AHFA 2022 Draft Low-Income Housing Credit Qualified Allocation Plan, HOME Action Plan, and National Housing Trust Fund Allocation Plan
Public Comment Form
Commenting Period July 28, 2021 – August 27, 2021

All comments regarding the Draft Plans must be submitted using this form. General Comments may be submitted at the bottom of the form. ***Comments which include cut-and paste text (or redlined/re-worded sections) of the proposed Plans will be rejected.*** *AHFA will not respond (or seek to interpret) to suggested change in language without a complete explanation of the suggested language change.* Please provide full explanatory and careful comments regarding your proposed changes, keeping in mind that your proposed changes might have an unintended consequence for a different project or location in the state. All forms should be submitted to ahfa.mf.qap@ahfa.com as an attachment to the email. Other documentation, e.g., product information or photos, may also be submitted. All comments will be posted at www.ahfa.com for review.

8/23/2021

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Plan Section	**Section Reference**	**Page #**	**Specific Comments**
Housing Credit	II	15	Under Section II. Allocation Process, C. Application Threshold Requirements, 13. 2-Mile Radius Requirement, add the following: (vii.) Application for Multifamily Housing Revenue Bonds submitted on a site that is contiguous to a previously funded application that has the same Responsible Owner. The purpose of this requested change is to make tax exempt bonds more useful in Alabama and to give developers an additional tool with which to build affordable housing. This change would allow more easily for the "twinning" style concept that has gained popularity in the last year because it broadens the time frame for it. To further broaden the time frame, "grandfather" in developments funded via the 2021 QAP, as amended. These changes also make bonds more useful since it willow allow a developer to take advantage of economies of scale by building the 4%/TEB project at the same time as the original project or immediately after the original project is funded/completed. It further allows developers an opportunity to build another development in a situation where there is extra land and adequate need without going through the competitive round and using credits from the state's 9% pool.
Housing Credit	Point Scoring	A-7	(iv.) Match Contributions (a) - Request the 5-point category concerning Responsible Owners 5% commitment of TDC as equity to be removed entirely. NOTE: In many cases owners contributing 5% of TDC would equate to almost 50% of Total Developer Fee. Investors will view this owner equity as watering down the investment percentage and would only serve to drive down equity pricing, in turn creating larger financing gaps. It is difficult for AAHA to provide alternative suggestions without having insight from AHFA as to what is

			driving AHFA's inclusion of this concept in the draft QAP. AAHA very much wants to engage AHFA in a conversation about this concept.
Housing Credit	Point Scoring	A-7	(iv.) Match Contributions (b) - Request the 5-point category concerning the donation of land be removed entirely. Donated land to a for-profit entity has adverse tax consequences and could drive down equity pricing and make transactions more complicated. Incorporating Alabama state taxes and a corporate tax rate of 21%, the investor would end up having to pick up approximately $6,500 in Alabama state taxes for every $100,000 in donated land value which cannot be offset by the LIHTC and there would most likely not be any deductions to offset the income in the year in which the income would have to be recognized. The investor would end up having to pick up approximately $19,635 in Federal taxes for every $100,000 in donated land value which can be offset by the LIHTC but there would most likely not be any deductions to offset the income in the year in which the income would have to be recognized. It is difficult for AAHA to provide alternative suggestions without having insight from AHFA as to what is driving AHFA's inclusion of this concept in the draft QAP. AAHA very much wants to engage AHFA in a conversation about this concept.
Housing Credit	Point Scoring	A-7	(v.) Tenant Needs (c) - Request to return set-aside to 5% for disabled or homeless populations. NOTE: Often the historical 5% set-aside is not being filled by disabled or homeless populations due to a lack of demand
Housing Credit	Point Scoring	A-8	(vii.) Location (a) (2) Census Tract Location - The 2010 ACS date is currently being used for Median Family Income. Request that more current income data be used.
Housing Credit	ENV Policy	B-9	9. d. Noise Abatement & Control - AHFA interprets exterior noise requirements to be at the property line. This is not consistent with HUD. We request that AHFA adopt HUD Guidelines for exterior noise requirements. This would mean that only outdoor areas designated for recreation (such as patios, picnic areas, balconies, etc.) would be subject to the 65 dB threshold for acceptability. For Housing Credit applications, the QAP indicates "....mitigating measures should be incorporated into the project to the fullest extent practicable." Please add clarifying language to explain the meaning of "should" and "fullest extent practicable." It is critical to understand when what applies, and how, as this is a Threshold item.

