2014 QAP COMMENTS and DSHA RESPONSE

DSHA would like to thank all our partners for their feedback and comments to the 2014 Qualified Allocation Plan (QAP). DSHA has summarized the comments and feedback by category.

Needs and Priorities

- We recommend that DSHA maintain its $973,340 set-aside for proposals involving the preservation and rehabilitation of existing multifamily rental housing in the final 2014 QAP and maintain the points awarded to proposals involving preservation.

- We recognize DSHA's efforts to expand affordable housing to areas of high opportunity. But doing so must not be at the expense of existing low-income communities. With that in mind, we urge DSHA to balance the allocation of tax credits for new construction and the preservation of existing housing, particularly where existing housing is principally occupied by low income minority households.

DSHA Response: DSHA will maintain the preservation set-aside and all preservation points for 2014 and will continue to strive to balance all housing needs with the resources available to DSHA and our partners.

Definitions

Non-Profits

- We appreciate the clarification of the definition for non-profits, who are also Community Housing Development Organizations (CHDOs), that they must "sponsor" the rental housing. It is essential that CHDOs are not "used" to qualify in the Non-Profit pool and the language that was added makes that clear. CHDOs need to maintain effective project control and be a legitimate, invested partner in the deal in order to compete in the Non-Profit Pool. We also applaud the inclusion of wording regarding if the CHDO is removed for cause, that it be replaced by another CHDO. The one sentence in the additional language that is not clear to us is "In addition, HOME funds must be provided to the entity that owns the project." What do you mean by that? Please provide some clarification to that sentence.

DSHA Response: HOME funds must be provided to the Owner in a LIHTC development rather than to the CHDO itself. DSHA will clarify this section of the definition.

Special Populations

- While we understand the need to house Delaware's special populations, we wonder if housing them among the mainstream population at a minimum of 5% of the units in each funded project is the best approach and use of resources. Additional services will have to be provided to the special populations that may not be needed by the remainder of the tenants and all managers will have to become knowledgeable about the various special populations. Please explain your rationale.

DSHA Response: Please refer to page 14-16 in the Needs and Priorities section of the 2014 QAP that describes DSHA's rationale. In general, the State of Delaware is prioritizing community-based care by integrating units in multifamily properties.

- It is not clear whether the special population units will have to serve all of the targeted special populations or if a complex could chose to serve one of the special populations.

DSHA Response: The special population target units will serve <u>all</u> special populations defined in the 2014 QAP and the development will not have a preference when applicants are referred through a state referral system. However, the owner/management entity will process and screen all applicants in accordance with their property's screening criteria. In addition, persons with physical disabilities should occupy accessible units when available.

- For the targeting units, we strongly disagree with the requirement that developments with project based rental assistance must target at least 5 units, regardless of the size development, or 5% whichever is larger. This would be extremely difficult for some smaller, rural rental housing developments. Five units among a 24 or 34 unit development is a large percentage – 21% and 15% respectivelyy. Please reconsider keeping the set aside of units for special populations at the minimum of 5% for small developments.

DSHA Response: DSHA will revise this section accordingly. All developments will have a mandatory requirement of 5% or 3 units, whichever is greater. In addition, to qualify for the Integrated Special Population points, the applicant must agree to increase the target units to 10% of the total units or double the minimum requirement for smaller projects to 6 units, whichever is greater.

- Why is a targeting plan needed now that DSHA will be managing a tenant referral system for these units? That seems unnecessary. Or if DSHA feels a plan is necessary, please make it a post LIHTC award requirement.

DSHA Response: DSHA will continue to require a targeting plan at application. The targeting plan provides basic information on how the applicant and management entity plan to identify the mandatory target units and if any additional units will be targeted for points and other basic information on how these units will be managed.

Section 811

- Why does DSHA intend to first target the Section 811 rental assistance to existing sites and then to projects seeking (awarded) LIHTCs?

- Does DSHA have a specific study or plan that demonstrates the need among existing units? For LIHTC projects seeking to serve persons with disabilities, the Section 811 rental assistance would help to ensure that project's feasibility.

DSHA Response: One of HUD's stated priorities for the demonstration program is to get the 811 subsidies into operation as quickly as possible, ideally within 24 months of executing Cooperative Agreements with the states. While, DSHA intends to first target units to existing multifamily projects, if not all assistance can be distributed to existing sites, the subsidy assistance may be made available to projects seeking new LIHTC financing. DSHA anticipates housing approximately 150 households under this program. Under the Section 811 PRA Demo program, each property is limited to 20% units set-aside for households with disabilities. Since DSHA only allocates 3-4 projects a year, we prioritized our application to house households immediately within our existing portfolio of properties and then to new properties receiving LIHTC awards.

