DCA Summary of 2009 Qualified Allocation Plan Revisions
Core Plan and Appendix I

The following is a summary of some of proposed changes to DCA's 2009 Qualified Allocation Plan and Appendix I. DCA will not publish a summary of scoring revisions. Please note that this list contains some, but not all changes. Applicants are encouraged to review the entire Qualified Allocation Plan. DCA will be accepting comments on the Draft through December 2, 2008. All comments should be emailed to DCA at oahround2009@dca.state.ga.us.

A complete copy of the QAP can be obtained by visiting the DCA website at http://www.dca.state.ga.us/housing/HousingDevelopment/programs/QAP2009docs.asp or by contacting Andria Williams at (404) 982-3483 or awilliam@dca.state.ga.us.

SUMMARY OF CORE CHANGES

Definitions added:

- **ADA**
- **Federal Financing Institutions Examination Council (FFIEC)**
- **Housing and Economic Recovery Act of 2008 (HERA)**
- **Municipality**
- **Neighborhood Stabilization Program (NSP)**
- **Non-Metro Median Income Limits**
- **UUA**

Definitions deleted:

- **Market rate**
- **Mixed Income**
- **Targeted Population**

I. Energy efficiency and historic character added to selection criteria as required by HERA.

Each state Allocation Plan must meet certain minimal requirements. The selection criteria must include:

- project location
- housing needs characteristics
- project characteristics, including whether the project involves the use of existing housing as part of a community revitalization plan
- projects intended for eventual tenant ownership
- tenant populations with special housing needs
- sponsor characteristics

- tenant populations of individuals with children
- public housing waiting lists
- energy efficiency
- historic character

II. Project caps increased from existing $850,000 to $950,000 for Tier I Developers.

No project will be awarded more than Eight Hundred and Fifty thousand dollars ($850,000) of Georgia's annual Federal Credit authority and an equal amount of State Credit authority except projects with a Tier One Development team will be awarded no more than $950,000 per project.

III. Three different set asides added, Preservation, Special Needs and Supplemental. Preservation Points and Special Needs points were eliminated. A list of priorities is included in the set aside. DCA's Office of Special Housing Initiatives will designate projects for the special needs set aside. The Supplemental set aside is a non competitive pool that can be used to handle workouts of projects that have DCA resources such as HOME and State Housing Trust funds at risk as well as assisting projects that have been selected for funding but are experiencing difficulties in syndicating credits due to the fluxuating credit market.

3. Preservation Set Aside - *Up* to $1.5 million of federal credits or three projects will be set-aside for the preservation of affordable housing projects meeting one or both of the following criteria:

- An existing tax credit property which is in the fourteenth or 15th year of the Compliance Period or the Extended Use period. The partnership's tax returns for the first and last years of the period in which credits were claimed must be provided, along with the appropriate IRS Forms 8609. If the applicant is seeking acquisition credits, a legal opinion stating that all of the buildings in the project will have met the Compliance Period by December 31, 2009 and that the property is eligible for acquisition credits must be attached.

- Projects under development by a local public housing authority using replacement housing factor (RHF funds or a loan secured by the assets and or capital funds of the PHA) as the primary source of financing.

- Existing U.S. Department of Agriculture, Rural Development (RD) projects with Section 515 financing and project based rental assistance for at least fifty percent (50%) of the units.

- Projects that have a Project Based Section 8 contract but are eligible to opt out of that contract with a one year notice to tenants. To be eligible to opt out, the Contract must be out of its original term and in a renewal period of five years or less.

- Existing HUD Section 236 projects. The Interest Reduction Payment (IRP) must be decoupled from the Section 236 agreement if housing credits are awarded (exceptions may be permitted on a case-by-case basis). The affordability requirements indicated in the Section 236 agreement must also be maintained for the property.

- Any other affordable non public housing project that has existing funding from HUD is severely deteriorated and has been designated by HUD as a preservation project that is in danger of losing its affordability.

In order to qualify for this set aside, projects must not have outstanding or uncured major noncompliance issues. If insufficient projects are within the scoring range for selected projects, DCA may elect to select a lower scoring project that meets the requirements of the set aside. The preservation projects are listed in the order of their priority for DCA.

(DCA may determine, in its sole discretion, that projects that are occupied, have long term affordability restrictions and which are in substantially good condition are not in danger of losing affordability and are not eligible for this set aside).

Note: Selected projects may count for more than one set aside.

