

## **PAGE NUMBER CLARIFICATION**

The page numbers referred to in the Memorandum found on page 19 of the Housing Council packet refer to the page numbers of the 2012 Qualified Allocation Plan and do not align with the packet page numbers. Please refer to the following list for ease of reference:

(Page 56, Exhibit C) = Page 79

(Page 37, Exhibit A) = Page 58

(Page 5, Public Notices) = Page 27

(Page 10, OHCS Basis Boost Policy) = Page 32

(Page 15, Existing LIHTC Properties and Over-Income Tenants) = Page 37

(Page 16, Priority for Federally Funded Projects) = Page 38

(Page 16, Eligible Applicants) = 38

(Page 17, Minimum Affordability Period) = Page 39

(Page 18, Sponsor Loans) = Page 39

(Page 18, Developer Fee) = Page 40

(Page 20, Site Reviews and Building Standards) = Page 42

(Page 25, Reserve Accounts) = Page 47

(Page 25, Tax Credit Pricing) = Page 47

## **QAP TABLE OF CONTENTS**

The Table of Contents for the Qualified Allocation Plan is found on page 25 of the Housing Council packet. The corresponding packet page numbers have been inserted via interlineation for ease of reference.

# Memorandum

**To:** Housing Council  
**From:** Jodi Enos, Tax Credit Programs Representative  
**Date:** December 28, 2011  
**Re:** Draft 2012 Qualified Allocation Plan

---

## Introduction

Oregon Housing and Community Services (OHCS) is the designated by the Governor as the administrating agency of the federal Low Income Housing Tax Credit (LIHTC) program. The Qualified Allocation Plan (QAP) governs the administration of the LIHTC program. Provided are the proposed changes in the administration of the LIHTC program as incorporated in the draft 2012 QAP.

The proposed policy changes are outlined below and also attached as Exhibit C of the draft QAP (page 56). These changes were originally approved by Finance Committee on August 23, 2011. The draft 2012 QAP was published for a public comment period from October 3, 2011 to November 4, 2011. A public hearing was held October 21, 2011. Public comments received are attached as Exhibit A of the QAP (page 37). Public comments were presented to Finance Committee and Department responses to such comments were approved and further reviewed the Policy, Strategy and Communication Division Administrator, Karen Tolvstad. If approved by this Council, the proposed QAP, as amended, will be sent to the Governor for signature. The Department wishes to publish the final 2012 QAP prior to the deadline for the 2012 Consolidated Funding Cycle (CFC) application, March 30, 2011.

## Policy Changes for the 2012 Qualified Allocation Plan (QAP)

Existing Language / **Added Language** / ~~Removed Language~~

### Public Notices - Page 5:

**The Department may incorporate any changes for which the Department has issued adequate public notice.**

### OHCS Basis Boost Policy - Page 10:

- ~~e. Projects that address workforce housing needs, as per the Needs Analysis in the CFC~~
- c. Projects located in an area where workforce housing needs are identified in the OHCS Needs Analysis as a number one priority in the current or prior year's CFC application.**

~~The above notwithstanding and given the current financial market conditions and testing for financial feasibility of each project, the Department will consider the issuance of the state's 130% basis boost, for projects outside of Qualified Census Tracts and Difficult to Develop Areas, as identified by HUD, and projects not characterized above. At its sole discretion, the~~

1 Department reserves the right to return to the above policy upon ample public notice, as soon  
2 as market conditions improve or within 12 months from the date this Plan becomes effective,  
3 whichever date is later.

4 Existing LIHTC Properties and Over-Income Tenants - Page 15:

5 Permanent relocation of households who qualified under the original credit allocation is not  
6 allowed for applicants requesting a subsequent allocation of credits for existing LIHTC projects  
7 still in their extended use period. The IRS has provided guidance that if the incomes of  
8 existing households (previously qualified under the original allocation) exceed income limits in  
9 place at the time subsequent credits are allocated, the households will remain protected  
10 third-party beneficiaries under the LIHTC program as stated in the 8823 Audit Guide. OHCS  
11 may not award subsequent tax credit allocations to existing LIHTC projects proposing  
12 permanent relocation of tenants above 60% AMI, but below 140% AMI.

13 Priority for Federally Funded Projects - Page 16:

- 14 • Acquisition and rehabilitation of expiring use projects, especially those that include  
15 federal funding programs such as HOPE VI, Section 202, Section 811, RD or HUD  
16 project-based rental subsidy

17 Eligible Applicants - Page 16:

18 There are no restrictions on who may apply to the Department for an allocation of LIHTC.  
19 However, please refer to Allocation Procedures under Organizational Capacity to determine  
20 eligibility.