DSHA, as well as the State Department of Health and Human Services have well documented and established the need for housing and assistance for persons with Disabilities. Please refer to DSHA's website and the following link for more data and information
http://www.destatehousing.com/FormsAndInformation/pubs.php

Elderly Housing

- There is a significant need for low income elderly housing in the Seaford community and by placing a 50% of the units to have a subsidy for new construction prohibit the development of elderly housing given the apparent current non-availability of HUD or RD subsidies. Consideration could be given for elderly development applications if the market study process results would support the need for non-subsidized elderly housing. Extra points could be given if there were subsidies provided with the development but not providing subsidies should not necessarily be a threshold requirement.

- DSHA should re-evaluate the need for elderly housing in certain areas of the state. The data presumes that the lower income elderly households is across the state. There are pockets of the state that could assist elderly households that do not need subsidy. DSHA should consider certain capture rates for elderly projects instead of requiring the 50% of units needing subsidy.

DSHA Response: DSHA is conducting a new Needs Assessment for the period 2015-2019. The study will include a full evaluation of rental housing needs and demand in the state, including elderly households and by household income. Currently, our elderly needs are particularly concentrated among ELI households in Delaware – households which generally need deeper subsidies. Extremely low income affordability could also meet some of those needs. However, a priority for family properties continues in the state of Delaware, since needs are greater for family households. Family developments are also more difficult to develop, and less likely to be met by the general market. Therefore, DSHA will continue to strive for developments targeting elderly with at least 50% subsidy for new units for the 2014 QAP, however, we will analyze the new needs data for the 2015 QAP and other options to develop elderly housing in Delaware.

Community Connectivity and Access to Transit

- We support the community impact sections of the proposed QAP that provides points to projects that are community compatible, connected to surrounding communities, and/or are part of a comprehensive community revitalization plan. By including these points, DSHA acknowledges that affordable housing is part of well-functioning, sustainable communities. The presence of diverse housing options across the income spectrum near transit links, neighborhood amenities, and economic opportunities is a hallmark of vibrant, sustainable communities. We commend DSHA for including these kinds of incentives in your draft QAP.

- We also commend DSHA for recognizing the importance of transit-connected affordable housing in its 2014 QAP. By awarding points to projects located in close proximity to public transportation, DSHA is helping to preserve these at-risk units while further incentivizing location efficiency among low-income housing tax credit applicants. Because transportation and housing are the two largest expenses for households across the country, it also helps ensure that low-income families are able to fit both of these necessities into their budgets.

DSHA Response: Thank you for your supportive comments. DSHA will continue to strive to meet the State Strategies for Policies and Spending and provide opportunities for applicants to meet the housing needs of the State of Delaware as well as transit connectivity to these developments.

Green Certification

- Green technologies promote energy and water conservation and provide long-term savings through reduced utility and maintenance costs, all while providing residents with a healthier living environment and reducing carbon emissions. As a result, we enthusiastically support the inclusion of green building standards in the QAP threshold and scoring criteria.

- We also encourage DSHA to partner with Delaware's utilities to make energy-efficiency programs more accessible to affordable, multifamily developments. A majority of states implement utility-funded energy efficiency programs, often paid for through charges included in customer utility rates. These programs are a significant and growing source of resources for residential energy retrofits that remain largely untapped by the multifamily sector.

DSHA Response: DSHA will take this into consideration for the 2015 QAP after more research and analysis on Delaware utility programs and how they can be maximized for affordable housing.

Balanced Income Targeting

- We still caution encouraging the structuring of developments based upon a specific number of units serving a specific range of income, especially among smaller projects. It makes renting projects that much more difficult and increases the possibility of higher vacancy rates. The structuring of rents at multiple percentages of AMI significantly reduces the flexibility needed as the market changes.

- Section 42(m) of the IRC states that the Qualified Allocation Plan should give preference in "allocating housing credit dollar amounts among selected projects serving the lowest income tenants." While we understand serving a balance of incomes and are glad to see a simpler table for these points, we question the distribution on the points being suggested. Also, with the proposed charts, how will a project be scored if it is structured differently than the proscribed percentages of units per % of AMI category? Furthermore, with existing projects, shouldn't they strive to serve the income mixtures of their existing tenants, presuming all are LIHTC eligible? (We want to avoid displacement don't we?)

- Regarding the award of points, if the intent is to give preference to the projects serving the lowest incomes, why would a non-subsidized development where the 55% of the units will serve 50% of AMI or lower and 45% of the units serve 60% AMI receive 20 points, while a project that provides 60% of its units for households with incomes at 50% of AMI or lower receives only 15 points? We would suggest that DSHA at least switch the third and forth rows under non-subsidized developments in terms of points. Or the last row for 20 points should be 30% at 30% AMI, 10% at 40% AMI, 25% at 50% AMI and 35% at 60% of AMI. For subsidized developments, especially, Rural Development complexes with rental assistance, 100% of the rental assistance units must serve 50% of AMI or lower. How many points would such a project with 100% at 50% of AMI or lower, without any units at 60% of AMI be given?

