

Ralph M. Perrey, Executive Director



MEMORANDUM

TO: Persons Interested in the Low-Income Housing Tax Credit Program

FROM: Multifamily Development Division

DATE: July 1, 2016

SUBJECT: Proposed Changes for the Low-Income Housing Tax Credit 2017 Qualified Allocation Plan

The following document lists the proposed changes for the Low-Income Housing Tax Credit 2017 Qualified Allocation Plan (the "2017 QAP"). The proposed changes include changes suggested by members of THDA's Board of Directors, changes suggested by the public, and changes suggested by THDA staff.

The proposed changes in the following document may be accepted, rejected, or modified in any respect. Changes or modifications not currently reflected in the following document may also be made. By posting these proposed changes, no representations are being made about any item that may be included, excluded, or modified in the preparation and approval of the final 2017 QAP.

Please submit written comments to Michael Blade, Director & Assistant Legal Counsel for Multifamily Development, at MBlade@thda.org no later than 9:00 AM Central Time on Monday, July 11, 2016. If possible, please limit your written comments to no more than four pages including any attachments and supplementary materials.

TENNESSEE HOUSING DEVELOPMENT AGENCY
PROPOSED CHANGES FOR 2017 LOW-INCOME HOUSING TAX CREDIT QAP
JULY 1, 2016

SCORING ISSUES

- 1) Modify **county needs score** to remove the tiers, increase weight of “pipeline” and “prior allocation” components of the formula, and extend the lookback for prior allocation from three to five years.

Background: The intent of these modifications is threefold. First, removing the tiers and assigning a unique score to each county may diversify scoring and reduce the need for the use of the tiebreaker. Second, increasing the weight of the “pipeline” and “prior allocation” components of the calculation may reduce the score for counties that have received prior allocations in the past five years and increase the score for counties that have not received an allocation in the past five years, thus reducing the likelihood of oversaturation in a particular county and dispersing the credits to more counties. Lastly, including five instead of three years of prior allocation gives a more complete picture of recent allocations and also may result in giving more counties the opportunity to compete for credits.

OTHER ISSUES

- 2) Implement an **Innovation Round** – please see attached draft language.

Background: The purpose of the Innovation Round is to create the opportunity for allocating Tax Credits to a proposed development that (a) involves an innovative approach to affordable housing, and (b) would be at a competitive disadvantage in the regular competitive round.

- 3) Implement a **Scholar House** initiative – please see attached draft language.

Background: The purpose of the Scholar House initiative is to create an opportunity for allocating Tax Credits to a proposed development that will provide affordable housing to students.

- 4) Modify language describing the (up to) **130% boost in eligible basis** to apply only to proposed developments which (a) are located in a HUD-designated Difficult Development Area, *or* (b) have a Choice Neighborhood Initiative (“CNI”) Implementation Grant, *or* (c) have a Rental Assistance Demonstration (“RAD”) Commitment to Enter into a Housing Assistance Payments Contract.

Background: The broad application of the eligible basis boost that has been in effect in the QAP for the past several years was implemented during the economic downturn which began in 2007. Current economic and market conditions are much more favorable.

- 5) Lower the **cap on the aggregate maximum amount of Tax Credits allowed to be allocated to proposed developments located in a HUD-designated Qualified Census Tract (“QCT”)** from 50% to 40%.

Background: In 2016, for the first time, the aggregate maximum amount of Tax Credits allowed to be allocated to proposed developments located in a QCT was reached. As federal agencies focus more on Affirmatively Furthering Fair Housing in particular and Fair Housing in general, avoiding concentration of poverty is growing in importance. Lowering the cap will help address this issue.

- 6) Lower the **per development Tax Credit cap for Preservation and Rehabilitation** in the competitive round from \$1,100,000 to \$800,000.

Background: The market conditions associated with the THDA Multifamily Tax-Exempt Bond Authority (“MTBA”) program are currently very good. Lowering the per development cap as described above will encourage larger Preservation and Rehabilitation developments to migrate to the MTBA program with noncompetitive Tax Credits, lowering demand for Preservation and Rehabilitation Tax Credits in the competitive round.

- 7) Address the issue of local jurisdictions “**downzoning**” the site of a proposed development after the allocation of Tax Credits.

Background: If a local jurisdiction downzones the site of a proposed development after the allocation of Tax Credits, the resulting delays may cause the development to be canceled. Although the Tax Credits can be recaptured and reallocated, the units produced by the reallocation will be placed in service up to several years later than the original units and may not be located in the same jurisdiction. One avenue for addressing this issue is to reduce the per county cap for the jurisdiction in question in a subsequent year or years by an amount equal to the allocation for the canceled development.

Part III-B Insert

6. Innovation Set-Aside
 - a. No more than one (1) eligible development involving innovation (as specified in Part VII-A-2-f) shall receive an allocation of Tax Credits from the Innovation Set-Aside, subject to the requirements of Part VIII-E.

