

DRAFT

Proposed Changes to the Colorado Qualified Allocation Plan for 2003

deletions are indicated by ~~strikethrough~~ and additions are in **bold** and underlined

Section II.A. of the Plan would change as follows:

II.A. Preliminary Reservation and Application Process

Applications for reservations of tax credits from ~~both the federal and state~~ housing credit ceiling will be accepted and reviewed by CHFA on an on-going basis throughout the calendar year. Starting ~~February~~ **January** 1, ~~2003~~ 2002 and ending November ~~7~~ **15**, ~~2003~~ 2002, preliminary applications will be accepted ~~from the 1st~~ **full business week** ~~to the 15th~~ of every month. **The specific dates are as follows:**

January 6-10

February 3-7

March 3-7

April 7-11

May 5-9

June 2-6

July 7-11

August 4-8

September 1-5

October 6-10

November 3-7

Because applications will be accepted throughout the calendar year, all underwriting will be done with the underwriting requirements that are in place at the time of the applications, including the rent and income limits and basis limits.

Applications will be processed in the order received. All applications must score a minimum of 440 **125** points under "Development Selection Criteria" in order to be considered for a reservation. **All applicants must contact CHFA prior to the submission of an application.**

In addition to the minimum score requirement, the applicant must provide evidence that the developer (if the developer is different from the applicant), the management company, the consultant, if any, the legal firm and the accounting firm engaged by the applicant have experience with low-income housing tax credit developments.

4. Preliminary Reservation– Prior to the issuance of a preliminary reservation, site control documentation and a market study must be provided to CHFA. **Also, for developments that include rehabilitation, with or without acquisition, a Capital Needs Assessment and appraisal to establish land value are required before a reservation is issued.** If there are any issues or concerns from a staff review of these items (see section III.A.), staff will document those concerns in writing and the developer will have an opportunity to address those issues. If there are no issues with site control documentation, the market study or with the submissions for step 1., staff will recommend a preliminary reservation to the CHFA Board of Directors.

Developments that receive approval from the CHFA Board of Directors are given a preliminary reservation of tax credits. Preliminary reservations are valid for twelve months from the date of the preliminary reservation letter. **Developments that do not meet the allocation requirements within the 12-month period will lose the reservation and may not re-apply for a minimum of six (6) months.** Preliminary reservations may be made subject to such conditions as CHFA determines necessary or appropriate to assure that the development will timely meet the goals of this Plan, including, without limitation, the development's progress toward completion and compliance with CHFA and federal ~~and state tax credit~~ requirements.

~~Reservations of state tax credits shall be conditioned on, among other things, compliance with the public hearing requirements of Section 39-22-2102(5)(a), C.R.S. and with the local governing body contribution requirement of Section 39-22-2102(5)(b), C.R.S. If CHFA learns that any principal that is involved with a proposed development has serious and/or repeated performance or non-compliance issues in Colorado or any other state at the time of application, the application will be rejected. The prior performance considered might include, but is not limited to, progress made with previous tax credit reservations, development compliance and payment of monitoring fees.~~

- ~~7. State Housing Credit Hearing and Local Contribution Requirements – Prior to the allocation of state housing credits, the developer of the proposed development must conduct a public hearing in the community in which the development is to be located. The Authority shall consider any comments or other information provided at the hearing when making allocations. The State Tax Credit Act requires that the developer shall record the public hearing and that the developer makes copies available to interested parties, including CHFA. In addition, any development that receives state credit, whether or not the state credit is combined with federal credit, must obtain a written commitment approved by a public vote of the governing body of a local government to provide some monetary, in kind or other contribution benefiting the development. Applicants for state tax credits only or for a combination of federal and state tax credits that compete successfully for a preliminary reservation must meet the foregoing requirements as a condition of the reservation. Those that do not meet these requirements will not be eligible for either state or federal tax credits.~~

Section II.B. of the Plan would change as follows:

II.B. Carryover Allocations of Federal Credit and Allocation of State Credits

The Code allows an allocation of federal tax credits to a qualified building that has not yet been placed in service, provided that, (i) the building is placed in service not later than the close of the second calendar year following the calendar year of the allocation, and (ii) if the building is part of a development and the taxpayer's basis in the development (including land and depreciable real property), as of the later of the date which is six months after the date the allocation is made or the end of the calendar year in which the carryover allocation is made, or as of such earlier date as the Authority may establish, is more than 10 percent of the taxpayer's reasonably expected basis in the development as of the end of the second calendar year following the year in which the carryover allocation is received. ~~The State Tax Credit Act provides for the allocation of State Credits at such time as the Authority may determine~~

1. Carryover Application Requirements:
 - a. Completed spreadsheet application with any revisions
 - b. Detailed 15-year pro forma
 - c. Architect Certification – Certification of the architect, who has designed the development, that the development has been designed to comply with the requirements of all applicable local, state or federal fair housing and other disability-related laws, however denominated. The development design should consider, at a minimum, the applicability of the following laws: local building codes, Colorado Fair Housing Act, as amended, Colorado Standards for Residential Construction (C.R.S. Section 9-5-112), Federal Fair Housing Act, as amended, the Americans with Disabilities Act, and the Rehabilitation Act of 1973, as amended.
 - d. Zoning and Planning Approval **(Applicant must provide evidence that all local requirements for the issuance of building permits have been met.)**

- e. **Applicant must provide evidence that enforceable financing commitments for all loans, grants, and equity from the sale of tax credits have been secured. An “enforceable commitment” means that the authorized body (Investment Committee, Loan Committee, Board, etc.) of the funding source have given approval and the commitment is subject only to those conditions which are totally under the control of the sponsor to meet. The terms and conditions of the commitment must be clearly identified. Application and commitment fees have been paid or must be required to be paid upon closing. For the tax credit equity commitment it means there is an executed entity document (partnership agreement) identifying the equity commitment, the equity factor and pay-in schedule**
- f. Documentation of owner equity (equity other than that obtained from the sale of tax credits) listed in Sections VIII and IX of the Carryover Application;
- g. Documentation of the ownership of the building(s) and/or land and the Certificate as to Ownership and Basis;
- h. Attorney’s Opinion letter;
- i. Independent Auditor’s Report for Carryover Allocation, **including documentation that the 10% test has been met** (Accountant’s opinion letter with Exhibit A to Independent Auditor’s Report;
- j. Detailed site-plan
- k. Updated documentation of Utility Allowance amounts;
- l. ~~Capital Needs Assessment for Rehabilitation Developments (see Appendix B of the Plan for the requirements of the capital needs assessment);~~
- m. ~~Copy of appraisal for land and/or building acquisition for acquisition/rehabilitation developments only;~~
- n. Such other documents or certifications as CHFA determines necessary or useful in the determination that the development is eligible for a carryover allocation.

Section II.F. of the Plan would change as follows:

II.F. Maximum Credit Award

~~No more than \$1,000,000 in annual “per capita” federal credit housing ceiling amount, or the equivalent state tax credit amount (the amount of state credit needed to provide the same amount of equity as the federal credit), may be allocated to any one development or any one sponsor, or affiliate thereof, in a credit year.~~

CHFA will accept applications for no more than \$1,100,000 of the annual “per capita” federal credit for any one development or any one applicant, or affiliate thereof. As long as an application is active, (i.e. has not yet received an allocation), the amount requested in the application will count against the \$1,100,000 cap.

Section II.G. of the Plan will change as follows:

- 1. Project cost, including the reasonableness of cost per unit, developer fees and overhead, consultant fees, builder profit and overhead, and syndication costs (For Rehabilitation developments, hard costs, not including costs for acquisition **or any soft costs**, for rehabilitation must be at least ~~\$6,000~~ **\$6,600** per unit in order to be eligible for tax credits);

Section II.I. of the Plan will change as follows:

II.I. Additional Federal Credits

Sponsors may apply for an increase in federal tax credit amounts in subsequent years if a development's eligible basis has increased. Additional credits may be awarded if (i) there are additional credits available, (ii) the development successfully competes against all other developments requesting credit, (iii) CHFA is satisfied that the additional amount is necessary for the financial feasibility and viability of the development, and (iv) the increased amount of credits does not exceed CHFA's ~~cost reasonableness~~ **basis** limits **for the year of allocation**. Such applications will be subject to the same competitive application process described above in Section II.

