PROPOSED CHANGES FOR
2006 TAX CREDIT PROGRAM POLICIES
As of 9/13/06

The following represents proposed changes to the 2007 Tax Credit Program Policies. These changes are based upon in-house staff discussions, focus group discussion, informal input, and stakeholder meetings over the past year. All changes have been discussed at the stakeholder meetings held in Spokane on August 15th and in Seattle on August 18th.

This process culminates with a public hearing scheduled for the September 28th, 2006 Commission meeting. Written comment on these changes is being accepted through Wednesday, September 27th, 2006 and will be made available for the meeting.

Revisions ratified by the Commission will be incorporated in the tax credit Policies and Application materials for the 2007 tax credit allocation cycle. Our preliminary estimate is that the application package would be ready for distribution in mid-October, assuming Commissioners take final action on the proposed changes on September 28th. The remainder of this memo summarizes each issue and the intent behind each proposal as well as the proposed new policy language.

<u>Underlining</u> implies added language and ~~strikethrough~~ implies a language deletion.

1. Dramatic increases in construction costs are creating significant pressure on program's current credit per unit limit and the Maximum Use of Credit allocation point criterion.

Issue: The intent of this change is to recognize and respond to dramatic and rapid increases in the cost of construction. Over the past 18-24 months alone, costs have increased at an unprecedented rate placing significant pressure on current credit per unit program limits. Tax credits are the primary source of project capital. Increasing the current credit per unit program limit is an appropriate response to help mitigate extraordinary increases in hard construction cost.

This proposed change is based on discussions with builders, developers and other program stakeholders. This recommendation is the result of a coordinated effort between other program funders and the program and policy strategies they are implementing. This change also includes an inflation factor tied to adjustments made to the LIHTC program's per capita authority rate.

Proposed Change:

Excerpt from Program Policies, Program Limits, Chapter 3

MAXIMUM ANNUAL CREDIT PER LOW-INCOME HOUSING UNIT – WAC 262-01-130(8)(c)

The maximum amount of Credit reserved or allocated to a project is ~~$10,400~~ <u>$11,960 (15% increase)</u> per low-income housing unit. For a project located in a qualified census tract (“QCT”), a difficult development area (“DDA”), or a rural county (see Rural Credit Set-Aside, Chapter 5, Section A(5) for list of rural counties) the maximum annual amount of Credit reserved or allocated is ~~$13,500~~ <u>$15,525 (15% increase)</u> per low-income housing unit.

If an Applicant submitted an Application in the immediately preceding year for a project located in a QCT/DDA, and the QCT/DDA designation no longer exists, the Commission will treat the project as if the QCT/DDA designation still applies for purposes of applying the credit per unit limit.

<u>This limit shall adjust annually in concert with and at the same rate of any adjustment made to the per capita authority rate (currently $1.90 per capita) as determined by the United States Department of Treasury.</u>

and,

MAXIMIZE USE OF CREDIT

10 Points

Points will be awarded to projects that meet any one of the following two categories as applicable:

(i) projects that request the “4%” Credit and that agree to limit the Credit reservation and allocation to ~~$3,500~~ <u>$4,050</u> or less per low-income housing unit; or

(ii) Projects that request the “9%” Credit (whether or not 4% Credit is also requested) and that agree to limit the Credit reservation and/or allocation to ~~$6,900~~ <u>$7,940</u> or less per low-income housing unit.

2. Current homeless policy creates unintended project underwriting and operations hardship.

Issue: Over the past five years, the tax credit program has seen a significant increase in the commitments being made to provide housing for the homeless. For the 2006 allocation round the Commission made a policy clarification to define when a household that initially qualifies as a homeless household, for purposes of the program's Special Needs Homeless Set-Aside, is no longer considered homeless and therefore can no longer be counted towards the homeless set-aside commitment. The clarifying language was:

> …The Commission reserves the right to review the service plans at any point in time between the property owner and the service provider(s), and, likewise, the right to review the individual action plans between the service providers and the qualifying homeless household. Households whose income exceeds 30% of the AMI would not generally be considered homeless unless they are actively receiving services. If at any time it is determined that the spirit of the homeless policy is not being met, corrective action may be sought by the commission…

Since that time, through discussions with owners, property managers and service providers, Commission staff has determined that this policy unintentionally creates uncertainty for project's operating budgets, thereby creating underwriting risk that is detrimental to the project.

The policy objective is to encourage setting aside units for the homeless. Operators of these units, either directly or through sound linkages with service providers, are required to provide comprehensive support services that help stabilize families and individuals leading to eventual self-sufficiency. Current policy, although well intended, fails to foster the desired outcome and instead has the potential of creating homelessness and financial hardship on project operations.