Part VI Insert

E. Innovation Set-Aside

1. THDA will accept proposals for consideration in the Innovation Set-Aside (“Innovation Set-Aside Proposal”).
2. The deadline for submission of an Innovation Set-Aside Proposal is 1:00 PM Central Time on [DATE], 2016.
3. To be considered for the Innovation Set-Aside, an Innovation Set-Aside Proposal must satisfy ALL of the following:
 - a. Be submitted by the deadline in Part VI-E-2 above;
 - b. Contain no more than 5 single-sided, single spaced pages (including all attachments and exhibits);
 - c. Include a separate, sealed, envelope containing contact information for the applicant; and
 - d. Describe each of the following:
 - (i) Proposed development name;
 - (ii) Number of units and bedroom mix;
 - (iii) Uniqueness of development concept (i.e. has a development of this type been done before);
 - (iv) Ability of the proposed development to address an unmet need;
 - (v) The proposed development’s contribution to THDA mission and goals;
 - (vi) Reasonableness of the proposed development’s scope;
 - (vii) Proposed development’s financial feasibility;
 - (viii) Extent to which the proposed development would be at a competitive or financial disadvantage relative to developments considered in the regular competitive round; and
 - (ix) Demonstrated capacity of the applicant to complete the proposed development.
4. **The Innovation Set-Aside is discretionary.** THDA, in its sole discretion, will select no more than five (5) Innovation Set-Aside Proposals as Innovation Set-Aside Finalists.
5. **The selection of Innovation Set-Aside Finalists shall not be appealable to the THDA Board or the Tax Credit Committee of the THDA Board.**
6. Innovation Set-Aside Finalists will be notified on or before [DATE], 2016 and invited to submit a full Initial Application (“Innovation Set-Aside Application”) by the deadline specified in Part VI-D.

7. THDA will evaluate each Innovation Set-Aside Application for financial feasibility and compliance with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, and this QAP.
8. If THDA, in its sole discretion, determines that an Innovation Set-Aside Application is financially feasible and is fully compliant with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, and this QAP, the applicant will be invited to present the proposed development to the Innovation Set-Aside Selection Group.
9. If THDA, in its sole discretion, determines that an Innovation Set-Aside Application is not financially feasible or is not fully compliant with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, or this QAP, the Innovation Set-Aside Application will be disqualified.

DISQUALIFICATION UNDER THIS PART VI-E-9 SHALL BE AT THE SOLE DISCRETION OF THDA STAFF AND SHALL NOT BE APPEALABLE TO THE THDA BOARD, THE TAX CREDIT COMMITTEE OF THE THDA BOARD, OR THE INNOVATION SET-ASIDE SELECTION GROUP.

Part VII-A-2 Insert

- f. Innovation Set-Aside: To be eligible for Tax Credits from the Innovation Set-Aside, an Innovation Set-Aside Application must satisfy ALL of the following:
 - (i) The Innovation Set-Aside Application must be submitted by an Innovation Set-Aside Finalist as described in Part VI-E; and
 - (ii) The Innovation Set-Aside Application must be financially feasible and fully compliant with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, and this QAP as described in Part VI-E-8.

Part VIII-E Insert

10. Innovation Set-Aside
 - a. Applicant presentations to the Innovation Set-Aside Selection Group shall take place on [DATE], 2017 at a location determined by THDA and shall be limited to one (1) presentation per Innovation Set-Aside Application, no more than sixty (60) minutes in length.
 - b. The Innovation Set-Aside Selection Group, in its sole discretion, may select one or more Innovation Set-Aside Applications to receive a Preliminary Award Letter from the Innovation Set-Aside. Selected Innovation Set-Aside Applications will be notified at the same time the ranking for the regular competitive round is released.
 - c. **The determination of Innovation Set-Aside Selection Group shall not be appealable to the THDA Board or the Tax Credit Committee of the THDA Board.**

Scholar House Draft Language

Current Part VIII-E-7-e modified as reflected below, with new language beginning as a new Part VIII-E-8.

- e. (i) If the steps above leave THDA with insufficient Tax Credits to make a complete reservation to the next highest ranking eligible Initial Application proposing new construction, THDA will hold the Tax Credits remaining until enough Tax Credits have been recaptured or returned for a complete reservation to be made to the next highest ranking eligible Initial Application proposing new construction, taking into account all applicable priorities, caps and limits. THDA will then make a complete reservation to the next highest ranking eligible Initial Application proposing new construction (The limitations specified in Part IV will apply.)
- (ii) If the Tax Credits remaining are likely to exceed one percent (1%) of the total Tax Credits available for reservation, any remaining Tax Credits may be offered ~~as a partial reservation to the next highest ranking eligible Initial Application proposing new construction, pursuant to Part VIII-E-8 below,~~ taking into account all applicable priorities, caps, and limits, ~~until the Tax Credits are accepted.~~ The limitations in Part IV will apply. ~~Acceptance of a partial reservation according to this provision would not classify a development as an “existing” application in subsequent years, but any limitation on Tax Credits per development in subsequent years would apply to any such partial reservat~~

8. Scholar House

- a. THDA may solicit Initial Applications outside the deadlines described in this QAP for proposed developments to be 100% occupied by students (as defined in Internal Revenue Code Section 151(c)(4)) (“Scholar House Initial Application”).
- b. Scholar House Initial Applications must be fully compliant with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, and this QAP (including, without limitation, the minimum score requirement in Part VII-A-1).
- c. In the event multiple qualified Scholar House Initial Applications are submitted, THDA will list, in ranking order, qualified Scholar House Initial Applications and will offer the remaining Tax Credits to the highest ranking Scholar House Initial Application.