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September 9, 2013

Mr. Mike Blade
Tennessee Housing Development Agency
404 James Robertson Parkway
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Nashville, TN 37219

Dear Mr. Blade:

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 comments on the Draft 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.

Part V(A)(2) Limit on Developer Fees and Consultant Fees

Expanding upon previously submitted comments, TDC recommends THDA revisit fee structures for vertically integrated development companies (i.e. companies that create operational efficiencies by vertically integrating design, development, management and/or building/general contracting functions). The draft 2014 QAP sets the maximum developer fee at 15 percent of eligible basis and the maximum contractor profit at 14 percent of eligible costs. However, when the developer and contractor are related the maximum combined fee that can be taken is 25 percent (5 percent less than if the functions of development and general contracting were conducted by separate entities). TDC members feel that this discrepancy in the fee unfairly and unnecessarily penalizes vertically integrated firms. Combining the functions of both the developer and general contractor in a single entity increase efficiencies and contractor accountability and the quality of the project because the developer will have to "live" with the project upon completion. TDC maintains that independent 3rd party cost certifications amply protect the Agency against excessive charges and inappropriate behavior.

Recommendation: TDC members suggest THDA revise the draft 2014 QAP to allow for a 29 percent maximum combined developer-contractor fee when the developer and contractor are related.

Part VII (A)(2)(b) PHA Set-Aside

TDC supports statements made by THDA to modify the PHA Set-Aside to account for the HUD successor programs to the HOPE VI program, which THDA indicated in a memo entitled "Preliminary Proposed Changes for the Low-Income Housing Tax Credit 2014 Qualified Allocation Plan and the Multifamily Tax-Exempt Bond Authority 2014 Program Description." By explicitly incentivizing the use of HUD's HOPE VI program in previous years, the agency was able to encourage high-impact mixed-finance developments. TDC observes that previous QAP language giving priority to HOPE VI projects was removed in the 2014 Draft QAP and was not replaced with language giving priority to its successor programs, namely the Choice Neighborhoods Initiative ("CNI") and Rental Assistance Demonstration ("RAD") Program. Given

the transformative nature of these programs TDC believes these programs should be explicitly prioritized within the PHA Set Aside.

Recommendation: TDC recommends THDA insert the following language prioritizing funding within the PHA Set Aside to projects that have received a CNI Implementation Grant and developers participating in the RAD program.

INSERT LANGUAGE IN SECTION PART VII(A)(2)(b):

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS QAP, INITIAL APPLICATIONS THAT QUALIFY FOR THE PUBLIC HOUSING AUTHORITY SET ASIDE THROUGH A PHA USING A CHOICE NEIGHBORHOODS INITIATIVE IMPLEMENTATION GRANT OR PROJECTS INVOLVED IN THE RENTAL ASSISTANCE DEMONSTRATION PROGRAM WILL BE GIVEN PRIORITY WITHIN THE PUBLIC HOUSING AUTHORITY SETASIDE.

Part VII (A)(2)(c) Preservation Set-Aside

TDC supports the current diversity and sizing of set-asides within the Draft 2014 QAP. However, the Council suggests revisiting the new stipulation within the Preservation Set Aside that “the existing income and rent restrictions must apply to 100 percent of the units in the development.” TDC strongly concurs with the sentiment that the Preservation Set Aside should be directed towards preserving existing income restricted units; however, TDC members suggest that this requirement unfairly penalizes a desirable class of properties from competing within the Preservation Set-Aside. In the past HUD routinely awarded Housing Assistance Payment (HAP) contracts to properties in which there were a small number of unsubsidized units (often the manager’s unit or a convertible leasing office). Under the current QAP these properties would be ineligible for the Preservation Set Aside and left with few, if any options for preservation.

Recommendation: TDC members suggest THDA consider revising this policy to read:

Preservation Set-Aside: The Initial Application must propose ~~a development that involves~~ preservation of a development with existing income and rent restrictions through programs such as the Low-Income Housing Tax Credit, Multifamily Tax-Exempt Bonds, or programs administered by USDA or HUD. The existing income and rent restrictions must be preserved on 100% of the units that are currently covered by an income restriction in the development. In order to be eligible for the Preservation Set Aside a minimum of 95% of the total units in the development must have an income restriction. The Initial Application must include documentation, acceptable to THDA, in its sole discretion, verifying the existing income and rent restrictions.

Part VII (A)(4)(x)(A-D) Proximity to Essential Services

TDC members believe that proximity to important amenities and services are important public policy priorities and that it is reasonable that they should be emphasized in the *competitive* portion of the QAP. However, TDC has concerns about incorporating specific amenities as *thresholds* requirements. It is particularly difficult for TDC to evaluate this aspect of the QAP at the current date because THDA has not released its Exhibits and Attachments. Without seeing the specifications, distances, tiers, definitions and other amenities that are outlined in the yet to be released Exhibit 2 we are concerned that many deserving proposed sites and proposed developments will be ineligible. In general, we believe that if THDA chooses to have proximity amenities as threshold requirements we recommend that applicants be given a menu to select from rather than require specific amenities.

As has borne out in previous allocation rounds, TDC members are concerned that reviewing these applications could become particularly cumbersome without precise definitions that explicitly state what constitutes an essential service. For instance, would a podiatrist office qualify as a doctor's office or would a corner store that sells food qualify as a full-service grocery? TDC would like to provide feedback to THDA on definitions but are unable to do so until the Exhibits are released to the public for review.

