

DHCD Proposed Changes to Program Guide

Overview				
Existing Section	Existing Language	Proposed Language	Action	RATIONALE
Overview and Policy Statement: The State Context	Entire Section to be replaced (page 1-4)	Please see new language in the Overview and Policy Statement page 1-2 in the proposed Blackline.	Replace with new State priorities	This section has been replaced for streamlining purposes. The Department is not changing the priorities. Doing this allows the Department to guide rather than limit what it can do.
2.4.3 Additional LIHTC Fees	Entire section	Section deleted	Language deleted from Program Guide.	This language has been deleted from the Program Guide because the language is already in the Maryland Qualified Allocation Plan document (See section C.3 of the QAP).
2.5 Release of Application Information	“DHCD will release information on all projects seeking competitive LIHTC and/or RHF within 30 days of announcing awards.”	<p>“The Department will release information on all projects seeking competitive LIHTC and/or RHF within 14 calendar days of the competitive funding round deadline....</p> <p>In addition, DHCD will release a summary of competitive funding round award decisions within 30 calendar days of announcing awards. This summary will be published on DHCD’s website and will include the information listed above, as well as the distribution of LIHTC and RHF to projects, disclosure of all waivers granted to applicants, and</p>	<p>Change number of days before release of applicant and award information.</p> <p>New language added.</p>	To increase transparency.

		<p>identification of projects which received State Bonus Points pursuant to Section 5.6 along with a rationale for why these points were awarded.</p> <p>For transparency purposes, DHCD will periodically post information to its website regarding all applications for financing (both competitive and noncompetitive), as well as information regarding the status of financing applications.”</p>		
3 Priority Project Categories	Entire section	Entire section deleted and moved to other sections of the Guide.	Entire section deleted and moved to other sections of the Guide. Please refer to the Blackline draft of the guide for more details.	

THRESHOLD				
Existing Section	Existing Language	Proposed Language	ACTION	RATIONALE
4 Threshold Criteria (Revised Chapter 3)	“ Unless a waiver is requested and approved, all corporations, individual limited liability companies or partnerships that make up the Developer or that will provide guarantees to the transaction must submit audited financial statements, compiled statements, and interim	“ <u>All corporations, individual limited liability companies or partnerships that make up the Developer or that will provide guarantees to the transaction must submit audited, reviewed or compiled financial statements, as well as interim statements acceptable to DHCD and if</u>	Language clarified	Language clarified in order to reduce financial waiver requests.

	statements acceptable to DHCD and prepared according to Generally Accepted Accounting Principles (GAAP)."	<u>possible, financial statements should be prepared according to Generally Accepted Accounting Principles (GAAP).</u> "		
Section 4.3.2 Affirmative Fair Housing Marketing (Revised section 3.3.2)		Pending Changes	Pending Changes	Changes will be made to these sections to conform with Department requirements with recent HUD updates to Affirmatively Further Fair Housing.
Section 4.5.1 Preference for Person with Physical Disabilities (Revised Section 3.5.1)	"Additionally, when renting UFAS units to households that do not require an accessible unit, owners are encouraged to include provisions in the lease that require households to move to another comparable unit with the project in order to make the UFAS unit available for household that require such a unit.	"Additionally, when renting UFAS units to households that do not require an accessible unit, owners are <u>required</u> to include provisions in the lease that require households to move to another comparable unit with the project in order to make the UFAS unit available for household that require such a unit. <u>All projects must comply with Federal Section 504 of the Rehabilitation Act of 1973 and must meet the design and construction requirements of the Fair Housing Act at 24 CFR parts 100.</u> "	Language change.	To ensure persons with disabilities who need the features of an accessible unit are provided the opportunity to live in a unit with accessible features. Changing "encourage" to "require" furthers the Department's efforts to support the housing needs persons with disabilities
Section 4.5.2 Non-Elderly Developments-	"Units reserved under this threshold requirement must be reserved exclusively for targeted populations for a period of not less than sixty (60)	"Units reserved under this threshold requirement must be reserved exclusively for targeted populations for a period of not less	Language added.	General simplification. Change will conform to threshold and scoring requirements to avoid two

