TAX CREDIT APPLICATION PACKAGE 2015 SUPPLEMENT

HOUSING DEVELOPMENT FUND

- If applying for Low Income Housing Tax Credits **and** a Housing Development Fund Loan, please review the attached, which describes the Housing Development Fund program when used in conjunction with tax credits.
- Please note, when there is a conflict between the Low Income Housing Tax Credit program and the Housing Development Fund program, the most restrictive rule, regulation, and/or requirement will apply.
- Any questions concerning the Housing Development Fund application process should be direct to the Housing Development Section, by phone at (302) 739-4263, by fax at (302) 739-2416, by mail at Delaware State Housing Authority, 18 The Green, Dover, Delaware 19901 or by e-mail, cindy@destatehousing.com.

TAX CREDIT APPLICATION PACKAGE SUPPLEMENT
HOUSING DEVELOPMENT FUND

Delaware State Housing Authority
State of Delaware

PURPOSE

The purpose of the Housing Development Fund (HDF) is to provide affordable decent, safe and sanitary housing to responsible very low-, low- and moderate-income households.

PROGRAM DESCRIPTION

This program is designed to primarily provide multi-family rental financing. Types of developments that will be considered include, but are not limited to, the acquisition and/or rehabilitation of existing housing, the adaptive reuse of non-residential buildings, and new construction.

The Project and Neighborhood Standards (attached) provides guidance as to the level of detail required to demonstrate to the State that the proposed development meets the purpose of the HDF.

Because the HDF has limited funds, the developer must demonstrate that other potential sources of funding have been explored to ensure that the HDF is used only to the extent necessary.

ASSISTANCE AVAILABLE

Funds will be available for construction loans at 3% interest and permanent loans at 1% interest. Permanent loan interest may be deferred depending on the development's cash flow. Interest rates and repayment schedules of loans will be influenced by the income mix of the persons to be served, as well as the financial viability of the development.

CRITERIA FOR SELECTION

Major criteria, which will be considered in judging the soundness of a proposal and determining its merits are as, listed below and must be addressed in the application. A development must satisfy at least one of these criteria to be funded.

1. Priority will be placed on developments benefiting very low/low/moderate-income people, as defined from time to time by the Delaware State Housing Authority (DSHA). See income limits in this application. The period of time for which it is assured that the units will be inhabited by very low/low/moderate-income households is an important consideration in determining if this criteria is met, but in any event shall not be less than 20 years.

2. It is important to provide housing opportunities in neighborhoods where there is currently little very low/low/moderate-income housing.

3. Rehabilitation of substandard rental housing providing moderately-priced units. The applicant must assure that the units will remain available and affordable to very low/low/moderate-income households for an extended period of time.

DETERMINATION FOR LOAN APPROVAL AND AMOUNT

The following specific items will be taken into consideration when determining the merits of an application:

Key Issues

1. Organization's past performance.
2. Community comments.
3. Demonstrated need for development.
4. Suitability of development location.
5. Cost efficiency of the development.
6. Amount of loan per unit serving very low/low/moderate-income persons.
7. Length of payback period.
8. Position of the loan and how it is secured/length of repayment.
9. Source of permanent financing (if appropriate).
10. Percentage of total development cost funded by HDF.
11. Cash and noncash equity participation of developer.
12. Evidence that alternate sources of financing have been utilized/exhausted.
13. Evidence that housing will be provided in neighborhoods where there is little very low/low/moderate-income housing available.
14. Extent to which proposal will assist in revitalization of deteriorating neighborhood.
15. Extent to which current Housing Development Fund loans are in good standing.

It will be the responsibility of the applicant to clearly address the above-stated criteria in order to be considered for a loan. The loan application includes further explanation of what must be addressed on these points. Developments that fail to adequately address these items will not be considered for funding.