HTF	Section	5	F. Maximum Allocation of HTF - Insert language that the two (2) structural options, either grant or 0.5% 30-year subordinate loan, applies to HTF allocations from years 2019 and 2020 via an amendment to 2019 and 2020 HTF QAPs, to be consistent with the 2021 HTF QAP. A grant to a for profit partnership creates a significant taxable event that waters down the benefit of HTF. Investors do not like the taxable grant structure and may shy away from investing in deals with HTF as grants. Another alternative would be to allow a 501 (c)(3) non-profit to receive the grant, as it won't pay taxes on the grant, and permit the non-profit to loan the funds specifically and only to a given project. This structure is much like FHLB AHP funds that are granted to a non-profit and then loaned to a project, which eliminates the taxable event and reserves the Eligible Basis that is important to the investor.
Housing Credit	ENV Policy	B-1	To meet Alabama Department of Environmental Managements definition of unrestricted residential use, per ADEM, soils require remediation to Environmental Protection Agency published Regional Screening Levels (RSLs). These are ultra conservative standards, and were not developed by EPA as cleanup standards, but rather screening standards. ADEM has a risk based approach for developing safe residential cleanup standards. ADEM also allows engineering and institutional controls on residential properties. HUD accepts this approach. The current QAP language seems to have a potential unintended consequence, where some communities with the greatest need for affordable housing have properties not being eligible for AHFA funding. Changes need to be made to allow for risk based corrective actions and both engineering and institutional controls, or these communities are going to be left behind. Of particular note is allowing more flexibility using the ADEM Voluntary Cleanup Program (VCP). In the end, if a property is enrolled and completes the VCP process under ADEMs purview, the applicant receives limitation of liability (LOL) protections for the conditions present. These LOL protections can also extend to AHFA. The VCP allows for calculation of risk based cleanup levels, and engineering and institutional control implementation for residential end uses. It allows for a combination of approaches to develop healthy and safe residential and non-residential properties. Please consider these changes to allow for more properties to qualify for potential funding. It is what some areas in Alabama need.
Housing Credit	IV	18	Environmental studies should not be a Threshold item. The conclusions of such assessments are based on the professional opinion of environmental professionals who sign the reports. AHFA is provided reliance for the reports in accordance with

			AHFA requirements. If AHFA or their retained attorneys or environmental consultant(s) have a difference of opinion, all parties should be permitted to resolve the differences of opinion within an adequately allotted timeframe. The current penalty structure is such that there is incentive for AHFA and their representative(s) to have a difference of opinion, or request for additional information, even if it is not material to the conclusions of such environmental reports. If AHFA is not open to removing environmental as a Threshold item, consider leaving it as Threshold relative to the identification of recognized environmental conditions (RECs), but allow for differences of opinion relative to scopes of Phase II Environmental Assessments to be addressed between the parties.
Housing Credit	II	22	G. Housing Credit Allocations (second paragraph) - 2022 Draft QAP states that "AHFA reserves the right to issue commitments for future-year Housing Credit allocations on current year projects only." Revise to include current and PREVIOUS year projects.
Housing Credit	II	22	G. Housing Credit Allocations, 2) Nine-Percent Credit - Current QAP draft states that "AHFA may designate one or more buildings in a project to receive an increase in Eligible Basis...". Add language to QAP that clarifies specifically when that designation will be made, e.g., AHFA may designate one or more buildings in a project to receive in increase in Eligible Basis prior to construction loan closing or at cost certification in order to be financially feasible as part of a Qualified Affordable Housing Project and shall be treated as located in a Difficult Development Area.
Housing Credit	II	23	G. Housing Credit Allocations, 2) Nine-Percent Credit, (i) - Current QAP draft states that in order for a project to receive an increase in Eligible Basis "the applicant is applying for HOME Funds, and AHFA is providing both the first and second mortgage loans". In a attempt to secure alternative financing structures to offset the extreme cost overruns, remove the criteria that AHFA must provide both the first and second mortgage loans for a project in order to receive an increase in Eligible Basis.
Housing Credit	ENV Policy	B-7	Addendum B-1, - Addendum B currently requires reports in the Phase I ESA that include NEPA requirements (Noise Abatement & Control, Airport Clear Zones, Above Ground Storage Tanks). LIHTC deals are not subject to NEPA requirements. Remove the NEPA requirements from the Phase I ESA for tax credit only deals.
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