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DATE: February 12, 2010
TO: Low Income Housing Tax Credit Stakeholders
FROM: William J. Pavão, Executive Director
SUBJECT: Final Proposed Regulation Adjustments

Attached are five proposed adjustments to the regulation changes staff intends to recommend to the California Tax Credit Allocation Committee (TCAC) on February 17th. The reasons for the five changes are as follows:

Page 14, Section 10325(c)(5)(A)10. New language clarifies that the minimum capacity for a free internet service system is an average download speed of 768 kilobytes/second. This change acknowledges that project sponsors are not expected to guaranty that the minimum internet speed will be available at all times but will, on average, provide the stated minimum.

A second proposed change makes one additional point available for rural projects providing free internet service to the residents. This change acknowledges the importance and challenges associated with providing internet service in more remote rural areas, and the dearth of other amenities in such areas. Three points remains two points fewer than were available for such services under last year's scoring system.

Page 20, Section 10325(c)(5)(B). Adjusts the minimum staffing for a service coordinator and for a services specialist up to one Full Time Equivalent (FTE) per 600 bedrooms, rather than 400. This change acknowledges the cost impact of such services, and attempts to calibrate the cost of this option more closely with other listed cost options.

Page 21, Section 10325(c)(5)(B). Corrects an incorrect number reference and typographical errors. Now correctly refers to 9 rather than 10 previously listed items.

Page 28, Section 10325(c)(10). Deletes the reference to scoring rent and operating subsidies under the final tiebreaker. Staff has been unable to finalize a methodology for fairly expressing these valuable public funding sources in a manner comparable to development funding sources. Staff intends to propose a methodology and entertain public comment before finalizing such a tiebreaker scoring feature.

Page 30, Section 10327(c)(1). Changes clean up garbled and inadvertently repeated provisions of the originally proposed change. The edits make no substantive change.

If you have any questions regarding these changes, please contact TCAC at (916) 654-6340.

Attachment

A small set of commenters suggested that points be available for either site amenity or service amenity scoring. Also, one commenter asked that TCAC state minimum capacity standards for a free internet system.

Response: For the reasons previously stated, TCAC staff continues to endorse the originally proposed change. However, TCAC proposes incorporating one commenter’s suggested addition of a federal housing program minimum standard for such systems’ capacity.

Staff does not recommend leaving the option available under “service amenity” scoring since to do so could dilute TCAC’s efforts to reward counseling and other specified services in that category.

Revised Proposed Change:

10. High speed internet service, with a [minimum average download speed of 768 kilobytes/second capacity](#), must be ~~provided in~~ [made available to each unit for a minimum of 10 years, free of charge to the tenants, and available within 6 months of the project’s placed-in-service date. ~~Contracts with service providers must be documented within the application.~~ Will serve letters or other documentation of internet availability must be documented within the application. If internet is selected as an option in the application it must be provided even if it is not needed for points.](#) 2 points ([3 points for rural projects](#))

Section 10325(c)(5)(B)

Initial Proposed Change:

~~Service Amenities: Amenities must be appropriate to the tenant population served and committed for a minimum of 10 years. Physical space for such amenities must be available when the development is placed-in-service, and the amenities must be available within 6 months of the project’s placed-in-service date. To receive points in this category, programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services. Services must be provided on-site except that projects may use off-site services within 1/2 mile of the development provided that they have a written agreement with the service provider enabling the development’s tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Referral services will not be eligible for points. Contracts with service providers, service provider experience, and evidence that physical space will be provided must be documented within the application. To receive points for service amenities the application must propose a combined annual value of at least \$10,000, or \$5,000 for projects of 20 units or fewer, for those services. Any donated services must be assigned a dollar value by the provider of those services. To receive service amenities points, applications must contain a detailed budget clearly displaying all anticipated income and expenses associated with the projects services program. Having a bona fide service coordinator (not the on-site manager, for example) may count for 5 points in this category, provided that the experience of the coordinator, the duties of the coordinator, and a budget to pay for the coordinator are included in the~~

development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. All organizations providing services for which the project is claiming service amenities points must have at least 24 months experience providing services to one of the target populations to be served by the project.

