs from Social Services and social activities. The need is still great as market studies continue to show, as well as our lengthy weight lists for housing.

Good intended policies can work against the end goal of building inventory. We do not believe the location should solely determine if a location for a project should be a disqualifier. We believe consideration for all projects, no matter the location, should meet threshold and be considered for all the merits of the project, not just if the location fits the preferred criteria.

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for each Comment, via email, to Tara@destatehousing.com***

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

**Comment Information (Required)**

**Application/Development Name:** Woodland Mills I & II

**Commenter Information (Required)**


Entity: Carson Development LLC
Name: Danielle Smith and Max Friedman
Email: mfriedman@gildevco.com

Date: 12/5/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

## Comment Explanation

Under the 2023 DSHA Loan Limits table in the Guidelines, it indicates all existing debt must be paid off at construction close and new DSHA loans will be issued. Is this the same thing as assuming or rolling over existing debt on acquisition/rehab deals? If it's considered paid off instead of assumed, can it be included in the developer fee calculation?

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** Woodland Mills I & II

**Commenter Information (Required)**

Entity: Carson Development LLC
Name: Danielle Smith and Max Friedman
Email: mfriedman@gildevco.com
Date: 12/5/2022

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

**Comment Explanation**

On the proposed requirement for 4% Tax-Exempt Bond projects that 50% of developer fee must be deferred, this significantly reduces the incentive to consider 4% credits. The proposed developer fee limited is increasing but without a corresponding increase in the % developer fee calculation, a project is generating the same fee as before but with 20-30% less non-deferred fee. Further, a large deferred fee leads to conflating developer fee and the owner's ongoing annual incentive management fee long into the initial compliance period. This proposed change sharply reduces the incentive to complete a project and the incentive to maintain ownership of a project. A 25% deferred fee threshold for bond deals would sufficient if DSHA wants to ensure the developer has a stake in the ongoing operations to pay off a significant deferred fee.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** Woodland Mills I & II

**Commenter Information (Required)**

Entity: Carson Development LLC
Name: Danielle Smith and Max Friedman
Email: mfriedman@gildevco.com
Date: 12/5/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

## Comment Explanation

Can the QAP or Guidelines clarify that the $3.5M debt limit per project includes a single phase of an existing project proposing re-syndication, i.e. for the rehab of Woodland I & II, they'll be consolidated into one project so the total DSHA debt limit should be the lesser of $70,000/unit or $3.5M per existing project.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** Ineligible Applicants – Threshold, 16(F)

**Commenter Information (Required)**

Entity: Cinnaire
Name: Jacob Stern
Email: jstern@cinnaire.com
Date: 12/11/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

In the interest of maximizing the utilization of the 4% LIHTC and tax-exempt bond volume cap to support new creation and preservation projects, I would recommend further revising the threshold language in 16(F) on page 38 of 83, to limit only Applicants applying for **competitive 9% LIHTC** that have two (2) active **9%** allocations from being eligible to apply. I would propose not limiting applicants pursuing 4% LIHTC based on the number of Active allocations, assuming they are otherwise in compliance with DSHA requirements.

The proposed revision here is intended to avoid preventing developers who have financially feasible and qualifying 4% LIHTC projects – whether it be for new creation or preservation – from being able to pursue such projects. Assuming there aren't capacity issues with the developer/applicant pursuing multiple allocations, the unintended consequence may be slowing down the rate of achievable production.

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for each Comment, via email, to [Tara@destatehousing.com](mailto:Tara@destatehousing.com)***
****Please submit this document in Word format. Do not exceed this one page.***

**Comment Information (Required)**

**Application/Development Name:** QAP Guidelines, page 4 of 17, Developer Fee for 4% projects & Equity Distribution Requirements (pg. 16 of 18) for projects seeking DSHA funding

**Commenter Information (Required)**


Entity: Cinnaire
Name: Jacob Stern
Email: jstern@cinnaire.com
Date: 12/11/2022


**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

## Comment Explanation

*Do not exceed the space below:*

Increasing the developer fee is a great way to create another source of funding – with the cash flow and deferred fees - that can fill financial gaps in projects, which is always useful, but has proven to be critical over the past two (2) years. This update to maximum developer fees for tax-exempt bond financed projects could increase the amount of financially feasible projects, particularly acquisition/rehabilitation projects, but would require a tweak to other requirements to be effectively utilized (assuming a project is using DSHA financing).