4. Special Needs **-** Up to $950,000 will be set-aside for projects with a commitment of funds from DCA's Office of Special Housing Initiatives Permanent Supportive Housing Program. In order to be considered for this set aside, the applicant will need to provide a commitment for Office of Special Housing Initiatives funds. If more than one project meets the requirements of this set aside, the Office of Special Housing Initiatives will designate the project that will be selected for the set aside.

5. Supplemental Set-Aside **-** Up to $2 million will be set aside for projects previously funded by DCA. Allocations made under this set-aside can be up to $600,000 for any one project and shall be made outside of the competitive process and funding rounds. Requests for more than this amount shall be handled through the competitive rounds and process. Requests under this set-aside will be granted at the sole discretion of DCA for projects which meet one or more of the following criteria:

- 2008 funded projects which have incurred or face substantial unforeseen cost increases;
- 2008 funded projects which have incurred an unanticipated reduction in equity yield on the sale of the tax credits;
- DCA projects funded prior to 1999 which have a HOME Loan, State Housing Trust Fund loan, or other DCA resources and that have physical issues which cannot be remedied through normal workout processes and which pose a threat to the continued affordability of the project and the loss of the resources.
- Other extraordinary needs based on the current volatile economic market as determined by DCA.

Any amounts remaining in this set aside at the announcement of 2009 awards will be utilized in the general pool for 2009 projects.

IV. Ten percent test limit extended to 12 months as allowable under HERA.

To qualify for 9% Credits, a building generally must be placed in service during the year in which it receives an allocation. An exception is provided in the case where the Owner has expended more than ten percent (10%) of the reasonably expected basis in the building (the "Ten Percent Test") no later than twelve (12) months after the Carryover Allocation. No project can receive more than one Carryover Allocation of 2009 Credits.

V. 30% Boost as allowed by HERA

- Rural projects that can be structured to be debt free with the boost
- Majority Special Needs projects that have a commitment of funds from DCA's Office of Special Housing Initiatives PSHP or have been designed by DCA's Office of Special Housing Initiatives as meeting their criteria
- Historic Rehab projects qualifying for historic rehab credit scoring
- Projects that are designated by DCA as obtaining a high degree of sustainability through incorporation of energy efficiency components and Green Building techniques. (Projects that have or will obtain Leeds ND or Community Sustainability certification are automatically entitled to the boost. Projects not enrolling in these certifications will need to seek pre-application approval of their requests for the boost.)
- Projects located in Presidentially Declared Disaster areas
- Extraordinary financial circumstances which require the boost to ensure the continued feasibility of a project as approved by DCA.

VI. Additional Credits deleted.

VII. Added Clause regarding economic uncertainty.

The current economic volatility has resulted in significant legislative and policy changes in the administration of the Tax Credit Program. DCA expects this volatility to continue through the 2009 competitive round. It is impossible to foresee or estimate the impact that economic and legislative changes may have in meeting the challenges of developing, owning and managing affordable tax credit housing projects. DCA reserves the right to make changes necessitated by both economic volatility and legislative changes that have a negative impact on our program and projects. These changes include but are not limited to forwarding commitment of funds, increasing projects caps to ensure continued viability, release of DCA restrictions, awarding of additional credits and modifications to underwriting criteria.

VIII. **Pre-application process for HOME Loans**

DCA will require Applicants seeking HOME funds for use with Tax Credits to submit a HOME pre-application. An initial Reservation of HOME funds will be made to eligible applicants prior to Application Submission Day. Additional information regarding the initial Reservation process will be posted at a later date. DCA will take into consideration the following factors as well as additional factors outlined in the pre-application procedures in determining the initial Reservations:

- Project Location
- CHDO requests
- Rural Projects
- Other project debt
- Developer capacity and experience
- HOME experience
- Project risk

IX. HOME CHDO Set-aside deleted.

X. **Underwriting policy changes**

- **Annual Operating expense minimum increased.**

Annual budgeted Operating Costs, excluding reserve contributions, must be no less than three thousand six hundred dollars ($3,600) per unit for urban projects, three thousand dollars ($3,000) for non-MSA rural projects, and three thousand dollars ($3,000) for projects that include USDA loans as a funding source.

- **Flexible debt coverage requirements for rural projects.**

While DCA does not have a cap on the DCR, projects that have DCR's that exceed 1.50 for rural projects or 1.40 for urban projects may be subject to additional scrutiny to ensure they are not over subsidized. DCA does recognize that rural deals will typically have higher debt coverage at the beginning of the compliance period in order to remain feasible over the fifteen years. Documentation to support these higher debt coverage ratios should be provided.