Section III.D. of the Plan will change as follows:

III.D. Minimum Pro Forma Underwriting Assumptions

The following minimum underwriting assumptions must be used for the 15 year pro forma provided as part of the application. These are minimum requirements. Results of the market study may require higher assumptions.

1. Vacancy Rate – 7% on all development income; 10% vacancy rate for any retail/commercial income.
2. Annual Rental Income Growth – 2%
3. Annual Operating Expense Growth – 3%
4. Per Unit Per Annum Operating Expenses (PUPA) - ~~\$2,900~~ **\$3,000** (higher for developments that are providing additional services; ~~\$14,000~~ **\$20,000** for licensed assisted living facilities).
5. Debt Coverage Ratio – Minimum 1.1 to 1.0 for all amortized debt. Developments with debt coverage ratios that exceed 1.3 to 1.0 may be eligible for less credit than the amount calculated as per Section II.F. of the Plan.

Section IV.A. of the Plan will change as follows:

For mixed-income developments, including developments financed with private activity bonds, CHFA requires that Low-Income set-aside units be distributed proportionately throughout each building, throughout the bedroom/bath mix and type and, **to the extent possible, throughout** each floor of each building of the development. Both market rate and low-income units must have the same design regarding unit amenities and square footage. Amenities include, but are not limited to, fireplaces, covered parking, in-unit washer/dryers and mountain views.

For developments that are 100% low-income, including developments financed with private activity bonds, CHFA requires that the units at different targeting levels (40% AMI, 50% AMI, etc) be distributed proportionately throughout each building, throughout the bedroom/bath mix and type and, to the extent possible, throughout each floor of each building of the development. All targeting levels must have the same design regarding unit amenities and square footage. Amenities include, but are not limited to, fireplaces, covered parking, in-unit washer/dryers and mountain views.

Low-Income Targeting Points Given as Follows (applicants must choose either threshold (a) or (b) below and may also choose (c), if the requirements therein are met; Developments located in counties with median incomes below \$40,600 will be allowed to use the weight factor of 60 instead of 40 for selecting the 60% of A.M.I. threshold, a weight factor of 80 instead of 60 for selecting the 50% of A.M.I. threshold and a weight factor of 100 instead of 80 for selecting the 40% of A.M.I. threshold. **Because applications will be accepted throughout the calendar year, the current county median income at the time of the application will be used to determine eligibility for a weight factor adjustment.**

(c) Targeting 30% of area median income or below. Additional points will be awarded for developments that target very, very low-income residents. This targeting is available only to Colorado-based non-profit entities that are developing housing for the homeless, as defined in Section IV.B.5 of the Plan, and for-profit or non-profit entities that are receiving points under section IV.B.3.d..The non-profit entity developing housing for the homeless must have at least five (5) years experience in the development and management of housing for the homeless. Developments providing housing for the homeless must provide a range of supportive services to the residents , at no cost to the residents, in order to receive the additional points. Supportive services might include, but are not limited to, case management, job training and/or placement, continuing education, transportation, child care and health care. These services must be provided by a service provider(s) with a minimum of three years experience in the related field of service provision. Documentation must be provided. **Developments claiming points in this section cannot also claim points under Section IV.B.5.**

Very, Very Low-Income Targeting (Select One)			Total Points
10% of total units at/or below 30% AMI - 5 Points	20% of total units at/or below 30% AMI - 10 Points	30% of total units at/or below 30% AMI - 15 Points	_____
E: No more than 60 percent of total number of the low-income units can be designated as serving tenants at or below 40% of the Area Median Income for purposes of determining the points in the 40% A.M.I. category unless the development has federally funded project-based rental assistance or operating subsidies.			

