Memorandum

To: Commissioners

CC: Kim Herman; Paul Edwards

From: Steve Walker

Date: September 12, 2008 *(Approved at Sept. 25th, 2008 Commission Meeting)*

Re: Approval of Revision to Tax Credit Program Policies

The following represents proposed changes to the 2008 Tax Credit Program Policies. These changes are based upon in-house staff discussions, focus group discussion, informal input, and stakeholder meetings over the past year. All changes have been discussed at the stakeholder meetings held in on Seattle August 25th and in Spokane on August 27th.

This process culminates with a public hearing scheduled for the September 25th, 2008 Commission meeting. Written comment on these changes is being accepted through Wednesday, September 24th, 2008 and will be made available for the meeting.

Revisions ratified by the Commission will be incorporated in the tax credit Policies and Application materials for the 2009 tax credit allocation cycle. Our preliminary estimate is that the application package would be ready for distribution in mid-October, assuming Commissioners take final action on the proposed changes on September 25th. The remainder of this memo summarizes each issue and the intent behind each proposal as well as the proposed new policy language.

Underlining implies added language and ~~strikethrough~~ implies a language deletion.

1. Maximum Credit Per Low Income Housing Unit – Policies, Chapter 3

Issue: The intent of this change is to recognize and respond to continued increases in the cost of construction and significant decreases in credit investment pricing. While construction costs continue to rise, a substantial drop in credit pricing over the past 10 months has placed unintended pressure on program policy which limits allowable the per units credit. Tax credits are the primary source of project capital. Increasing the current credit per unit program limit is an appropriate response to help mitigate increases in hard construction cost and decreases in equity pricing.

This proposed change is based on discussions with builders, developers, syndicators and other program stakeholders. This recommendation is the result of a coordinated effort between other program funders and the program and policy strategies they are implementing.

Proposed Change:

Increase the current maximum allowed credit per unit limits by 12%. The new limits would be as follows:

- Per unit credit limit is ~~$12,275~~ $13,750 (12% increase) per low-income housing unit.
- For QCT, DDA or Rural Projects the maximum annual amount of Credit reserved or allocated is ~~$15,930~~ 17,845 (12% increase) per low-income housing unit.

2. Targeted Areas – Policies, Chapter 6

Issue: Beginning in 2001 the Commission has successfully allocated tax credits to projects located in Indian Country. However since doing our first tribally sponsored deal, it has become increasingly apparent how current policy fails to recognize some of the unique circumstance that exist in Indian Country and even skews the competition away from such deals. For example,

- Housing Needs Points: Tribes are located within specific counties and cannot pursue projects outside their reservation of tribal land holdings. The statistical model used for determining the Programs existing Housing Needs points is done at the County level and fails to reflect need within an Indian Reservation. The housing need within the reservation is most often much higher than that of the surrounding county.
- At Risk Properties Points: Tribal deals are not likely to qualify for these points because the requirement of providing evidence showing that the units are at risk of becoming market rate will almost assuredly never occur.
- Cumulative policy changes and allocation point recalibration since 2001 have caused the competitiveness of tribal deals to decline.

This proposed change is intended to recognize the unique set of circumstances that exist in Indian Country from a demographic and development perspective. Currently Difficult Development Areas (DDAs) are determined in part by counties where 25% or more of the households live below the poverty level for that county.

Proposed Change:

Add a fourth category to the existing 5 point Targeted Areas list to read as follows:

> Points will be awarded based on documentation submitted with the Application that the entire project is located in:
>
> (i) A difficult development area (DDA) designated by the Secretary of the U.S. Department of Housing and Urban Development (HUD);
>
> (ii) A qualified census tract (QCT) designated by the Secretary of HUD where 50% or more of the households have an Income that is less than 60% of the area median gross income; or
>
> (iii) An area approved by the governing body or chief executive officer of the local jurisdiction as targeted for low-income housing serving households at 80% of the area median gross income or below, and approved by the Commission.
>
> (iv) <u>Land within the boundaries of an Indian Reservation or within the service area of the tribe provided that the project is sponsored by the Indian tribe or its tribally-designated housing entity.</u>
>
> <u>Note: These points will be based upon poverty rate levels as determined by the U.S. Census. On a case by basis, the Commission will consider supplemental demographic data provided by the Applicant that demonstrates that 20% or more of the total Indian households are living below the poverty level. To be considered for these points using supplemental data, the Applicant must present their data to the Commission at least 30-days prior to the application deadline and receive pre-approval by the Commission.</u>

3. Maximum Development Cost Per Housing Unit (TDC Limit) – Policies, Chapter 3

Two issues are being addressed by this proposed policy change.

