FIRST WORKING DRAFT OF PROPOSED CHANGES FOR THE
2013 HOUSING TAX CREDIT PROGRAM POLICIES
As of 5/15/2012

The following represents a first draft of proposed changes to the 2013 Tax Credit Program Policies. These changes are based upon in-house staff discussions, individual and group stakeholder discussions, as well as informal input received over the past year.

All changes will be discussed at two stakeholder meetings scheduled as follows:

Tuesday, May 22nd	**12:30 – 2:30 PM**	**Spokane Low Income Housing Consortium** **315 W. Mission, Suite 25B, Spokane**
Thursday, May 24th	**1:00 PM – 3:00 PM**	**WSHFC Board Room, 28th floor** **1000 Second Avenue, Seattle**

Written comment on these draft changes is welcome. Please provide comments by Monday, May 21st, 2012. Email responses may be sent to leslie.price@wshfc.org. Please refer to the Housing Tax Credit page of the Commission website for the Preliminary LIHTC Policy and Program Development Timeline for 2013 Program Year, which is a timeline of the Tax Credit Program process.

Policy changes being considered at this time are summarized below. These policy changes are intended to go into effect for the 2013 allocation round.

1. Geographic Set-Asides – Chapter 5

Issue: Statewide geographic dispersion of the Housing Credit remains a policy priority for the WSHFC. Over the past 25 years of administering the Housing Credit program, the WSHFC has implemented numerous policy approaches to address the issue of dispersing the housing credit to projects located throughout the state. This requires balancing statewide objectives and local priorities, urban and rural issues and many other considerations. Geographic dispersion policy approaches have included, among other things, assigning allocation points to counties based on housing need and underserved areas, and setting aside credit for Rural Areas and Rural Development projects.

For the past several years, the primary method used to address geographic dispersion has been the Housing Needs point category[1]. The methodology for creating this policy was derived from the 2000 Census and was last updated in 2006 using the HUDs CHAS data. In evaluating the dispersion of credit allocation since the 2006 Housing Needs update, it has become clear that certain areas of the state have not been able to compete for the 9% credit and are not getting their “fair share” of the credit. For

[1] The current Housing Needs policy is based on “Absolute Need” and “Relative Need” determined by the number and proportion of renter households at or below 50% AMI with one or more Housing Problems. Housing Problems are defined as lacking complete plumbing facilities, overcrowding, or paying more than 30% of their income toward housing costs. The most recent data available on this indicator is captured in the table below and is available upon request.

example, the counties of Clark, Pierce, Snohomish and Spokane together have received 22% of the credit, but these counties have 36% of the 2010 population and 34% of the state's "severe cost burdened" renter households.[2]

Therefore, staff is proposing a different approach for achieving balance between statewide opportunity and statewide need.

Proposed Change: Create three distinct geographic groupings of counties – King County, Metro Counties, and Non-Metro Counties – into Credit Set-Asides. Projects will compete for credit allocations based upon the county in which they are located. Policies, allocation point criterion, limits, etc. may be tailored the address the contextual needs within each set-aside. Under these new Credit Set-Asides, the current Credit Set-Asides of Rural, Rural Development and Qualified Non Profit (see below) will be dissolved, as will the RD new construction preference and Housing Needs Points. To maintain program integrity, projects competing for credit allocation within each of the respective credit set-asides will be held to minimum point scoring thresholds.

Defining the Geographic Groupings: Counties have been grouped together as a way for like projects to compete against like projects. The following data indicators were also considered at the county level to determine the groupings: population size, population density, percent of population living in Urbanized Areas (as defined by the US Census), access to local housing funds, development capacity, and housing needs. As a result we have created the following geographic groupings:

(1) **King County**
(2) **Metro Counties:** Clark, Pierce, Snohomish, Spokane
(3) **Non-Metro Counties:** Adams, Asotin, Benton, Chelan, Clallam, Columbia, Cowlitz, Douglas, Franklin, Ferry, Garfield, Grant, Grays Harbor, Island, Jefferson, Kitsap, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit, Skamania, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, Whitman, Yakima.

