National Housing & Rehabilitation Association

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Mr. Ed Yandell
Tennessee Housing Development Agency
404 James Robertson Parkway
Suite 1200
Nashville, TN 37219

Dear Mr. Yandell:

National Housing & Rehabilitation Association's ("NH&RA") Tennessee Developers Council ("TDC") is pleased to provide the Tennessee Housing Development Agency ("THDA" or the "Agency") with the following follow-up comments on the Agency's proposed Preliminary Proposed Changes to the 2014 Qualified Allocation Plan ("QAP"). TDC hopes this feedback will assist the Agency in formulating policy proposals that will strengthen and improve the allocation process for both THDA and its developer stakeholders.

Below is a compilation of TDC member's feedback on THDA's "Preliminary Proposed Changes" and other comments relating to the drafting of the 2014 QAP.

***Consideration #2:* Lengthen time period for submitting permanent financing documentation following recordation of the deed of trust from 15 to 25 business days.**
Tennessee Developer Council members supports THDA's proposal to extend the amount of time given to developers to submit certain financing documents after allocations have been made. TDC further recommends that the Agency consider extending the amount of time to sixty (60) calendar days following recordation of the deed of trust. This timeframe would provide a sufficient amount of time for developers to gather the appropriate documentation.

***Consideration #3*: Eliminate completeness and correctness points.**
TDC supports the Agency's proposal to eliminate completeness and correctness points in the 2014 QAP. To improve the quality of applications. As an additional educational measure, TDC also recommends THDA release a list of all items that resulted in the loss of completeness and correctness points in 2013.

***Consideration #6:* Lower aggregate QCT ceiling to 25%.**
Without additional data, TDC members are concerned that lowering the QCT ceiling at this time might have unintended negative consequences on the allocation process and potentially impeded access to quality affordable housing where there is demand and services. In order to provide a recommendation, TDC members would appreciate THDA providing more information:

1. The proportion of the Tennessee population that currently lives in a Qualified Census Tract
2. To what extent QCTs have changed since incorporating 2010 Census data.

***Consideration #7:* Modify PHA Set-Aside to be compatible with successors to HOPE VI.**

TDC members support changes to the PHA Set-Aside that would prioritize funding within the PHA Set-Aside for Authorities utilizing next generation mixed-finance programs including HUD's Choice Neighborhoods Initiative and Rental Assistance Demonstration programs.

Consideration #8: **Clarify whether existing income/rent restrictions must apply to all units in development for eligibility for preservation set-aside.**
TDC believes that the preservation set-aside should be restricted to properties that have existing income/rent restrictions. Furthermore, we believe that eligible properties should be substantially income restricted (TDC members suggest 95 percent) to compete in this category. We do not recommend that the property must be 100 percent income restricted to be eligible under the preservation set-aside – for a variety of reasons many older affordable properties have a small number of non-affordable units (often the managers unit).

Consideration #9: **Clarify 1 or 2 Statements of Application & Certification**
TDC supports THDA's proposal to require only one Statement of Application & Certification.

Consideration #11: **Clarify that "Initial Application" includes the Initial Application, plus all Attachments, Exhibits, and required supporting and**
Consideration #12: Specify that all submitted documentation is the responsibility of the applicant
TDC supports THDA's proposals to clarify that the definition of "Initial Application" includes all attachments, exhibits and supporting documents. TDC also concurs that it is the ultimate responsibility of the applicant to submit all necessary documentation including complete 3rd party reports.

Consideration #14(a): **Third Party Reports. Substantially reduce the amount of reading involved in reviewing market studies appraisals, and physical needs assessments by only requiring 4-6 page executive summary completed by a third party provider.**
TDC supports changes to the QAP that would require THDA-approved market analysts to submit an executive summary section with predefined data points to aid in the quick review of critical aspects of the market study.

TDC maintains that it is in the best interest of THDA and the applicant that a complete market study be submitted as part of the application. We strongly believe that that any summary data drawn from a limited-scope report would result in an analysis that is incomplete, inconclusive and likely misleading. We also observe that the National Council of State Housing Agencies (NCSHA) and National Council of Housing Market Analyst's (NCHMA) recommended housing finance agencies to require a full market study be submitted at the time of application.

Consideration #14(c): **Prohibit the practice of a market study being prepared by an analyst not on our list and "endorsed" by an analyst on our list (i.e. subcontracting market studies).**
TDC supports THDA's proposal.

Consideration #15: **Add requirement to selection criteria for households with children specifying that some percentage of the low-income units must have 3 or more bedrooms [perhaps broaden this to state that selection criteria must be relevant to type of housing proposed in order for points to be awarded].**
TDC members support the sentiment that properties targeting households with children should have appropriate features that support the resident population. However, TDC does have concerns about specifying specific percentages of 3+ bedroom units. We observe that there are many markets in Tennessee, primarily in rural counties, where 3 bedroom units are not in high demand and as result experience lease-up and vacancy challenges. Furthermore, existing affordable properties that would likely compete under the preservation set-aside often have physical and design constraints that may make it simply impossible to meet these

requirements. TDC recommends that if THDA requires a percentage of 3+ bedroom requirements that the number / percentage be dictated by what the market can bare as verified be a 3rd party market study.