MINIMUM ELIGIBILITY REQUIREMENTS

9% Tax Credit Properties:

- A set-aside of approximately **$8,250,000** will be available for applications receiving a preliminary ranking in the 9% competitive application cycle. DSHA's determination that a property satisfies the requirements of the QAP will be based on the property meeting all of the threshold and all other requirements described in the QAP to DSHA's satisfaction.
- DSHA will limit its total deferred permanent financing to $3 million or $50,000 per unit, whichever is less.
- HDF funds may also be used for construction financing and requests may exceed permanent financing limits.
- DSHA reserves the right, in all cases, to limit the amount of funds available from the HDF.
- For developments using Tax Credits, DSHA requires that a minimum amount of net equity raised be contributed to the development depending on current market conditions. The current minimum equity factor required may be found in the QAP Attachments. However, DSHA reserves the right to deny DSHA financing where proposed net equity to the development is below current market standards. Net equity is defined as all equity raised for the development less syndication fees imposed by the syndicator and allowances by DSHA (see Note 2 on Page 10 for Tax Credit monitoring fee requirement and other allowances).
- It will be the responsibility of the developer when leasing units to very low/low/ moderate-income households to insure that the rents are approved by DSHA and that all rent increases during the period of the regulatory agreement also be so approved.
- Property owners on rental developments must agree to retain their housing as rental housing <u>for at least 20 years or the duration of the loan(s), whichever is longer.</u>
- The developer will be responsible for following the Department of Housing and Urban Development's guidelines as it relates to tenant relocation. If relocation is a part of the development, Developers <u>must</u> contact DSHA for consultation prior to application submission. DSHA will assist the developer in receiving all necessary relocation information.
- If a developer fee pledge is to be utilized to fill a funding gap, no more than 50% of the developer fee may be used.

- For developments involving 9% Tax Credits and using HDF financing, DSHA requires a household income mix, with rents appropriately affordable, at a minimum as follows:
    - 5 units rented at or below 40% of Area Median Income (AMI) at the published rent limits for 40% of median income households; and
    - 15% of units rented at or below 50% of AMI at the published rent limits for 50% of median income households; and
    - 80% of units rented at or below 60% of AMI at the published rent limits for 60% of median income households, unless otherwise approved by DSHA; and
    - Non-tax credit units will be required to be rented at 80% of AMI at the published rent limits for 80% of median income households, unless otherwise approved by DSHA.

- Rents should be affordable for the market area; however, when utilizing the HDF, rents should provide even further affordability. **<u>Applicants must contact DSHA for comparable tax credit rents in the area of the proposed development by 3/15/15 or the application may be disqualified.</u>**

- If DSHA elects to use DSHA HOME Program funds (referred to as "HOME" funds in this document) in a development, it may be necessary to adjust development rents to meet the requirements of the HOME Program.

- For USDA properties seeking subordinate HDF and/or HOME funds for new construction, acquisition and rehabilitation, the following will apply:
    - In order to meet USDA requirements on the treatment of deferred debt,
        - Any HDF permanent loan will be treated as interest only loan; due in monthly installments; and
        - Any HOME permanent loan will treated as 0% interest and the principal due in full at the end of the maturity date.

4% Tax-Exempt Bond Properties with DSHA Financing:

- Developments proposed to be financed with tax-exempt bond financing and requesting funding from the Housing Development Fund or DSHA, must apply to DSHA on the same deadline as DSHA requires for its annual Tax Credit application round for 9% Tax Credits. **NOTE: Developments applying for 4% tax-exempt bond financing and DSHA financing are not required to compete with the 9% Tax Credit applications.**

- DSHA will consider providing HDF funding under the following, but not limited to, conditions:

  - A set-aside of **$7,500,000** of HDF funds will be made available for 4% tax exempt bond applications seeking HDF funding.

  - DSHA will limit its total deferred permanent financing to $3 million or $50,000 per unit, whichever is less.

  - In addition, subject to HOME funds availability, up to $2 million of DSHA HOME funds may be available for developments with a substantial financing gap that cannot be met by a deferral of 25% of the developer's fee, DSHA may determine that the project is eligible for DSHA supplemental financing in the form of HOME funds.

    - Only the highest ranked 4% tax-exempt bond applicants may be eligible for the HOME funding.

    - DSHA may provide financing for up to 11 units of HOME funds (amounts will depend on HUD's per unit limits at the time of application). Applicants must first show the deferred fee as a source before requesting supplemental funding and will need to demonstrate all other funding sources have been exhausted. Applicants must contact DSHA prior to all requests for supplemental funding to determine availability and applicability. Application for supplemental funding will be made as part of the LIHTC application and approval of supplemental funding will be at DSHA's sole discretion.

