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SCDHFDA  
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RE: Comments for the Draft 2023 QAP

**QAP:**

**Page 7:**

Item F. Developer Award Limit: The IRS has mandated deadlines for placing a development in service so why is the Authority superseding the IRS requirements? The IRS has no limit on the number of open developments a developer can have. Many developers are nationwide developers with dozens of open projects as this is their business and livelihood. If lenders have no issue with the number of open awards a developer has and continues to provide financing, why would the Authority choose to limit a developer from getting additional awards. As long as the developer meets IRS deadlines the Authority should not limit the number of open developments someone can have.

Many developments have been delayed because of the lingering effects of COVID 19, the lack of staffing in municipalities i.e., delays in permitting, supply chain shortages, and the increase in affordable housing deals funded in SC has put additional demands on design teams and lenders trying to get all the deals done in the same time frames.

In addition, this limitation is solely for open SC Housing developments which potentially puts developers who develop mainly in SC at a disadvantage. If you plan to propose a limit on open awards for a developer, you should review all open developments a developer has in any state to make the proposed criteria fair.

Item G: Required development experience: We applaud the agency for increasing this requirement. The LIHTC development business is very complex and demanding. Experience is an absolute must in this industry and should not be taken lightly. Allowing less experienced developers to compete only increases the risks to the developments, the program, and the developers themselves and creates potential delays in the program and unnecessary demands on SC Housing staff to have to “hand hold” less experienced developers.

**Page 8:**

Item I. Required Capacity: Date for financial statements should be December 31, 2021.

**Page 9:**

Item K. Mandatory Site Requirements: We appreciate the Authority adding distance to services as these are important to tenants. We would like to also suggest that the Authority limit new construction

developments from being built within 1 or 2 miles of an existing LIHTC or Bond development that has not yet placed in service and achieved a 90% physical occupancy level.

**Page 11:**

Item M. Targeting, PHA Waiting Lists, Average Income- #3: should be 2023 not 2022.

Item N. Mandatory Design Criteria: If the Authority allows waivers for not including a mandatory requirement, then you are encouraging all developers to submit waivers for items they don't want to do which will lower the overall development cost. Since you created a scoring system for State Tax Credits that is based on costs you are allowing developers to manipulate the scoring system and creating an unfair scoring advantage for State Tax Credits. It's understandable that rehab developments may need waivers as they may not be able to do some design criteria based on the existing configuration of the development. All new construction developments should be required to do all mandatory items and request a waiver only if a City/County municipality has established rules and regulations in place that specifically does not allow the mandatory criteria and can provide a letter stating such.

If the waiver language remains in the final QAP then waivers should only be requested after application scoring; however, allowing this would allow developers to have credits based on artificial numbers if multiple high dollar reduction waiver requests are allowed. SC Housing should require developers to submit documentation on how much a waiver request saved in cost and consider if it would have had an impact on scoring before they allowed the waiver.

**Page 12:**

Item O. Rehabilitation, #4: The Authority should allow any tax credit development that has completed the initial 15-year compliance period to submit for additional rehabilitation credits. There is a lot of wear and tear on units, especially family developments, during the initial 15 years and extending the time period another 5 years before being allowed to obtain another infusion of credits is questionable and potentially detrimental to the property and the LIHTC program. The IRS allows developers to submit for additional credits after the initial 15-year compliance period so the Authority should do the same.

**Page 13:**

Item 6. Operating Expenses: Is the Authority keeping historical data of actual operating expenses on existing properties? Expenses go up every year, so we suggest that some type of inflation factor be used to set the range each year.

Item 7. Debt Coverage Ratio: The 20-year cash flow was used when the Authority required in 2020 that all developers use HOME funds as part of the financing. Since that is not the case anymore and Authority HOME funds are not available for LIHTC developments we suggest you use an 18-year positive cash flow requirement as that is the typical permanent loan term. If a developer uses HOME funds from another PJ then require them to use a 20-year proforma.

**Appendix C1- 9% LIHTC**

**Page 18:**

Item B. Award Limitations, #2: We recommend that the Authority limit 1 new construction award in any county that was awarded tax credits in 2022 and allow 2 new construction awards in all other counties. Also, the reference to Section I(B) appears to be incorrect.

**Page 19:**

II. Application Review and Reconsideration Process: The first paragraph references Section III and it should be Section II.

