Oregon Housing and Community Services

2013 Qualified Allocation Plan

LOW INCOME HOUSING TAX CREDIT PROGRAM

Effective as of May 23, 2013

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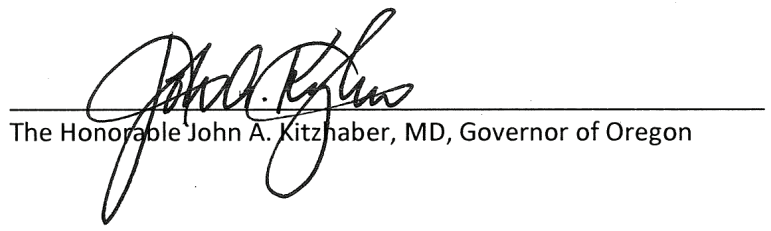
EQUAL HOUSING OPPORTUNITY

APPROVAL OF THE STATE OF OREGON
2013 QUALIFIED ALLOCATION PLAN
LOW INCOME HOUSING TAX CREDIT PROGRAM

I, John A. Kitzhaber, MD Governor of the State of Oregon, do hereby approve for implementation the 2013 Qualified Allocation Plan as presented to me by the Oregon Housing and Community Services Department under the provisions Section 42 of the Internal Revenue Code, Executive Oregon EO-87-06 and OAR Chapter 813, Division 90.



The Honorable John A. Kitzhaber, MD, Governor of Oregon

5/23/2013
Date

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I. INTRODUCTION

The Tax Reform Act of 1986 created the Low Income Housing Tax Credit (LIHTC), under Section 42 of the Internal Revenue Code (Code or IRC), to assist the development of low-income rental housing by providing qualified Owners with income tax credit to reduce their federal tax obligations.

The LIHTC program is jointly administered by the United States Treasury Department Internal Revenue Service (IRS) and authorized state tax credit allocation agencies. Under Executive Order EO-87-06, the Governor of Oregon designated Oregon Housing and Community Services (Department) as the administrator of the LIHTC program. The Department is authorized to allocate tax credits for residential buildings located in the state of Oregon. The Department administers the LIHTC program in accordance with Oregon Administrative Rule (OAR) Chapter 813, Division 90. For more information on the LIHTC program policies, refer to the LIHTC Program Manual.

This Qualified Allocation Plan (QAP or Plan) is intended to comply with the requirements of Section 42(m)(1)(B) of the Code, which requires that a Qualified Allocation Plan set forth (i) the selection criteria to be used to determine the Department's housing priorities, (ii) the preferences of the Department in allocating credit dollar amounts among selected projects, and (iii) the procedures that the Department will follow in monitoring for noncompliance and notifying the IRS of such noncompliance and in monitoring for noncompliance with habitability standards through regular site visits.

II. COMPETITIVE AND NON-COMPETITIVE TAX CREDITS

A. COMPETITIVE HOUSING TAX CREDITS

The allocation of the state of Oregon's per capita credit authority, returned credits, and the State's portion of the National Pool credits is done on a competitive basis, based upon project rankings determined during an application process established by the Department. All LIHTC allocations, including any increase in the allocation of a project's per capita credits, will be governed by this QAP.

1. **9 percent Tax Credits:** Nine percent competitive tax credits receive approximately 70 percent of the qualified basis for new construction or rehabilitation of qualified low-income buildings.
2. **4 percent Tax Credits:** Four percent competitive tax credits receive approximately 30 percent of the qualified basis of acquired buildings that are rehabilitated, and are commonly used for federally funded developments such as United States Department of Agriculture Rural Development (RD) Section 515 program and United States Department of Housing and Urban Development (HUD) 811 and 202 program projects.

B. NON-COMPETITIVE HOUSING TAX CREDITS

The state of Oregon is also provided with access to tax credits associated with Oregon's Private Activity Bond Authority. These tax credits are only available to projects that are financed using tax-exempt bond proceeds. The non-competitive credits ***are not*** subject to the preferences or selection criteria outlined in the QAP, but must meet standards of financial feasibility and viability and project monitoring procedures, in addition to program specific

requirements established by the Department. For more information, refer to the State of Oregon LIHTC Program Manual.

1. **4 percent Non-competitive Tax Credits:** Four percent non-competitive tax credits receive approximately 30 percent of the qualified basis of newly constructed or acquired and rehabilitated buildings financed in conjunction with tax-exempt bond proceeds.

III. PROJECT SELECTION PREFERENCES AND CRITERIA

A. QUALIFIYING BUILDINGS

In order to qualify for the tax credit, an eligible building must be part of a qualifying low income project. A project is qualifying only if it meets one of the following requirements:

1. At least 20 percent of its units are rent-restricted and rented to households with incomes at 50 percent or less of area median gross income, adjusted for family size (the "20-50" test) or
2. At least 40 percent of its units are rent-restricted and rented to households with income at 60 percent or less of area median income, adjusted for family size (the "40-60" test).

B. IRC SECTION 42 STATUTORY PREFERENCES, SELECTION CRITERIA, AND SET-ASIDES

1. **Project Preferences**: For the purposes of ranking projects and allocating credit dollar amounts, the Department will give preference to projects that serve the lowest income tenants; are obligated to serve low-income tenants for the longest periods; and are located in qualified census tracts and the development of which will contribute to a concerted community revitalization plan.
2. **Selection Criteria:** The Department will consider sponsor and project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan. The Department will give weight to those projects that:
    a. Are located in areas of special need as demonstrated by location, population, income levels, availability of affordable housing and public housing waiting lists;
    b. Set aside units for tenant populations with special housing needs, or populations of individuals with children;
    c. Are intended for eventual tenant ownership;
    d. Are energy efficient; or
    e. Are of a historic nature
3. **Qualified Non-Profit Set-Aside**: In accordance with the requirement of the Code, the Department will reserve at least 10 percent of the state housing credit ceiling for a calendar year for projects in which qualified nonprofit organizations have an ownership interest and materially participate in the development and operation of the project throughout the compliance period, all as described in the Code. A qualified nonprofit organization is an organization described in Section 501(c)(3) or (4) of the Code, which, is determined by the Department not to be affiliated with or controlled by a for-profit organization and one of whose exempt purposes includes the fostering of low-income housing.

C. CODE REQUIREMENTS

In order to receive an award of LIHTCs, a project must meet all of the requirements of Section 42 of the Code.

D. DEPARTMENT PREFERENCES, SELECTION CRITERIA, AND SET-ASIDES

In addition to the selection preferences, criteria and set-asides required by the Code, the Department may apply additional selection preferences, criteria, and set-asides, as stated in this Plan.