    - All projects receiving HOME funds must comply with all federal requirements, including Davis-Bacon wage rates, when applicable.

- Applicants combining two or more developments into a single ownership entity where each property currently has DSHA soft/deferred financing in place may be eligible for additional DSHA soft/deferred financing as long as the following conditions are met:
  - If a current LIHTC development, the project(s) must be in the extended use period;
  - The combined properties will be operated under one common ownership;
  - The project will be limited to the lesser of $45,000 per unit or $2.75 million <u>per property</u> (old and new debt combined).

  Two or more developments may or may not be contiguous.

- DSHA reserves the right, in all cases, to limit the amount of funds available from the HDF.

* For USDA properties seeking subordinate HDF and/or HOME funds for new construction, acquisition and rehabilitation, the following will apply:
  - In order to meet USDA requirements on the treatment of deferred debt,
    - Any HDF permanent loan will be treated as an interest only loan; due in monthly installments; and
    - Any HOME permanent loan will treated as 0% interest and the principal due in full at the end of the maturity date.

  - If DSHA elects to use HOME Program funds in a development, it may be necessary to adjust development rents to meet the requirements of the HOME Program.

  - Eligible projects will include:

    - Preservation projects, which include Year-15 tax credit projects** currently in DSHA's LIHTC portfolio; and
    - New Creation, which includes new construction and conversion projects.

  - Projects will only receive Tax Credits on the full amount of their eligible basis <u>only if at least 50% of the development's aggregate basis</u> is financed with tax-exempt bonds. In the event that a tax-exempt bond property is proposed in the same area as competing Tax Credit properties, the market study must provide an acceptable demand analysis.

** For 4% tax-exempt applications, Y15 tax credit projects must demonstrate that the initial 15 year compliance period requirement will be met by proposed construction closing date.

- For developments involving Tax Credits and using HDF financing, DSHA requires a household income mix, with rents appropriately affordable, at a minimum as follows:
    - 5% of units rented at or below 40% of AMI at the published rent limits for 40% of median income households; and
    - 5% of units rented at or below 50% of AMI at the published rent limits for 50% of median income households; and
    - 90% of units rented at or below 60% of AMI at the published rent limits for 60% of median income households, unless otherwise approved by DSHA; and
    - Non-tax credit units will be required to be rented at 80% of AMI at the published rent limits for 80% of median income households, unless otherwise approved by DSHA.

- Rents should be affordable for the market area; however, when utilizing HDF, rents should provide even further affordability. **Applicants must contact DSHA for comparable tax credit rents in the area of the proposed development by** 3/15/15 or the application may be disqualified.

    - DSHA's goal is for all 4% tax-exempt applicants to meet threshold and as many point scoring categories as possible. An application must score a minimum of fifty (50) points. If DSHA receives more than one 4% bond application seeking HDF or DSHA financing, the application(s) with the highest point score will be awarded a preliminary ranking over other applications.

    - DSHA's determination that a property satisfies the requirements of the QAP and will be based on the property meeting all of the Threshold Requirements described in the QAP.

    - DSHA will be the bond issuer. DSHA's bond application must also be completed when DSHA underwriting and review has been fulfilled. Applications are available at the following links:

http://www.destatehousing.com/Developers/developermedia/mfmrb_bond_policy_v13.pdf
http://www.destatehousing.com/Developers/developermedia/mfmrb_bond_app_v12.pdf

Other Tax-Exempt Bond Information:

- For developments seeking tax-exempt financing, DSHA may waive timelines, processing and other QAP requirements, in its discretion, to encourage and facilitate such financings. Additionally, for the purposes of the 4% Tax Credits, DSHA, upon a showing of good cause by the applicant, may waive the $30,000 hard cost minimum requirement for substantial rehabilitation. Such a waiver shall be in the sole discretion of DSHA and shall only be granted upon a showing that the proposed rehabilitation is sufficient in terms of quality and significance, notwithstanding the fact that it does not meet the $30,000 requirement.