If a project is a tax-exempt bond and DSHA-financed development, it will not be possible for a project to repay its cash flow fee (minimum 50%) and any additional deferred fee (up to 50% of the balance) over 15 years, with an up to 2% or $75,000 limitation. It would have to reduce its developer fee below what it would otherwise be eligible for (reducing tax credit basis, too). If equity distribution requirements were revised to allow for **2.5% or $150,000** each year, **until the time the cash flow fee has been repaid (at which point the guideline could remain the same or be modified down)**, this update to the QAP will be able to realize its potential (with more financially feasible tax-exempt bond and DSHA-financed projects) by creating an effective gap filling source of funding that also further incentivizes developers to pursue LIHTC projects.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** Chapel Branch Apartments

**Commenter Information (Required)**


Entity: Commonwealth Development Corporation of America
Name: Matthew F. Padron
Email: m.padron@commonwealthco.net
Date: 12/5/2022


**Comment Information (Required)**

**Define Comment** **Please define the comment*

☐Threshold Item:
☒Points Item:
☐Other:

**Comment Explanation**
*Do not exceed the space below:*

On behalf of Commonwealth Development Corporation (CDC), I would like to express our strong support for the change under the Cost Balance category that removes Land Costs from Total Development Costs for projects located in Areas of Opportunity. Key elements including strong economic conditions, high-quality schools and access to local amenities that characterize Areas of Opportunity tend to correspondingly encourage extreme competition for available parcels and increase the cost of land in these regions. Under previous QAPs, this high cost of land was factored into the calculation of soft costs considered under a project's Total Development Cost and created a disadvantage for deserving projects in these areas with high land cost, reducing or eliminating their competitiveness for both Cost Balance Points and Bonus Points. By removing Land Costs from the TDC calculation for projects in Areas of Opportunity, such projects now will be able to compete more realistically for scoring consideration under both points categories and will not be put at an undue disadvantage to projects with lower cost land not located in Areas of Opportunity.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** Chapel Branch Apartments

**Commenter Information (Required)**


Entity: Commonwealth Development Corporation of America
Name: Matthew F. Padron
Email: m.padron@commonwealthco.net
Date: 12/5/2022


**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

On behalf of Commonwealth Development Corporation (CDC), I would like to express our strong support for multiple proposed changes to the QAP that, if enacted, will help facilitate desperately needed new affordable housing creation in Sussex County. In particular, the changes DSHA made to the QAP to assist the creation of new affordable housing in Sussex County including the 5 additional points now available to new creation developments in Eastern Sussex County and adding "New Creation in Sussex County" as an Eligible Point Pool to the Bonus Points section of the QAP will help valuable proposed developments in Sussex County overcome some of the structural challenges they often face when competing against developments in higher density areas such as Wilmington that have previously made achieving funding difficult. The focus on Eastern Sussex County is particularly important, as there is a tremendous unmet need for high quality affordable housing to support local families and the workforce in this area and aligns with the County's desire to create new affordable housing in this space.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:**

**Commenter Information (Required)**


| | |
|---|---|
| Entity: | **Delaware Valley Development Company / Eden Roberts** |
| Name: | |
| Email: | **eroberts@dvdc.com** |
| Date: | **12/1/2022** |


**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

As currently defined, the MBE/WBE/DBE/VBE Business section under the Development Team scoring category does not include the Management Agent as a member of the Development Team Category. Given the integral role that the Management Agent plays in the overall success of the development, we would ask that DSHA consider including the Management Agent in the 5-point Development Team scoring category.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:**
**NA – general comment**