1. **Project Preferences:**

   Long Term Affordability. The Department has established a threshold requirement that all competitively awarded housing tax credit projects must remain affordable for 60 years. No additional preference is conferred on projects affordable for more than 60 years.

2. **Selection Criteria**: The following selection criteria is used to evaluate Projects, to the extent the project:

   a. Serves tenants with the lowest income

   b. Serves qualified tenants for the longest periods (See D.1)

   c. Is located in a qualified census tract

   d. Demonstrates the strength/capacity of sponsor organizations including but not limited to financial strength, past compliance, and development record

   e. Is Consistent with the Department energy efficiency guidelines and green building requirements identified in the funding application

   f. Creates affordable housing opportunities in areas identified with significant population or housing condition needs, including public housing waiting lists

   g. Creates affordable housing opportunities in areas identified as previously underserved

   h. Addresses critical housing needs within communities

   i. Creates housing in communities responsive to local or statewide policy initiatives

   j. Creates housing in communities that are part of neighborhood preservation, community revitalization, or redevelopment effort

   k. Projects that result in the de-concentration of poverty by locating low-income housing in low poverty areas, which are Census Tracts where less than 10 percent of the population lives below the poverty level.

   l. Creates housing for families with children and special needs populations

   m. Involves the acquisition or rehabilitation of preservation projects with at least 25 percent of the units having federal project-based rent subsidies

   n. Integrates with other community needs through mixed-income or mixed-use projects

   o. Is located in proximity to services, employment opportunities, and/or transportation

   p. Is responsive to neighborhood character and population needs

   q. Leverages the Department resources through other sources of funding

r. Involves collaboration between multiple entities from the public, private and/or nonprofit sector

s. Reuses or rehabilitates existing housing stock

t. Innovates to create opportunity and addresses obstacles, including projects designed for eventual tenant ownership

Applications for competitive tax credit allocations are evaluated in the context of the given application and the financial feasibility or capability of the applicant to fulfill or perform each selection criteria activity. Certain threshold requirements must be met for all projects, unless otherwise stated in any Addenda. Proposals not meeting threshold requirements will not be processed further. Threshold requirements include: Asset Management Compliance Review; Program Compliance Review; Resident Services Description Review; Readiness to Proceed; Financial Feasibility; Development Team Capacity; and Ownership Integrity.

Refer to the individual competitive funding notices for specific application procedures and detailed selection criteria and scoring.

3. **Set-Asides:**

a. **Other Set-Asides**: The Department may also reserve a portion or portions of its allocation of state housing credit ceiling for other types of projects or sponsors.

b. **Housing and Economic Recovery Act of 2008 (HERA) Basis Boost.** Pursuant to HERA, the Department has the authority to increase the eligible basis of certain buildings to 130 percent of the eligible basis, when the Department determines that the financial feasibility of the building requires it. The Department, through its policies, shall establish criteria and procedures for implementing such designations. The criteria and procedures shall apply to all projects seeking the boost regardless of the year of the allocation to the projects, to the extent that the projects were not placed in service prior to July 30, 2008.

i. Involves the acquisition or rehabilitation of preservation projects with at least 25 percent of the units having federal project-based rent subsidies.

ii. Projects serving permanent supportive housing goals.

iii. Projects located in an area where workforce housing needs are identified or community needs show a preference for the housing in the area.

iv. Projects that are located in Transit Oriented Districts (TOD's) or Economic Development Regions (EDR's) as designated by local governments, or projects in a designated state or federal empowerment/enterprise zone or Public Improvement District (PID's), or other area or zone where a city or county has, through a local government initiative, encouraged or channeled growth, neighborhood preservation, redevelopment, or encouraged the development and use of public transportation.

v. Projects that result in the de-concentration of poverty by locating low-income housing in low poverty areas, which are Census Tracts where less than 10 percent of the population lives below the poverty level.

E. PROJECT FEASIBILITY AND VIABILITY

The Department will determine the amount of tax credit necessary for a project's financial feasibility and viability as a qualified low-income housing project. The Department will not allocate or award to a project more than the minimum amount of tax credits required to ensure a project's financial feasibility and viability.

IV. PROJECT MONITORING PROCEDURES AND NOTIFICATION

A. OVERVIEW

As the authorized allocating agency for the State of Oregon, the Department is responsible for monitoring the property for compliance with Section 42 of the Code, IRS and Treasury regulations (rulings, procedures, decisions and notices), the Fair Housing Act, State laws, local codes, Department loan or regulatory documentation, and any other legal requirements. The Department may adopt and revise standards, policies, procedures, and other requirements in administering the tax credit program. Owners must comply with all such requirements if implemented after the QAP is approved.

The Department is responsible for establishing compliance monitoring procedures and must report noncompliance to the IRS. Monitoring each project is an ongoing activity that extends throughout the extended use period (a minimum of 30 years). Projects with funding sources obtained from the Department, in addition to the credits, will be monitored for the most restrictive requirements of all combined programs. Owners must be aware of the differences in program regulations. The Department's Compliance Manual is incorporated via reference and may be found at **http://www.oregon.gov/ohcs/Pages/APMD_DivisionMain.aspx.**

B. COMPLIANCE MONITORING PROCESS

1. The Compliance Monitoring Process is based upon the following components:
    a. IRC Section 42 and the promulgated regulations in the Oregon Administrative Rules for the LIHTC program
    b. Qualified Allocation Plan for projects with Building Identification Numbers (BIN) beginning with OR90
    c. Department's Compliance Manual
    d. Declaration of Land Use Restrictive Covenants in effect for all projects.
2. In addition, the following conditions/criteria are met:
    a. Each low-income unit in the project is rent restricted.
    b. Each building in the project is suitable for occupancy, considering local health, safety, and building codes (or other habitability standards); and, the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low-income unit in the project. Additionally, all low-income units have been continually occupied, vacant but rent ready or vacant for redecorating and/or minor repairs for a period of less than 30 days, throughout the reporting period.
    c. No tenants have been evicted for other than good cause.

3. **COMPLIANCE STATUS TRACKING**

The Department uses the monitoring policy to track Owner compliance with Section 42 and the Department's requirements. Issues tracked and recorded include, but are not limited to, the following items:

1. Any IRS Form 8823 events as a result of monitoring
2. Owner compliance with Department-required reporting deadlines
3. Performance of management agents employed by the Owner
4. Fair Housing violations

D. OWNERSHIP, MANAGEMENT PLANS and QUALIFICATIONS

The Department reviews all changes in Ownership and/or Management Agent. Department policy requires notice sixty (60) days prior to any change. The Owner submits the proposed new Management Plan and qualifications to Asset Management, satisfactory to the Department. Management agents and/or Owners are responsible to comply with LIHTC program requirements demonstrated by prior LIHTC experience or current relevant LIHTC training and certification.

