GIVE IMPACT
Advisory Services

Friday, October 15, 2021

Scott Farmer & Tara Hall
NC Housing Finance Agency

Re: Comments for 1st Draft of 2022 QAP

Scott & Tara:

Thank you for all of your work on the 2022 QAP draft. We are supportive of the changes in the first draft, but we have concerns for some additional key items that need to be addressed. The below recommendations are inclusive of input from industry colleagues.

1. <u>Income Averaging Election</u> – IV(B)(3)(d) p18

Current Language	"The election of Income Averaging at full application submission is **<u>irrevocable</u>**,"
Recommendation	Remove entirely <u>or</u> "For full applications submitted between 2018 and 2022, the election of Income Averaging may be modified to the 40/60 set-aside up until application for final cost certification. Developers requesting this modification after award must submit a letter of request for the change and include: • A letter from their selected Investor affirming the reason for the request • Documentation from the Operating Agreement for any provisions for the income averaging election to be reinstated prior to 8609 if IRS/Treasury regulations are clarified" Language may need to be added in the LURA to allow for a modification prior to conversion as well.
Reasoning	The viability of many deals is currently threatened due to the outstanding IRS treatment for income averaging. Many other states are offering flexibility in finding resolution to the IRS/Treasury challenges up until issuance of 8609. This helps investors get comfortable with closing and gives the project the best chance at maintaining the income election set-aside while the IRS/Treasury work to resolve the outstanding challenges. Of the 38 deals awarded in 2021, it appears that 28 projects elected the income averaging set-aside. This reflects 73.6% of the awards that will have to navigate this challenge and could result in significant delays in delivery of units across the market.

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2. Tie Breakers IV(F)(8) – p24

Current Language	The following will be used to award tax credits in the event that the final scores of more than one project are identical. (a) First Tiebreaker: The county with the least number of 9% tax credit units produced over the last 5 years (see Appendix L for listing of units produced by county). (b) Second Tiebreaker: The project requesting the least amount of federal tax credits per low-income unit based on the Agency's equity needs analysis. (c) Third Tiebreaker: The project with the lowest average income targeting. (d) Fourth Tiebreaker: Tenants with Children: Projects that can serve tenant populations with children. Projects will qualify for this designation if at least twenty-five (25%) of the units are three or four bedrooms. This tiebreaker will only apply where the market study shows a clear demand for this population (as determined by the Agency). (e) Fifth Tiebreaker: Tenant Ownership: Projects that are intended for eventual tenant ownership. Such projects must utilize a detached single family site plan and building design and have a business plan describing how the project will convert to tenant ownership at the end of the 30- year compliance period.
Recommendation	(a) First Tiebreaker: The county with the least number of 9% tax credit units produced over the last 5 years (see Appendix L for listing of units produced by county). (b) Second Tiebreaker: ~~The project requesting the least amount of federal tax credits per low-income unit based on the Agency's equity needs analysis.~~ An application that would be the Applicant's only award where the tying application(s) would be the second or third award for the tying applicant, regardless of set-aside. (c) Third Tiebreaker: The Applicant that received the highest count of 9% LIHTC and bond awards in the 2019, 2020, and 2021 cycles that have begun construction as of June 30, 2022 (number of awards; not LIHTCs, bond volume, or units). (~~c~~d) ~~Third~~ Fourth Tiebreaker: The project with the highest amount of non-LIHTC subsidy per unit. Non-LIHTC Subsidy sources must meet financial commitment requirements in the QAP and originate from third-party sources. Examples include: RPP, WHLP, HTF, CDBG, HOME, Funds from Local Municipalities, Below Market Ground Leases, Below Market Soft Pay Loans and Awarded Grants. (~~d~~e) ~~Fourth~~ Fifth Tiebreaker: Tenants with Children: Projects that can serve tenant populations with children. Projects will qualify for this designation if at least twenty-five (25%) of the units are three or four bedrooms. This tiebreaker will only apply where the market study shows a clear demand for this population (as determined by the Agency). (~~e~~f) ~~Fifth~~ Sixth Tiebreaker: Tenant Ownership: Projects that are intended for eventual tenant ownership. Such projects must utilize a detached single family site plan and building design and have a business plan describing how the project will convert to tenant ownership at the end of the 30- year compliance period.

Reasoning	The current second tie breaker will result in a "race to the bottom" for credits requested which will create unhealthy conditions for structuring of deals and may result in more deals coming back to the agency for additional credits or resources. The above tiebreaker order creates just enough uncertainty that developers will be incentivized to just submit deals that work. Additionally, these changes encourage the following: • *limits the number of developers that receive zero awards* • *prioritizes long-standing partners* • *extra incentive to close transactions prior to summer 2022. Using a June 30, 2022 allows for flexibility for deals to continue to close post final application deadline in May.* • *leveraging of non-LIHTC resources* If the agency feels that additional language is needed to protect the 9% credit, we recommend the following Credit Cap based on historical averages requested and the current project limit. 1. Establish a Credit Per Unit Cap, tiered by project size. i. 100-120 - $12,000 ii. 60-99 - $14,000 iii. 24-59 - $16,000

Please contact me directly on my mobile number with any questions.

Warm Regards,

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