- **No debt deals allowed.**

No-debt deals are allowed but will be subject to additional scrutiny from DCA. Projects submitted with no debt will not have a DCR but will be required to cash flow without having an undue profit. This will be determined by a ratio of Effective Gross Income to Total Annual Expenses (including reserve for replacement). A ratio of 1.05 shall be the minimum required to be considered feasible by DCA in Years 1-15

- **Increased developer fee for rural sustainable projects.**

  (Rural deals that incorporate a high degree of sustainability components into their design, may be eligible for a 20% developer fee, however, must seek pre-approval by DCA)

- **Identity of Interest between General Contractor and any Project Participants.**

  If there is an Identity of Interest between any Project Participant and the contractor, a third party front-end analysis of the construction cost must be submitted by the selected Applicant with their plans and specifications. Additionally, industry standards for such Owner-provided construction services shall be used to determine reasonableness for the services.

- ***Identity of Interest – Land Purchase*.**

  For Applications where there is an Identity of Interest between the buyer and the seller for any site within the project, an appraisal no more than 6 months old and prepared by a certified appraiser must be submitted with the Application as a basis for the determination of the appropriate sales price. The appraisal must be prepared in accordance with DCA Appraisal Guide and must provide separate valuations for the land and existing buildings. The allowable land value will be determined by DCA at its discretion.

DCA policy requires that the Applicant obtain an appraisal of the value of a property if there is an identity of interest between the buyer and the seller. DCA will carefully scrutinize the sales price of land between related parties to ensure that the value has not been inflated. While the appraisal will be an indication of fair market value, DCA will consider tax values as well as actual sales price established as indicative of the value of a property. All property values shall associate a land value as well as a value for the improvements. The appraisal shall conform to USPAP standards.

Properties which have been in the control of the applicant or a related party for a period of three (3) years or less will generally be valued at the acquisition cost at the time the related party obtained initial site control. Properties that have been rezoned, subdivided or modified will not be deemed to be of higher value based on the actions taken by the owner/ applicant or any related party.

- **Mandatory funding of operating deficit reserve for tax credit projects (formerly only required for HOME).**

All developments must budget for and fund an operating deficit reserve in an amount of no less than four times the secured monthly debt service to lenders plus no less than four months projected operating expenses.

XI. Projects: Deleted Targeted Population Developments

XII. Pre-Applications Submissions:

- Market Study deleted
- Environmental deleted
- HOME/HUD Site and Neighborhood Standards deleted
- Eligibility for Credit under the Nonprofit Set-Aside deleted
- Redevelopment/Revitalization Plans deleted
- Special Needs Units deleted
- Per Unit Cost Waivers deleted
- Targeted Population Project Waiver deleted

- Energy Efficient Options Waiver deleted
- Services Requirement Waiver deleted
- Public Water/Sewer Requirements deleted
- 30% Boost for Green Building Added
- 20% Developer Fee for Rural sustainable projects added

Maximum Ownership Interests

For Tier 1 Developers, the combined total Federal Credit from the 2009 competitive funding round cannot exceed one million nine hundred thousand dollars ($1,900,000) and/or total HOME funding cannot exceed twenty five percent (25%) of the total HOME Loan resources available. This limitation applies to direct or indirect Ownership interests of all proposed Project Participants, except Syndicators. Once an applicant has been awarded projects that meet the above limits, all of that Applicant's lower scoring projects will be deemed ineligible. For nonprofit applicants, DCA will look at Executive Directors and common threads of effective control as well as whether different nonprofit entities have met DCA Experience requirements through the same individuals or entities.

XIII. Flexibility in scattered site projects for NSP recipients.

DCA may approve scattered site projects with different parcel if the project has a NSP commitment. In reviewing these waivers, DCA will be looking at the Applicant's management plan for the project as well as whether there is a tenant ownership plan in place**.**

XIV. Added Capacity requirement.

Adjustment of Maximum Number of Projects Allowed. In the event an Owner/Developer fails to meet deadlines on projects, has a significant number of projects under development but not completed or experiencing a financial issue with regard to an existing project, DCA in its discretion, may elect to reduce the number of projects that can be awarded under the project cap.

XV. Clarified Clarification Period

This clarification period will only be utilized for minor inconsistencies or to help DCA understand the overall project concept. It can not be used to modify a submitted application, provide documents or reports that were not in existence prior to Application Submission day.

XVI. Selection limitation.

DCA reserves the right to limit the number of projects in a certain geographical area to ensure prompt lease up, increase the marketability of the project, and/or increase the likelihood of syndication of projects. DCA recognizes the importance of giving selected projects the maximum chance of success in difficult economic times.

XVII. Tie Breaker significantly changed. Allowed DCA to use projects selected to determine selected projects in tie breaker category.