- Would a unit mixture of 40% at 30% AMI, 10% at 40% AMI and 50% at 50% AMI and no units at 60% AMI get 20 points? We suppose that a RD development could be structured with 5% of the units at 60% AMI but in reality while it has 100% rental assistance for all its units, 100% of units the would have to serve households with incomes at 50% of AMI or less?

DSHA Response: Many developments that utilize Low Income Housing Tax Credits may also include other federal or state programs. Each program may have different income targeting requirements. Applicants must recognize the LIHTC income targeting as separate. The balanced income category is targeting for tax credit purposes. The reality of the resident's incomes may be much lower, but for tax credit purposes, the units are "targeted" and set-aside for households below the target AMI. Here is an example of an income target chart for 50 units that have various programs and how for DSHA's 2014 QAP it would score the maximum.

ABC Development – Non- Subsidized 50 Units				
Targeting	# of Units @30% AMI	# of Units @ 40% AMI	# of Units @ 50% AMI	# of Units @ 60% AMI
LIHTC	15	5	8	22
HOME	0	0	10	40
FHLB	10	0	40	0
HDF	10	10	20	10

ABC Development – Subsidized 50 Units				
	30% AMI	40% AMI	50% AMI	60% AMI
LIHTC	20	5	23	2
HOME	0	0	10	40
USDA	10	0	40	0
Section 8	20	5	25	0

A household with an actual income of 49% of AMI can be targeted as a 60% income unit for tax credit purposes. To comply with Section 42, households have to be below 60% of AMI. Many occupied preservation and/or acquisition/rehabilitation properties have existing residents that may have household income over 50% of AMI and the applicant will need a certain percentage of units targeted at 60% of AMI. For non-subsidized properties, it is harder to target lower incomes and maintain cash flow. In an effort to target lower incomes, DSHA is balancing the property with more units at 50% or 60% of AMI.

When completing the income targeting questions for the LIHTC application and pro forma, it is important to demonstrate the LIHTC targeting that is chosen. If an applicant chooses 100% at 50% AMI they will not get any points. In addition, applicants that have households with existing residents that may be over income may not dislocate anyone for income purposes. Please refer to DSHA's relocation policy.

Federal Rental Assistance

- It is unlikely that there will be any new federal rental assistance in FY 2014. Instead, we would suggest that all projects with project based rental assistance should be given three points as they are serving the most housing-needy population.

DSHA Response: DSHA considers new federal rental assistance resources being brought into the state a premium. We acknowledge that there are shrinking scarce resources; however, an applicant that can bring in new subsidy into the state should be rewarded. Preservation projects with existing project based rental assistance receive points for these subsidies under the Preservation category.

Underwriting Criteria

Developer Fee

- Please explain why site environmental remediation costs and DSHA assumed debt are excluded from the total development costs used for calculating the Developer's Fee? The site remediation for instance must be monitored by the developer and is a real cost to the project.

DSHA Response: Site Remediation is a cost to the project and will continue to be part of the Total Development Costs; however, it is deducted from eligible basis for credit determination as the cost is related to preparing the land for construction. Funds for site environmental remediation and clean up costs are typically provided by DNREC to the current property owner (not to the new ownership entity) who in turn hires a DNREC approved environmental consultant to oversee the work. DSHA requires site remediation work to be completed prior to construction closing and as such it is the responsibility of the current property owner rather than the new developer entity. Developers should be aware of clean up costs and negotiate acquisition costs accordingly.

Many of the preservation properties in the State portfolio have current DSHA deferred soft debt and those properties may be eligible for re-syndication. Assumed amortizing debt, especially low interest debt, often enhances a project. Assumed DSHA non-amortizing debt on the other hand, involves DSHA forgoing repayment of funds that the original owner agreed to repay and may require additional concessions on DSHA's part. Rewarding a new developer with additional developer fees for requiring DSHA to forgive debt repayment or make other concessions would be inappropriate. DSHA and other assumed debt may be part of eligible basis, for credit determination; however, it will not be part of the developer fee calculation.

Bidding Protocol – General Contractor's Options

- For Option 1, why do the sub-contractor bids need to be notarized?

DSHA Response: DSHA has made the recommended change and has removed the notarized requirement for sub-contractor bids. In addition, the intention of sealed bids is that bids received by the architect are in a sealed envelope. DSHA would also like to clarify that subcontractor bids are not needed at application. This process would be part of the underwriting after a preliminary allocation is made.