<p>Units Reserved for Persons with Disabilities (Revised section 3.5.2)</p>	<p>calendar days both at initial lease-up and upon turnover. The sixty (60) calendar day period at lease-up will be measured from the date upon which the project achieves 80% occupancy and at turnover will be measured from the date upon which the unit is determined ready for occupancy following move-out by the prior tenants and completion of any unit turn cleaning, repairs, or maintenance.”</p>	<p>than <u>ninety (90)</u> both at initial lease-up and upon turnover. <u>The ninety (90) calendar day time period</u> at lease-up will be measured from the date upon which the project achieves 80% occupancy and at turnover will be measured from the date upon which the unit is determined ready for occupancy following move-out by the prior tenants and completion of any unit turn cleaning, repairs, or maintenance.”</p>		<p>separate time periods for holding units on the same project.</p>
<p>4.8.8.1 Acquisition (Revised Section 3.8.8.1)</p>	<p>“Any portion of the acquisition price in excess of the "as is" value may not be financed or reimbursed by RHF or other project sources, may not be used in calculating the developer fee, and may not be reimbursed from cost savings at final closing. The excess must be paid with non-project sources such as proceeds of the developer fee.”</p>	<p><u>Except for family projects located in a Community of Opportunity</u>, any portion of the acquisition price in excess of the "as is" value may not be financed or reimbursed by RHF or other project sources, may not be used in calculating the developer fee, and may not be reimbursed from cost savings at final closing. The excess must be paid with non-project sources such as proceeds of the developer fee. <u>For a family project located in a Community of Opportunity, the acquisition price may be up to 120% of the “as is” value before being subject to the limitations outlined in this paragraph.</u></p>	<p>Language added.</p>	<p>Provide additional flexibility for projects located in Communities of Opportunity</p>
<p>Section 4.8.8.3 Developers fee (Revised section)</p>		<p><u>Sponsors may request up to an additional five (5) percent developer fee if the entire additional fee is escrowed with DHCD or</u></p>	<p>New language added to this section.</p>	<p>Creating an incentive for developers to provide an internally-generated rental</p>

3.8.8.3)		<p><u>another lender to fund an internal rent subsidy for targeted population units set aside for persons at or below 20% of area median income for the initial 15 year compliance period. Funds deposited in the internal rent subsidy will be used to fund the difference between the 20% AMI rent and 50% AMI rent at 50%. DHCD will work with sponsors to determine the exact mechanism necessary and appropriate to ensure funding on the internal subsidy. Additionally, during the initial 15 year compliance period, the Department will review; approve and monitor utilization of the internal rental subsidy. Provision of funds to fund an internal rent subsidy will be incorporated into DHCD's loan documents as appropriate.</u></p>		<p>subsidy to serve extremely low income households such as homeless and disabled.</p>
Section 4.10.1 Site Control (Revised section 3.10.1)	<p>“At time of application, site control should extend for at least three hundred and sixty (360) days from the application deadline date (including extension options). Acceptable evidence of site control includes deeds, contracts of sale, leases, purchase options, or other evidence at DHCD’s discretion.”</p>	<p>At time of application, site control should extend for at least one-hundred and eighty (180) days from the application deadline date (including extension options). Acceptable evidence of site control include deeds, contracts of sale, leases, purchase options, <u>Land Disposition Agreements and other similar agreements from a local governments without regard to the status of the underlying condemnation/acquisition process</u> or other</p>	<p>Site control has decreased from 360 days to 180 days.</p>	<p>Additional flexibility to enable developers to better compete for available sites.</p>