- DSHA may, at its sole discretion, waive the requirement to make application for 4% Tax Credits and HDF financing on the same deadline date as the 9% Tax Credit application round, for applicants where a special appropriation is approved by the State Legislature or <u>new</u> Federal funding/subsidy for a specific development and/or type of development.

- DSHA may consider subsequent financing of phased sites on a case-by-case basis.

APPLICATION PROCESS (for all applications 4% or 9%)

DSHA Tax Credit Applications may be used for Housing Development Fund requests and are available from and must be returned to: Delaware State Housing Authority, Development Section, 18 The Green, Dover, Delaware 19901. One complete original copy of all documents must be provided with original signatures. One electronic CD copy must also be submitted. For the CD scanned application, the CD should be labeled with the Project Name. A Table of Contents will list the web-based Application and each Exhibit Number and Name of Exhibit. The Exhibits should be scanned as separate files and labeled accordingly.

- The applicant must complete all applicable questions and supply all documents that are requested in the application form. All documents are required, even if applicants have submitted similar documents to DSHA in the past (i.e. financial statements). Failure to do so may result in the application form being returned to the applicant for completion. Final review of the application will occur only after the application is complete and all necessary documentation is provided. DSHA reserves the right to waive certain documentation it deems not of critical importance for loan approval.

- The application is designed to be sufficiently comprehensive and precise to address all information necessary for a responsible funding decision. However, DSHA and the Council on Housing reserve the right to ask for additional information during the review process should it be deemed necessary.

- DSHA staff will be available to assist the developer in the application process. Once it is determined that an application is complete, review, including action by the Council on Housing, will take approximately two months to four months, depending on the number of applications currently under review. Applicants will be notified of the date of Council review so that they may be present to answer questions that may arise during the review.

- An application fee is required at the time of submission for all funding requests. The fee structure is as follows:

  Application Fee: $1,000 (Non-refundable)

  Commitment Fee: 1% of the greater approved loan amount if development has different construction and permanent amounts (payable in full at construction loan closing). Such fee shall be deemed as earned by DSHA upon loan approval by the Council on Housing. This fee may also be financed as part of the development costs.

- Applicants will be notified in writing as to the disposition of their funding requests. In the case of funding awards, the commitment letters will enumerate the documents that will be required for the initial and final closings. Normally, initial closing can be scheduled within four to six weeks of the commitment letter, assuming all necessary documents of the applicant are provided.

- **Appraisals:**
  1. Appraisals for projects with DSHA financing may be ordered by DSHA when the preliminary rankings for projects are released for the top ranked Applicants. DSHA will coordinate with other lenders, to the extent practical, to ensure consistency of valuation.

  2. A Summary Appraisal will still be required at application.

  3. DSHA reserves the right to further define appraised value based on discussions with other participating lenders.

  4. DSHA may, at its discretion, order appraisals for non-DSHA-funded projects, in cooperation with other participating lenders.

NOTE 1: Should HDF funds be used in conjunction with **HOME** Investment Partnerships Program funding, DSHA will charge an additional fee of $**1,000.00**.

NOTE 2: DSHA charges a non-financeable **$500** one-time per unit fee on all Tax Credit eligible units for performing the service of **compliance monitoring**. This fee must be paid prior to the Tax Credit allocation. DSHA will allow the fee to be funded from proceeds raised from the syndication of Tax Credits to the extent the proceeds exceed DSHA's minimum required net equity contribution for financing. Should equity raised exceed the combined: minimum equity requirement, investor legal/accounting fees, **1% allocation/carryover fees** and monitoring fee amounts, such excess may be used to fund investor/DSHA-required operating reserves upon consent of DSHA. Equity available beyond the aforementioned uses must be contributed toward the DSHA-approved project costs of the development, which would reduce the amount of HDF financing. DSHA requires an operating reserve calculated at four months of operating expenses, including debt service. If acquisition/rehabilitation, operating reserve escrow is established at construction closing unless otherwise approved by DSHA.

DSHA requires, **at a minimum 15%, of net equity raised be contributed at construction closing.** DSHA reserves the right to request additional initial equity contribution as applicable to the financial structure of each project. If more than 15% of net equity is being shown as a source during construction, documentation from the syndicator/investor with the additional amount of equity and proposed pay-ins must be included in Exhibit #49 of the LIHTC application. Equity Letters of Interest must be fully executed and clearly demonstrate that equity construction funds are available and the balance of required equity will come in at permanent loan closing (except for any portion of the developer’s fee withheld by the investor).