Proposed Change:

Revise policy to create a standard of "once qualified always qualified." This change considers a household that initially qualifies as Homeless to always count toward the Homeless Set-Aside Commitment for as long as the household remains in the project.

Excerpt from Program Policies, Allocation Criteria, Chapter 6

HOUSING FOR THE HOMELESS

20 Points maximum

… Each unit must be set-aside to serve Homeless households as defined under the Stewart B. McKinney Homeless Assistance Act and must provide supportive services designed to promote self-sufficiency, meeting the needs of the target population. <u>Any Household initially qualifying as Homeless, counts toward the Homeless Set-Aside Commitment for as long as the household remains in the project.</u> ~~Support services must be provided throughout the regulatory term to at least 20% (or 10% as applicable) of the total housing units and are subject to annual compliance review by the Commission. Should occupants of a designated homeless unit no longer use the provided support services, the next available unit must be rented and supportive services provided to a qualifying Homeless household.~~

<u>Note: Implementation of this “once qualified, always qualified” policy is retroactive to all tax credit projects serving the homeless.</u>

3. Should the allocations of Low Income Housing Tax Credit be restricted to non-profit sponsors?

Issue: The Commission has been ask by the State Legislature to consider restricting the per capita tax credit program (“competitive program”) to non profit (NP) participation only. NP participation for the purpose of this policy is intended to include Public Housing Authorities, Tribally Designated Housing Entities and Public Development Authorities.

Proposed Change:

<u>**NON PROFIT SPONSOR**</u>
<u>**5 points**</u>

<u>Nonprofit Organizations are critical to the delivery of affordable housing for low-income households in Washington. Nonprofit housing developers are mission driven entities that do not need to produce economic profits for investors and thus are able to place a very high priority on the needs and interests of residents most in need. They have a vested and long-term interest in developing, maintaining and preserving safe, quality and affordable housing options for low-income individuals and families.</u>

Across our state, the organizational capacity and housing development experience of Nonprofit Organizations is uneven. In certain areas of the state, especially in rural areas, the existing capacity of Nonprofit Organizations is not sufficient to meet the affordable housing needs.

For-profit entities also provide an important vehicle for the provision of affordable housing. In certain parts of the state they are the only developers of such housing and they often bring equity and expertise to transactions that would not otherwise be available to Nonprofit Organizations. Because of their need to produce returns on investment and their sensitivity to the tax treatment of investments, for-profit entities as a group may not provide the sustained development capacity needed to meet the long term affordable housing needs of low-income individuals and families.

It is the primary intent of this policy to increase the capacity of Nonprofit Organizations to provide affordable housing and thereby increase the number of affordable housing projects developed and owned by Nonprofit entities now and in the future. The secondary objective is to encourage partnerships between Nonprofits Organizations and for-profit entities, thereby expanding the capacity of Nonprofit Organizations and recognizing the important contribution that for-profit entities can provide to meet our housing needs. The third objective is to recognize situations where there is simply insufficient Nonprofit Organization capacity or other unique circumstances and provide incentives to for-profit entities to develop affordable housing.

In order to be considered for the Nonprofit Sponsor points, Applicants must qualify under one of the following three scenarios (please check one):

☐ Nonprofit only: Developed, owned and operated solely by a credible and viable Nonprofit Organization, recognizing that there may be for-profit partners or participants to provide tax-credit equity.

☐ For Profit Nonprofit Partnership: Developed owned and operated by a partnership between a for-profit entity and a Nonprofit Organization as co-owners (FP and NP Partnership). For example, a Limited Partnership may have a for-profit and a Nonprofit Organizations as co-general partners or in the case of a Limited Liability Company, co-managing members. Also projects may be co-developed by partnerships between for-profit entities and Nonprofit Organizations. Non-profit Organization should have a material role in the development, management, the provision of services or contribution to the project.

☐ Nonprofit Sponsor Waiver: Under certain circumstances and only after making specific findings, the Tax Credit Program Director may waive the required Nonprofit Organization involvement. The findings must demonstrate that either no credible and viable Nonprofit Organization is willing and/or able to participate in the project development and ownership, or that unique conditions exist such that only a for profit entity can complete the project. Approval for such waiver requests must be granted in advance of the published application deadline. Waiver requests must be made in writing at least 60 days in advance of application submittal deadline.

All FP and NP Partnerships must provide all items required in Chapter 5, Credit Set Asides and Project Ranking, C. Additional Requirements for Credit Set-Asides for Qualified Nonprofit Organizations and Nonprofit Organizations