		evidence at DHCD's discretion.		
4.10.6 Exceptions (Revised section 3.10.6)	"Additionally, a sponsor of a scattered site general occupancy project in a community of opportunity may request a waiver under Section 6.1 of the site control requirement if the project involves the purchase of completed residential units. Instead, sponsors of these types of projects must provide a detailed proposal for identifying specific sites and indicating how and when they will obtain site control."	Additionally, <u>site control requirements are not applicable for</u> a sponsor of a scattered site general occupancy project in a Community of Opportunity. Sponsors of both of these types of projects must provide a detailed proposal for identifying specific sites and indicating how and when they will obtain site control.	Language changed and clarified.	Expanding to provide additional flexibility for scattered site projects located in Communities of Opportunity.
Section 4.12.1 Criteria Applicable to both New Construction and Rehabilitation (Revised section 3.12.1)		<u>All projects must comply with Federal Section 504 of the Rehabilitation Act of 1973 and must meet the design and construction requirements of the Fair Housing Act at 24 CFR part 100.</u>	New language added.	To clearly define and require Federal UFAS requirements to further the Department's goal of supporting the housing needs of persons with disabilities.
Section 4.12.2 Additional Criteria Applicable Only to New Construction (Revised section 3.12.2)	2. Site Improvement costs must be reasonable (no more than 20% of the Net Construction Cost unless the land acquisition cost was proportionally discounted to reflect the increased site development cost) with required development costs included in the budget.	2. Site Improvement costs must be reasonable (no more than 20% of the Net Construction Cost unless the land acquisition cost was proportionally discounted to reflect the increased site development cost) with required development costs included in the budget.	Language deleted.	Per input from multiple sources.
Section 4.12.3.1 Lead Hazard Elimination	"All projects originally constructed before 1950 must also register with MDE's lead poisoning prevention program. Projects originally	"All projects originally constructed before 1978 must also register with MDE's lead poisoning prevention program to obtain certain limited		Updating requirements to conform to current MDE regulations.

(Revised Section 3.12.3.1)	constructed before 1978 may voluntarily register with MDE's lead poisoning prevention program to obtain certain limited liability from lead-related claims."	liability from lead-related claims."		
SCORING				
Existing Section	Existing Language	Proposed Language	ACTION	RATIONALE
5.1.2 Deductions from Team Experience Score (Revised section 4.1.2)	Same language.	<u>"Construction cost increases after closing that are not approved by DHCD."</u>	New language added.	Create a mechanism to hold sponsors with cost increases accountable in future applications.
5.1.4 Nonprofits, PHAs, and MBE/DBEs (Revised section 4.1.4)	Entire section.	Multiple changes.	Please refer to this section in the Blackline draft to see changes in scoring.	Changing scoring to enable involvement of a greater number of Nonprofits, PHAs, and MBE/DBEs than what is currently the case.
5.2 Community Context (Revised section 4.2)	"Projects may not receive points under Section 5.2.1 and Section 5.2.2."	"Projects may only receive points under one of the following categories: Section 4.2.1 (Community Impact Projects), 4.2.2 (Communities of Opportunity) or 4.2.3 (Defined Planning Areas)."	Language changed.	To clarify that a project can only receive Community Context points under one category.
5.2.1 Community Impact Projects (Revised section	Same language kept.	New language added regarding the definition of a concerted community revitalization plan. See revised section 4.2.1	Clarifying definition of "Concerted Community Revitalization Plan." Please	Clarifying the definition to promote location of projects in areas with defined Community

4.2.1)			refer to Blackline draft of the Guide to see the changes.	Revitalization Plan.
5.2.2 Communities of Opportunity (Revised section 4.2.2)		<u>“As detailed in the Qualified Allocation Plan, all family projects located in a Community of Opportunity will qualify for the State designated DDA 30% Basis Boost without prior CDA approval.”</u>	New language added.	Creating financial incentives on par with projects in QCTs and DDAs.
5.2.3 Transit Oriented Development (Revised section 4.2.3)	Language changed.	<p><u>“8 points to a family project in a Community of Opportunity that is (a) located within one mile of the passenger boarding and alighting location of a planned or existing transit stop or station; or (b) is located in a transit-proximate development that promotes walkability and/or bike-friendly land use with easy access to mass transit and retail store locations with a Walk Score of 35 or greater.</u></p> <p><u>6 points to a general occupancy or elderly project in a Defined Planning Area (see definition below) that is located within one mile of the passenger boarding and alighting location of a (a) planned or existing transit stop or station; or (b) is located in a transit-proximate development that promotes walkability and/or bike-friendly land use with easy access to mass transit and retail store locations with a Walk Score of 35 or greater.</u></p>	TOD definition has been modified.	Definition has been modified to address different transportation infrastructure and options in urban, suburban, and rural areas of the State.