**Commenter Information (Required)**

| | |
|---|---|
| Entity: | **DiSabatino Construction Company** |
| Name: | Larry DiSabatino |
| Email: | **ldisabatino@disabatino.com** |
| Date: | **12/4/2022** |

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

## Comment Explanation

*Do not exceed the space below:*

The 2023 QAP link to the Cost Certification Guideline in several places goes to the 2020 – 2022 Cost Certification Guideline. Is the same 2020 – 2022 Cost Certification Guideline going to apply for 2023? If not, please issue the 2023 Cost Certification Guideline changes asap for review and comment.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:**
**NA – general comment**

**Commenter Information (Required)**

| | |
|---|---|
| Entity: | **DiSabatino Construction Company** |
| Name: | Larry DiSabatino |
| Email: | **ldisabatino@disabatino.com** |
| Date: | **12/1/2022** |

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

**Comment Explanation**
*Do not exceed the space below:*

The 2023 General Contractor certification and questionnaire in section A(a) lists 7% as the maximum for general conditions which has been raised to 10% elsewhere in various documents. Please confirm the maximum allowable general conditions and revise this document (or the others) to be consistent.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:**
**NA – general comment**

**Commenter Information (Required)**

| | |
|---|---|
| Entity: | **DiSabatino Construction Company** |
| Name: | Larry DiSabatino |
| Email: | **ldisabatino@disabatino.com** |
| Date: | **12/6/2022** |

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☐Threshold Item:
☒Points Item: Minority-Owned/Women-Owned/Veteran-Owned/Service Disabled Veterans-Owned/Individuals with Disabilities-Owned Business (0-5 points)
☐Other:

**Comment Explanation**

*Do not exceed the space below:*

There are many non-profit organizations involved in LIHTC projects in Delaware. How will non-profit organizations be qualified for the minority-, women-, veteran-, service-disabled veteran, and individuals with disability- owned business participation points? Will the makeup of their boards of directors qualify them for the available points if they are 51% or greater made up of these individuals?

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:**
**NA – general comment**

**Commenter Information (Required)**

| | |
|---|---|
| Entity: | **DiSabatino Construction Company** |
| Name: | Larry DiSabatino |
| Email: | **ldisabatino@disabatino.com** |
| Date: | **12/4/2022** |

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

**Comment Explanation**
*Do not exceed the space below:*

The 2023 QAP mentions that DSHA may require three bids if a general contractor self-performs trade work in several places. Please clarify that this requirement may only apply if the General Contractor was selected at application. For competitively bid projects, general contractors may not receive other trade contractor bids in a trade category that they may perform and requiring these other trade bids retroactively is unreasonable and contradicts the bid practices of the industry.

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for each Comment, via email, to [Tara@destatehousing.com](mailto:Tara@destatehousing.com)***
****Please submit this document in Word format. Do not exceed this one page.***

**Comment Information (Required)**

**Application/Development Name: Enterprise Community Partners**

**Commenter Information (Required)**

Entity: Enterprise Community Partners
Name: Michelle Diller
Email: mdiller@enterprisecommunity.org
Date: 12.12.2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item: Energy Conservation Measures
☐Other:

## Comment Explanation

*Do not exceed the space below:*

1) We support the proposed increase from 8 to 10 points in this category – providing developers the opportunity to increase the competitiveness of their project through enhanced energy conservation, green building performance and resiliency supports responsible stewardship of this public investment by producing projects that are efficient, durable, resilient and healthy – providing maximum value for investment.
2) We encourage you to consider adding Green Communities Certification Plus as an option for obtaining the Intermediate TWO Additional Points for New Construction, in addition to Passive House certification and DOE Zero Energy Ready Home. Green Communities Plus is new for the 2020 version, an elite designation for projects moving toward (net zero ready) or achieving zero-energy homes. These projects meet the 2020 certification requirements, comply with Criterion 5.2b Moving to Zero Energy: Near Zero Certification or Criterion 5.4 Achieving Zero Energy, AND must certify to PHIUS or ZERH. Adding Plus synergizes with the existing QAP structure and offers developers an additional option.
3) Exhibit 32: Thank you for updating to 2020 Enterprise Green Communities. We encourage you to add Enterprise Green Communities Plus to "B. Adv Energy Measures' for New Construction as described above. Note that in 'C. Additional Resiliency Credits', there is an '8' in front of 5.9 and 5.10 that should be removed to eliminate confusion.

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for each Comment, via email, to Tara@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: | Leon N. Weiner & Associates, Inc. |
| Name: | **Sean Kelly** |
| Email: | **skelly@lnwa.com** |
| Date: | **12/12/2022** |


**Comment Information (Required)**

**Define Comment** **Please define the comment*

Threshold

**Comment Explanation**

*Do not exceed the space below:*

LNWA requests the removal of Eligibility provisions in the draft 2023-2024 QAP which place a timeframe, specifically "*within the next five (5) years*" on the ability to make application in the Preservation/Rehabilitation pool. The physical needs of a property are documented through a rigorous process with 3rd party professionals and follow the DSHA designed Life Expectancy chart found in the QAP Guidelines. Adding a blanket 5-year timing requirement conflicts with the physical needs of the existing inventory as evidenced in the Life Expectancy chart, as we believe most projects that have been previously financed with tax credits will be prohibited from competing until they reach Year 25 in extended use, well beyond the useful life of most property infrastructure. We are also concerned about unforeseen consequences of this policy in a rising interest rate environment, with many Permanent loans for affordable housing structured to run for a 15-18 year term and may be without a resyndication option at that time.

Please remove all language referencing "within the next five (5) years" and "the project has not been syndicated with tax credits" in Threshold requirements as DSHA is already prioritizing aging preservation projects in the scoring on page 43 by removing the long-standing PIS date scoring.

If the intent is to encourage Preservation projects to utilize 4% credits, additional definitions should be added to define "Resyndication"

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for each Comment, via email, to [Tara@destatehousing.com](mailto:Tara@destatehousing.com)***

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

**Comment Information (Required)**

**Application/Development Name: N/A,** Lincoln Avenue Capital is a mission-driven affordable housing developer active in twenty-two states. We are looking to begin development in Delaware in 2023.

**Commenter Information (Required)**

Entity: Lincoln Avenue Capital
Name: Thom Amdur
Email: tamdur@lincolnavecap.com
Date: 12/2/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other: Underwriting Guidelines

## Comment Explanation

*Do not exceed the space below:*

We appreciate that DSHA is proposing to increase developer fees for 4% projects and the nuanced policy that differentiates fee amounts by financing type and development size. We believe that the current developer fee as drafted is appropriate for the 9 percent LIHTC (competitive) program; however, we encourage DSHA to consider increasing further developer fee limits 4 percent LIHTCs. We suggest eliminating the hard dollar caps on developer fees for all 4% developments and suggest raising the developer fee percentage limitation from 15% to 18 to 20%. We further suggest that for properties where there is an identity of interest to use this same methodology but limit the fee on acquisition costs to 15%. We recommend retaining the current policies on deferred developer fee.

Maximizing developer fees and eligible basis, is a proven and successful method of generating additional LIHTC eligible basis, and in turn, equity proceeds which help fill project gaps. This is a common strategy that many state housing finance agencies across the country have implemented, including Arizona, Kentucky, Ohio, Oklahoma and Tennessee. As a matter of course, we defer a substantial portion of our developer fees to fill project gaps. One way to frame our proposal of increasing developer fees in a rising cost environment is that the additional fee effectively will serve as additional construction contingency, much drawn on today as construction costs skyrocket.