21 Any entity legally doing business in the State of Oregon and not subject to debarment or other  
22 exclusion by OHCS or another state or federal agency may apply for a reservation of Low  
23 Income Housing Tax Credits as provided in OAR 813-050-0010. However, please refer to the  
24 applicable Department application under Sponsor Capacity to review expectations.

25 Minimum Affordability Period - Page 17:

26 There must be a legal commitment by the sponsor and proposed owner satisfactory to OHCS  
27 that the project will continually meet the applicable fraction, rent restrictions and such other  
28 project requirements for a minimum of years of affordability as determined by Housing  
29 Council.

30 Sponsor Loans - Page 18:

31 If any funding sources are being loaned by the general partner or managing member to the  
32 limited partnership or limited manager, the Department may require a legal opinion verifying  
33 to OHCS' satisfaction that such loans have specified terms of repayment, consistent with the  
34 expectation that the project can meet such cash flow needs. Further analysis and detail of the  
35 repayment assumptions may be required by the Department at any time.

36 Developer Fee - Page 18:

37 The calculation of developer fees as a percentage of project cost must net out the development  
38 fee and **project reserves** and other cash accounts from the total project cost. Specifically:

39 Developer Fee

40 (Total Development Cost – Developer Fee – All Project Reserves and Capitalized Cash Accounts)

1 The Department's Finance Committee will make the final determination of developer fee  
2 reasonableness. However, if the requested changes fall within the limits established above,  
3 the Housing Division Administrator may recommend changes to the Director without Finance  
4 Committee review.

5 Site Reviews and Building Standards - Page 20:

6 The Department requires all sponsors for LIHTC acquisition and rehabilitation credits to  
7 complete a thorough rehabilitation assessment that is satisfactory to the Department, unless  
8 an exception is provided in writing by OHCS.

9 The Department may perform inspections prior to, during and following a funding award by  
10 OHCS or an OHCS-approved third-party representative. The Department, based on such  
11 inspections or otherwise, may prevent a sponsor from advancing their application, terminate  
12 or revoke a reservation or allocation, or exercise other remedies, including, but not limited to,  
13 requiring changes to the application or project scope of work or budget.

14 The Department may verify if work has been performed to its satisfaction. The Department  
15 may require remediation of unsatisfactory work or conditions. The OHCS Architectural  
16 Standards and Building Enclosure Rehabilitation Guide can be found on the Department's  
17 website.

18 Reserve Accounts - Page 25:

19 The Department may require capitalized or cash account reserves (including, but not limited  
20 to, replacement reserves, operating reserves, transition reserves, liquidity reserves, guarantee  
21 reserves, etc.) to remain in the project through the entire affordability period and be used for  
22 their designated purpose or other purposes approved or negotiated by the Department.  
23 OHCS may require securitization or use rights with respect to such reserves as it deems  
appropriate. However, the Department will not unreasonably withhold funds for justifiable  
project expenses or uses.

Tax Credit Pricing - Page 25:

If there is an increase in LIHTC in pricing subsequent to a reservation tax credits due to a rapid  
inflation of equity markets, OHCS reserves the right to adjust the amount of a tax credit award  
or any other OHCS funding source. The Department may utilize the following distribution  
formula as a guideline for avoiding project over-subsidization:

- Up to 50% percent of the increase in LIHTC equity due to pricing increase may be used  
for necessary, justifiable cost increases, approved by OHCS, or to reduce deferred  
developer fee. The remaining balance shall be used to reduce the permanent loan,  
sponsor loans, tax credit allocation or other OHCS funding sources as determined by  
the Department.

Increases for specific, hard cost purposes, as required by the investor, may receive an  
exception to the above policy, pending Department approval of hard cost scope of work.

OHCS reserves the right to request additional information and otherwise to supplement its  
financial assessment at any time. Furthermore, the Department requires that it be  
immediately informed of the negotiated tax credit price at all times. OHCS also reserves the  
right to determine, in its sole discretion, whether the letters of interest or intent, award  
letters, or commitment letters are satisfactory, and whether a lender or investor possesses  
the financial or other capacity to make a specific loan or investment. A change in the

1 financing source or financing terms, among other things, after reservation of credits may, at  
2 the sole discretion of the Department, result in all or a part of the credits being recaptured,  
reduced or returned.

3 If accurate tax credit pricing information is not provided to the Department upon its request,  
4 or incomplete, misleading or false information is given, the Department may exercise any and  
all remedies provided in this QAP or available in law, including, but not limited to, rescission  
5 of any department resources awarded. Further, the Department may take such factors in  
determining whether or not to accept future applications or make subsequent LIHTC or other  
6 funding awards to applicants, or any member thereof.

7 Requesting the approval from Housing Council of the final 2012 Qualified Allocation  
8 Plan as presented with recommendation to forward to the Governor for signature.