		<u>4 points to a general occupancy or elderly project in a QCT or DDA that located within one-half mile of the passenger boarding and alighting locations of an existing transit rail stop or stations and is a transit node that brings at least two bus lines or other forms of transit (excluding cars) together.”</u>		
5.2.4 Defined Planning Areas (Revised section 4.2.4)		<p><u>“Four (4) points may be awarded to projects located in a Defined Planning Area.</u></p> <p><u>A Defined Planning Area includes any area of the State that is a Priority Funding Area, but is not located in a QCT or Community of Opportunity.</u></p> <p><u>Projects located in a QCT that do not receive points as a Community Impact Project are not eligible for points as a Defined Planning Area.</u></p> <p><u>Projects located in a DDA as defined by HUD on or after 7/1/2016, which do not receive points under section 4.2.1 or section 4.2.2, are eligible for points under this section. “</u></p>	New language added.	To enable projects throughout the State to have access to Department resources.
5.3.1 Income Targeting (Revised section 4.3.1)	See original Program Guide section 5.3.1.	<u>“DHCD will consider project based housing choice Vouchers awarded through a recognized mobility program in awarding</u>	New language added and chart adjusted with new column.	Additional flexible points provided for projects located in Communities of Opportunity.

		<p><u>points in this section. At this time DHCD is aware of one such program being operated by the Baltimore Metropolitan Council.</u></p> <p><u>DHCD will award points based on the weighted average as follows depending on whether or not the proposed project provides general occupancy housing in a Community of Opportunity.</u> This is followed by a NEW chart with an additional column "Average Area Median Income- Family project in a Community of Opportunity." Please refer to the Blackline draft of the Guide</p>		
<p>5.3.2 Targeted Populations or Special Needs (Revised Section 4.3.2)</p>	<p>"Set aside for a household that is headed by one of the following (projects may select only one targeted populations):</p> <ul style="list-style-type: none"> ● PWDs ● Persons with special needs; ● Youth aging out of foster care; ● Elderly homeless persons; ● Veterans; or ● Persons transitioning from a correctional facility or other State facility or institution." ● "Projects with more than 25% of the units for a targeted population will receive zero points in this category." 	<p>"Set aside for a household that is headed by one of the following (Projects may select only one targeted population):</p> <ul style="list-style-type: none"> ○ PWDs; ○ Persons with special needs; ○ Homeless; ○ Youth aging out of foster care; ○ Veterans; or ○ Persons transitioning from a correctional facility or other State facility or institution." ● Projects with more than 25% of the units for a targeted population will receive zero points in this category 	<ul style="list-style-type: none"> ● Homeless population was added and elderly homeless persons removed. ● New language added for development of Veterans and Homeless projects with 25% or greater target populations. 	<p>Added flexibility for projects serving the homeless and veterans.</p>