In the event one or more projects have the same score, but DCA has insufficient resources to fund all of the projects having that score, the following priorities will be utilized to evaluate projects:

- Majority Special Needs Projects with DCA Permanent Supportive Housing Program funds
- Phased projects that have already had at least one phase selected for funding by DCA in a previous round
- HOPE VI, and other PHA sponsored projects that utilize Replacement Factor Funds and reduce public housing waiting lists
- Family Projects
- Projects that incorporate a high degree of sustainable and energy efficiency characteristics
- Historic Projects
- Projects that use least amount of DCA resources

The selection decision will consider these priorities as well as other practical considerations such as the geographic location of projects already selected for funding, the experience of the developers of each project, the number of projects already awarded to a developer, whether a tier one developer is identified on a project, applicant capacity, as well as the overriding policy considerations of funding. The selection of a project on the tiebreaker list is at DCA's discretion

Summary of Threshold Changes

I. Market Study

- Market study will now be ordered by Applicant and included in Application.
- DCA will also review certain information from its own data. Also limitations on projects selected for funding in same locality.

DCA will review the market study, rent rolls and project data of similar projects located in close proximity to the proposed project in determining whether the project will be able to achieve the desired lease up to be feasible.

DCA will also carefully analyze existing DCA projects located in close proximity to the proposed project to determine if selection of the project will have significant adverse financial impact on existing affordable housing inventory.

DCA will generally not fund two projects in the same locality with the exception that a new construction and occupied rehab may be selected.

In order to ensure that projects can achieve lease up quickly, DCA will not generally select a proposed project for an allocation if a project was awarded an initial allocation of credits between 2006 and 2008 and is located in close proximity to the proposed site and serving the same population (Family and Senior). "Close proximity" shall be defined in rural areas as the local government jurisdiction or ten miles, whichever is greater. Close proximity shall be defined in urban areas as a two mile radius. (Phased projects are excluded).

Although a project may be deemed marketable by the analyst, DCA may elect not to select the project for one or more of the following reasons:

- Generally, DCA will not select more than one new construction project in the same locality in a funding round.
- DCA may determine that the proposed project will have an adverse impact on its existing portfolio of projects either by delaying lease up or reducing occupancy.
- DCA may determine that changing market conditions may make the proposed site too risky for selection.

If more than one project is proposed for a particular area, DCA, in its sole discretion, will decide which one will be selected for funding. DCA will utilize but is not bound by the factors provided in the QAP.

II. Tightened rules regarding land values in transfers between related parties.

Properties which have been in the control of the applicant or a related party for a period of three (3) years or less will generally be valued at the acquisition cost at the time the related party obtained initial site control. Properties that have been rezoned, subdivided or modified will not be deemed to be of higher value based on the actions taken by the owner/ applicant or any related party

Moved amenities and architectural requirements to Threshold. Applicants still pick, but choose among the list.

III. Capacity of Development Team Added as a Threshold item

(a) **Lack of Capacity.** DCA requires that both the Ownership and Development team have the capacity to complete and manage any project that receives a tax credit award. In making the determination as to whether a team has the requisite capacity, DCA may determine that the following conditions are indicative of a lack of capacity of the proposed ownership and or development team:

- Litigation
- Bankruptcy
- Pending foreclosures
- Numerous projects funded that are failing to meet state deadlines for completion (whether in Georgia or another state)
- Insolvency

The decision that a project team does not have capacity can be made at the entity or principal level.

Added Four New Thresholds

IV. Threshold Designation of Tier One Developer Capacity

DCA policy is to encourage the development of tax credit properties by experienced developers with strong financial backgrounds who have shown a commitment to Affordable Multifamily development and can successfully develop proposed tax credit properties within program requirements. Tier one designation is given to organizational entities and not individual developers. Tier one designation is also not available for turnkey developers. For the purposes of this designation, successfully develop means demonstrating outstanding experience developing/owning affordable housing projects using DCA- and non-DCA affordable housing government funded programs, a history of completing the construction of projects on time and within program requirements and strong financial capacity relative to development exposure. In order to claim these points, developers must agree to an expanded financial and structural review of their organization and experience in developing affordable housing. This review will require a higher level of external substantiation. In determining that an organization is a tier one developer, DCA will review the following:

- Past experience developing affordable housing using DCA programs. Properties presently in service and those under construction will be considered, and the quality and success of previous developments will be taken into account.
- DCA will also consider the applicant's technical ability to develop affordable housing development by reviewing the number of successful projects and the complexity of the financial structure of developed projects,
- The number of affordable units completed and the Developer's commitment to the longstanding success of the project and the program,
- The development capacity of the organization to complete construction of all current projects on time and within program requirements and application commitments.
- The financial capacity of the organization to ensure that construction will be completed on time and that work will be guaranteed for quality.
- Documentation of liquidity/working capital sufficient to carry the project through pre-development and net worth sufficient to provide applicable guarantees will be considered in determining the principals' financial capacity
- The financial liquidity and assets which will encourage the successful syndication of allocation credits in a timely manner. The financial viability of its organization as evidenced through successful development of projects.