Consideration #17: **Clarify that 100% elderly developments can't have points for marketing to households with children [perhaps broaden this to state that selection criteria must be relevant to type of housing proposed in order for points to be awarded].**
TDC concurs that it is not appropriate 100% age-restricted properties should not be eligible for points for marketing to households with children. However, TDC observes that the points available in the 2013 QAP for affirmatively marketing to households with children effectively made it impossible for age-restricted properties to compete. THDA staff has indicated that it is an unintended consequence of other changes in the QAP that resulted in no age-restricted properties being funded in the 2013 round. TDC members recommend creating a separate and offsetting point category specifically for elderly-restricted properties that are ineligible for points in the "Affirmative Marketing Plan for Households with Children" category. TDC further recommends that projects competing within the Special Needs Set-Aside also be ineligible for points associated with marketing to households with children.

Consideration #18**: Offer points for attending the Governor's Housing Summit.**
TDC see value in encouraging applicants to attend the Governor's Housing Summit; however, we believe it is important that this requirement be crafted carefully. We believe if points are added to the QAP for attending the summit that it is important that a member of the ultimate ownership entity (principals or the staffer responsible for submitting the application) attend the event since they are the parties ultimately responsible for meeting THDA's requirements. We do not think it is appropriate that 3rd party consultants be able to claim these points on behalf of multiple clients. We recommend that any such proposal require that whoever claims points for attending the Housing Summit must also be a party subject to THDA's developer related party rules as defined by THDA.

Consideration #19(a-f): **Property Control.**
TDC supports efforts by the Agency to make it easier for THDA to verify that the characteristics and legal description in the purchase contract deed match the characteristics and description of the project site in the application and support proposals. We further recognize that there are often extenuating circumstances that might prevent the two from matching (i.e. in the cases where the tax credit project development is occurring on only a small portion of the purchased parcel of land). TDC recommends the Agency clarify in the QAP that if the descriptions do not match at the time of application, that the burden of reconciliation between the two documents falls on the developer and owner and that an explanation as to why the two documents do not match must be included with the initial and any subsequent application.

Consideration #20**: Implement location-based rental housing needs scores**
TDC members generally support keeping the current proximity to essential services point category rather than replacing it with a location-based rental housing needs score. TDC members also suggest that the policy can be tweaked to reduce the administrative burden on THDA. Ideas THDA might consider include reducing the number of essential services and/or changing the distance for proximity to services, especially within rural counties to make this category more competitive.

Other Potential Topics for Consideration:

Self-Scoring: To reduce THDA's administrative burden, TDC recommends creating a mechanism whereby low-self-scoring applications are not fully reviewed by staff. TDC members observed that, in the last QAP funding round, applications that self-scored in the bottom 50 percent of the preliminary application list were still fully reviewed and underwritten by THDA staff, even though there was very little chance the application would receive an allocation. TDC members recommend allowing developers be allowed to voluntarily withdraw an application after the preliminary application list (with self-scores) is released if it the application has a scoring profile that makes it highly unlikely to be competitive as determined by THDA (e.g. the self-score is in the bottom 50 percent of the overall pool of application self-scores). We would also suggest that as part of this voluntary withdrawal, applicants be given the opportunity to receive a partial refund of their application fee if they wish to withdraw the application. TDC members believe this would help streamline the allocation process, provide more certainty to applicants, and provide THDA staff with time to scrutinize more closely competitive applications, sites, etc….

Tax Credit Limits for Developers, Owners and Related Parties: As currently written, the QAP limits a single developer, owner or related party to no more than one development per county and no more than $2,200,000 of total credits for all developments they are involved with. As an additional business line, many TDC members are considering becoming 3rd party application consultants, and as such anticipate filing certain applications in the capacity of a developer and certain applications in the capacity of a consultant. Since these members would be filing applications in dual capacities, one of which is subject to THDA's Developer rules and limits and one of which is not, we request that THDA clarify and clearly delineate the distinction between a developer and a consultant. Specifically, TDC requests that THDA clarify:

1. What, if any, portion of the developer fee a 3rd party consultant can receive as compensation in their consulting agreement with the applicant
2. What, if any, limits there are to the nature of the services they can perform in their capacity as a consultant (e.g. can they advance pre-development costs on behalf of their clients)
3. What, if any, constraints will be placed on the number of applications they can submit in their dual capacity in a funding round as a consultant in some applications and a developer in others
4. What, if any, constraints will be placed on the amount of overall allocation that can be awarded to applications they are involved in for a funding round in their dual capacity as a consultant in some applications and a developer in others.

Once again, TDC deeply appreciates the opportunity to provide THDA with this feedback. We would be very happy to discuss any specifics you might have regarding these comments or other subjects of concern. Please feel free to contact me directly with any questions at 202-939-1753 or tamdur@housingonline.com.

Best Regards,

Thom Amdur
Executive Director

cc: Ralph Perrey
Michael Blade
Judith Smith
Phil Chamberlain
Phil Baggett
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David Lillard

About the Tennessee Developers Council
The Tennessee Developers Council is an independent council of the National Housing & Rehabilitation Association comprised of LIHTC and affordable multifamily developers (both private and non-profit) who work with the Tennessee Housing Development Agency. The Council convenes on a regular basis to share ideas, network, and provide a clear voice on key policy issues being considered by THDA and state legislators.

About National Housing & Rehabilitation Association
NH&RA is a national trade association comprised of professionals involved in the development, ownership, operation and finance of multifamily affordable housing. Formed in 1971, our members include developers, owners, property managers, debt and equity providers, attorneys, accountants, and other professionals involved in tax-advantaged real estate.