E. ANNUAL OWNER CERTIFICATION REPORTING AND MONITORING

Annual certification of continuing compliance is due April 15th of each year.

1. Monitoring of a project will occur as follows:
    a. An on-site inspection of all buildings in a project will occur by the end of the second year following the date the last building is placed in service. This review will include a physical inspection and a review of the low-income certification and documents supporting the certification for at least 20 percent of the tenants,
    b. Then, at least once every three years, the Department will conduct an on-site inspection of each building exterior and all common areas in a project and will review tenant files and complete a physical inspection of at least 20 percent of the project's low-income units.
2. When a project is scheduled for review, the Department shall:
    a. Perform the on-site file, property, and unit inspections. File inspection may occur electronically. Uniform Physical Condition Standards (UPCS) are adopted as the physical inspection protocol for the Department.
    b. Inform the Owner as soon as possible of any finding of non-compliance resulting from the inspections.

F. INSPECTIONS

The Department reserves the right to delegate physical property and unit inspections to third parties in accordance with Oregon or Federal Streamlining Compliance processes.

G. LIABILITY

Compliance with the requirements of Section 42 and state regulation is the responsibility of the Owner. The Department is not liable for an Owner's non-compliance.

H. CORRECTION OF NON-COMPLIANCE CONDITIONS

The Department provides written notice of non-compliance to the Owner if:

1. The Annual Certification Report and attachments are not received by the due date.
2. The project is found to be out of compliance, through inspection, review or other means, with the provisions of IRC Section 42 or state regulations. The Owner will have thirty (30) days from the date of notice to supply any missing information for the Annual Certification Report and correct any non-compliance issues. The Department may grant an extension of up to ninety (90) days. At the end of the allowable correction period, the Department is required to file IRS Form 8823, "Low Income Housing Credit Agencies Report of Noncompliance," with the IRS. All non-compliance issues are reported whether corrected or not. The Department will explain the nature of the non-compliance or failure to certify and whether the non-compliance has been corrected. The IRS will make any determinations as to the applicability of recapture penalties, not the Department.

I. NON-COMPLIANCE REQUIRING ADDITIONAL DEPARTMENTAL STAFF TIME

The scope of non-compliance detected during any monitoring activity will be evaluated by the Department. At its discretion, the Department may expand the audit sampling for additional review. This expansion could extend to 100 percent of the units and/or files deemed to have noncompliance issues. The Department reserves the right to require the Owner to hire a third party auditor acceptable to the Department, at the Owner's expense, to complete corrective action related to non-compliance.

The Department may request other items to assess project status including, but not limited to:

1. Audited annual financial statements
2. Annual operating statements showing actual income and expenses as they relate to the real property
3. Documentation that all State requirements are met

J. ACQUISITION/REHABILITATION TENANT CERTIFICATION POLICY

Projects that receive an allocation of credits for both acquisition and rehabilitation are not required by the Department to complete tenant certifications for both sets of credits for the same households. Owner may ***choose*** to complete a rehab certification as well.

Starting at initial lease-up, the Department may request, from the Owner, compliance reports identifying low-income occupancy for each building in a project. The reports should reflect month-end information for each month of the first year of the credit period. The reports will identify each unit, all adult tenant names in each unit, and the income level at move-in or initial certification. Additional information may be requested.

K. FEDERAL FAIR HOUSING ACT

LIHTC properties are subject to Title VIII of the Civil Rights Act of 1968 also known as the Fair Housing Act. When HUD has determined that state or local laws are substantially equivalent to the federal Fair Housing Act, a state or local fair housing agency investigates fair housing allegations, attempts conciliation and determines whether reasonable cause exists to believe a discriminatory practice has occurred. If the fair housing agency makes a determination of reasonable cause, then a charge is filed with representations of the complainant provided by a state or local representative.

Reporting of Fair Housing Act Administrative and Legal Actions: HUD or U.S. Department of Justice (DOJ) will notify a State agency of:

- a charge by the Secretary of HUD for a violation of the Fair Housing Act,
- a probable cause finding under substantially equivalent state or local agency,
- a lawsuit under the Fair Housing Act filed by the DOJ, or
- a settlement agreement or consent decree entered into between HUD or DOJ and the Owner of an LIHTC property.

1. **The Department's Responsibility**: On receipt of notifications from HUD or DOJ, the Department will file a Form 8823 with the IRS noting the potential violation, and notify the owner in writing. The Department will report potential Fair Housing Act violations discovered during their compliance monitoring activities to the HUD Regional office, or other fair housing enforcement agencies as appropriate.

   The Department is responsible for monitoring Fair Housing violations including Affirmative Fair Housing marketing plans, if required, and fair housing complaints.

2. **IRS Responsibility**: The IRS will send a letter to the Owner notifying them that a finding of discrimination will result in the loss of low-income housing tax credits.

L. HOUSING AND ECONOMIC RECOVERY ACT (HERA) OF 2008 DATA COLLECTION

To the extent required by federal law, the Owner/Agent will assist the Department with meeting federal reporting requirements by collecting and submitting information annually concerning the race, ethnicity, family composition, age, income, disability status, monthly rental payments, and use of rental assistance under section 8(o) of the United States Housing Act of 1937 or other similar assistance, of all low income households.

M. RECORDKEEPING AND RECORD RETENTION

1. **Recordkeeping:** The Owner of a low-income housing project must keep records for each building in the project for each year of the term of the Regulatory Agreement (Extended Use Agreement):

   a. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);

   b. The percentage and number of residential rental units in the building that are low-income units;

   c. The percentage and number of residential rental units in the building that are subject to the additional low-income unit set-aside requirements;

   d. The percentage and number of residential rental units in the building that are subject to the special-needs unit set-aside requirements;

   e. The rent charged for each low-income unit in the building (including any utility allowances);

   f. The number of occupants in each low-income unit;

   g. The number of occupants in each residential rental unit in the building that is subject to a special-needs unit set-aside requirement related to household size;

h. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;

i. The vacancies of any additional low-income set-aside units in the building and information that shows when, and to whom, the next available units were rented;

j. The vacancies of any special-needs set-aside units in the building and information that shows when, and to whom, the next available units were rented;

k. The initial annual income certification of each low-income resident and any recertification of income that is required;

l. Documentation to support each low-income household's income certification;

m. Documentation to support that each household that is subject to a special-needs unit set-aside for such special-needs unit set-aside or commitment;

n. The eligible basis and qualified basis of the building at the end of the first year of the credit period;

o. The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) of the Code; and

p. The date that a resident initially occupies a rental unit and the date that a resident moves out of a rental unit.

q. The Owner shall also keep such additional records throughout the term of the Regulatory Agreement (Extended Use Agreement) necessary or appropriate to demonstrate compliance with the Code, the tax credit program and the Owner's commitments and obligations under the tax credit program contracts, including the Regulatory Agreement (Extended Use Agreement).