		<p>except that projects targeting homeless and at risk veterans and their families under the Department of Veterans Affairs Enhanced Use Lease (EUL) Program may exceed the 25% target population limit and still qualify for 6 points.</p>		
<p>5.3.2.1 Project-based Rental Assistance for Targeted Populations (Revised section 4.3.2.1)</p>	<p>An additional four (4) points shall be awarded to projects with project-based subsidies for all of the identified targeted population units so that the units serve extremely low income household (at or below 30% AMI). Documentation must be provided to show that the project based subsidy will be in place for a minimum of five (5) years.</p>	<p>An additional four (4) points shall be awarded to projects with project-based subsidies for all of the identified targeted population units so that the units serve extremely low income household (at or below 30% AMI). Documentation must be provided to show that the project based subsidy will be in place for a minimum of five (5) years. <u>Project-based rental assistance may be provided by (a) a local public housing authority, or (b) Equity provided by the developer for a term of 15 years per section 4.8.8.3 of the Guide,</u></p>	<p>Language added for clarity.</p>	<p>Additional clarification regarding acceptable sources of Project Based Rental Assistance.</p>
<p>5.3.2.2 Section 811 Project Based Rental Assistance Demonstration (Revised section 4.3.2.2)</p>	<p>"In February 2013, DHCD was awarded a \$10.97million grant from HUD under the Section 811 Project Rental Assistance Demonstration Program (PRA Demo) which was increased in 2014 to \$11.2 million. The grant will enable Maryland to provide project-based Section 811 rental assistance for approximately one hundred and fifty (150) units that will be occupied by</p>	<p>"In 2013 and 2015, DHCD was awarded a total of approximately \$20 million in grant funds from HUD under the Section 811 Project Rental Assistance Program (PRA). These HUD funds enable Maryland to provide project-based Section 811 rental assistance for 300 units that will be occupied by extremely low income non-elderly PWD referred by DHMH and</p>	<p>Language removed and new language added for clarity.</p>	<p>Clarification of language reflecting updated status of 811 grants from HUD.</p>

	<p>extremely low income non-elderly PWD referred by DHMH and MDOD.</p> <p>In March 2015, DHCD was awarded a \$9.8 million grant from HUD under the Section 811 Project Rental Assistance Program (PRA). The grant will enable Maryland to provide project-based Section 811 rental assistance for approximately one hundred and fifty (150) additional units that will be occupied by extremely low income non-elderly PWD referred by DHMH and MDOD.</p> <p>To support implementation of the PRA Demo grant, projects with non-elderly PWD units that meet the Section 811 requirements (as explained below) will receive 4 points if they agree to accept, if offered by DHCD, the assignment of Section 811 project-based subsidies on their non-elderly PWDs units and to comply with the requirements of the PRA Demo Program. Applicants should note that HUD's Section 811 program represents a federal funding stream and may trigger various federal regulations, including but not limited to Davis-Bacon.</p>	<p>MDOD.</p> <p>To support implementation of the PRA Program Demo grant, projects with non-elderly PWD units that meet the Section 811 requirements (as explained below) will receive 4 points if they agree to accept, if offered by DHCD, the assignment of Section 811 project-based subsidies on their non-elderly PWDs units and to comply with the requirements of the PRA Demo Program. Applicants should note that HUD's Section 811 The PRA program represents a federal funding stream and may trigger various federal regulations, including but not limited to Davis-Bacon. <u>Section 811 PRA MAY NOT be used in any project that has more than 25% of its targeted units set aside for PWD.</u></p>		
5.3.3 Family	"DHCD encourages the development of housing	""DHCD encourages the development of	Changes to reflect greater	To incentivize family projects with

<p>Housing (Revised section 4.3.3)</p>	<p>appropriate to the needs of families with children. To qualify for additional points, a project cannot age-restrict its units and will receive points based on the provision of units suitable to larger households.</p> <ul style="list-style-type: none"> • Five (5) points will be awarded to projects where at least 50% of units are 2-bedrooms or larger. Alternatively four (4) points will be awarded to projects where at least 40% of the units are 2-bedrooms or larger. • Three additional (3) points will be awarded to projects where at least 10% of units are 3-bedrooms or larger.” 	<p>housing appropriate to the needs of families with children. To qualify for additional points, a project cannot age-restrict its units and will receive points based on the provision of units suitable to larger households.</p> <ul style="list-style-type: none"> • Five (5) points will be awarded to projects where at least 50% of units are 2-bedrooms or larger. Alternatively four three (4 3) points will be awarded to projects where at least 60% of the units are 2-bedrooms or larger; • ThreeFive additional (3 5) points will be awarded to projects where at least 20%10% of units are 3-bedrooms or larger. <p><u>Four (4) points will be awarded to projects serving veterans or homeless where at least 20% of the units are 2-bedroom or larger.”</u></p>	<p>incentive for projects with larger bedroom counts.</p>	<p>more bedroom counts.</p>
<p>Elderly Housing in a Defined Planning Area (Revised section</p>	<p>New section created.</p>	<p>“An elderly project located in a Defined Planning Area will receive three (3) points in this category.”</p>	<p>New section created for a maximum of three (3) points.</p>	<p>To incentivize elderly projects.</p>