**Page 20:**

Item 3: Should reference Section II(B) not III(B).

**Page 21:**

Item B. Set-Asides: Should reference 2023 not 2022.

**Page 22:**

Item D. Size Requirements: We suggest that rehab be removed from the maximum unit limit. The Authority has existing properties in its LIHTC portfolio that would be eligible for rehab credits that are larger than these unit limits. You are automatically disqualifying affordable housing developers the opportunity to seek rehabilitation tax credits to continue offering affordable housing to tenants.

**Page 24:**

Full-Service Grocery definition: Please eliminate the minimum square footage that a grocery store has to be. As long as the store meets the other requirements, what difference does the size of the store make. Please also eliminate the requirement for the store to be a chain grocery store. As long as there is a grocery store that sells all of the required items, then what difference does the name on the outside of the building make. If our residents have access to the necessary items, that should be all that matters. In rural areas you may have smaller sized stores and the square footage and name is irrelevant as long as the store meets the other requirements listed.

**Page 25:**

Item B. Land Donation: Change the date to July 31, 2022 to be consistent with previous QAP requirements.

**Page 26:** Item C. Affordability, #3.: Points are given to “any application where no member of the Development Team has had an ownership interest in any property that requested a qualified contract unless the owner can prove that the property was sold or transferred by the member to the owner requesting the qualified contract before September 18, 2019; or the member was contractually obligated to request the qualified contract prior to September 18, 2019, as verified by an independent third party and the Authority’s review of the applicable documentation.” When this language was added to the 2020 QAP comments were provided that the Authority should not “reach back” on previously developed properties but should have the start date for this criterion begin with 2020 funded developments moving forward. Reaching back and preventing previously funded developments the right to use the Qualified Contract Process, which is an allowable work out as per Section 42 of the Code, or lose points is not fair to developers. We request that this language be restructured and only apply for those developments funded in 2020 and going forward.

Item D. Affordable Housing Shortage: Can items 1 and 2 be combined for a total of 8 points or is this an “either/or” point criteria?

**Page 29:**

Item I. Supportive Housing: Please consider increasing the Supportive Housing targeting to persons at 30% AMI and lowering the targeting of the units to 7% or 5% of the total units. Also, please clarify that if units cannot be rented to eligible tenants after 90 days that units can convert to a 50% or 60% AMI unit so that there are no long-term vacant units in the development. We suggest that the developer provide supporting documents to the Authority to verify that attempts were made to lease to tenants through a variety of avenues before the unit converts to a higher income unit. It is understood that the next available unit would be targeted to a Supportive Housing tenant once a unit becomes available.

VI. Evaluation of Rehab Applications, A: You are giving preference to developments that are eligible to request a qualified contract or within 2 years of a qualified contract which is great but this does not match the criteria on Page 12 of the QAP that states the development has to be 20 years before requesting credits. As previously stated, the Authority needs to allow rehab developments after the initial 15-year compliance period.

**Page 30:**

Item D: How can a rehab development be tied when there is no point score system in place to rank them?

**Appendix C2- Tax Exempt Bonds**

**Page 32:**

Item 5. Size Requirements: We suggest the minimum number of units for a bond development be 90 units and the maximum units be 200. These developments are costly to complete and there needs to be an economy of scale to spread the costs. Limiting the development size to 200 units would allow the bond funding and State TC to go further.

**Page 33:**

First sentence at the top of the page should refer to the 2023 Manual not the 2022 Manual.

III. Ranking: The Authority has created a race to the bottom as was done in 2020 for the 9% program. In 2020 the Authority ended up funding developments that had unrealistic low costs. As a result, the Authority took back the 2020 credits and reallocated additional credits to make the development work. Encouraging developers to “race to the bottom” with their costs just to be awarded is not good for the program.

In addition, what has been proposed will result in developments having 3-, 4- and 5-bedroom units with larger square footage in order to rank in the scoring system. Older person developments with only 1- and 2- bedroom units are put at a disadvantage in this scoring system.

This ranking criterion seems to encourage putting a lot of residents in units, lots of families or even extended families with a lot of kids to fill the larger units with more bedrooms. This will not be a desirable development to many communities that already resist affordable housing and make claims that apartments contribute to overcrowding of schools and put a strain on local resources.