2. **Record Retention:** The Owner of a low-income housing project must, during the term of the Regulatory Agreement (Extended Use Agreement), retain the records described above: (i) for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year; and, (ii) with respect to any year for which an income tax return is not filed or does not reflect the Credit for such project, for at least six (6) years after the end of that year. The records for the first year of the credit period as defined under Section 42(f)(1) of the Code, however, must be retained for at least six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period as defined under Section 42(i)(1) of the Code with respect to a building in the project.

   Except as otherwise provided, the Owner of a low-income housing project must, during the term of the Regulatory Agreement (Extended Use Agreement), retain the original local health, safety, or building code violation reports or notices that are issued by any state or local government unit.

V. ADDITIONAL CONSIDERATIONS

A. RESERVATION OF RIGHTS

1. Documentation of Discretion

The Department may, at its sole discretion, award credits in a manner not in accordance with the requirements of the Qualified Allocation Plan. If any provision of this Qualified Allocation Plan (and documents included herein by reference) is inconsistent with the provisions of amended IRC Section 42, or any existing or new State Laws or State Administrative Rules governing the LIHTC program, the provisions of IRC Section 42, State Laws or State Administrative Rules take precedence over the QAP.

All department policies other than those mandated by Section 42 are considered as guidelines and may be waived. A written request for a waiver or exception, accompanied by justification, may be submitted to the Department. QAP waivers will be documented for all projects and regular periodic publications of waivers will identify the applicant, the QAP provision waived, and the reason for waiver. In addition, the summary for projects recommended for funding may identify and explain waivers granted for any projects listed.

2. Policy on Exceptions/Waiver Requests

At least 30 days prior to the closing date for applications, applicants, lenders, or syndicators must request a waiver or exception in writing with a full justification. Furthermore, the Department reserves the right to waive any provision or requirement of the QAP that is not stipulated in IRC Section 42 in order to affirmatively further fair housing.

3. Partial Invalidity

If any provision of this QAP, or the application of this Plan to any person or project, is found by a court to any extent to be invalid or unenforceable, the remainder of this Plan, or the application of that provision to persons or circumstances other than those with respect to which is held invalid or unenforceable, shall not be affected. Each provision of the Plan shall be valid and enforceable to the fullest extent permitted under or federal law.

4. Disclaimer

Issuance of a LIHTC reservation pursuant to a Reservation and Extended Use Agreement, an LIHTC carryover allocation (Carryover) or placed in service allocation as indicated by the IRS Form 8609 by the Department, shall not constitute or be construed as a representation or warranty as to the feasibility or viability of the project, or the project's ongoing capacity for success, or any conclusion with respect to any matter of federal or state income tax law. All LIHTC allocations are subject to the IRS regulations governing the LIHTC program, and sponsors are responsible for the determination of a project's eligibility and compliance. If statements in this QAP are in conflict with the regulations set forth in IRC Section 42, the IRC regulations shall take precedence. While this QAP and the applicable NOFA governs the Department's process of allocating LIHTC, sponsors may not rely upon this guide or the Department's interpretations of the IRC requirements.

No executive, employee or agent of the Department, or of any other agency of the State of Oregon, or any official of the State of Oregon, including the Governor thereof, shall be personally liable concerning any matters arising out of, or in relation to, the allocation of LIHTC, or the approval or administration of this QAP.

Lenders and investors should consult with their own tax or investment counsel to determine whether a project qualifies for LIHTCs, or whether an investor may use the LIHTCs, or whether any project is commercially feasible.

B. FEES AND CHARGES

The State of Oregon and the Department may assess appropriate fees and charges in order to administer and monitor the LIHTC program.

C. PUBLIC COMMENT REQUIREMENTS FOR THE QAP AND AMENDMENTS

Pursuant to ORS 456.555(6) (a), the State Housing Council (Council), with the advice of the Director of the Department, sets policy and approves or disapproves rules and standards for housing programs of the Department. The Council, together with the Department, reviewed the QAP contained herein and recommended it for the Governor's approval. After approval of the QAP, the Department may make minor and technical amendments to this QAP when changes are necessary to administer the LIHTC program to effectively serve Oregon's low-income housing needs, and to conform with amendments to IRC Section 42 and Department goals. Prior to the issuance of any amendment to this QAP, the Department will issue a public notice in accordance with Oregon Public Meeting Law to allow for public comment. The Department may adopt any amendments for which it has issued adequate public notice.

D. CORRESPONDENCE AND SUBMITTALS

All correspondence and submittals to the Department pursuant to this Plan shall be in writing and delivered to:

LIHTC Program Manager
Oregon Housing and Community Services
725 Summer St. NE, Suite B
Salem, OR 97301-1266

E. EFFECTIVE DATE

This Qualified Application Plan shall be effective upon its approval and execution by the Governor.

DEPARTMENT RESPONSES TO 2013 QAP PUBLIC COMMENTS

Issue	Commenter	Comment:	Department Response:
Based on comments received at the March 1, 2013 Housing Council meeting, OHCS has streamlined the QAP to be in line with federal regulatory requirements outlined in the Internal Revenue Code Section 42 (m). The extensive LIHTC program detail has been moved to Policy and Program Manuals. All comments received on the QAP were considered in the development of those new ancillary documents. The Policy and Program Manuals will be adopted in Temporary Rules prior to the issuance of any 2013 Notices of Funding Availability, and will be made permanent, though a public rule making process, by December 31, 2013.			
Basis Boost	Cusack, Oregon Housing Blog (3/28 ltr)	p. 10: Permit basis boost to affirmatively further fair housing.	QAP revised: HERA Basis Boost to include "de-concentration of poverty." See QAP Section III.D.3.b.v.
	McGuire (3/29 ltr)	p. 10: Allow for siting housing in a location that will deconcentrate poverty.	
Green Building	Bodaken, NHT (3/29 ltr)	Continue including green building practices & materials/energy efficient design features	This is included in the selection criteria of the QAP. See QAP Section III.B.2.d. It is will be further defined in the underwriting guidelines, currently under development.
Developer Fee (p. 19-20)	Cornelius, Guardian (3/4 ltr)	1) Is there opportunity for input on new Developer Fee policy alluded to in NOFA? 2) "as determined by OHCS" language can lead to subjective decisions that treat comparable situations differently. Determinations should be made at front end project within guidelines. 3) Policy to set the developer fee at closing and reviewing expenses would need to be very timely. Policy infers that OHCS staff better able to determine fee structure than the investor and lender who have funds at risk. 4) Possible appraisal requirement re: as-is value is vague. FIRREA rules imposed by lenders should be sufficiently objective. 5) Policy should contain precise definitions of related parties and identity of interest – industry has different definitions. 6) Restricting cost savings by the developer to just 50% doesn't make sense. Cost savings should be	1) Staff took input received at various work sessions, and at Housing Council and comments in writing afterward. 2) The Department is developing clear underwriting guidelines that will be published, to provide uniform review for like projects. 3) Developer Fee will be set at construction/equity closing, instead of the past practice to go back to the application at the time of cost certification. See LIHTC Program Manual. 4) Where possible the Department will rely on third party lenders' FIRREA appraisal, but reserves the right to order a FIRREA appraisal if there is not an arms' length lender. See LIHTC Program Manual. 5) The Department defines terms of Related Entity/Person and Identity of Interests in the LIHTC Program Manual Glossary of Terms. 6) Comment addressed. See LIHTC Program Manual.