Delaware State Housing Authority
DSHA

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for each Comment, via email, to [Tara@destatehousing.com](mailto:Tara@destatehousing.com)***
****Please submit this document in Word format. Do not exceed this one page.***

**Comment Information (Required)**

**Application/Development Name: Project in Area of Opportunity or Stability**

**Commenter Information (Required)**

Entity: Neighborgood Partners
Name:
Philip Hoffert
Email:
phoffert@neighborgoodpartners.org
Date:12/12/2022

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

**Comment Explanation**

*Do not exceed the space below:*

Regarding the balanced housing category, one difficulty with developing in many of the areas of opportunity in addition to land costs and reluctance of community support, is that often these areas are relatively isolated further from city or municipal centers where public transportation is more available. Lower income residents may benefit from increased access to public transportation.

This raises the possibility of making the transportation point category in projects in areas identified as priorities for new development, (areas of opportunity and/or stability) so there are increased transit points available. In other words, if a new project is located in an area of opportunity or stability it could qualify for additional priority transit points if new transportation options are brought to the area that can be utilized by residents. Hopefully, DART and DelDOT are being encouraged to consider expanding their services in these areas.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: Pennrose LLC
Name: Ryan Bailey
Email: rbailey@pennrose.com
Date: 12/5/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item: Scoring – Development and Unit Amenities
☐Other:

## Comment Explanation

*Do not exceed the space below:*

Scoring – Development and Unit Amenities

- On site Community Center – Phased developments that have community centers of sufficient size to accommodate all existing and proposed units, should qualify for these 5 points. Developments should not be financially burdened with creating extra square footage to compete for credits if the functional space already exists and it can be shown that proposed units will have access to the existing community center for the initial compliance period.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name: Riverside III -** QAP Guidelines, page 4 of 17, Developer Fee for 4% projects & Equity Distribution Requirements (pg. 16 of 18) for projects seeking DSHA funding

**Commenter Information (Required)**

Entity: Pennrose LLC
Name: Ryan Bailey
Email: rbailey@pennrose.com
Date: 12/12/2022

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

**Comment Explanation**
*Do not exceed the space below:*

Increasing the developer fee is a great way to create another source of funding – with the cash flow and deferred fees - that can fill financial gaps in projects, which is always useful, but has proven to be critical over the past two (2) years. This update to maximum developer fees for tax-exempt bond financed projects could increase the amount of financially feasible projects, particularly acquisition/rehabilitation projects, but would require a tweak to other requirements to be effectively utilized (assuming a project is using DSHA financing).

If a project is a tax-exempt bond and DSHA-financed development, it will not be possible for a project to repay its cash flow fee (minimum 50%) and any additional deferred fee (up to 50% of the balance) over 15 years, with an up to 2% or $75,000 limitation. It would have to reduce its developer fee below what it would otherwise be eligible for (reducing tax credit basis, too). If equity distribution requirements were revised to allow for **2.5% or $150,000** each year, **until the time the cash flow fee has been repaid (at which point the guideline could remain the same or be modified down)**, this update to the QAP will be able to realize its potential (with more financially feasible tax-exempt bond and DSHA-financed projects) by creating an effective gap filling source of funding that also further incentivizes developers to pursue LIHTC projects.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: Pennrose LLC
Name: Ryan Bailey
Email: rbailey@pennrose.com
Date: 12/5/2022

**Comment Information (Required)**

## Define Comment

**Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

Threshold Requirements: 16. Development Team

- We acknowledge the change in definition of "Active" deals to those who have not received approval of the Construction and Mortgagor Cost cert, but this only improves the previous permanent conversion restriction by 4 months and still restricts affordable housing creation in the state by competent developers.
- We propose to eliminate completely the restriction on two active LIHTC deals. No other state has these restrictions on affordable housing creation. Use your developer and readiness scoring criteria to vet the feasibility of deals instead.
- A possible compromise could be – keep the restriction to two or more Delaware LIHTC projects that have not achieved **<u>financial closing</u>** and **<u>4% applications are excluded</u>** from this requirement.
- There should also be a waiver of these restrictions if the overall development has received a CNI Implementation award from HUD as that brings $30-50 Million of affordable dollars to the state. The CNI development must be completed within 8 years and under the current QAP this would not be possible for Riverside or other large projects.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: Pennrose LLC
Name: Ryan Bailey
Email: rbailey@pennrose.com
Date: 12/5/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item: Scoring – Increase in Extended Use Period
☐Other:

## Comment Explanation

*Do not exceed the space below:*

Scoring – Increase in Extended Use Period –

We understand the scoring beyond the initial 30-year extended use period, but why remove the DSHA right to allow a re-syndication for substantial rehabilitation within the 30-year extended use period? If it is in the best interest of the residents and the building to do a renovation before 30 years, shouldn't DSHA be able to acknowledge that and allow the re-syndication to take place?

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: Pennrose LLC
Name: Ryan Bailey
Email: rbailey@pennrose.com
Date: 12/12/2022

**Comment Information (Required)**

**Define Comment** **Please define the comment*

☐Threshold Item:
☒Points Item:
☐Other:

**Comment Explanation**
*Do not exceed the space below:*

Development Team, Minority-Owned/Women-Owned/Service Disabled Veterans-Owned/Individuals with Disabilities-Owned Business

REACH respectfully requests increasing points for this section from five (5) to seven (7) to intentionally enhance the operational capacity of these targeted enterprises through the use of LIHTC funding development opportunities.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: Pennrose LLC
Name: Ryan Bailey
Email: rbailey@pennrose.com
Date: 12/5/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

## Comment Explanation

*Do not exceed the space below:*

HDF Market Rate Subsidy –

To create vibrant mixed-income neighborhoods without concentrating poverty and helping to improve Distressed Areas to Areas of Opportunities, DSHA should consider offering $60,000 per unit in development subsidy on new market rate units developed within mixed-income developments in Qualified Census Tracts.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**


Entity: Pennrose LLC
Name: Ryan Bailey
Email: rbailey@pennrose.com
Date: 12/5/2022


**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

QAP Scoring Suggestions:

Scoring – Promoting Balanced Housing Opportunities
- CR, OZ and DDD should each receive up to 10 points

Scoring CCRP, OZ, DDD
- Equalize the point scaling for CCRP, QCT, OZ locations to 15 (same as Areas of Opportunity)

Scoring – Amenities
- Existing Community Center should be a point category

Scoring - Site and Neighborhood Standards - Amenities
- Charter School open to the public should qualify for points

Scoring – Site and Neighborhoods Standards – Amenities
- Eliminate negative scoring or decrease distances for Urban Developments

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**


Entity: REACH Riverside Development Corporation
Name: Dave Ford
Email: dford@reachriverside.org

Date: 12/7/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

## Comment Explanation

*Do not exceed the space below:*

Balanced Housing Opportunities, defined areas of the state – Saturated Distressed

The QAP employs the term **strongly discourages** [emphasis added] when deciding on where new affordable housing units should be considered. The QAP defines Saturated Distressed areas "where at least 10% of all housing units are assisted or subsidized. These highly distressed areas have a disproportionate share of affordable housing. New affordable housing that would further highly concentrated areas of poverty and exacerbate racial inequities should be strongly discouraged."

These Saturated Distressed areas were intentionally created by decades of systemic discriminatory housing policies and practices that have yielded exactly what was intended by their design. The impoverishment and racial segregation imposed on generations black Americans and other minorities.