Equity raised from the syndication of Tax Credits may <u>not</u> be used to target lower-income households in the development's financing structure, however, other non-DSHA-related financial sources may be used.

NOTE 3: DSHA requires that the following documents be submitted to its offices in Dover by the date established by the Council on Housing Resolution: (1) copy of title binder and copies of all listed restrictions or easements; additionally, any new easements with accompanying legal descriptions must be submitted; (2) land survey; (3) plans/specifications; (4) subdivision plan, if applicable; (5) site plan; (6) organizational documents of the ownership entity and the general partner or managing member, as appropriate; (7) identification of all members of the development team, i.e. bonding company, insurance company, architect, engineer, surveyor, attorneys, general contractor, management agent, consultant, etc. Failure to submit all documents may result in borrower using non-project resources to meet the IRS 10% expenditure requirement. Documents must be in a settlement ready format. Construction closing will not be scheduled until DSHA is satisfied with the completeness and accuracy of submitted documents.

NOTE 4: Payment and performance bonds are required for all construction activities. Letters of credit are not acceptable.

NOTE 5: A working capital Letter Of Credit (LOC) or cash in the amount of 2½% of the combined construction financing will be required at construction closing. This amount cannot be financed by any lending, equity or grant sources involved in the development. However, LOC fees may be paid from construction financing sources, but not from development operational funds. The working capital will be released at permanent closing, subject to not having outstanding construction or financial issues.

NOTE 6: Developer fee is defined as follows: 12% of total development cost, excluding developer's fee, transferred reserves, bond prepayment penalty, or other penalties, relocation operating deficit reserve, environmental site remediation costs, assumed DSHA debt and land cost. The developer fee cannot exceed $1,000,000. For identity of interest (related party) acquisitions of existing rental properties, the developer's fee is calculated at 9% of the Total Development Cost, excluding developer's fee, transferred reserves, bond prepayment penalty or other penalties, relocation operating deficit reserve, environmental site remediation costs, assumed DSHA debt ,and land cost, cannot exceed $1,000,000.

NOTE 7: Total Equity Contribution – Any equity contribution made for the benefit of the Development:

a. In excess of the total equity contribution and the additional equity contributions used to fund the Syndicator Costs, Tax Credit Monitoring Fee, the Tax Credit Allocation Fee and the Operating Reserve, before or after the permanent loan closing will be:

   (i) Allocated to the payment of DSHA's loans in the order and priority set forth in the Regulatory Agreement; or

   (ii) In the event there are insufficient funds to pay for eligible development costs (as determined by DSHA), and there are no other available monies in any of the funds, accounts or reserves related to the development, which have been previously approved for such use by DSHA and all other development-secured lenders and such eligible development costs could otherwise only be paid through the developer’s fee, then at the discretion of DSHA, such excess equity contribution may be used to pay such eligible development costs. Any equity contribution remaining after paying such eligible development costs must then be allocated to the payment of the DSHA loans in the order and priority set forth in the Regulatory Agreement.

b. In the event the equity contributions are less than the total equity contribution and the equity contributions used to fund the Syndicator Costs, Tax Credit Monitoring Fee, the Tax Credit Allocation Fee, and the Operating Reserve, before or after the permanent loan closing, then such equity shortfall shall solely be the responsibility of the developer. No monies in any of the funds, accounts or reserves related to the development may be used to pay any such shortfall. In no case may the developer’s fee exceed the developer fee approved by DSHA.

NOTE 8: DSHA requires the draft partnership agreement be submitted at least 15 working days before construction closing or closing will automatically be postponed.

NOTE 9: Borrowers will be charged a loan closing extension fee of $250 per day on any and all extensions requested once construction/permanent closing dates are agreed upon. Such fee may not be funded from the project's loan proceeds, equity or operating funds.

IMPORTANT HDF ADMINISTRATION POLICIES:

1. DSHA will return all incomplete draws and change orders and charge a minimum $250 fee for each draw/change order that must be reprocessed. This fee is not an eligible project cost.