Issue	Commenter	Comment:	Department Response:
		used first to pay down the deferred fee. Increase in LIHTC price may not necessarily result in cost savings to project. 7) Why limit the % of maximum deferred fee? 8) What is definition of "donation"? 9) Define partnership organizational and broker fees? What is rationale for excluding from developer fee? 10) Policy to include consultant fees (other than A&E, Appraisal, market study and syndication) in the developer fee limit would be detrimental to project quality. Define further e.g. building envelope, interior design?	7) Clarified that this is not a limitation, but a preference. The Department prefers that Deferred Developer Fee not exceed 50%, at the time of application, in order to provide cash incentives for developer performance and a secondary resource for unforeseen cost overruns. See LIHTC Program Manual. 8) Donation has been removed. See LIHTC Program Manual. 9) Partnership and broker fees have been removed. See LIHTC Program Manual. 10) LIHTC and NCHSA best practices recommend consultant fee be included in Developer Fee. See LIHTC Program Manual.
	Cullins, Chrisman Development (3/5 ltr & HC testimony)	p. 20: For acq/rehab, where cost is less than 25% of "as-is-value", OHCS will allow in eligible basis up to 10% of TPC less. Does this still mean applicants can get up to the 15% developer's fee allowed, only 10% of that 15% would be allowed in eligible basis?	For acquisition/rehab projects, where cost of rehab is less than 25% of as-is value, Developer Fee will be limited to 10% of total cost. Projects where rehab costs are over 25% would be allowed up to 15%. The purpose of this requirement is to incentivize a more substantial rehab. See LIHTC Program Manual.
	Geller, Geller Silvis (3/1 ltr & HC testimony	1) p. 19: Remove disincentives for reserves and donations from calculation (max. developer fee) unless specially and narrowly defined. 2) p. 19: Unused state funds should be prioritized over a return of federal tax credits as long as the project is in compliance with LIHTC program (OHCS will set the developer fee at Equity Closing/ reserves right to adjust amount of tax credit award. 3) p. 19: Remove provision that OHCS reserve right to adjust amount of tax credit award so Oregon competes nationally; encourage delivery partners	1) The Department has removed the disincentive for donations from the calculation of maximum developer fee. Reserves will remain in the calculation. See LIHTC Program Manual. 2) The Department will prioritize reducing other State resources before federal credits when considering the impact of an increase in tax credit pricing or cost savings. See LIHTC Program Manual. 3) The Department must reserve this right to comply with IRS 42(m) that requires allocating agency to allocate the minimum amount of credit necessary

Issue	Commenter	Comment:	Department Response:
		to maximize federal benefits, not minimize them.	to make a project financially feasible. See LIHTC Program Manual.
	Oregon ON (3/22, HC testimony)	1) p. 19 applicable to 9% only unless other Department resources are in the deal. 2) p. 19 Donations should not be subtracted off. 3) p. 19. What order of preference for returns? 4) p. 19. If over 25% mark for acq/rehab allowed up to 15% developer fee. Limit on basis or limit on total fee. 5) Strike sentence on land improvements completed by a third party; allow as increased land cost. 6) p. 20: Deferred: no value in requiring Board of Directors to authorize what is standard practice. Require document, not NOTE: re repayment of deferred repayment obligation. 7) p. 21: maximum contractor profit and overhead should be 14% consistent with p. 39. 8) p. 21: confusion about when market study required. 9) p. 21. How could something have both prospective market and restrictive market value? Clarify?	1) QAP must govern all tax credits, with the exception that non-competitive 4% credits are not required to meet the competitive selection preferences and criteria. 4% credits financed with tax-exempt bonds will be guided by a separate section in the LIHTC Program Manual. 2) This has been changed. Donations will not be subtracted. See LIHTC Program Manual. 3) The Department will prioritize reducing other State resources before federal credits when considering the impact of an increase in tax credit pricing or cost savings. See LIHTC Program Manual. 4) See response p. 2 to Cullins. See LIHTC Program Manual. 5) The Department has made this change. 6) This requirement has been removed. Will require documentation, but will not require a Note. See LIHTC Program Manual. 7) Inconsistency corrected. See LIHTC Program Manual. 8) Market study not required at application, but prior to construction closing. See LIHTC Program Manual. 9) For the purpose of determining eligible basis for the rehab of an existing project: (i) For rehab projects that currently have restricted rents, the appraisal should include an "As is" Restricted Rent Value. (ii) For rehab projects currently do not have restricted rents, the appraisal should include

Issue	Commenter	Comment:	Department Response:
			an "As is" Market Rent Value. In either case, the appraisal should also include a Prospective Market Value (PMV) as restricted at Stabilization scenario after completion and rent up of the project. Where possible the Department will rely on third party lenders' FIRREA appraisal, but reserves the right to order a FIRREA appraisal if there is not an arms' length lender. See LIHTC Program Manual.
Market Study	Reed, NeighborWorks (HC Testimony)	Clarify the timing of the housing market study.	An informal or Sponsor prepared market study is due at application. A third-party prepared Market Study in conformance with the Department's guidelines is required prior to construction closing for credits. See LIHTC Program Manual.
Preservation	Prasch, NOAH (3/29 ltr)	1) p. 23: Change 50% minimum # of units for preservation projects back to 25% 2) p. 23: Broaden definition of preservation project to include project-based vouchers and public housing units.	1) Change has been made. See QAP Section III.D.2.m. 2) Preservation definition being used by the Department is 25% of units that have federal project-based rental assistance, which does not expand the existing definition. See QAP Sections III.D.2.m. and III.D.3.b.i.
	Bodaken, NHT	1) Return to the 25% set aside for preservation and rehabilitation of existing MF rental housing. (2012 QAP) 2) p. 23: Return to 2012 definition of eligible preservation projects – 25% project-based federal rental assistance.	1) There is no set-aside for preservation moving forward, but there will be an opportunity for HERA Basis Boost See QAP Section III.D.3.b. 2) Change has been made. See QAP Section III.D.2.m.
	Oregon ON (3/22)	1) p. 23: use 25% as in previous years	1) Change has been made. See QAP Section III.D.2.m.
Fair Housing	McGuire, Fair Housing Council (3/28 ltr, HC testimony)	1) Design and Construction standards required by federal Fair Housing often overlooked by architects and developers. Require separate certification of adherence to standards. 2) Require sponsors and management firms to	1) Department will seek certifications for LIHTC projects, modeled after certification required for HOME projects with specific cites to the Fair Housing Building Standards. The form of the Certification will be in the LIHTC Program Manual.

