COMMENTS REGARDING THE PROPOSED HOME AND LOW-INCOME HOUSING TAX CREDIT 2014 STATE QUALIFIED ACTION/ALLOCATION PLANS

In accordance with Section 42 of the Internal Revenue Code (Section 42), notices of a 30-day public commenting period for the 2014 HOME Action Plan and Housing Credit Qualified Allocation Plan (Plans) were published in the Birmingham, Huntsville, Mobile, and Montgomery newspapers. The Alabama Housing Finance Authority (AHFA) emailed more than 400 notices of the draft Plans' availability to interested parties, requesting that they submit written comments regarding the proposed Plans by November 4, 2013. During the designated commenting period, AHFA received 64 written comments, which can be reviewed after formal approval is made in their entirety on ahfa.com/developers/.

AHFA wishes to thank the many individuals and organizations who provided comments during the commenting period. As the administrator of the Plans, AHFA's goal is to develop written criteria for the Plans which will provide equal access to all types of affordable housing developments, which include but are not limited to: various construction types (new construction; acquisition and rehabilitation; adaptive reuse, etc.); diverse target populations (family, elderly, handicapped, supportive services, mentally impaired, etc.); and geographical characteristics (rural, metropolitan, qualified census tracts, distressed areas, etc.). In attempting to reach varied needs and population types across the state, our greatest challenge is to develop a fair and balanced allocating methodology with the intent to ensure that all applications, regardless of the targeted population and construction type, will have a fair chance of competing during each annual cycle for AHFA funding.

To that end, please keep in mind that certain perceived scoring impediments for a particular type of organization can be offset by other incentives in the Plans, which may not be necessarily applicable to other types of organizations. As well, please also consider that the Plans are not intended to serve as a replacement for other discontinued housing programs, which may have had different standards, costs or otherwise. This is especially true as it relates to construction design standards. Any applicant that proposes to include design standards that significantly exceed AHFA standards or include other design standards mandated by other programs, must obtain additional funding sources to offset any additional costs, assuming the project's costs exceed AHFA's definition of reasonable costs. As an alternative and when feasible, applicants should consider submitting an application for tax-exempt multifamily bonds, which are subject to availability, provided on a first-come, first served basis, and subject to the criteria and requirements of the applicable Plan.

The following is a recap by topic of excerpted comments received along with AHFA responses inclusive of recommended revisions to the draft Plans. Again, please note that the comments and any recommended revisions are in an excerpted form. Once the final Plans have been revised and formally approved, we strongly encourage each reader to review the final Plans completely to view any changes made by AHFA in their full context.

Fees (Pages 9-11)

Comment: Clarify whether or not applicants will lose points for missing or incomplete documents.

AHFA Response: Points will not be deducted for missing or incomplete documentation. All applicants must still adhere to AHFA threshold requirements for application submissions or applications will be terminated.

Comment: The $1,500 fee for missing and/or incomplete application documents is excessive. Developers average $15,000 to $20,000 per application. To be fined $1,500 for a mistake or oversight is excessive.

Comment: After the applicant works so hard to turn in a mistake free application it seems onerous to charge $1,500 to replace a missing or incomplete form or document.

Comment: The fee should be reduced to $500 per item.

AHFA Response: Point deductions are likely to be more costly to an applicant than the $1,500 fee per missing item. The fee for missing or incomplete application documentation will remain $1,500 per item.

Comment: We have approximately ten years of experience with AHFA, but less than 500 AHFA units. Our HOME properties get inspected annually and we have never had an 8609. We should not be charged another inspection fee.

Comment: It does not make sense to inspect developers with considerable amount of expertise gained in other states.

Comment: Are only the properties listed on the Schedule of Real Estate Owned to be inspected even if you own more properties than the ones listed?

AHFA Response: AHFA reserves the right to inspect any property listed on the Schedule of Real Estate Owned (which includes all projects that any entity/individual owns) where each individual owner (or ownership entity) has less than 500 AHFA units. AHFA may waive the on-site inspection if AHFA has a sufficient and satisfactory history of on-site inspections for at least three (3) of the owner's current properties located in Alabama.

Comment: Extension fees should not be charged on a HOME deal that cannot get a soils report due to AHFA not releasing the site until the AHFA completes the Phase I on the project.

AHFA Response: A fee will not be charged if any action or inaction by AHFA is the sole reason for the delay. If the delay is for any other reason, an extension fee will be due and payable.

Comment: The extension fee structure continues to penalize projects with complicated construction or specialized financing. Rehab projects, projects in large municipalities with onerous permitting processes, and projects trying to use FHA or any other HUD related subsidies are often delayed beyond the Developers' control. Stacking and escalating the fees compounds the ability to source these projects.

AHFA Response: It is the responsibility of the applicant to work within the timeframes established by AHFA. Applicants that elect to pursue specialized financing structures should factor into account any potential delays and extension fees when preparing the project's budget.

Comment: The deviation request fee structure penalizes more complicated rehab projects.

AHFA Response: This penalty is applicable when an applicant fails to obtain AHFA approval of any proposed deviation request at least fourteen (14) business days prior to application submission. If the applicant receives AHFA's approval of any deviation request at least fourteen business (14) days prior to submitting an application for funding, no fee is assessed. Complicated rehabilitation projects should

work closely with their architect early in the process to determine which AHFA Design Quality Standards may not be met and to submit a timely request for a deviation.

Comment: Our deals are harder to put together financially today than ever before. The cost of construction, tap fees etc., are making it more difficult for us to make our numbers work. A 50% increase in compliance fees seems unreasonable.

AHFA Response: The HOME compliance monitoring requirements were more stringent than Housing Credits, yet the fees for HOME compliance were less than the fee charged for Housing Credit projects. The increase in the HOME compliance fee is now allowable under the recently released HOME Final Rule published by the U. S. Department of Housing and Urban Development (HUD). The increase in compliance fees for the HOME funded projects matches the fee being currently charged for Housing Credit compliance inspections even though the monitoring requirements are more extensive for HOME projects.

Comment: It seems excessive to charge a development in order to hire a third-party consultant to review the project's final plans to ensure they meet AHFA's standards.

AHFA Response: Upfront and final reviews by third-party consultants, inclusive of routine and final inspections, represent a prudent business practice and are consistent with industry standards for the construction of multifamily residential properties. In addition to third-party consultants being used by AHFA, syndication entities and financial institutions also mandate the use of same. This requirement will remain.

Comment: The $2,500 fee for changes in ownership should be deleted. Many times, transfers are outside the control of the developer. In any case, this should not apply to transfers of limited partner or non-managing member interest where the general partner has no control of this matter under the partnership or operating agreement. Investors frequently seek to effect transfers in order to make the market for the housing credit, which supports high prices and more liquidity. This should only be applicable through the end of the compliance period. AHFA has no further active compliance obligations after the completion of the compliance period.

AHFA Response: The $2,500 change order fee will be applied when there is any change in the original ownership structure (general partner(s), members, shareholders, special non-investor limited partners, etc.) through the extended use period. Change order fees will <u>not</u> be charged for changes for the limited partners (investor/syndicator) at the end of the 15-year compliance period, as this is common practice and is generally specified in the partnership agreement.