No more than 10 points will be awarded in this category.

Amenities may include, but are not limited to:

1. Service Coordinator. Responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or other enrichment activities for tenants (such as holiday events, tenant council, etc.). Minimum ratio of 1 Full Time Equivalent (FTE) Service Coordinator to ~~200 tenants~~ 400-600 bedrooms. ~~May not be the same position as #2 or #3.~~ 5 points
2. Case Manager. Responsibilities must include (but are not limited to) working with tenants to develop and implement an individualized service plan, goal plan or independent living plan. Minimum ratio of 1 FTE Case Manager to ~~50 tenants~~ 100 bedrooms. ~~May not be the same position as #1 or #3.~~ 5 points
3. Other Services Specialist. Must provide individualized assistance, counseling and/or advocacy to tenants, such as to assist them to access education, secure employment, secure benefits, gain skills or improve health and wellness. Includes, but is not limited to: Vocational/Employment Counselor, ADL or Supported Living Specialist, Substance Abuse or Mental Health Counselor, Peer Counselor, Domestic Violence Counselor. Minimum ratio of 1 FTE Services Specialist to ~~100 tenants~~ 400-600 bedrooms. ~~May not be the same position as #1 or #2.~~ 5 points
4. Adult educational classes. Includes, but is not limited to: Financial literacy, computer training, home-buyer education, GED classes, and resume building classes. Must provide a minimum of ~~90~~ 60 hours of instruction each year (~~40~~ 30 hours for small developments of 20 units or less). ~~May not be the same as #5.~~ 5 points
5. Health and wellness or skill-building classes. Includes, but is not limited to: ESL, nutrition class, exercise class, health information/awareness, art class, parenting class, on-site food cultivation and preparation classes, and smoking cessation classes. Must provide a minimum of ~~90~~ 60 hours of instruction each year (~~40~~ 30 hours for small developments of 20 units or less). ~~May not be the same as #4.~~ 5 points

- ~~6.~~ Individual development account (IDA) or matched savings program provided by appropriately licensed organization or individual for tenants. 5 points
- ~~76.~~ Health services provided by appropriately-licensed organization or individual. Includes but is not limited to: health clinic, adult day health center, medication management services. 5 points
- ~~87.~~ Behavioral health services provided by appropriately-licensed organization or individual. Includes but is not limited to: mental health services and treatment, substance abuse services and treatment. 5 points
- ~~98.~~ Licensed child care. Must be available 20 hours or more per week, Monday through Friday, to residents of the development. (Only for large family projects or other projects in which at least ~~50%~~ 30% of units are three bedrooms ~~are or larger for families~~). 5 points
- ~~109.~~ After school program for school age children. Includes, but is not limited to tutoring, mentoring, homework club, art and recreational activities. Minimum of 10 hours per week, Monday to Friday, offered throughout the school year. (Only for large family projects or other projects in which at least ~~50%~~ 30% of units are three bedrooms ~~are or larger for families~~). 5 points

Items 1 through 9 are mutually exclusive. One proposed service may not receive points under two different categories. Applicants may receive ten (10) points for item 4 or 5 if double the minimum hours of instruction is provided.

Documentation must be provided for each category of services for which the applicant is claiming service amenities points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state the annual dollar value of the services; commit that services will be provided for a period of 10 years; commit that services will be available to tenants of the project free of charge (except for child care services or other charges required by law); name the project to which the services are being committed. Organizations providing in-kind or donated service must estimate the value of those services. Volunteer time may be valued at \$10 per hour.

Documentation may take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead committing to provide services for at least one year.

For projects claiming points for items 1, 2 or 3, a position description must be provided. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category (items 1 through ~~4~~ 9).

Applications must include a services sources and uses budget clearly describing all anticipated income and expenses associated with the

include equity commitments related to the Low Income Housing Tax Credits. For purposes of this tiebreaker, total development costs will not include total land costs. Total development costs for purposes of this tiebreaker shall also exclude budgeted developer fee. CTCAC may establish underwriting parameters within its application for private funding sources to assure the reasonableness of the proposed loan amounts.