DEPARTMENT RESPONSES TO 2013 QAP PUBLIC COMMENTS

Issue	Commenter	Comment:	Department Response:
		provide OHCS Asset Management Staff with copies of any fair housing complaints related to funded project. 3) Require project selection panels to have fair housing expertise, or provide training to reviewers. 4) 2014 QAP: provide more details on how to achieve quantitative expanded affordable housing choice.	2) Fair Housing compliance process outlined in the Compliance section. See QAP Section IV.K. 3) Department will provide training for all scoring panels, including Fair Housing Training. 4) Within the next six months OHCS will facilitate a work group to research and recommend Fair Housing policies for program adoption that will be incorporated into Permanent Rules.
	Cusack, Oregon Housing Blog (3/28 ltr, HC testimony)	1) p. 6: Make QAP/CFC waivers transparent/publish summary. 2) p. 9: clarify that waiver authority includes fair housing, to expand housing choice and access to opportunity. 3) 2014 QAP: commit to enhanced fair housing policy development for next QAP to increase housing choice and access to opportunity/prosperity.	1) QAP revised. See QAP Section V.A.1. 2) QAP Policy on Exceptions/Waiver Requests was revised in order to further Fair Housing. See QAP Section V.A.2. 3) See response to comment #4 directly above.
Public Comment on QAP	Geller, Geller Silvis (3/1 ltr & HC)	p. 5/6: Housing Council should grant full comment period (30 days from issuance of technical memo)	Revised practice for QAP and amendment approval. See QAP Section V.C.
Multiple Issues QAP and NOFA)	Pitts, Jennings Pitts (3/8 ltr)	1) Effort to define preference for 50% or less AMI for new projects is in conflict with stated priority for work-force housing. 2) Term "closing" used in QAP without definition. Identify the penalty for failure to close; what about things outside of control? 3) Certain developers have been able to request additional state funds to finish a project. Failure to make sources and uses match in the past should be considered in evaluation of future applications	1) Internal Revenue Code Section 42 (m) requires preference for housing that serves the lowest income tenants within parameters of financial feasibility. 2) The closing is typically when all the construction/equity financing requirements are satisfied and the project is ready to commence construction. Whether adverse conditions are under the sponsors control or not, the Department reserves the right to re-evaluate a project if it has not closed within 240 days of credit reservation.

Issue	Commenter	Comment:	Department Response:
			See LIHTC Program Manual. 3) Department has 240 day application process, where any changes to sources and uses must be justified. Reservation may be withdrawn or reduced if a material adverse change occurs. See LIHTC Program Manual Section.
	Cullins, Chrisman Development (3/5 ltr)	1) p. 8: Confusion throughout as to applicability to 4% tax credits. 2) p. 8: Tax credit rate is not clear – 9% or floating? 3) p. 15: Existing LIHTC projects – confusion about whether a project is eligible if construction defects or existing or extended use? Process for OHCS approval prior to application? 4) p. 17: Material participation by non-profits: what does "more favorable treatment" mean and does it only apply to the set aside? 5) p. 18: Long-term Affordability: should be 60 years. Is OHCS looking for longer term? Also, not in NOFA as a review criteria. 6) p. 21: Confusion about timing of submittal of market analysis – not required with application, but factor in review of applications? 7) p. 22 & 42s: not consistent regarding 3rd party rehabilitation assessment – OHCS approved? What process? 8) p. 24: Not consistent with NOFA regarding Resident Services Review. 9) p. 24 D. Readiness to proceed item 2) should state "What is status of applications with HUD or RD? 10) p. 25: Clarification of RD set aside? New	1) QAP has been revised to provide clarity. See QAP Section II. A. and B. Non-competitive 4% credits will be guided by a separate section in the LIHTC Program Manual. 2) Typically the Department forward allocates its subsequent year 9% tax credit allocation, which in this case would represent 2014 LIHTCs. There may also be a portion of unused credits that would be included in the offering, but in this case there are no unused 2013 LIHTCs available. All credits are anticipated to have a floating rate. 3) Revised to clearly state that Projects previously awarded credits and are still in their initial 15-year compliance or extended use period will be eligible for additional LIHTCs only if there are serious construction or materials defects or other clearly defined issues that will provide a clearly demonstrable benefit to the tenants, subject to IRC Section 42 requirements. See LIHTC Program Manual. 4) QAP has been revised to provide clarity with respect to its reference to the federally required Qualified Non-Profit Set-Aside. See QAP Section III.B.3. 5) QAP revised to state that long-term affordability is a threshold requirement for 60 years, which meets the intent of the federal requirement of providing a preference for serving low-income tenants for

Issue	Commenter	Comment:	Department Response:
		construction? Or Acq/rehab? 11) p. 26: Correct NOFA cite for unused credit authority. 12) p. 37: Changes to original application are subject to Dept. approval, conflicts with Developer fee policy that would be set at equity closing. Suggest that development budget and operating budget approved by lender and investor at time of equity/construction closing be used to compare to final application/allocation of credits. 13) p. 38: Identify of Interest: eliminate % breakdowns. Require "that contractor overhead, profit and general conditions not exceed 14%. Conflict between %s.	the longest period, given it is twice as long as the federal requirement. See QAP Section III.D.1. Non-competitive 4% credits will be guided by a separate section in the LIHTC Program Manual. 6) A formal Market Study is not required at application. CNA is required with application. See LIHTC Program Manual. 7) Report needs to be satisfactory to Department, completed by an accredited third party, but there is no list of approved preparers. See LIHTC Program Manual. 8) The name of the Residents Services Description is now consistent in the QAP (Section III.D.2.), the LIHTC Program Manual and the NOFA. 9) The clarification in NOFA will require that RD and/or HUD application must be submitted and is active. 10) RD set aside no longer applicable, has been removed from the QAP. 11) Cite corrected in NOFA to align with policy as stated in the LIHTC Program Manual. See LIHTC Program Manual. 12) The Developer Fee, the LIHTC's and the Budget are set at the time of construction/equity closing. The closing is typically when all the construction/equity financing requirements are satisfied and the project is ready to commence construction. See LIHTC Program Manual. 13) The Inconsistencies were eliminated. Aggregate Overhead and profit is limited to 14%, except for related parties, which are limited to 10%. See LIHTC Program Manual.