Comment: Establish cost caps for contracts in circumstances where an environmental issue is found after a deal is funded and AHFA has to hire environmental professionals/attorneys to work for AHFA, but are paid by the project.

AHFA Response: The development of the proper course of action related to an environmental finding can only be made on a case-by-case basis and based on the set of circumstances presented. As well, if environmental findings are found to be significant, the process to achieve an appropriate resolution can take up to a year (or more). Due to the uncertainty that might result from any project with significant environmental issues, AHFA strongly encourages applicants to thoroughly investigate and resolve any environmental issues prior to application submission. Adherence by applicants to these guidelines will help to ensure a) AHFA's timely and cost effective production of affordable housing, b) applicant's ability to utilize credits allocated within designated timeframes as specified under Section

42, and c) applicant's ability to comply with AHFA project completion deadlines, the failure of which could negatively affect applicant's ability to submit future applications. Based on this and related comments regarding the environmental process, please note the following modifications to the draft Plans:

- ***All environmental reports (for both Plans) submitted by applicants may be subject to review and comment by AHFA's designated consultant, the cost for said review to be paid by applicant.***

- ***<u>Environmental Penalty Fee:</u>***

  If the Phase I contracted by AHFA after the reservation of funds includes a finding not identified in the project's application and if AHFA elects in its sole discretion not to terminate the reservation of funds (as would be permitted by the terms of the commitment letter executed at the time of reservation), the applicant will be required to pay a penalty fee of $2,500.

  If any additional environmental investigation such as a Phase II report is required, the applicant will provide AHFA payment for any third-party costs. If at any time the applicant decides not to pay the penalty fee and provide payment for third-party costs, the reservation for Housing Credits and commitment for HOME funds will be terminated. The first penalty fee and initial deposit must be paid before AHFA will commence any additional testing related to the findings and recommendations contained in the Phase I contracted by AHFA.

  If the Phase II report contracted by AHFA identifies a finding and if AHFA elects in its sole discretion not to terminate the reservation of funds (as would be permitted by the terms of the commitment letter executed at the time of reservation), the applicant will be required to pay a second penalty fee of $10,000. The second penalty fee and an initial deposit for the payment of AHFA third-party costs must be paid before AHFA will consider any findings and recommendations contained in the Phase II contracted by AHFA. Please note that any penalty fee(s) and third-party costs attributed to any environmental findings and recommendations after the award of AHFA funds will not be allowed in the project's eligible basis calculation and/or the final cost certification. If at any time the applicant decides not to pay the second penalty fee and/or not provide sufficient funds exceeding the initial deposit to pay for third-party costs, the reservation for Housing Credits and commitment for HOME funds will be terminated and any remaining funds (after all third-party costs incurred by AHFA are paid) will be returned to the applicant.

<u>Phase I Environmental Site Assessment (Pages 13-14)</u>

Comment: Include a Tier 1 (minimum) Vapor Encroachment Screening in the Phase I per ASTM E2600-10. If a Vapor Intrusion Conditions (VIC) is discovered, additional actions are typically warranted, like additional research and possibly a Phase II. This is a tiered screening method used to evaluate and address potential vapor issues.

Comment: The draft environmental language conflicts with ASTM standards and for clarification purposes, the following changes are suggested:

The applicant must provide a Phase I Environmental Site Assessment, which must include an environmental lien search, and environmental database search, and color photos of the site. The Phase I must be addressed to AHFA and conform to the American Society for Testing and Materials Practice Standard E-1527-05. In addition to meeting those standards, the Phase I must assess and adequately explain the impact of any ~~potential~~ Recognized Conditions (as defined by ASTM) ~~that can be seen, heard, observed, or identified (within an environmental database report) from any off-site location that is within a one-mile radius of the project site.~~

Comment: Consider allowing Brownfield's sites into the HOME Program. If a property is remediated to residential standards, the Alabama Department of Environmental Management (ADEM) often considers this unrestricted development.

Comment: Asking the environmental consultant to report on seen, heard or observed potential environmental conditions within a one-mile radius (four square miles) is onerous.

Comment: The Phase II should not be mandatory until after funding has been awarded, but still include the Phase II remedy plan as a criteria to final allocation.

AHFA Response: The Plans have been amended to reflect clarifications regarding these comments.

Comment: Hire independent consultant to do peer review of applicant's front end Phase 1's.

AHFA Response: The environmental review for both Plans will continue to be performed in-house by AHFA (or by AHFA's designated consultant). **If a review is completed by AHFA's designated consultant, the cost for the review will be paid in advance by the applicant.**

Comment: If a project includes demolition of any structure or rehabilitation, an Asbestos Survey should be conducted. Not just pre-1978 structures. This only applies to lead-based paint.

AHFA Response: An Asbestos survey will be required on any project that includes demolition or rehabilitation of any structure.

Comment: A Phase I provider should be ineligible to perform a Phase II, if one is required. Part of their initial Phase I contract should require them to review and sign off on the Phase II, if they state that one is necessary.

AHFA Response: We understand environmental firms are unwilling to certify to the work of another firm without significantly reducing the level of reliance of the findings in their reports.

Flood Certification (Page 15)

Comment: The Plan language does not allow wetlands to be located on the site. An alternative approach may be to not allow wetland impacts, or only allow minor wetland impacts (impacts that would be allowed under the nationwide permit program). The language in the Plan only references wetlands, but does not discuss 'other jurisdictional waters of the U.S.' that are regulated by the U.S. Army Corps of Engineers, such as streams. Consider adjusting the language to reflect the current federal rules pertaining to jurisdictional waters.

Comment: Reduce the impact of wetlands and flood zones on site selection by permitting these on the site so long as no improvements are occurring in them and reasonable, specified buffers are established, compliance with which would be certified by applicable professionals.

AHFA Response: Wetland mitigation will not be allowed. Wetland areas must be carved off of the site prior to application submission to ensure the timely production of affordable housing. Again and consistent with our prior response regarding environmental issues, due to the uncertainty that might result from any project with significant environmental issues, AHFA strongly encourages applicants to thoroughly investigate and resolve any environmental issues prior to application submission.

Site Location (Page 15)

Comment: *C*ontinue to exempt Jefferson County and historic properties from the two-mile rule.

Comment: Tuscaloosa and Jefferson County should be exempted from the two-mile radius requirement for at least two more cycles to accommodate the additional AHFA funded projects under development in these cities.

Comment: Do not delete the previously included exemption for "Applications which are located in Jefferson and Tuscaloosa counties."

AHFA Response: Jefferson and Tuscaloosa counties will not be exempt from the two-mile radius requirement. Historic properties that have secured commitments for Alabama Historic Credits will be exempt from the two-mile radius requirement.

Minimum Rehabilitation (Page 15)

Comment: The minimum threshold amount for rehabilitation and expenditures should be reduced from $20,000 per unit to $12,500 per unit for all projects.

Comment: The $12,500 minimum rehabilitation cost per unit is too high and will deter many developers from pursuing rehabilitation projects. The industry standard of 10% construction contingency should be permitted, and the proposed developer fees and points allocated for rehabilitations are too low to encourage the amount of rehabilitation needed.