Qualified Non Profits (QNP): Under IRS Tax Code, at least 10% of the State's total annual credit authority must be allocated to projects sponsored by QNPs. We will look to the King County Credit Set-Aside first to satisfy this Code requirement. In the event no QNP is competitive in the KC set-aside, we will look second to the Metro Set-Aside and then lastly to the Non-Metro Set to be in compliance with the Code. In the event no QNP is competitive within the established Credit Set-Asides, the Commission will consider a Forward Commitment of credit to the highest scoring QNP on the waiting list to ensure this requirement is met.

Scattered Site Proposals: Projects consisting of multiple sites in different counties that cross between the Credit Set-Asides will be treated as follows: Any proposal with one or more sites located in the Non-Metro Counties and one or more sites in the Metro Counties will be treated as a proposal in the Metro Set-Aside. Likewise, any proposal with one or more sites located in the Non-Metro Counties and/or the Metro Counties but also having one or more sights in King County will be evaluated within the King County Set-Aside.

[2] "Severe Cost Burden" is defined as paying more than 50% of household income on gross rent. Data source: 2010 ACS 5 year estimates.

Sizing the Credit Set-Asides: A number of data indicators were evaluated to determine the percentage of credit for each set-aside group. Based on the chart below, staff is proposing 33.3% of the credit be set aside for each group.

	% of State's Population[1]	% of State's Renter Households At or below 50% AMI with Housing Problems[2]	% of State's Renters with Severe Cost Burden[3]	% of State's Population in Poverty[3]	% of State's Low and Moderate Wage Jobs[4]
King County	28.7%	33.6%	33.3%	24.2%	33.3%
Metro	35.8%	34.5%	34.2%	32.5%	32.4%
Non-Metro	35.5%	31.9%	32.5%	43.3%	34.3%
Statewide	100.0%	100.0%	100.0%	100.0%	100.0%

[1] 2010 U.S. Census
[2] HUD CHAS 2005-2009
[3] 2010 ACS 5 year estimates
[4] 2010 Local Employment Dynamics (Census)

The King County Set-aside will be a "hard" set-aside. To be considered, the credit request of the last highest ranked project to be funded must fit into the available credit. The set-aside will not be expanded unless there are no other Fully Funded projects seeking a credit allocation. However, projects within King County will be allowed, at the Commission's discretion and in coordination with the local funders, to adjust their credit requests to fit the last project in or to consume the entire credit amount in the set-aside.

The Metro and Non-Metro Set-Asides will be "soft" set-asides. If the remaining portion of the credit in the Metro Set-Aside equals at least 50% of the next highest ranked project's credit request in that set-aside, the remaining credit amount will be made available to that project through a forward commitment of the following year's credit, as necessary. The same applies to the Non-Metro Set-Aside. If the Metro Set-Aside is undersubscribed, the Commission will look to the remaining Non-Metro projects first for funding and vice versa, if the Non-Metro Set-Aside is undersubscribed, the Commission will look to the remaining Metro projects first for funding. In the unlikely event that both Metro and Non-Metro Set-Asides are both undersubscribed, the Commission will look to projects located in King County insure all credit is allocated.

Hold Harmless Reserve: Staff recognizes that significant changes are being proposed in the allocation policies for the 2013 year and that sponsors may have projects in the pipeline that they expect to be competitive based on the historic method of allocation. To mitigate this in the 2013 allocation round only, 10% of the total credit will be held out of the Metro and Non-Metro set-asides for the Commission to allocate at its sole discretion to projects that may get displaced by the 2013 Policy changes.

The change from a King County Cap to a King County Set-aside is not considered a significant change and King County projects will not be eligible to compete for the Hold Harmless credit, nor will any credit be reduced from the King County set-aside.