DEPARTMENT RESPONSES TO 2013 QAP PUBLIC COMMENTS

Issue	Commenter	Comment:	Department Response:
	Manning, PHB Myers, DHS, MC (4/4 ltr)	**QAP:** 1) Stronger language to express equity values. Checks to ensure allocation method not negatively impact communities of color. 2) Collaborate on NOFA timing and prioritization with local jurisdictions so that local awards determine local priorities. 3) Leverage local investments to meet multiple housing, service and health outcomes. Prioritize projects that leverage health care, employment, education support and other services. **NOFA:** 1) Geographic Priority: Multnomah Co. not a geographic priority. Reconsider and take into account volume of need, displacement to urban area providing services not available elsewhere 2) Public Priority: Define public priority through lends of locally adopted pans. **Allocation Formula:** 1) Only takes into account rent burdened, not homeless individuals. 2) Take into account supply-side measures such as vacancy rates and fair market rents, highest in state. 3) Consider human service investments; Mult. Co. spends more on services than all others, and people come to County for access to services. 4) Best Use of Funds: Defer to local definition that elevates most critical need. 5) Project Need: Consider locally prioritized as most	**QAP:** 1) The Department has a strong commitment to equity and ensuring the allocation methodology does not negatively impact communities of color. Equity values will be reinforced in the "community impact" section of policy scoring. 2) Going forward the Department has every intention to collaborate whenever possible. 3) Heavy emphasis is being placed on meeting multiple policy objectives. It is one of the ways applicants can demonstrate meeting minimum qualifications to apply, and carries the most weighting in competitive scoring. **NOFA:** 1) Prioritization is intended to help ensure geographic areas that are underrepresented with housing have an opportunity to apply even though they don't meet other minimum qualifications to apply (if they don't meet multiple policy objectives, don't have significant leverage, or are not a preservation project.) Multnomah County projects are able to meet other minimum qualifications to apply, therefore being given a priority ranking as a result of different measurements would not benefit Multnomah County. 2) Local plans will be prioritized, along with regional. **Allocation Formula** 1) The measurements used for "need" are severely rent burdened populations and total households less than 60%AMI. Homeless counts are not incorporated because they are not uniformly reliable throughout the State.

Issue	Commenter	Comment:	Department Response:
		weighted criteria.	2) The scoring methodology used allows projects to be prioritized by demonstrating supply side considerations such as vacancy rates and high fair market rents (in the "need" scoring category). 3) Allocations are based on the income and rent burden of a region's residents. Leveraging of funds and services in the community can be demonstrated by applicants in competitive scoring. 4) Local and regional priorities and needs are emphasized to a greater extent in our new process than ever before. 5) Because of the variation in extent and roles of local and regional planning efforts throughout the State, our scoring methodology allows applicants to emphasize both.
	Oregon ON : (delivered 3/22)	1) Add definitions section. 2) Applicability to 4% confusing, consolidate into one section (throughout document) 3) Does NOFA selection result in reservation or award? (throughout document) 4) 9% rate tied to allocation prior to year end. QAP language confusing as to whether 2013 credits or forward allocation of 2014 credits. (throughout document) 5) OAR cites are incorrect in some cases. 6) Where are other Exhibits? 7) p. 7: Criteria not all consistent with p. 16: affordability, special needs, tenant ownership. 8) p. 7: private activity bond allocations should not	1) See LIHTC Program Manual: Glossary of Terms 2) QAP must govern all tax credits, with the exception that 4% credits are not required to meet the selection preferences and criteria. Non-competitive 4% will be guided by a separate section in the LIHTC Program Manual. 3) Results in Reservation Letter. See LIHTC Program Manual. 4) Typically the Department forward allocates its subsequent year 9% tax credit allocation, which in this case would represent 2014 LIHTCs. There may also be a portion of unused credits that would be included in the offering, but in this case there are no unused 2013 LIHTC available. All credits are anticipated to have a floating rate. 5) OAR cites corrected in the QAP.

Issue	Commenter	Comment:	Department Response:
		be subject to QAP. 9) p. 9: Does rate lock for buildings in a 9% deal also have option to use applicable rate for month in which bonds are sold or month placed in service. 10) p. 10: Define clearly community needs, housing goals, preference, etc. 11) p. 10: under Basis Boost: (2) (a) is sufficient, conflict with (b) and (c). What about changes outside of developer control? 12) p. 11: Mixed income project that includes 60% units – must choose 40/60 election? State more clearly. 13) p. 11: scattered site project that has resources from one jurisdiction but not another might not meet criteria that it is considered a single project by ALL financing partners. Strike last sentence. 14) p. 12: clarify demonstration of commercial and residential financing. 15) p. 12: what is OHCS interest in hold back (Form 8609) – this is risk/interest of other deal partners. 16) p. 13: Native American Housing and Historic Preservation sections – belong in program regulations not QAP. 17) p. 14 – clarify language re: phased projects. 18) p. 14: Designation of Manager's unit – language is unclear and informal. 19) p. 15: Existing LIHTC projects: Strike entire section. Clearly define other terms, but elsewhere. 20) p. 16: Selection Criteria: add required IRS criteria; consistent with NOFA; sequence should flow from	6) The only exhibit to the 2013 QAP will be this document – Department Responses to 2013 QAP Public Comments. 7) Project selection criteria QAP Section III will be aligned with NOFA, with additional detail in the NOFA and application. 8) Private Activity Bond Allocations are not subject to the QAP, but the non-competitive 4% LIHTC are subject to the QAP. QAP must govern all tax credits, with the exception that 4% credits are not required to meet the selection preferences and criteria. Non-competitive 4% credits will be guided by a separate section in the LIHTC Program Manual. 9) Removed from QAP, will be clarified in LIHTC Program Manual. Only non-competitive 4% applications paired with tax-exempt bonds have this option. The 9% lock is more broadly defined, and has more than one month after the reservation is offered to lock the rate, or will be locked at placed in service date for that building. 10) Selection criteria and preferences are outlined in the QAP under Section III. Additional information will be provided in the LIHTC Program Manual as well as the NOFA. 11) Intent is to clarify that sponsor must request State Basis Boost on initial application; cannot come back at a later date to request Basis Boost to fill budget gaps. Mixed income properties may also choose either election based upon choice of affordability for the units. Must also clearly state how many units will have LIHTC benefit or identified as market rate units. See QAP Section III.D.3.b.