AHFA Response: No changes will be made to the minimum threshold requirement for rehabilitation projects.

Negative Actions (Page 17)

Comment: Provide explicit definitions of what is considered "out of compliance with program regulations," and "blatant non-compliance."

AHFA Response: Instances of "uncorrected non-compliance" on applicant's existing projects, which would include the occurrence any event listed in the "Negative Actions" sections of the Plans, would be considered "out of compliance with program regulations." The terms "blatant' and excessive" will not be used in the Plans.

<u>Financial Feasibility (Pages 18-20)</u>

Comment: Provide AHFA's definition of "normal" costs. Clarify whether all deals will be given fewer resources than requested and whether AHFA will refuse deals without additional subsidy.

Comment: Take into account rising construction costs. Disclose the criteria for costs if underwriting is using the same criteria for all projects.

Comment: Clarify whether when applicants are underwritten using the same criteria if this includes such things as operating expenses.

AHFA Response: The project will be evaluated to determine its financial feasibility, including its viability as a qualified low-income housing project throughout the compliance period. At a minimum, AHFA will determine if a project is financially feasible based on the following criteria: a) the extent to which the project's sources of funds equals the project uses of funds; b) the extent to which any proposed developer fee deferral can be paid within the time frame allowed by the Internal Revenue Service; c) the reasonableness of total project costs, inclusive of AHFA predetermined hard and soft cost standards; and d) the repayment terms (including interest rate, total debt and loan term) for all proposed debt (hard and soft in connection with the proposed project). AHFA does not disclose cost standards since incentives are provided in the plan to encourage applicants to utilize the least amount of housing credits per unit. Revealing AHFA cost standards would dis-incentivize developers from producing the best product at the best price.

Comment: Establishing a capitalized operating deficit reserve account equal to six-months of Operating Expenses plus 3- months of debt service creates an unnecessarily large reserve and undue burden on small RD properties that already have other operating protections in place due to the unique structure of RD transactions. Revise this requirement to read as follows: The operating reserve will be an amount equal to six months of the projected first year operating expenses <u>(three months for Rural Development-financed projects)</u> plus three months of debt service. With a slightly lower reserve requirement, Rural Development projects could afford to (1) allocate more development funds to property improvements (construction/renovations), and (2) more projects would be financially feasible, allowing increased preservation of much needed affordable housing in rural markets.

Comment: The annual per unit deposit for Rural Development projects should be determined based on the lesser of $300 per unit per year or the annual deposit amount as determined by Rural Development.

Comment: The minimum operating reserve and replacement reserve need to remain for the initial compliance period as opposed to the extended use period of forty years for Housing Credits or HOME funds.

Comment: Take into account if there are prefunded reserves or over-funded reserves in determining the total required amount. Do not require funds annually over and above this amount.

AHFA Response: No changes will be made to the reserve requirements. However, please review carefully the underwriting criteria specified for Rural Development properties financed using multifamily bonds.

Comment: All underwriting should be limited to the initial compliance period to be consistent with lenders and equity investors.

AHFA's Response: Projects are currently underwritten using the initial compliance period of 15 years for Housing Credit only projects and 20 years for HOME projects.

Developer Fees (Pages 20-21)

Comment: Clarify whether or not the eight percent developer fee cap on previously funded Housing Credit projects only applies if the current owner remains in the ownership.

AHFA Response: The developer fee for acquisition costs for projects previously funded with Rural Development or Housing Credits will be capped at eight percent (8%), regardless of whether the current owner remains in the ownership. For projects previously funded with AHFA HOME funds that have been approved for an extension of the current HOME loan, the developer fee on acquisition will be capped at five percent (5%) and the developer fee on the rehabilitation cost will be capped at ten percent (10%) if any of the original owners, principals, individuals and/or related entities remain in the project's development team.

Nine Percent Credit (Page 21)

Comment: Allow Rural Development projects to use the thirty percent increase in basis to make those deals viable.

Comment: It would make a huge difference if deals that come back in to repay the HOME loans could get the thirty percent boost.

Comment: Since the 9% has not been fixed, to make underwriting and planning more predictable, underwrite the non-Qualified Census Tract properties at the fixed 9% rate and provide the "boost" if the rate remains floating.

AHFA Response: For Housing Credits awarded under this Plan, the thirty percent (30%) increase in basis allowed under the Housing and Economic Recovery Act (HERA) will be applied at cost certification if AHFA determines that an increase in basis is needed for the project to remain financially feasible due to a decrease of the credit percentage. The increase in eligible basis will only be used to preserve the amount of Housing Credits indicated in the reservation letter for that project.

Owner & Project Cap (Pages 21-22)

Comment: The HOME deals that are turned in for rehab credits should not be counted against the owner's housing credit cap.

Comment: Owners and project caps have not changed since the inception of the program; but as development costs have risen over time, the amount of credits needed for a development to be financially feasible has also increased. It seems likely that as costs continue to rise, a developer with two competitive applications may only expect to receive an allocation for one development as there won't be sufficient cap to fully fund two projects.

AHFA Response: The existing owner/project caps are sufficient. No changes will be made.

ADDENDUM A – Point Scoring System

Funding Selection (Pages 1- 2)

Comment: Will the unavailability of AHFA HOME funds in counties with Participating Jurisdictions that have their own HOME funds mean that AHFA CHDO's will compete in the general pool in those counties?

AHFA Response: AHFA-approved CHDOs will be funded in eligible counties (as currently defined in the Plans) until the fifteen percent (15%) CHDO set-aside has been met.

Comment: When funding up to two projects located on a site that was directly in the path of the April 27, 2011 storms, do both sites have to be in the storm path or only one? If not both sites, does it matter if the first or second funded deal is in the path? Would only a second deal be funded if it is in the path?

Comment: Funding applications that are in the direct path of the 2011 storms, could get complicated with the location. If there is a need in the county affected by the storm, it should not be relevant if the housing units are constructed in the direct path.

Comment: What locations are considered to be "directly in the path of the April 27th storms"? Is there a particular map that will be used to determine what the path of the storm was?

Comment: Describe how AHFA will determine if a site was directly in the path of the April 27, 2011 storm. Would a site that was in the path of the storm, but in an area where the storm did not cause damage be eligible? If the intent is to target sites that were damaged by the storm, how close must the site be to the damage? If the intent is to target site that were damaged by the storm, how much damage to the site would be required for it to be considered eligible to meet the criteria for second site in an eligible county?

Comment: Can a project be funded in a county that has already received an allocation even if that county is not one of the listed storm counties so long as there is a market for more than one project?

AHFA Response: To evidence that a proposed site is to be located directly in a tornado track as identified based on the Pertinent Geographic Information Systems (GIS) Data from the April 27, 2011 storms, the applicant must provide a) a letter from the local municipality or applicable jurisdiction that the prosed site is located in the path of the April 27, 2011 storms based on GIS data; b)a survey with certification from the surveyor that the proposed site's legal description for the site is within the direct path of the April 27, 2011 storms based on GIS data, c) an aerial map evidencing the path of the tornado that contains an outline of the proposed site location for the project with certification by the applicable municipality; and d) verification of the same in the market study, which is due at application submittal.