Tier one developer entities must at a minimum show the following:

- Successful development of no less than 400 units of Georgia affordable housing in which the developer remained in the development for a minimum period of four years from the placed in service date or successful development of no less than 600 units of affordable housing in which the developer remained in the development for a minimum period of four years from the placed in service date
- Excellent <u>credit history</u> of the principals of the development entity
- <u>Financial resources</u>, stability and viability of the organization
- Excellent <u>compliance history</u> in owning and developing affordable housing programs (maximum DCA compliance score).
- Sufficient <u>Liquidity</u> to handle immediate cash needs during the development ($100,000). Additional liquidity may be required based on DCA's review of the development exposure.

- Sufficient experienced staff to act as project manager for each project under development. .
- No outstanding liabilities or judgments which might negatively impact the financial viability of the entity.

To be designated a tier one development entity, the following documentation must be submitted to DCA:

1. A brief narrative describing the experience of the organization with regard to development of subsidized affordable housing
2. A spreadsheet summary of all projects under construction in any state (or stage of completion), including their present status and expected completion date as well a schedule of projects in the pipeline with anticipated start dates.
3. Full organizational chart, staff roster and resumes of key development staff within the organization, focusing on their affordable housing development experience.
4. A spreadsheet summary of all projects funded in Georgia including their allocation date, placed and placed in service date;
5. A summary of all projects funded in a state other than Georgia including their allocation date, and placed in service date
6. A Credit Bureau report dated after January 1, 2009 for every/all owners and key members of the development entity;
7. Copy of financial statements for fiscal year 2007 and 2006 for the development entity
8. Financial statements on key principals.
9. Documentation of access to no less than $100,000 of liquidity by the development entity A positive D&B report ordered by DCA.
10. At least two most recent audited fiscal year end financial statements for each project which the developer is using as successful experience for the required unit development
11. Certification that the development entity remained in the limited partnership entity for a minimum period of four years from the placed in service date.

V. Special Needs

Moved former Special Needs scoring to Threshold. Applicants required to submit a market plan to reach out to special needs tenants.

VI. Marketing to Special Need Populations

This section is designed to foster development of affordable housing units for tenants with disabilities or homeless populations. Owners must demonstrate a willingness to initiate marketing of units to these populations. Each Applicant must prepare and submit a Marketing Plan outlining how the project will market units to tenants with special needs if the project is selected for funding

VII. Poor Utilization of Resources

While DCA promotes a variety of projects that may include the re-use of contaminated land, in-fill, adaptive reuse, preservation of affordable housing and historic sites and will consider mitigation of certain factors inherent in their location. DCA is required to take any actions necessary or convenient to ensure the complete, effective, efficient and lawful allocation of and utilization of the low income housing credit program (2009 QAP, Core Plan, Section 3, Legislative Requirements). Therefore, in spite of a project's score under the Plan, DCA will review any project proposed for reasonableness, which may include a review of the degree to which the use of resources are being directed specifically toward the program goals of providing safe, decent and affordable housing that is also viable physically, operationally and economically over time. In this regard, DCA may evaluate project characteristics, such as, but not limited to, the following to ensure that this mandate is met:

- the level of property deterioration
- property acquisition and rehabilitation cost versus the cost to demolish and build a similar property in the same market area;
- ratio of acquisition costs versus rehab hard costs;
- the effectiveness and aesthetics versus the cost of a mitigation plan;
- the efficient and marketable use of the site, considering size and lay-out, to accommodate the number and type of units and amenities proposed;
- the undue enrichment of any development team member or contractor particularly where there are identities of interest;
- impact on affordable housing stock
- other uses proximate to the site;
- market information generated by or available to DCA; and
- the degree of expertise of the development and management teams with regard to the type of development activity and tenancy proposed.
- current affordability of the property
- Transaction appears to be primarily driven by the transfer of the property

If DCA determines that the utilization of resources in the proposed application is ineffective or inefficient, or that the applicant is unlikely to be able to develop the project as proposed, or if the project is unlikely to be successful, DCA may, at its sole and absolute discretion, deem the application to have failed the threshold criteria