Issue	Commenter	Comment:	Department Response:
		most to least important; Be specific about market considerations, verb? Don't need to call out 10% below market – investors already require more. What are criteria for strength/capacity of sponsor? What about extenuating circumstances. What are tax exempt organizations? Sponsor, Service provider? How are preferences evaluated? 21) p. 17: Define terms such as "be mindful, or "care in limiting" - what does it mean? 22) p. 17 Material Participation – how will it be implemented, and how does this relate to NOFA criteria. 23) p. 18: Add 60 years. Clear up confusion with 4% projects. How implemented in NOFA? 24) Financial feasibility: why the laundry list – doesn't add to the guidelines, more clarity. Is 7% vacancy rate required for projections? Sponsor loan structure has to meet investors legal test; legal opinion to OHCS not necessary. 25) p. 19: DCR – benchmark to year 15-20, not year 1.p. 24: Resident services Plan, not Agreement. Readiness Proceed criteria – does it agree with NOFA? 26) p. 25: MOU with RD still in effect? 27) p. 25: Competitive evaluation: should not apply more than IRS requirements when no other OHCS resources. 28) p. 27 Project Denial: how does this feed into sponsor capacity in NOFA. "Substantially in accordance"; Should be materiality components to both budget and time frame.	12) In a mixed use project, the Sponsor may still elect to choose either 20% of units at 50% of AMI, or 40% of units at 60% of AMI. Even if the sponsor chooses, the 20% at 50% election, the rest of the units can be either market rate units (if only a partial LIHTC project) or a maximum of 60% for any additional units that will be allocated LIHTC. 13) Lender or Investor must treat scattered site as a single project with a common plan of finance. See LIHTC Program Manual. 14) IRS requires that Department determine financial feasibility or viability of residential portion of mixed income project. This will be clarified in the LIHTC Manual. 15) Interest in holding back IRS Form 8609 is to ensure fiduciary responsibility under IRC Section 42(m)2 requiring the Department to determine the appropriate level of tax credit allocation for any given project. 16) Moved from QAP to LIHTC Policy Manual. 17)Multi-phase projects may only submit one applicant per funding cycle. Unit Disbursement requirements must be applied to each phase and not spread out over multiple phases. See LIHTC Program Manual. 18) The intent of this policy is to inform owners of what may cause recapture issues when changing number of manager's units during the compliance period. See LIHTC Program Manual. 19) Revised to clearly state that Projects previously awarded credits and still in their initial 15-year compliance or extended use period will be eligible for additional LIHTCs only if there are serious

Issue	Commenter	Comment:	Department Response:
		29) p. 26: Public Disclosure Law: Need more than summation, whole score sheet. 30) p. 29-40: Many comments on credit allocation (see attachment) section, which was moved from QAP to Program manual. Comments were considered for that revision.	construction or materials defects or other clearly defined issues that will provide a clearly demonstrable benefit to the tenants. This is subject to IRC Section 42 requirements and at the discretion of the Department. See LIHTC Program Manual. 20) Selection Criteria has been updated and takes into consideration the comments made as well as now being aligned with other documents (e.g., NOFA). There is no weighting of criteria. See QAP Sections III.B and D. Criteria for sponsor capacity will be found in underwriting guidelines that are currently under development, and will be based on common sense. The only reference to non-profit organizations is with respect to the Qualified Non-Profit Set-Aside. See QAP Section III.B.3. 21) QAP and ancillary documents no longer have references to terms such as "be mindful" and "care in limiting." Clarity is the Department's driver so terms of art will be defined where appropriate. 22) Project ownership will be evaluated using non-profit material participation standards. Failure to pass the minimum requirements may disqualify an applicant from the set-aside. See QAP (III.B.3.) for applicability to Nonprofit Set-Aside. Also covered in the LIHTC Manual. 23) QAP revised to state that long-term affordability is a threshold requirement for 60 years, which meets the intent of the federal requirement of providing a preference for serving low-income tenants for the longest period, given it is twice as long as the

Issue	Commenter	Comment:	Department Response:
			federal requirement. See QAP Section III. D. 1. Non-competitive 4% credits will be guided by a separate section in the LIHTC Program Manual. 24) The determination of Financial Feasibility is required by IRC Section 42(m). See LIHTC Program Manual. The guidelines will be more specifically described in underwriting guidelines, currently under development. 25) The benchmark for DCR remains the first stabilized year, but projects will also be evaluated for DCR over the term of the tax credits. The name of the Residential Services Description is now consistent in the QAP (Section III.D.2.), the LIHTC Program Manual and the NOFA. The Readiness to Proceed criteria will require that RD and/or HUD applications must be submitted and are active. 26) RD set aside no longer applicable, has been removed from the QAP. 27) QAP must govern all tax credits, with the exception that 4% credits are not required to meet the selection preferences and criteria. Non-competitive 4% credits will be guided by a separate section in the LIHTC Program Manual. 28) Previous past project failure may preclude current applicants from passing the threshold requirements for Sponsor Capacity. See LIHTC Program Manual. 29) Sponsors will receive detailed score sheet for their project. A summary of total ranking by Project will also be available. See LIHTC Program Manual. 30) See various responses below: ORON99: In the creation of the LIHTC Program Manual, there will be separate sections for

Issue	Commenter	Comment:	Department Response:
			competitive and non-competitive tax credits. Any differences on how specific policies and/or processes apply will be called out clearly. JT100: This information is being moved to the LIHTC Program Manual. The specific reference is just one data point in the evaluation of appropriate credit amount as required by IRC Section 42(m)2. JT 101: Comments relating to spend down of reserves are being contemplated in the development of new language the will be in the underwriting guidelines that are currently being developed. Also, the language relating to utilizing reserves to reimburse the Department for funding has been removed. JT 103: The calculation of any splits associated with increased credit pricing or cost savings would occur after the following have been taken into consideration: a) Make whole the cash developer fee determined at equity closing that may have been deferred prior to "Placed- in-Service"; b) Cover justifiable Project cost increases, including but not limited to unforeseen cost overruns, items value engineered out of the development during construction, and/or upgrades that demonstrate extended useful life; and/or c) Reasonable increase to Project reserves. See LIHTC Program Manual. JT 105: Monthly progress reports will be required during Construction. The Department will reserve the right to request additional information as

Issue	Commenter	Comment:	Department Response:
			needed. JT 106: The language referring to the 240 day conditions has been removed. This was a concept that was contemplated prior to landing how the Department would Allocate its resources, and is no longer applicable.
Sustainable Communities	Bodaken, NHT (3/29 ltr)	Maintain incentive for building sustainable communities.	Green building and architectural review standards continue as an important threshold test in the selection process. Further outlined in the underwriting guidelines, currently under development.