Comment: Consider the population challenges we face in urban communities when determining the allocation of Housing Credits on a per-county basis. Allow for multiple projects in Alabama's urban counties.

Comment: Allow an exception to the one project per county rule for projects located in municipalities in Alabama's MSA counties.

Comment: During the funding selection, projects located on a site that is entirely within the boundaries of a Metropolitan Statistical Area (MSA) as defined by the United States Office of Management and Budget

(OMB) should not be subject to the limit of one project per county, therefore up to two Housing Credit projects or one Housing Credit project and one Housing Credit project combined with HOME funds (in AHFA HOME eligible counties) may be funded in each county in a MSA, provided at least one of such projects is located in an incorporated municipality.

Comment: Counties that have projects that contain financing through HUD's HOPE VI, Choice Neighborhood, Replacement Housing Factor Funds, Capital Program funds and Promise Neighborhood funds and have a market that can support more than one project should also not be subject to the one project per county rule and be allowed up to two projects per county.

AHFA's Response: On a statewide basis, all 12 Alabama MSA's total 3,362,483 (or 70%) of the state's total population of 4,779,736 (based on 2010 Census data). AHFA affordable units in the twelve (12) MSA's total 65% of all active AHFA allocations to date, which results in a seeming deficit of 5%. This deficit is offset by the fact that there are certain cities, which total 4% of the states' population, that do not currently have or have never had an affordable development in their area. AHFA has achieved balance in the production of affordable housing in MSA and Non-MSA areas on a statewide basis.

AHFA will continue to fund one project per county with the exception of the properties located directly in the path of the April 27, 2011 storms.

Participating Jurisdictions (Page 1)

Comment: Tuscaloosa should be removed from the generalization of Participating Jurisdictions who would be ineligible to receive State HOME funds due to receiving their own HOME allocation. The amount of HOME funds the City of Tuscaloosa receives is diminutive in comparison to the amounts received by the larger Participating Jurisdictions.

Comment: Participating Jurisdictions no longer have enough funding to fill the gaps in deals in their jurisdictions. The loss of the nine percent floor for the credit, pricing in the low to mid $0.80, increasing construction costs, operations costs, utility allowances and stagnant incomes all mean that deals need additional gap funding. The only way for Participating Jurisdictions to leverage their funds into larger deals is with the use of housing credits and the only way most housing credit deals will work in Participating Jurisdictions is with AHFA HOME funds.

Comment: Retain the 2013 provision regarding the ability of projects in participating jurisdictions to also receive HOME funds from AHFA.

Comment: Allow applications for HOME funds in Participating Jurisdictions. Without the use of AHFA HOME funds, Public Housing Authorities are the only entities that have the additional funds to fill funding gaps.

Comment: I support your plan to not accept or consider applications submitted in Participating Jurisdictions. PJ's are in higher income counties that allow for a higher rent. This would allow more Home Funds to be allocated in rural counties where developments are more financially difficult, particularly the elderly developments.

Comment: Consider reinstating the ability of projects located in participating jurisdictions to participate in the HOME program.

AHFA Response: No changes will be made. Participating Jurisdictions have the ability to leverage their funds with Housing Credits to develop housing in their jurisdiction. Other areas of the state, specifically non-participating jurisdictions do not have local funds, specifically HOME funds, available to leverage with AHFA funds.

Tiebreakers (Pages 2-3)

Comment: The first tie breaker should be awarded based on the amount of other leveraged sources of financing secured by programs such as HOPE VI, Choice Neighborhood, Replacement Housing Factor Funds, Capital Fund Program funds, and Promise Neighborhood.

AHFA Response: Points are currently awarded for leveraging these other sources of funds with Housing Credits and HOME funds.

Comment: It is an unfair advantage not to count phased developments in the tie breaker process when determining the nearness of other subsidized housing.

AHFA Response: It would be unfair to penalize a second phase of the same AHFA-funded project when determining the nearness of other subsidized housing. The second phase would still have to be located the furthest away from any other AHFA, USDA, or PHA multifamily rental development to win the tie breaker.

Comment: For the last several years, the days for submission have been reduced to three days, and the number of applications has been fewer than in years past. All applications should be given a lotto number at the end of day on the last day of submission. Having the couple of days for reviewing an application is a great benefit, and rushing to make the first day for lotto increases the odds for mistakes/errors.

AHFA Response: The incentive for applicants to submit their applications on the first day of the application cycle assists in meeting the processing and award deadlines. No changes will be made to the tiebreaker section of the Plans.

Type of Construction (Pages 3-5)

Comment: The Plan states one grill for every ten units and one washer and dryer for every ten units. This seems excessive. This should not be more than one for every twenty-five units.

Comment: The requirement for one washer and one dryer in the community laundry for every ten units is excessive for projects proposing washer/dryer hookups in the units. Have a requirement of one washer/dryer for every twenty proposed units.

Comment: Existing properties may not be able to physically accommodate one washer and dryer for every ten units, due to plumbing, venting, and code issues. Consider keeping this ratio for new construction, but delete it from rehab deals due to potential space, cost, and feasibility.

Comment: It should be sufficient to obtain the points for providing washers and dryers and grills if the developer provides these items on a 1:25 ratio.

Comment: One grill per ten units is excessive. We suggest one grill per twenty units.

Comment: Cap the number of grills at six. A hundred-unit project does not need ten grills.

Comment: Require a picnic area to include one grill and one picnic table for every twenty units on an accessible path.

AHFA Response: In order to be eligible for points, one washer and one dryer will be required for every fifteen units. One grill will be required for every fifteen units.

Comment: Define an exterior security package (number of cameras, alarms, lighting).

Comment: Define whether the exterior security package is for the community building, or each apartment building. Define the number of cameras, what type of alarms, and what type of lighting is required. Unit security package is clearer of the intent.

AHFA Response: A security package that includes cameras, alarms, and lighting that properly monitors the property and provides adequate coverage for the property should be determined by the project architect and owner when designing the project. In addition, AHFA's third-party construction consultant will verify the adequacy of monitoring and coverage provided by the security package.

Comment: Consider an architectural modernization incentive, such as changing mansard roofs.

AHFA Response: The Plans require that Mansard roofs be redesigned to meet AHFA design quality standards. Mansard roofs are not allowed in the Plan.

Comment: Add cultured stone (man-made) and hard-coat stucco to the allowable exterior finish materials.

AHFA Response: Cultured stone will be added to the allowable exterior finish materials.

Comment: Access gates should not be a point scoring item. The operating costs are significant, and the gates frequently break and cause problems for residents. In addition, this may adversely impact site selection, because some sites do not have an area to handle vehicle traffic waiting to enter as required by local regulations.

AHFA Response: Access gates are an option for points, but are not mandatory. Should an applicant elect not to provide access gates for optional points, they can consider electing other optional amenities points of the same value.

Comment: Cap the concrete portion of the walking trail at 600 feet or about 3,000 square feet of concrete or make it 1/8 mile.