Limited Affordable Housing Options, both subsidized and non-subsidized: Priority will be given to developments located in a county with the least total number of affordable housing units that are existing based on active developments in SC Housing’s portfolio. This would include all operational developments

and developments that have received a 9% or 4% LIHTC allocation from SC Housing but have not yet Placed in Service.

Highest Cost Burdened Tenants: Developments located in a county with the highest percentage of cost burdened tenants, meaning those counties where tenants spend more than half of their gross income on rent. The source for this information can be found in the U.S. Department of Housing and Urban Development’s Comprehensive Housing Affordability Strategy (CHAS) dataset or the U.S. Census Bureau American Community Survey (As A Note: The Authority used 2013-2017 in their Needs Assessment Report which is now outdated. The Authority needs to ensure that updated data from either of these two (2) sources has been published for use otherwise this criterion should not be used).

Reasonable Cost:

Points will be awarded for cost compared to the average of all other submitted developments based on total development cost less land cost:

< 80% of average	-10 points
80.1 – 90% of average	-4 points
90% - 100% of average	6 points
100.1% - 110% of average	2 points
>110% of average	0 points

**Appendix C3- State LIHTC**

**Page 34:**

Item A. 6: Who does this public hearing and at what point, prior to full application?

Item B.2: Developer may only submit ONE, not only, application per project.

**Page 35:**

II. STC Processes, B.: It states; “...SC Housing will underwrite/review the top scoring applications that will exhaust the federal 9% LIHTC limit”. For clarification, does this mean only the 9% developments that the Authority determines will get a 9% allocation will be the only developments reviewed and ranked for State TCs?

II. STC Processes, B (the second B): It states, “SC Housing will conduct a public hearing...”. Is this another public hearing before awards are made or is the same public hearing that was stated taking place on page 34, Item 6?

Based on comments from the JBRC meeting regarding public hearings on the development being held for State Tax Credits and that public input would be considered in regards to whether a development will be funded, we suggest that criteria be included in the QAP that specifically outlines how the Authority will interpret public comments. We suggest the following, at a minimum: Public comment or input from the general public or city/county officials that evidences unlawful discrimination against classes of persons protected by Fair Housing law or statements the Authority determines to be contrary to efforts to affirmatively further fair housing will not be considered. If the Authority receives input that could

reasonably be suspected to implicate issues of non-compliance under the Fair Housing Act, staff will refer the matter to the Attorney General's Office for investigation, but such referral will not, standing alone, cause staff or the SC Housing to terminate the Application. Staff will notify its Board of Commissioners and JBRC of any such referrals.

III. Ranking: As previously stated this proposed ranking is a race to the bottom which didn't work for the 2020 funding cycle and the Authority is creating the same problem again with the proposed ranking system for State TCs.

**Page 36:**

By combining the 30% adjustment for rural area deals and a 10% adjustment for new construction deals and encouraging larger units and more bedrooms the result is going to be that developers are going to try and develop and build these types of units in rural areas where rents are generally lower will create a development that will be very challenged financially. In rural areas it will be difficult to have enough population base and jobs to fill these larger developments.

**Fee Schedule:**

Recycle Fee: This fee is excessive especially when you are proposing to penalize the developer an award in the next funding cycle. Please reduce the fee to obtain the same credits from a different funding year

**Appendix E- LIHTC Manual**

**Page E-3**

IV. Placed in Service Allocation Procedures: The IRS has a placed in-service deadline of December 31<sup>st</sup> and the Authority has a deadline for submitting a placed in-service application which is the 2<sup>nd</sup> Monday of December. Why is there a need for the Authority to impose another placed in-service deadline of 6 months after the last building places in service? We suggest this requirement be removed and allow the IRS deadline and the 2<sup>nd</sup> Monday in December deadline be used.

**Page E-5**

Item D. Recycling Credits: Why is the Authority allowing the previous 2 years of credits be returned? We suggest that only 1 year be rolled at a time. Also, requesting to roll credits 3 months prior to the Placed In-Service deadline is too far out as developments can receive certificate of occupancy at the beginning or mid-November and still make the 2<sup>nd</sup> Monday in December application deadline date. We suggest the Authority use the last Monday of November as the date to request a roll-over of credits.

**Page E-7**

Date references to January 31, 2022 should be January 31, 2023.