~~In addition to the above, CTCAC shall award points to projects that have awards of project based rental or operating subsidy based on the present value of the award amount. TCAC will provide the calculation for determining the additional points in the application.~~

(b) One (1) minus the ratio of requested unadjusted eligible basis to total residential project development costs.

This ratio ~~These ratios~~ The resulting tiebreaker score must not have decreased when the project is placed in service following award or negative points may be awarded.

Section 10325(g)(4)

Initial Proposed Change:

- (4) Special Needs projects. To be considered Special Needs housing, at least 50% of the Tax Credit units in the project shall serve populations that meet one of the following: are developmentally disabled, are survivors of physical abuse, are homeless, have chronic illness, including HIV and mental illness, are displaced teenage parents (or expectant teenage parents) or another specific group determined by the Executive Director to meet the intent of this housing type. The Executive Director shall have sole discretion in determining whether or not an application meets these requirements. In the case of a development that is less than 75% special needs, the non-special needs units must meet another housing type (for example, large family), although the project will be considered as a special needs project for purposes of Section 10325. The application shall meet the following additional threshold requirements:
- (A) Average income for the special needs units is no more than forty percent (40%) of the area median income;
 - (B) Third party verification from a federal, state or local agency of the availability of services appropriate to the targeted population;
 - (C) The units/building configurations (including community space) shall meet the specific needs of the population;
 - (D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving such assistance are willing to pay rent at the level proposed;
 - (E) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;
 - (F) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;

Comments Received: Three commenters questioned why TCAC was now including general liability insurance in this calculation and urged TCAC not to. Other comments urged the inclusion of off-site work, demolition, and residential furnishings and equipment when calculating the limitation. Finally, one commenter argued against any of the changes, stating that the resulting overhead and profit figure would be too generous.

Response: TCAC staff is deleting the proposed change to the general liability insurance treatment since this cost varies by project and should not have a bearing on a contractor's overhead and profit calculation. Adding off-site and demolition work performed into the contractor overhead and profit calculation is reasonable since that work is not materially different site or structures work. Staff will discuss with the larger stakeholder community the efficacy of including furnishings and equipment in this calculation.

Revised Proposed Change:

- (1) Builder overhead, profit and general requirements. ~~An overall cost limitation of fourteen percent (14%) of the cost of construction (site work and structures) shall apply to builder overhead, profit, and general requirements. Builder overhead, profit and general requirements.~~ An overall cost limitation of fourteen percent (14%) of the cost of construction (site work and structures) shall apply to builder overhead, profit, and general requirements, excluding builder's general liability insurance. For purposes of builder overhead and profit, the cost of construction includes offsite improvements, demolition and site work, structures, prevailing wages, and general requirements. For purposes of general requirements, the cost of construction includes offsite improvements, demolition and site work, structures, and prevailing wages.
- ~~(2) For purposes of builder overhead and profit, the cost of construction includes site work, structures, prevailing wages, and general requirements. For purposes of general requirements, the cost of construction includes site work, structures, and prevailing wages.~~

Section 10327(c)(5)(A)

Initial Proposed Change:

Exceptions to limits.

- (A) Increases in the Threshold basis limits shall be permitted as follows for projects applying under Section 10325 or 10326 of these regulations. The maximum increase to the unadjusted eligible basis of a development permitted under this subsection shall not exceed thirty-nine percent (39%).
 - A twenty percent (20%) increase to the unadjusted eligible basis for a development that is required to pay state or federal prevailing wages;
 - A seven percent (7%) increase to the unadjusted eligible basis for a new construction development where parking is required to be provided beneath the residential units (but not "tuck under" parking);
 - A two percent (2%) increase to the unadjusted eligible basis where a day care center is part of the development;
 - A two percent (2%) increase to the unadjusted eligible basis where 100% of the units are for special needs populations