AHFA Response: The AHFA standard for a walking trail will remain unchanged.

Comment: Gaining full points for a senior project will be difficult. The cost of individual washer and dryers, security packages and storm shelters are expensive items that either bring little long term value or have high operation costs. There needs to be additional point categories for seniors.

Comment: An organic garden area should be included as an extra amenity for points.

Comment: Consider adding an arts and crafts room with a handicapped accessible sink, cabinets and television for points. This would be good for elderly projects. The television would be used to broadcast instructional videos.

AHFA Response: No changes will be made.

Comment: Projects that reuse existing buildings and return them to commerce may not be able to meet the Plan's community space requirements in a separate stand-alone building, and so projects should be awarded points for quality community amenities regardless of whether or not the space is in a separate structure.

AHFA Response: Projects that reuse an existing building may provide a community room within the building as long as it contains, at a minimum, a kitchen, meeting room, restrooms, community TV with cable and internet service. A community laundry must be included if not providing a washer/dryer in each unit. No change required.

Comment: If an amenity is available to residents at no charge and in close proximity, a project should be entitled to the same points to which it would be entitled if the amenity was provided on site.

Comment: Projects in urban areas will unavoidably have a more limited land footprint than suburban or rural projects. If a project is located in close proximity to quality amenities, the project should be awarded points based on the residents' ability to use them, rather than whether the project built them.

Comment: A maximum of 25 points should be given to projects which provide or are located to provide convenient access (without charge to residents) to extra unit/project amenities as follows:

- Clubhouse/Community Building, Room, or Space.
- Playground within a ½ mile radius of the project's main entrance.
- Splash Center or aquatic facility within a ½ mile radius of the project's main entrance.
- Covered bus stop shelter within a ¼ mile radius of the project's main entrance.
- Gazebo or other outdoor shaded seating area with a ½ mile radius of the project's main entrance.
- Access Gate or self-securing public entry doors (Must be on all public entry points if more than one) (Must be closed or locked as applicable during specified times at night.
- Basketball court located within a ½ mile radius of project's main entrance.
- Picnic area with grills accessible to residents within a ½ mile radius of project's main entrance.
- Storm doors on all exterior unit entry/egress doors and air-conditioned interior corridor access to all interior unit entry/egress doors.
- Walking Trail with Benches within a ½ mile radius of project's main entrance, or a public park of at least 1.5 acres within 800 yards of a project's main entrance, if project is located in a municipality.

Comment: Allow public amenities in an urban area to count toward project amenities for points.

AHFA Response: To ensure that the amenities awarded points are conveniently located and available for resident's use throughout the affordability period, and so AHFA can monitor the condition of the amenities, they must be located onsite.

Comment: Construction design guidelines should be established for Historic Rehabilitation projects.

Comment: At least an equal amount of points should be attainable by rehabilitating historic buildings and meeting a superior construction quality threshold such as that required by the Secretary of the Interior's Standards for Rehabilitation to earn Federal and State Historic Tax Credits.

Comment: Add "Historic Rehabilitation Projects Only" as a new project type to distinguish these projects from "New Construction Projects" and "Rehabilitation Projects". Include the following criteria:

- 2 points will be given if the project meets the Enterprise Green Communities Criteria.
- 6 additional points will be given if the project plans adhere to the Secretary of the Interior's Guidelines for the Treatment of Historic Properties as evidenced by a plan approval from the Alabama Historical Commission or the National Park Service.

AHFA Response: Construction design standards for points will not be changed for historic properties. Design changes mandated by other program requirements should also be funded by said programs, especially if the required changes exceed AHFA Design Quality Standards.

Energy Conservation and Healthy Living Environment (Page 5)

Comment: We enthusiastically support the green building incentives included in the scoring criteria, including the separate criteria for new construction and rehabilitation projects, and commend AHFA for including consideration for green building practice and energy efficient design features in the Plans. We encourage AHFA to partner with Alabama's utilities to make energy-efficiency programs more accessible to affordable multifamily developments.

AHFA Response: No response needed.

Rent Affordability (Pages 5-6)

Comment: Thirty-three counties in Alabama have not received a reservation of housing credits in at least the past five years. Consider giving points for locally generated assistance. Maximize whatever options you may have as it relates to the computation of housing credits in such communities.

Comment: Points for $18,000 per unit subsidy gives Public Housing Authorities (PHAs) an advantage. Choice Neighborhood, Replacement Housing Factor and HOPE VI will outscore most deals. Top points should be awarded for $10,000 per unit in order to keep the playing field level for Participating Jurisdictions, who no longer have sufficient funds to compete in this category.

Comment: Lower the maximum point value for additional funds to $10,000/unit.

Comment: Points given for subsidies of $18,000 or more per unit gives an unfair advantage to PHAs because the only source of funds available at those amounts is Neighborhood Choice and Rental Assistance Demonstration (RAD), which are only available to PHAs. RAD and other PHA funds can be used as a soft gap filler to make a four percent tax-exempt bond deal work.

Comment: Even though I work with PHA's, I believe they already have an advantage in the current "point" system as they have capital funds or other funds that can be contributed/loaned to the partnership. The maximum of $18,000 appears to be targeted to one to two PHA's. The maximum should be $10,000.

Comment: Change the ranges to begin with $6,000, $10,000 and $18,000 rather than $6,001, $10,001 and $18,001, so that subsidies can be obtained in multiples ending in $000. Example: dividing a $500,000 subsidy by $10,000 (rather than $10,001) per unit yields 50 whole units, rather than 49.9 units. It is easier to ask for subsidies in whole numbers rather than asking for $500,050.

Comment: Consider restructuring the dollar of capital funds per unit to leverage $4,800 in capital funds as well as an additional leverage of housing reserve funding. That would leverage two funding sources under Rental Assistance Demonstration; both capital and operating funds.

Comment: Reconsider the current point allocation for subsidy per unit. It would be very difficult for any development besides one being developed by a local housing authority, to qualify for the maximum points.

Comment: Remove barriers to fair housing choice by committing to a more equitable point distribution that targets a combination of affordable housing opportunities including the extremely low income that housing authorities serve through public housing and housing choice voucher programs.

Comment: Expand the definition of additional subsidies to include low income public housing operating subsidies, operating reserves, administrative fees, administrative fee reserves, other public housing or hosing choice related grants, funds by other state and federal agencies and grants by charitable, non-profit and other philanthropic organizations.

Comment: Consider adding additional points to the Plans for those developers and agencies that are partnering to transform very low income housing through HUD's Rental Assistance Demonstration Program.

Comment: Consider adding additional pints to the Plans for those developers and agencies that are partnering to transform very low income housing through HUD's Rental Assistance Demonstration Program.

Comment: Through the Rental Assistance Demonstration Program, public housing authorities will be able to use their Operating Fund Subsidy and Operating Reserves. It is better leverage to be able to use both of these funding sources and receive the total potential points for $18,000 per unit subsidy.

Comment: Funds from HUD's Rental Assistance Demonstration Program should remain ineligible for points. Allowing points for HOPE VI funds, Replacement Housing Factor Fund Grants, CHOICE Neighborhood funds, and Promised Neighborhood funds gives Public Housing Authorities more than enough opportunity to score additional points.