2. DSHA will charge a $500 re-inspection fee after the first two inspections on a given area for each additional inspection required. This fee is not an eligible project cost and must be paid prior to re-inspection or issuance of approval to occupy the units by DSHA.

3. A cost certification guide will be provided by DSHA for use by the developer and general contractor in submitting all information. The cost certification for the development must include all sources and uses of funds, including all syndication fees. The final cost certification will be due 90 days after DSHA issues the “Permission to Occupy” approval(s) on the last building and must include all sources and uses, including all syndicator fees. If the final cost certification is submitted after the deadline date, a $5,000 penalty fee plus an additional $500 penalty fee for each additional week that the cost certification remains outstanding will be assessed to the Applicant. The penalty fee cannot be paid from loan(s) or equity proceeds.

4. Other payments, rebates, or contributions received any time after construction completion and calculated using costs included in the Total Development Costs as that term is defined by DSHA, shall be allocated to the payment of DSHA's loans in the order and priority set forth in the Regulatory Agreement. Such payments, rebates or contributions specifically include Downtown Development District Grant Program. However, if the potential payment, rebate, or other contribution was included as a source of construction funding, then the payment, rebate, or other contribution can be used to pay an otherwise eligible developer fee that was previously deferred or seller-held financing.

5. All General Contractors must be pre-approved by DSHA through the General Contractor's Certification and Questionnaire process. After DSHA has approved the General Contractor, they will be placed on the LIHTC Approved General Contractor List. The LIHTC-Approved General Contractor List and General Contractor's Certification Process is located at the following link:
   http://www.destatehousing.com/services/servicesmedia/contractor_questionnaire.pdf

6. **Bidding Protocol:**

Developers/Applicants of LIHTC and DSHA-financed projects may chose between two bidding options for General Contractors in order to arrive at construction costs for the proposed development:

1. <u>Option 1</u>

The Developer/Owner of the development may determine the General Contractor at application and shall disclose the General Contractor as part of the Development Team.

a. The General Contractor will agree to a maximum of 7% General Requirements for new construction, 8% General Requirements for rehabilitation and 7% Builders Overhead and Profit, including all change orders. No increase in the percentage of General Requirements or Overhead and Profit will be allowed after application.

b. DSHA shall review and approve plans and specifications for construction work prior to release for bidding.

c. The General Contractor will obtain at least three sealed bids from all subcontractors when the General Contractor is self-performing work for trade payment line items. If the General Contractor is not performing work for the trade payment line items, two sealed bids are required from all subcontractors.

d. The General Contractor will open all bids with their contracted architect, all project costs will be totaled (in a format specified by DSHA) and copies of all bids and the written results forwarded to DSHA and the Developer/Owner for approval. Subcontractor bids shall be awarded to the lowest bidder unless low bid is incomplete.

e. If the General Contractor proposes to perform any work with his/her own employees, the General Contractor shall obtain sealed three bids for the work and may not charge any more than the lowest bid for the work.

f. The Developer/Owner may not pre-bid certain aspects of the work and require the General Contractor to use those subcontractors.

2. Option 2

Developers/Owners may also choose to add the General Contractor to the Development Team after awards of credits or approval of DSHA financing have been made by DSHA. The work must then be bid as follows:

a. Developer/Owners shall invite **all** firms on DSHA's LIHTC Approved General Contractor List to bid and obtain a minimum of three bids from the approved list of General Contractors that will provide bid estimates for the proposed projects.

b. General Contractors may not exceed 10% Builder's Overhead and Profit and either 10% (rehabilitation projects) or 8% (new construction projects) General Requirements. No increase in the percentage of General Requirements or Overhead and Profit will be allowed over the percentage as contained in the General Contractor's bid, including change orders to the contract.

c. DSHA shall review and provide written approval of bid documents prior to release for bidding.

d. The bids shall be sent to the architect of record in a sealed envelope, clearly marked with the project name and date stamped. Faxed or e-mailed bids shall not be accepted. The bids shall be privately opened, tallied and the results forwarded to DSHA and Developer.

e. If the General Contractor proposes to perform any work with his/her own employees, the General Contractor shall obtain three sealed bids for the work and may not charge any more than the lowest bid of the work.

f. The Developer/Owner may not pre-bid certain aspects of the work and require the General Contractor to use those subcontractors. No additional bidder requirements may be added to these protocols without written approval from DSHA which may be withheld in their sole discretion (examples include, but are not limited to, additional payment and performance bond requirements, letter of credit for contractors, unrealistic timing demands, construction schedule, liquidated damage requirements, etc.).