This provision is the modern day equivalent of redlining and should be stricken in its entirety. Numerous studies on suburbanization of poverty have indicated that deconcentration is actively detrimental to the community you are attempting to serve.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: REACH Riverside Development Corporation
Name: Dave Ford
Email: dford@reachriverside.org
Date: 12/7/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item: Scoring – Development and Unit Amenities
☐Other:

## Comment Explanation

*Do not exceed the space below:*

Scoring – Development and Unit Amenities

- On site Community Center
    - Phased developments that have community centers of sufficient size to accommodate all existing and proposed units, should qualify for the full 5 points.
    - Developments should not be financially burdened with creating extra square footage to compete for credits if the functional space already exists and it can be shown that proposed units will have access to the existing community center for the initial compliance period.
    - Taking full advantage of the existing built environment should be a consideration in this scoring element.

# DSHA LIHTC QAP Public Comment Form

***Please submit one (1) Comment Form for <u>each</u> Comment, via email, to [Tara@destatehousing.com](mailto:Tara@destatehousing.com)***

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: REACH Riverside Development Corporation
Name: Dave Ford
Email: dford@reachriverside.org
Date: 12/7/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

Threshold Requirements: 16. Development Team

- We acknowledge and appreciate the change in the definition of "Active" deals to those who have not received approval of the Construction and Mortgagor Cost certification. This initial change only improves the previous permanent conversion restriction by approximately 4 months and still restricts affordable housing creation in the state by competent developers.
- We respectfully propose to completely eliminate the restriction on two (2) active LIHTC deals. No other state within our geographic region has these restrictions on affordable housing creation. Use your existing Developer and Readiness scoring criteria to vet the financial feasibility of deals and the Developer instead of this multiphase barrier.
- A possible more targeted compromise could be to slightly alter the Active deal restriction to two or more LIHTC projects that have not achieved **<u>financial closing</u>** and **<u>4% applications are excluded</u>** from this requirement.
- There should also be a waiver of these restrictions if the overall development has received a CN Implementation award from HUD as that brings tens of millions of affordable funding to the state, but only if the entire development can be completed in 8 years from award. Under the present restriction, a multiphase development could risk elimination of substantial award funding.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**


Entity: REACH Riverside Development Corporation
Name: Dave Ford
Email: dford@reachriverside.org
Date: 12/7/2022


**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item: Scoring – Increase in Extended Use Period
☐Other:

## Comment Explanation

*Do not exceed the space below:*

Scoring – Increase in Extended Use Period

REACH understands and appreciates the long term goals by modifying the scoring beyond the initial 30-year extended use period. An observation to consider in bolstering this long term aspirational goal:

Why remove DSHA's right to allow a re-syndication for substantial rehabilitation within the 30-year extended use period if it is in the best interest of the residents and the building to do a renovation before 30 years? This level of flexibility could enhance DSHA's position to drive communal benefits by exercising its ability to acknowledge and allow the re-syndication to take place.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: REACH Riverside Development Corporation
Name: Dave Ford
Email: dford@reachriverside.org
Date: 12/7/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

Development Team, Minority-Owned/Women-Owned/Service Disabled Veterans-Owned/Individuals with Disabilities-Owned Business

REACH respectfully requests increasing points for this section from five (5) to seven (7) to intentionally enhance the operational capacity of these targeted enterprises through the use of LIHTC funding development opportunities.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: REACH Riverside Development Corporation
Name: Dave Ford
Email: dford@reachriverside.org
Date: 12/7/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

## Comment Explanation

*Do not exceed the space below:*

HDF Subsidy –

To create vibrant mixed-income neighborhoods without further concentrating intergenerational poverty and helping to escalate Distressed Areas into Areas of Opportunities, DSHA should consider offering $60,000 per unit in development subsidy on all new market rate units developed within mixed-income developments in Qualified Census Tracts.