Geographic Dispersion: If in any one year, projects in any one county are allocated 50% or more of the credit in the geographic set-aside, then in the following year, projects proposed in that county will be considered only after all otherwise qualified projects competing in the same geographic set-aside have been considered. The policy does not apply to King County.

2. Allocation Criterion: Additional Low-Income Housing Commitment

Issue: The purpose of the current Additional Low-Income Set Aside matrix and the corresponding points is to prioritize projects proposing to serve the lowest income populations while maintaining viability. However, given that the area median household income across the state varies from $46,100 to $88,000 (as derived from the HUD Multifamily Tax Subsidy Projects Income Limits (MTSP)), the lower income counties are unable to compete for these points against the higher income counties since unlike the higher income counties, they cannot maintain financial viability due to the significantly lower rents that must be charged in the lower income counties. For example, a 30% AMI 1 bedroom in Snohomish County can be rented for $792, while a comparable unit in Spokane can be rented for $567.

Proposed Change: Create a second Additional Low-Income Housing Set Aside matrix for use by the Lower Income Counties, as defined below, whereby allowing equal access to points under this Income Targeting priority. Higher Income Counties will continue to use the existing scoring Matrix.

Higher Income Counties: Benton, Clark, Franklin, Island, King, Kitsap, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Whatcom.

Higher Income County Matrix (this is the current matrix)**:**

% Low-Income Units	% OF AREA MEDIAN INCOME		
	≤ 50%	≤ 40%	≤ 30%
≥ 10%	0 points	3 points	8 points
≥ 25%	3 points	6 points	15 points
≥ 30%	5 points	3 points	25 points
≥ 40%	8 points	15 points	36 points
≥ 50%	12 points	29 points	44 points
≥ 75%	17 points	39 points	0 points

The Lower Income Counties are those counties whose 50% AMI income for a four person household is $32,000 or less as determined by HUD in the MTSP limits and documented on the Commission's Rent and Income Limits webpage (http://www.wshfc.org/limits/map.aspx). This is same indicator used to determine rent and income limits for the Housing Credit program.

Lower Income Counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, Spokane, Stevens, Wahkiakum, Walla Walla, Whitman, Yakima.

Lower Income County Matrix: Under Development and input welcomed.

3. Allocation Criterion: Leveraging

Issue: It has been a long standing policy of the program to prioritize projects that leverage public resources through the award of points. However, this policy position has been challenged with the question of why differentiate between public funds and other sources of capital? One response is that a commitment of public funds may serve as a proxy for local priority; yet, this is not always the case. Another response is that it often takes public funds to serve the lowest income populations prioritized within the Housing Credit program; yet, this too is not always the case.

Proposed Change: In the interest of more directly promoting two policy objectives, leveraging and local priority, we wish to explore splitting the current Leverage allocation criterion into two point categories:

1) Local Funding Commitment: Points awarded to those projects who have received a funding commitment from the local jurisdiction including Public Housing Authorities. These points are intended to serve to advance those projects prioritized by the local jurisdiction. For the purposes of this policy, neither taxable nor tax-exempt bond financing qualifies.

Questions to Resolve:

- Does the capital source need to be permanent or can it be pre-development, bridge, or construction financing committed by the local jurisdiction?
- Would fee waivers or tax abatements qualify?
- How do we scale the amount so that the points are accessible by smaller jurisdiction?

(2) Leveraging the Housing Credit: We have not yet decided the approach. The following options are under consideration:

a. Points will be awarded to those projects that have funded X% or more of the Total Project Costs with sources other than the credit equity, excluding deferred developer fee. Public, private and philanthropic resources would all qualify.

Or

b. Points will be awarded on a scale that incentivizes leveraging the Housing Credit. The more the credit is leveraged, the more points awarded regardless of the source of funding. For example, 10%-20% leverage = 5 points, > 20% leverage = 10 points.