Note: For any funding sources that require bidding of the construction costs (i.e. USDA, HUD), then option 2 must be followed.

PROJECT AND NEIGHBORHOOD STANDARDS
HOUSING DEVELOPMENT FUND
Delaware State Housing Authority
State Of Delaware

Proposed developments must meet the standards in this section.

1. The development shall be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Delaware Code Chapter 46, Title 6, The Equal Right To Housing provisions.

2. New Creation (conversion or new construction) of units must promote greater choice of housing opportunities and avoid undue concentration of lower-income persons in areas containing a high proportion of low-income persons or high proportion of affordable rental units. Due to the high saturation of affordable units combined with low homeownership rate of less than 50%, new housing creation applications within Census tracts 1, 4, 17, 20, 21, 409 and 425 will not be accepted for funding from the HDF or HOME program. Note: does not apply to preservation or replenishment of public housing applications.

3. The site must be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank backups, sewage hazards, or mud slides; harmful air pollution, smoke or dust; excessive noise vibration or vehicular traffic; rodent or vermin infestation; or fire hazards. The neighborhood must not be one, which is seriously detrimental to family life or in which substandard dwellings, or other undesirable elements predominate, unless there is activity in progress to remedy the undesirable conditions. Phase I and Phase II environmental audits may be required.

4. The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed and must conform to all local zoning ordinances/laws.

5. Adequate utilities (water, sewer, gas and electricity) and streets will be available to the site.

6. The housing must be accessible to social, recreational, educational, commercial and health facilities and services, as well as other municipal facilities that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents/sale prices.

7. Travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for the targeted population must not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such developments.)

8. Developments that require permanent or temporary relocation of current households, homeowners, and/or businesses will be considered only if HUD relocation guidelines are followed.

9. The development may not be in an area that has been identified as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the development is covered by Flood Disaster Protection of 1973, and it meets any relevant HUD standards and local requirements.

10. The marketing survey, submitted in the application, must reflect a satisfactory unit absorption rate, as well as a demonstrated need for this development. Verification of market information must be a part of the application.

11. The repayment schedule of the HDF loan proceeds will be taken into consideration when making a determination in the approval of the loan request. Applications that show a shorter loan period, and that do not jeopardize the integrity of the development, will be given a higher priority ranking when a final decision is made.

12. It will be the responsibility of the general contractor to supply references at the time that the application is submitted. If the general contractor is not selected at the time of application submission, references must be submitted at the time of selection, and DSHA reserves the right to reject the general contractor. The general contractor must provide payment and performance bonds from an approved bonding company prior to beginning work on a development.

13. Equity Distributions:

- A limited-profit or limited-liability corporation applicant that is applying for HDF or conventional permanent financing, without Tax Credits, will agree to limit the amount of profit/equity distributable per year to partners/equity holders to amounts not to exceed 10% of initial investment on the development. Applicants operating on this basis will be permitted to receive a return on their initial investment in accordance with the DSHA regulatory agreement, which will be executed at the time of final closing. In the regulatory agreement, the Applicant will legally obligate itself to regulate rents, charges, rates of return, and methods of operations. Initial investment is defined as total development costs less all permanent loans and grants, whether from DSHA or other sources.

- Where LIHTC is involved, the amount of annual equity distribution is limited to 1.5% of initial investment in the following instances:
    - Deferred HDF/HOME debt;
    - Amortizing HDF/HOME debt with an interest rate of 3% or less;
    - Amortizing HDF/HOME debt, regardless of interest rate, that is not current at year-end when the surplus calculation is made.

- For projects with approved debt service coverage lower than 1.20:1, amortization periods in excess of 30 years, the annual equity distribution will be calculated at 1% of initial investment. This will also include all tax-exempt/HDF projects.
- DSHA reserves the right to adjust profit/equity distribution at its sole discretion.

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