Section IV.B. of the Plan will change as follows:

2. Development Location

Five (5) points may be earned for proposed developments located in a community that has an identified community housing priority (e.g. supports a local, regional or state plan, a neighborhood plan, a ~~CHAS~~, or some other community-sponsored need assessment, master plan etc.) Applicant must provide evidence, clearly demonstrating the development fits into the community’s need;

4. ~~Sponsor~~ **Applicant** Characteristics

Points may be earned for the following:

- a. (5 points) ~~Sponsor~~ **Applicant** is a Colorado-based, 501 (c) (3) or (4) tax-exempt organization, having an express purpose of fostering low-income housing, or a Colorado public housing authority, is the sole general partner (either itself or through its or a related subsidiary) and will from the time of application materially participate* in the development and operation of the development throughout the compliance period. A Colorado-based tax-exempt organization is defined as an entity that has a base of operations in Colorado, including offices and a full-time staff whose responsibilities include the development of housing in Colorado. Entities that are merely registered with the Colorado Secretary of State as a non-profit, but whose staff works and lives in another state, do not meet the definition of a Colorado-based tax-exempt organization. Developments receiving points under this category will be considered as part of the non-profit set-aside under Section II.E;

*Materially participate is defined in Section 469(h) of the Code as “involved in the operation of the activity on a basis which is regular, continuous and substantial”.

~~b. (5 points) Significant participation** by a developer (either for profit or non-profit) that has been responsible for the construction, completion and placement in service of a multi-family rental housing development. In order to receive points under this category, the application must include historical operating expense data for the most recently audited year for all multi-family housing developments that the developer has placed in service. This information must include the number of units for each development.~~

~~**Significant participation means that an individual or entity must serve in a role as owner or co-owner of at least 51 percent (of the general partner) and materially participate* in the development and/or operation of the development throughout the construction period, the lease-up period and the compliance period.~~

1. Tenant Populations with Special Housing Needs

Eight (8) points may be earned for the set-aside of at least 33 percent of the units for special needs tenant populations listed below. Applicant must provide evidence of client source (e.g. letters from referring agencies, marketing plans, etc.). A sample agreement is in Exhibit G to the application. This agreement must be typed on the entity's letterhead, must be signed and dated by both parties and a copy must be included with the application in order to receive points. Documentation must be provided that demonstrates previous experience for the entities that will be providing services and managing the property. These units must be held available and rented only to these populations. (The minimum set-aside of 33% may be waived if any State regulations restrict the number of special needs units in a development. Waivers will be considered on a case by case basis and only with documentation of State imposed restrictions.) **Developments claiming points in this section cannot also claim points under Section IV.A.1.(c).**

VI. DEVELOPMENTS FINANCED WITH TAX-EXEMPT BONDS (FOR FEDERAL TAX CREDITS ONLY)

The following sections of this Plan do not apply to developments financed with tax-exempt bonds: Sections II.A.1-4., II.A.7-8., II.B.,II.D-F., II.I., II.N., and IV.C.)

Unless otherwise stated, all other provisions of this Plan also apply to developments financed with tax-exempt bonds. Under Section 42(h)(4) of the Code, developments financed with tax-exempt bonds may be entitled to 30% present value tax credits outside the federal housing credit ceiling. The bonds must have received an allocation of private activity bond cap pursuant to Section 146 of the Code, and principal payments on the bonds must be applied within a reasonable period to redeem the bonds. Credits are allowed for that portion of a development's eligible basis that is financed with the tax-exempt bonds. If 50% or more of a development's aggregate basis (land and building) is so financed, the development is entitled to credits for up to the full amount of qualified basis.