Questions to resolve in addition to those stated above:

- What is the appropriate scale of funds and corresponding points?
- What are the consequences?
- How do we hold private sources to the same level of commitment as an award letter from a public source? Do we allow a 60 day window starting from the Reservation Contract to confirm commitment?

4. Allocation Criterion: Targeted Area

Issue: The Commission remains committed to strategically siting projects while also empowering local governments to influence where affordable housing gets proposed**.** As part of the 2012 policies, the Commission approved the removal of Qualified Census Tracts (QCT) from the Targeted Area point criterion (effective 2013), and staff committed to reviewing strategies for targeting in the 2013 policies. Targeted Areas are a perfect example of where separating the allocation of credit into different geographic set-asides allows for different policies for each grouping. For example, the feedback often received from rural areas is that their jurisdictions lack the local planning capacity for targeting by local jurisdictions. Similarly, transit oriented development is also not an applicable policy in less urban areas of the state.

Proposed Change: Expand the list of options for Targeted Area points and tailor them to each geographic set-aside. It may be appropriate for some of these to become their own point category as opposed to having a variety of options under one point category as we explore ways to solve the potential of the "Great Big Tie" caused by the removal of other point categories.

Community Revitalization Plan: Elevate to a Targeted Area category worth 5 points. Remove as a 2 point bonus option under the Rehab points. Maintain current definition and the requirement for pre-application approval.

Transit Oriented Development: To be defined area around fixed transit infrastructure.

Job Centers: Data is currently being analyzed to determine whether it would be possible to replace the census tract level targeting of the QCT policy with data indicators that would encourage siting projects in locations that have access to jobs. Data driven targeting would allow for targeted areas in locations where there is little or no local planning capacity.

DDA: Is county level targeting appropriate under the new geographic set-aside allocation strategy?

High and Very High Opportunity Areas: As defined by Puget Sound Regional Council (PSRC) http://psrc.org/assets/7865/oppurtunitymap.pdf (PSRC typo ☺). This would be a King County only policy until it is determined whether the existing maps could be expanded to non-PSRC counties.

King County:

1. Community Revitalization Plan
2. Transit Oriented Development
3. High and Very High Opportunity Areas

Metro Counties:

1. Community Revitalization Plan
2. Transit Oriented Development
3. Area Targeted by a Local Jurisdiction
4. Job Centers???
5. Others???

Non-Metro Counties:

1. Area Targeted by a Local Jurisdiction

2. Eligible Tribal Area
3. Job Centers
4. DDA????
5. Others???

5. Allocation Criterion: Farmworker Units

Issue: Beginning in 1999, the Policies have placed a high priority on projects setting aside units for Farmworkers. Current policy awards 35 points to projects that set aside 75% of the units for farmworkers, the same priority given to Supportive Housing for the Homeless. After 14 years of allocations under this priority, 1,638 units of Farmworker housing have been created in 49 projects across 13 counties. We have received input from stakeholders requesting that the Farmworker priority be reduced in order to allow for projects serving other special-needs populations, specifically the elderly or non-Farmworker families, to compete. Additionally, it is anticipated that by reducing the percentage of the Farmworker commitment, thus allowing for a mixed population project, we may help to reduce the community resistance some of these Farmworker projects have faced.

Proposed Change:
(1) Reduce the Farmworker commitment to from 75% to 20% of the units with a point score of 10 allocation points, making it equivalent to the 100% elderly, 20% disabled, 20% large household and 20% homeless set-asides and subject to the same rules.

(2) Eliminate the Farmworker Points in the King County Set-Aside.

(3) Allow Farmworker projects to compete in both the Metro and Non-Metro credit set-asides.

6. Allocation Criterion: Historic Property

Issue: Historic Preservation has long been an allocation point criterion within the Tax Credit Program. Historic preservation adds costs to the overall project. To address the additional costs of the historic preservation, over the years the Commission has been lobbied to consider tying the inclusion of historic tax credits as a resource to eligibility for this point criterion.