Comment: Add "Federal Historic Tax Credits" and "Alabama State Historic Tax Credits" to the list of subsidies which are rewarded up to five points. The commitment should be a fully executed firm commitment from the applicable entity or investor that will be granting or investing the fund to/in the project.

Comment: Give consideration to the use of Housing Credits in conjunction with historic tax credits.

Comment: We propose two ideas: (1) more efficient coordination between the Alabama Historic Society and AHFA to make the State Historic Credit a viable subsidy for application purposes, and an evaluation of the acceptable standards for rehabilitation of historic buildings.

Comment: Public Housing Authorities already have access to better sources of funds than any other development entity. Most of the subsidies listed in the Rent Affordability scoring section of the Draft Plans are accessible only to Public Housing Authorities creating an unfair scoring advantage. Public Housing Authorities are highly inefficient from an operating expense standpoint.

Comment: HOPE VI, Rental Assistance Demonstration funds and other funds used by Public Housing Authorities should be omitted from additional subsidies. Public Housing Authorities should leverage their monies with tax-exempt bonds like in most other states.

Comment: Strive to create a level playing field, for various types of entities which compete for allocations of housing credits and HOME funds, subject only the statutory preference (to the extent thereof) for qualified non-profits and CHDOs. Under the currently proposed Plan, the additional points gained for subsidies offers a distinct advantage to public housing authorities, because generally they have funds readily available to themselves. Only PHAs will be able to gain maximum points. We recommend that the 2013 structure be maintained.

Comment: The subsidy amounts per unit should be reduced so that all developers are on an equal playing field.

Comment: There are far too many points associated with subsidies. It seems deals can go from being real estate transactions based on strong fundamentals to by-projects of who can obtain “subsidies”.

Comment: The Affordable Housing Program (AHP) timing no longer coincides with the AHFA application cycles so it is virtually impossible to obtain an AHP loan and have it placed in service within the AHP time constraints.

Comment: Disposition Proceeds possessed by PHAs should be included as an eligible additional subsidy. Disposition Proceeds are similar to the other HUD funding sources included in the draft plans and should not be excluded.

Comment: Reconsider whether it is appropriate to provide scoring points for outside subsidies, such as AHP funds, whose current programmatic requirement may actually increase the need for financial subsidy from AHFA. Adding a much higher financial requirement at this time essentially makes it impossible for developers in the 2014 cycle to line up this amount of subsidy. If different thresholds were established, these should only be announced as being prospectively effective beginning with the 2015 cycle, which would afford developers time to adjust to this requirement. Another example of unintended consequence, some types of outside subsidies, such as CDBG disaster funds may require public bidding or other administrative procedures which are inconsistent with AHFA procedures and/or may raise cost or increase delays.

Comment: Federal and state historic tax credits or any other funding source that provides a soft loan (interest rates below AFR for at least 10 years), USDA RD 538 Guaranteed loans and HUD 221(d) (3) loans should be added as subsidies.

Comment: We recommend that leveraging should be based on the percentage of the total development costs of the project. For instance, two points could be awarded if leveraged funds are at least six percent of the total development costs, with an additional two points for every additional one percent of leveraged funds, up to a maximum of twenty points if leveraged funds are at least 15% of the total development costs.

Comment: Reconsider the appropriateness of scoring points for outside subsidies such as CDBG DR funds and those similar that require public bid and other administrative methods that are often contrary or difficult to use with AHFA's methods and procedures.

AHFA Response: In addition to the subsidies listed in the Plans, points will be given to projects which have commitments for Federal Historic Tax Credits and Alabama State Historic Tax Credits. Points for the subsidies listed in the Plans will be awarded as follows:

5 points - $10,001 + per unit
4 points - $8001 - $10,000 per unit
3 points - $6,001 - $8,000 per unit
2 points - $4,000 - $6,000 per unit

Tenant Needs (Page 6)

Comment: Expand eligible tenant needs to include one (1) point for contributions to, and promotion of, an established unaffiliated I.R.C. 501(c)(3) organized scholarship fund which is primarily focused on tenants and their dependents.

Comment: Allocate points in the scoring system for projects that list their units on ALHousingSearch.org.

AHFA Response: The benefits of these types of services should be marketed to the project owners and managers directly. Participation should be strictly voluntary.

Comment: Allow points for converting 1-2 bedroom properties into larger family units, which will incentivize developers to address the growing need for family units at a cost much lower than that of new construction.

Comment: Reconsider the requirement that rehabilitation projects seeking points for family size units must contain three and four bedroom units prior to acquisition.

AHFA Response: The Housing Credit Plan does not prevent the conversion of one and two bedroom units to three bedroom units. However, points will not be awarded unless 15% of the units have three or more bedrooms in place at the time of application.

Readiness Issues (Pages 6-7)

Comment: Whose attendance will suffice for non-profits to be awarded points for attending an AHFA-sponsored workshop?

Comment: In the case of a non-profit, will the housing person's attendance certificate suffice?

AHFA Response: In the case of a non-profit, the officer or executive director of the ownership entity in the proposed application will qualify for the points for the attendance certificate.

Comment: Clarify that the points for readiness issues as drafted are not mutually exclusive, since a project's contact person may also be one of the applicant's owners.

Comment: Since the certificate of attendance is for the application workshop, and very few owners actually prepare the application, as long as a development team member is in attendance and receives the certificate, this should be sufficient.

AHFA Response: No changes will be made to this section. An owner that is also listed as the contact person will be eligible for the maximum five points.

Comment: An additional point that forces the applicant to provide a Certificate of Existence isn't necessary. This is just an added cost to the applicant which doesn't seem necessary. If there needs to be a name change after the award just penalize the applicant with a change fee.

Comment: Awarding one point if an applicant provides the Certificate of Existence from the Secretary of State for the ownership entity creates additional work on the applicant as well as the IRS. If the deal does not get funded, then you have to dissolve the ownership entity.

Comment: The requirement for delivery with the application of a Certificate of Existence from the Secretary of State should be deleted and returned to the same position that it occupied in the 2013 Plan, as part of the progress requirements necessary within 15 days of receipt of a reservation letter.

Comment: Providing the Certificate of Existence from Secretary of State is no benefit. The certificate should not be recorded unless the application receives AHFA funding.

Comment: Applicants that are not funded will have useless entities that tied up state resources and caused local, state and federal agencies to send demands for filing taxes on entities not being used. This used to be a readiness issue when the Alabama Secretary of State did the filing and certificates by hand. Now that this is accomplished online it can be done in one day. Undoing it after not being awarded is painful.

Comment: The requirement for providing the Certificate of Existence from the Secretary of State for the project's ownership entity is a problem due to the costs associated with creating an entity which may not get an allocation of Housing Credits. There are costs with dissolving the entity in cases where the project doesn't receive an allocation.

Comment: Reconsider the point allocation for applicants who include a Certificate of Existence for the proposed ownership entity. Obtaining a Certificate of Existence entails not only the formation of the ownership entity, but also any GP entities proposed for the particular project. In addition to the local probate and Secretary of State fees, the entities will also be required to file and pay annual business privilege tax and formally dissolve these entities if not successful in securing a Housing Credit allocation

AHFA Response: The Certificate of Existence and the ownership tax identification number will be due within fifteen (15) days of the notice of an award from AHFA.