Developments financed with tax exempt bonds are required by the Code to apply through the state credit agency for an allocation and for a determination that the development satisfies the requirements of this Plan. CHFA may accept the underwriting criteria of the permanent lender and/or the provider of credit enhancement if a summary of the financial analysis performed by the lender that addresses the criteria of Section III of this Plan is provided to CHFA. Otherwise, the criteria in Section III of this Plan will be applied. CHFA has established 60 points as the minimum number of points which a tax-exempt bond financed development will have to score under the Development Selection Criteria (Section IV.) to be considered for tax credits in Colorado. Sponsors may submit an application at any time in accordance with the following process:

The sponsor applicant must notify submit a request for LIHTC's to CHFA, in writing, that an application has been submitted to the issuer of bonds. ~~after the issuer of the bonds has approved an "inducement" for the development and after the development has been assured that private activity bond volume cap is available.~~ The applicant must also notify CHFA if the development is seeking mortgage insurance through the Federal Housing Administration (FHA), or credit enhancement from another source., ~~the sponsor should submit the request to CHFA after the credit enhancer has approved a preliminary mortgage amount.~~

The request preliminary application should must be submitted on a CHFA LIHTC application form along with the following requirements:

1. Market study (see Section III – Underwriting Criteria for Market Study Requirements and the Market Study Guide.)
2. Detailed development information which includes:
 - i. a description of the development and the location;
 - ii. location maps (clean, legible copies of both the local neighborhood and a city-wide map showing the development location) and site plan;
 - iii. development type and unit mix;
 - iv. line item development costs, sources and uses of funds;
 - v. projected rents and expenses;
 - vi. a 15-year pro forma that meets the requirements in Section III.D
 - vii. a development timeline.
3. Detailed sponsor and development team information, including resumes and historical operating expense data on all multi-family housing developments that have placed in service;
4. Evidence of site and/or building control;
5. Evidence of zoning status, provided by the local zoning or planning department;
6. Proposed financing information, including source(s) and terms, on financial institution letterhead and signed by a financial institution representative.
7. Two letters of comment, one from the local public housing authority and one from the local planning agency or other appropriate units of local government (only one letter is required if the development is in a location that is not served by a public housing authority.);
8. Completion of the Development Selection Criteria Worksheet which is a part of the application;
9. Certification of the architect, who has designed the development, that the development has been designed to comply with the requirements of all applicable local, state or federal fair housing and other disability-related laws, however denominated. The development design should consider, at a minimum, the applicability of the following laws: local building codes, Colorado Fair Housing Act, as amended, Colorado Standards for Residential Construction (C.R.S. Section 9-5-112), Federal Fair Housing Act, as amended, the Americans with Disabilities Act, and the Rehabilitation Act of 1973, as amended;
10. ~~Bond inducement resolution;~~
11. For acquisition/rehabilitation developments that are claiming acquisition credits, provide an appraisal that values the land and buildings separately and provide an attorney's opinion that the ten year rule requirements are met or provide evidence of an IRS waiver: and
12. Other documentation as required in the CHFA application packet

CHFA is required by the Code to notify the Chief Executive Officer of the local jurisdiction, where the proposed development will be located, of the tax credit application, and provide adequate opportunity for comment.

CHFA staff will review the application, determine whether the development is eligible and meets the requirements of this Plan, and make an initial determination of the development's tax credit amount.

For mixed-income developments financed with private activity bonds, CHFA requires that Low-Income set-aside units be distributed proportionately throughout each building, and, **to the extent possible**, each floor of each building, of the development and throughout the bedroom/bath mix and type. Both market rate and low-income units must have the same design regarding unit amenities and square footage. Amenities include, but are not limited to, fireplaces, covered parking, in-unit washer/dryers and mountain views.

For developments that are 100% low-income, including developments financed with private activity bonds, CHFA requires that the units at different targeting levels (40% AMI, 50% AMI, etc) be distributed proportionately throughout each building, throughout the bedroom/bath mix and type and, to the extent possible, throughout each floor of each building of the development. All targeting levels must have the same design regarding unit amenities and square footage. Amenities include, but are not limited to, fireplaces, covered parking, in-unit washer/dryers and mountain views.

There will be changes to the Market Study Guide. CHFA staff will be meeting with a group of market analysts to discuss the guide in detail. While specific changes are not a part of this document that is being posted on the CHFA website, suggestions by the market analysts will be discussed at the public meeting on October 16, 2002.