Proposed Change: For projects claiming Historic Property points require the use of Historic Tax Credits as part of the financing.

7. Allocation Criterion: Quality Management Program

Issue: In 2010, the Commission incorporated the Washington State Quality Awards (WSQA) program into our credit allocation selection criteria. Due to budget cuts at the state level, applicants seeking WSQA assessments report problems with consistent access to the program, delayed feedback, and lost applications. Additionally, the WSQA Lite Assessment is a self guided assessment without objective criteria for determining completeness or quality of submission. While WSQA is a worthwhile endeavor for organizations, it is unfair to allow critical allocation points to be based on a program with inconsistent access or quality control and that adds costs to the application process.

Proposed Change: Suspend WSQA points indefinitely.

8. Maximum Developer Fees – Chapter 3

Issue: Current policy restricts the total developer fee to 15% of the Total Projects Costs and the allocation points provide incentives for applicants to reduce their developer fee to as low as 10% of the Total Project Costs. It has been customary for the Tax Credit program to determine the developer fee using the total project costs at the time of the Final Cost Certification. While this creates certainty that the developer fee will be based on the exact final costs, it provides a disincentive for cost savings. As developers approach the completion of construction and find excess funds in the project budget, there is an incentive to spend the savings or excess contingency to keep the Total Project Costs constant so there will be no reduction in the total developer fee.

Proposed Change: The Commission will set the developer fee at the time of the Equity Closing based on the project's final budget after construction bids have been accepted and final sources and uses have been balanced. This will allow certainty to the developer as to the exact amount of their fee and will remove the incentive to spend excess contingency or savings. It is expected than a project with excess funds will return those funds to one or more of the public funders involved.

9. Fully Funded – Rural Development Projects – Chapter 5

Issue: Current policy requires projects involving USDA RD financing to submit an RD issued Letter of Conditions in order to be considered fully funded. However, Rural Development is unable to issue the Letter of Conditions until all of the funding including the housing credit is committed.

Proposed Change: To reconcile the requirements of two federal programs, the Tax Credit program will allow rehab projects using USDA RD financing to compete as Fully Funded provided they submit a letter from the State RD office indicating that a complete application has been submitted for each property. Within 120 days of executing the RAC, the sponsor must submit evidence to the Commission that final financing approval has been received from the USDA National Office or the RAC will expire and the credit will be deemed returned.

10. Qualified Census Tracts

Issue: In 2012, the Commission passed a policy to remove Qualified Census Tracts (QCT) from the Targeted Area point criterion beginning in the 2013 allocation year. However, under Section 42 of the IRS Code, it is required that we give some preference to project located in a QCT.

Proposed Change: The Commission will satisfy the Code requirement of "preference" by placing QCT on the list of tiebreaker considerations.

11. Total Development Cost Limit – Chapter 2

Issue: Experience with the first year of the TDC Limit policy reinforces the suggestion that the current Balance of State category is too blunt to address higher cost areas outside of King County.

Proposed Change: Data analysis is underway to consider this issue. Any change to the TDC policy will be discussed as part of the stakeholder process later in the summer.

12. HOPE VI Set-Aside – Chapter 5

Issue: In 2010, the second HOPE VI set-aside was put into place for the allocation years of 2010, 2011, and 2012 for HOPE VI projects in King and Kitsap County. The HOPE VI developments for which this set-aside was put in place are now complete.

Proposed Change: Allow the expiration of the HOPE VI set-aside per the 2010 policies.

Note: Under the 2010-2012 HOPE VI policy, King County has been allowed to exceed the "King County Cap" when there was a project that would have been funded under the King County Cap but was displaced by the inclusion of the HOPE VI project. The credit used for the displaced projects will be reduced from King County's share in the 2013 allocation round. The payback is estimated at $1.5 million.