As DSHA is keenly aware, the market rate units are typically the most expensive type of unit to develop within a mixed-income neighborhood without the benefits of an established market.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** **Riverside III**

**Commenter Information (Required)**

Entity: REACH Riverside Development Corporation
Name: Dave Ford
Email: dford@reachriverside.org
Date: 12/7/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☒Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

QAP Scoring Suggestions:

Scoring – Promoting Balanced Housing Opportunities
- CR, OZ and DDD should each receive up to 10 points

Scoring - CCRP, OZ, DDD
- Equalize the point scaling for CCRP, QCT, OZ locations to 15 (set as the same point level as Areas of Opportunity)

Scoring – Amenities
- Existing Community Center should be a point category

Scoring - Site and Neighborhood Standards - Amenities
- Charter School open to the public should qualify for points

Scoring – Site and Neighborhoods Standards – Amenities
- Eliminate negative scoring or decrease distances for Urban Developments

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:**
**Windsor Apartments, Wilmington**

**Commenter Information (Required)**


Entity: **Renewal Housing Assoc, LLC**
Name: David Lakari
Email:
dlakari@renewalhousing.com

Date:12/12/2022

**Comment Information (Required)**

## Define Comment **Please define the comment*

☒Threshold Item:
☐Points Item:
☐Other:

## Comment Explanation

*Do not exceed the space below:*

I am writing to suggest that DSHA eliminate the cap of the number of applications per sponsor for 4% credits. Tax Exempt bond authority is not currently a scarce resource. For developer/ owners with existing portfolios, a 4% bond deal can fund significant repairs without limiting the state's opportunities to create new housing.

Windsor Apartments is a high-rise elderly building under the Section 8 New Construction Program. It was rehabbed with 4% credits in 2001, with no soft debt. The property is now in need of extensive plumbing repairs, including replacement of both supply and waste lines throughout the building. A rough estimate of the cost of these repairs alone is around $3 Million, while existing reserves for replacements total only about $700,000.

With the funds generated though 4% LIHTC we could not only replace the plumbing but also make other needed improvements to this old building. However, Windsor's ownership entity includes three Managing Members, one of whom, Leon N. Weiner Associates (LNWA), also owns and continues to develop new affordable housing in Delaware. Under the proposed QAP, we would be ineligible to apply for 4% credits to finance Windsor due to the extensive development activities of one of the partners.

# DSHA LIHTC QAP Public Comment Form

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

**Comment Information (Required)**

**Application/Development Name:** U.S. Green Building Council

**Commenter Information (Required)**

Entity: **U.S. Green Building Council** (USGBC)
Name: **Rebecca Price**
Email: **rprice@usgbc.org**
Date: **11/22/2022**

**Comment Information (Required)**

## Define Comment **Please define the comment*

☐Threshold Item:
☐Points Item:
☒Other:

## Comment Explanation

*Do not exceed the space below:*

USGBC is a non-profit organization committed to transforming the way all buildings and communities are designed, built, and operated to support a sustainable, resilient, and prosperous environment that improves the quality of life for all. Our flagship green building system, Leadership in Energy & Environmental Design (LEED), is a nationally recognized standard that takes a holistic view to whole-building performance that includes materials, resource efficiency, location and transportation, and more. USGBC applauds the DSHA for including competitive points for projects that achieve the Passive House or DOE Zero Energy Ready Home standards. These two standards signify extremely high-performance homes, which is critical if we are to meet our decarbonization goals. To give developers more choice, and to incentivize the development of properties that go beyond just net zero energy, we respectfully respect that DSHA also include competitive points for LEED Zero. LEED Zero is a complement to LEED that verifies the achievement of net zero carbon, energy, waste, and/or water in buildings. By doing so, DSHA would join states like Michigan and Illinois, who also offer competitive points for projects that achieve LEED Zero. While we acknowledge that DSHA, like many state housing finance agencies, wants to minimize up-front development costs associated with low-income housing credits, the cost savings associated with net-zero buildings means quick payback periods. Consider Discovery Elementary, a public school in Virginia that earned LEED Zero Energy certification, which reports annual utility cost savings of $117,000 compared to a typical elementary school of the same size in the same school district. Thank you for your continued commitment to transparency in the annual QAP process, and the opportunity to provide comments on the 2023 draft QAP. Please contact Rebecca Price at rprice@usgbc.org if you have questions.