4.3.4)				
5.3.5 Mixed Income Housing (Revised section 4.3.5)	<p>“DHCD supports the development of mixed income housing for families, the elderly, and persons with disabilities. DHCD will award four (4) points to projects that include both affordable and Market Rate Units where the Market Rate Units represent at least 10% of the overall project units. The term Market Rate Unit refers to units without income or rent restrictions. To receive the points, the application must demonstrate that the owner and property manager have experience owning and managing mixed income communities. The lender and tax credit letters of intent included with the application must reference the mixed income nature of the project as described in the market study.”</p>	<p>“DHCD supports the development of mixed income housing for families, the elderly, and persons with disabilities. DHCD will award four (4) points to projects that include both affordable and Market Rate Units <u>as follows:</u></p> <ul style="list-style-type: none"> ·<u>Family projects located in a Community of Opportunity --Market Rate Units represent at least 10% of the overall project units.</u> ·<u>Family or Elderly projects located in a Defined Planning Area – Market Rate Units represent at least 20% of the overall project units.</u> · <u>Family or Elderly projects located in a QCT or DDA – Market Rate Units represent at least 30% of the overall project units.”</u> 	New language added	Additional flexible points provided for projects located in Communities of Opportunity.
5.3.6 Preservation of Existing Affordable Housing (Revised section 4.3.6)	<p>“Two (2) points will be awarded to a project that involves the acquisition and rehabilitation of an existing multifamily rental housing development, whether or not it has existing rent or income restrictions, provided the project agrees to affordability restrictions for at least forty (40) years. For purposes of receiving these points, rehabilitation means repair of or alterations to an existing building, or buildings, where a majority of the structural elements of the original building or buildings, at a minimum, is incorporated into the</p>	<p>“Up to four (4) points will be awarded to a project that involves the acquisition and rehabilitation of an existing multifamily rental housing development, whether or not it has existing rent or income restrictions, provided the project agrees to affordability restrictions for at least forty (40) years <u>as follows:</u></p> <ul style="list-style-type: none"> · <u>Family projects located in a Community of Opportunity – 4 points</u> ·<u>General Occupancy or Elderly projects located</u> 	New language added.	Additional flexible points provided for projects located in Communities of Opportunity.

	<p>finished project. In its discretion, DHCD may permit a project to receive these points if the project involves the demolition and replacement of an existing occupied housing project if rehabilitation of the existing building or buildings is infeasible or impractical. The replacement project must comply with DHCD's policies concerning displacement and relocation of existing tenants."</p>	<p><u>in a Defined Planning Area – 2 points</u> <u>· General Occupancy or Elderly projects located in a QCT or DDA – 1 point</u></p> <p>For purposes of receiving these points, rehabilitation means repair of or alterations to an existing building, or buildings, where a majority of the structural elements of the original building or buildings, at a minimum, is incorporated into the finished project. In its discretion, DHCD may permit a project to receive these points if the project involves the demolition and replacement of an existing occupied housing project if rehabilitation of the existing building or buildings is infeasible or impractical. The replacement project must comply with DHCD's policies concerning displacement and relocation of existing tenants.</p>		
5.4.1 Direct Leveraging (See revised section 4.4.6)	Same language kept.	"Additionally, because Family projects located in Communities of Opportunity is an important priority of DHCD, leveraging points will be awarded on a higher scale."	Language added and chart expanded to reflect general occupancy projects located in Communities of Opportunity.	Additional flexible points provided for projects located in Communities of Opportunity.
5.5.2 Site Conditions and Brownfields Redevelopment	Language on page 74- 75	Language removed	Language removed.	Removing incentives for developing on former environmental hazardous sites.

(See revised section 4.5.2)				
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