Project Type (Page 7)

Comment: There needs to be some clarification regarding the points awarded for projects that pay down at least 33% of the HOME loan. It is unclear if the HOME loan has to be paid down prior to submitting an application for Housing Credits or if the points will be awarded if the applicant is proposing to pay down the HOME loan at the time of acquisition/refinance. Clarification needs to be made regarding the timeframe within which a project is eligible to receive the points. It makes more sense to award points to projects with an immediately expiring (within 24 months of expiration) HOME loan. This would allow

AHFA to address these deals as they meet maturity rather than being bombarded with applications by everyone with a HOME loan.

Comment: The timing of the HOME loan repayment to rehab a HOME deal seems too quick if the developer wants to apply for AHP or other soft funds.

Comment: Include a set-aside for the HOME projects that are expiring, or provide additional points for developments to be rehabilitated.

AHFA Response: Five points will be given for the rehabilitation of an existing AHFA HOME funded project. The proposed project must have paid 100% of the HOME loan (principal and interest) by the maturity date or have paid the required percentage and been approved by AHFA for an extension of the outstanding HOME balance for a period which would allow the project to apply for additional funding from AHFA. Any pay down must be completed prior to application submission.

Comment: Award more selection points for preservation projects and projects in danger of losing federal subsidies. This would help to encourage preservation and offset points more readily available to new construction projects, such as points for swimming pools or washer/dryer hookups in each unit.

Comment: Points should be awarded to preserve existing HOME, Rural Development, or HUD Section 8 developments with a minimum 75% rental assistance. This retains housing for the tenant populations with the most need.

AHFA Response: The Plans currently award points for rehabilitation (preservation) of existing multifamily residential housing, which includes HOME, Rural Development, and HUD Section 8 developments.

Comment: Expand the definition of historic buildings to include buildings that are deemed to be contributing property to a National Register Historic District (a Historic Rehabilitation Project).

Comment: Restore the weighting system for renovating historic structures. In the past, three points have been awarded, which is more equitable than the current proposal of one point.

Comment: A Create an all-inclusive definition for "Historic Rehabilitation Projects" that would include all properties eligible for the Federal and new State Historic Tax Credit by awarding two points for Historic Renovation Projects that use either the Federal Historic Tax Credit or the Alabama State Historic Tax Credit and awarding 5 points for Historic Renovation Project that use *both* the Federal Historic Tax Credits and the Alabama State Historic Tax Credits. Remove the one point for rehabilitation of existing buildings that are listed on the National Register of Historical Places.

AHFA Response: Points will be given for rehabilitation of existing buildings that qualify for the Alabama Historic Tax Credit. The applicant will be required to provide AHFA with a copy an application approved by the Historic Commission to evidence that the project qualifies for the Alabama Historic Credit at the time of application to be eligible for points.

<u>**Neighborhood Characteristics (Pages 7-8)**</u>

Comment: Service distances for acquisition/rehab projects needs to be extended to three miles. For rural HOME developments in particular, having a two-mile radius may prove to make those applications less competitive.

Comment: Service distance for urban/suburban areas should stay at a one-mile distance. The service distance in rural communities should be within a two-mile distance.

Comment: The existing services being conveniently located make for better projects.

AHFA Response: No changes will be made to the distances to services.

Comment: Retail or other amenities that are under construction with a scheduled opening prior to the start of the construction of the project and which are being funded by disaster funds should count for points. Applicant should provide a copy of the funding letter from the appropriate state or federal agency, copy of the lease agreement, confirmation from the city of the expected opening date and pictures or copy of construction contract that work has started.

AHFA Response: Services outlined in the Plans for points will be allowed only if documentation is provided to AHFA that the service is under construction and financed by disaster funds. Also, in order to be eligible for points, the construction of the service must be evident to AHFA staff when they perform the site visit.

Comment: Consider promoting sustainable communities even further by adopting language that clearly identifies proximity to transit as criteria to earn points, keeping in mind that transportation and housing are the two largest expenses for household across the country.

Comment: Give points for having certain occupancy needed neighborhood characteristics adjacent or within ½ mile of the site. Examples of items for which points could be granted include; a senior center, a medical office park, a city park with walking trail, grocery and pharmacy, for seniors. For family properties, a city park with playground equipment, an elementary school, a big box department/grocery/pharmacy would be desirable.

AHFA Response: No changes will be made to the list of services eligible for points.

Census Tract Location (Page 8)

Comment: If AHFA is trying to get housing built in higher income census tracts, the number should be increased from 50% or more to 75% or more of the county's current Median Family Income.

Comment: The Plan penalizes projects in qualified census tracts (QCTs) by providing an additional two points for projects in tracts with incomes over 50% of the area median income. This will have the direct effect of making it very difficult to get projects funded in QCTs. These census tracts desperately need development and should not be shut out of the housing credit program.

Comment: Change this section to the following: Two points will be given to a project located in a census tract where the Median Household Income is 50% or more than the county's Median Household Income, according to the most recent five-year Census ACS data. The reasoning for the change is the 2010 decennial census has no income information, so the only source for that data is the Census ACS. The data will be most useful if you use the same vintage data for the calculation, and the five-year ACS data will be the only data source that has census tract level date. We recommend using household income instead of family income.

Comment: Because census data can be a trailing indicator, it is important to also recognize improving trends in Median Family Income. This section should be adjusted to accommodate for positive trends with the following:

Two points will be given to a project located in a census tract where the Median Family Income from the 2010 census data is 50% or more of the county's current Median Family Income <u>and/or the project is located in a census tract where the Median Family Income has increased by 50% or more between the 2000 and 2010 census.</u>

Comment: Points should be awarded for developments located in census tracts in 60% or more of the county's current Median Family Income so there is more differentiation between projects.

Comment: Balance the allocation of Housing Credits for new construction and preservation of existing housing, particularly where existing housing is principally occupied by low income minority households. That is the essence of the Fair Housing Law, i.e., that resources be expended to increase the chances for opportunity.

Comment: Give points to deals that are in census tracts that have a median income above 100% of the county median.

Comment: Make this section a two-tiered point item. Two points should be given in a census tract that is 50% of the Median Family Income or more and give four points if in a census tract that is over 100% of the county Median Family Income.

AHFA Response: Two points will be given to a project located in a census tract where the Median Family Income from the 2010 census data (2010 ACS -5 year) is 60% or more of the county's current Median Family Income.

<u>**Negative Neighborhood Services (Pages 8-9)**</u>

Comment: AHFA should provide a mechanism to allow developers to remove conditions during construction of a project that would otherwise lead to negative points for negative services or incompatible uses. An applicant that presents a verifiable and viable solution for mitigation of a negative condition by the placed-in-service date should not receive negative points. The Plan could provide this mechanism by a) requiring a narrative on how the negative condition can be removed and b) providing either a contract with the owner of the condition or a firm commitment from a local government that makes it feasible to remove the condition.