Issue 1: The intent of this change is to capture Farmworker Housing projects in a similar way other special needs populations are addressed under the TDC Limit. This change is necessary to avoid an unintended consequence brought about by Policy changes made in 2007. The change is to add Farmworker Projects to item 5(B) below.

Proposed Change:

A. ***MAXIMUM DEVELOPMENT COST PER HOUSING UNIT –***
WAC 262-01-130(8)(a)

The following outlines the Commission's maximum development cost per unit policy:

(1) The maximum development cost per unit is 110% of the statutory mortgage limit schedules for the FHA 221(d)(3) mortgage insurance program.

(2) Land cost is excluded from the limit calculation.

(3) Initial Credit determination is subject to project's adherence to the HUD limits schedule for the Application year.

(4) Final Credit determination is subject to project's adherence to the HUD limit schedules for the year that the project places-in-service or the Application year, whichever is greater.

(5) The Applicant may request to have the maximum development cost limit raised if the project meets one or more of the adjustment criteria listed below.

A. 135% of the HUD mortgage limits schedules, because the project is subject to:

Competitive bid requirements;

Davis Bacon wage rates <u>or</u> state prevailing wage requirements; or

B. 150% of the HUD mortgage limits schedules, because the project meets the Allocation Criterion (and receives points) for the:

Housing for Large Households;

Housing for Persons with Disabilities;

Housing for the Homeless;

Farmworker Housing;

Rehabilitation projects; or

Project with 25 Units or less

C. 175% of the HUD mortgage limit schedules, because the project meets at least one of the requirements for A and received points for one of the requirements for B, above.

D. 200% of the HUD mortgage limits schedules, because the project consists of the rehabilitation of a historic property and meets least one of the requirements for "A" and receives point for one of the requirements for "B" above.

Issue 2: Current policy allows for the Division Director to increase the applicable TDC limit by 15%. A few times within the past two years Applicants have requested increases beyond the discretionary level allowed the director. This change is intended to provide the opportunity for the Executive Director to make a discretionary call to go above the applicable TDC limit.

Proposed Change:

Subject to the approval of the Tax Credit Program Director, Applicants may request up to an additional 15% increase to the applicable limit. Applicants seeking to include this additional increase as part of the credit determination must receive approval in writing from the Tax Credit Program Director prior to submission of the Application. Any increase above this 15% must be approved by the Executive Director.

4. Housing for the Homeless – Policies, Chapter 6

Issue: In 2006 when the Commission first introduced a policy prioritizing predominantly homeless projects (e.g. Supportive Housing), program Policy required a pre-application approval for Applications seeking points under this policy. With three years of experience with this policy, staff feels it is no longer necessary for Applicant to receive this pre-approval.

The same requirements that the Applicant demonstrates a successful track record serving this population and for developing and operating this type of housing as well as demonstrating the financial feasibility of the project will still apply to all Applicants requesting these points. The review to determine eligibility for these points will be done during the normal MTR review process. The only change to this policy is that the pre-approval requirement has been eliminated.

Proposed Change: Eliminate pre-approval requirement for predominantly homeless projects.

5. States Authorized to Award 30% Basis Boost

Under current law, only HUD designated DDA's and QCT's are eligible for the 30% "basis boost". For 9% credits, the bill amends this by adding a new clause that authorizes allocating agencies to extend the extra 30% "basis boost" to buildings that the state designates as requiring an increase in the credit amount to be financially feasible, effective for buildings placed in service after date of enactment. Buildings in DDA's or QCT's that already qualify for the additional credits will not qualify for an additional state designated increase if they have already received the 130% increase. This additional eligible basis is not available to bond-financed housing.

This change proposed by the Commission is intended for projects located in rural areas of the state where local affordable housing resources are scarce.

Proposed Change: Beginning with project allocations made in 2009, the Commission intends to allow this "basis boost" to be available to:

- <u>All Rural Projects. For the purposes of this Policy, "Rural" carries the definition used for determining the program's Rural Credit Set-Aside.</u>