Recommendation: TDC members recommend removing the threshold requirement of proximity to essential services as a means for qualifying as an eligible development (**Part VII (A)(4)(x)**) altogether from the QAP. In addition, we suggest that THDA maintain its current policy that addresses proximity to essential services within the scoring system for specific set-asides categories. Should THDA opt to require essential services as threshold requirements, we recommend that these be required only for competitive 9 percent applicants and that applicants applying under the noncompetitive 4 percent tax-exempt bond program be explicitly exempt.

Part VII (A)(7)(e) Property Control

TDC supports efforts by the Agency to make it easier 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. In general, TDC appreciates THDA giving owners/developers the ability to provide documentation of any perceived disparities between the two documents. However, we recognize that there are often extenuating circumstances that might prevent certain aspects such as the acreage or square footage from matching (i.e. in the cases where the tax credit project development is occurring on only a portion of the purchased parcel of land) and would suggest revising the draft 2014 QAP slightly to further clarify this matter.

Recommendation: TDC would recommend that THDA either consider requiring an affidavit reconciling variances in the legal description and/or the potential lack of a defined acreage or square footage figure on one or both means of site control. Alternatively, TDC members would suggest that these discrepancies could be cured by providing tax parcel reference ID number amongst the two descriptions.

Part VII (B)(7)(a) Residency Preferences for Households with Children

TDC is supportive of the inclusion of a scoring category that gives preference for households with children. However, TDC members recommend revising the draft QAP language that describes qualifying project amenities. Currently, as the QAP is read, every project competing for points under this category would be required to build or maintain an on-site playground. Many, though it should be noted that not all TDC members view this requirement as problematic, particularly for urban developments, where there is often a playground or park within a few blocks of the property. TDC members are generally more amenable to the previous QAP language where the applicant chose two qualifying amenities from a list of several eligible options.

Recommendation #1: TDC members suggest THDA revise the draft 2014 QAP to maintain the 2013 QAP policy so that it reads:

"The development must include ~~a playground with permanent playground equipment and~~ at least ~~1~~ 2 of the following on-site amenities:

- i) Appropriately sized, dedicated space with appropriate furniture and fixtures for and agreements with providers of after-school tutoring or homework help programs; or

- ii) Appropriately sized computer room containing at least 1 computer with free internet access for each 50 total units; or
- iii) Ball court separate from all parking areas; or
- iv) Playground or tot lot with permanent playground equipment; or
- v) Exercise facility (space must be at least 900 square feet, if indoor) or
- vi) Swimming Pool and/or recreational water feature

Part VII (B)(7)(b) Residency Preferences for Special Housing Needs Developments

TDC strongly supports the addition of an additional residency preference for special housing needs point category to supplement the section for households with children. This puts project proposals targeting special needs populations and the elderly at equal competitive advantage with family properties and should result in a more diverse allocation in 2014. In addition, TDC members appreciate the chance to provide suggestions to THDA about what types of on-site amenities would be both appropriate and cost-effective options that benefit both the developer and residents.

Recommendation: TDC suggests THDA consider including some or all of the following optional special needs housing on-site amenities to supplement the two options already provided for in the draft QAP:: computer room, library, shuffleboard court, horseshoe court, community room, raised garden, picnic areas, and/or other accessibility upgrades such as grab bars throughout the project.

Part XII: Developments to be Financed With Tax Exempt Bonds

Anticipating potential changes to the Bond Program Description later this fall, TDC recommends that THDA amend the QAP to anticipate alterations to the bond program that may need conforming changes in the QAP.

Recommendation: TDC recommends THDA insert the following language in Part XII: Developments to be Financed With Tax Exempt Bonds:

D. Developments receiving Tax Credits pursuant to this Part XII will be subject to all fees and compliance requirements and procedures as described in this QAP unless the QAP specifies alternate procedures. Additionally, with respect to the developer fee language in the 2014 Bond Program Description will take precedence over the QAP

INSERT NEW SECTION: G. Conflicting Requirements Between Bond Program Description and Qualified Allocation Plan: Where there are conflicting requirements or thresholds between THDA's Bond Program Description and Qualified Allocation Plan or attachments, applicants competing for noncompetitive 4 percent credits should follow requirements and be held to the standard specifically stated within the Bond Program Description.

Other Considerations

Opportunity Scores Within the 2014 QAP: 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. If THDA were to implement the location-based rental housing needs score, it would be ideal for developers to receive these scores at least six months prior to the application due date to allow for enough time to conduct proper site selection. In addition, TDC member worry that the

ability to obtain the most accurate data could become increasingly more difficult over time as the 2010 Census data gets older and thus, less relevant.

Opportunities to Withdrawal Applications: To reduce THDA's administrative burden, TDC recommends creating a mechanism in Part VI: Application Submission section of the QAP providing applicants the option to voluntarily withdraw their application upon review of the agency's initial applicant list. In order for this option to be effective THDA would also need to release the applicant's self-scores concurrently. If upon review the applicant determines there is not a strong probability of their project receiving an award of credits the applicant would then be able to formally request the withdrawal of their application. To incentivize applicants to take advantage of this option, THDA might also consider refunding some or all of the LIHTC application fee to the developer. *See Appendix I for Sample Language from the Michigan State Housing Development Authority.*

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
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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.