Comment: Clarifications of definitions(s) for the negative site conditions should be included in the final Plan.

Comment: Exclude from the definition of a prison/jail any facility at which the jail cells are secondary to a police station and/or courthouse and where prisoners are confined for one year or less.

Comment: Police facilities with jail cells do not present the same negatives as prisons and should be excluded from the list.

Comment: Consider exempting from any negative neighborhood scoring factor, any site that (a) is an existing or recently-vacated public housing site, (b) is proposed for redevelopment with public housing mixed-financed assistance and includes HOPE VI, Choice Neighborhood, Replacement Factor Funds or

Capital Funds, and (c) that provides evidence as part of its application for housing credits that HUD has granted site-and-neighborhood approval.

Comment: Consider deferring to the U.S. Department of Housing and Urban Development's Site and Neighborhood Standards Review for existing PHA properties in accordance with the federal regulations set out at 24 CFR Subpart 202.

Comment: Public housing sites should not be subject to negative site selection points or have a cap on the amount of points that can be deducted.

AHFA Response: Point deductions, including but not limited to, Negative Neighborhood Services, are not intentionally designed to prevent any application from being competitive (or funded). The point deductions as described, among other factors, seek to ensure that housing sites selected by applicants provide the best options on a statewide basis for low- and moderate-income individuals and families based on the limited resources provided to AHFA by Housing Credit and HOME program funding. Because of the scarcity of funds available for the extensive and varied affordable housing needs in our state, combined with the intense competition for these funds, applicants are encouraged to offset any perceived negative point deductions, where possible, by submitting a complete and correct application or electing other point options. Applicants are encouraged to consider non-competitive options such as tax-exempt bond financing where the program parameters are not as stringent and funding is provided, generally, on a first-come, first-served basis. Point deductions for Negative Neighborhood Services will be assessed at the time of the site visit.

Applicant Characteristics (Pages 9-10)

Comment: Please remove minority or women ownership for five points. You can accomplish the same thing by offering three points to women ownership or three points for using minorities and women-owned businesses during construction.

Comment: It would be more appropriate if this provision required that 10% of the subcontracts be with minority or women-owned business or the permit that the material used for each of these trades be added to these subcontracts. Permit material required to perform subcontracts to be included in the value of that subcontract.

Comment: This is an item that everyone will figure out how to get by adding wives and sisters to their ownership structures, but it will not actually further any minority or women-owned business goals. It will simply make the ownership structures more complex and harder. It will also hurt non-profit scoring because their ownership and development entities are wholly-owned subsidiaries of the non-profits and cannot, by definition, be a minority or woman-owned business.

Comment: Awarding points for women and minority ownership puts non-profits at a distinct disadvantage because they have no "ownership". Retain the approach of the 2013 Plan. If this is not done, further clarification on the treatment of co-general partners is needed.

Comment: If a minority or women-owned business is a co-developer in a project and the minority or women-owned business is owned 50% by a woman, does this qualify for the points? Is there a certain percentage as a developer that they have to participate to get the five points? Do developer fees have to follow the percentage of ownership in order to qualify?

Comment: The five points for minority or women having ownership in the project should be removed. This will simply complicate the application and would probably be of no benefit to the development.

Comment: We strongly support the intent of this selection item and suggest the following additions to create a level playing field for nonprofits.

- 5 points will be given if nonprofit organizations have at least 50% ownership interest in the project and at least 50% of the board members of the nonprofit organization are minorities or women.

- 2 points will be given if a nonprofit organization is listed as developer on page 2 of the application and at least 50% of the board members of the nonprofit organization are minorities or women.

Comment: The points for having a minority or women-owned business as owner/developer will lead to more complicated organizational structures with entities bringing in minorities or women simply to get these points. Giving points for having a percentage of the construction contract go to minority or women-owned businesses is a better way to deal with this as AHFA has done in the past.

Comment: The additional points for minorities or women having ownership in the project and minorities or women having ownership in the developer should be deleted. The points should remain per the 2013 and prior Plans related to the award of building cost to minorities and women-owned businesses.

Comment: A non-profit corporation by definition does not have any shareholders or individual owners. We are unable to qualify for these points. Allow non-profits whom have minorities or women serving as their executive director or board chairman to qualify for these points as well.

Comment: Minority or women owned participation in property management should be added to the list of point scoring items.

AHFA Response: The following 2013 Plan requirements will be reinstated. Five points will be given to applicants with participation of minorities or women. To qualify for the points for participation of minorities or women, the application must meet one of the following requirements:

- ***Minorities or women have ownership in the project;***
- ***Minority- or women-owned business or individual(s) is/are listed as the developer on page two of the application;***
- ***Applicant/Owner guarantees at least 10% of the total building cost is awarded to minority- or women-owned businesses.***

Comment: Cap the owner experience points at five projects.

Comment: The ten points for ownership should remain the same as in the past. Ownership for seven - ten properties is extremely restrictive.

Comment: Continue a maximum of ten points for experienced in managers, but if an applicant has successful management experience in Alabama allow ten points if the applicant manages five or more projects in Alabama.

Comment: Give the developers from outside Alabama with experience using Housing Credits and HOME funds the same consideration as developers from Alabama.

Comment: The number of years considered for ownership experience and for applicants that have closed a HOME loan or received 8609s should be consistent, using the past 15 years.

AHFA Response: No changes will be made to the ownership and management experience sections of the Plans.

Comment: Giving five points for the rehab of a project with AHFA HOME funds plus another five points if an owner pays off 100% of a HOME loan is too many points. This should be an either/or category.

Comment: Allow points for partial payment BEFORE maturity, without the need for an approved AHFA repayment plan.

Comment: Some deals may be able to repay a portion of their HOME loans if they were structured but as the draft Plan is written, they will never have the chance to pay anything as they do not meet the first steps of 33.3 percent payment or a five year extension. If HOME payoff is not feasible now, it will not be feasible in five years.

Comment: We believe that points for repaying a HOME loan unfairly gives advantages to some owners. In evaluating the outstanding HOME loan balances on the AHFA portfolio, we note that some of the outstanding HOME loan balances are as low as $150,000 or less. Other owners have balances in the $600,000 to $700,000 range. For those owners who have a very small loan balances, it is relatively easy to earn those five points by paying off the loan. For the ones that have higher loan balances, it is more difficult. This section should be removed from the Plan. However, if it is not removed, points should be awarded based on the dollar amount repaid, rather than a percentage of the outstanding balance.

Comment: The five points for repayment of an existing Home Loan should be removed. The repayment of the Home Loan is a commitment of the owner, that was signed and agreed to with the acceptance of the Home Loan and should not be rewarded points for repayment of the commitment, but should be a negative action with points deducted if the owner is not repaying Home Loan as committed. Developers should not be rewarded for defaulting on their HOME loan commitments. This is also a great disadvantage to developers who have Home loans that have not reached maturity.

Comment: HOME funds should be scaled with five points awarded if thirty-three percent or more is repaid two points if fifteen percent is repaid and minus five points if zero percent is repaid.

Comment: Lessen the HOME project points so that older projects across the state have an opportunity to access funding.

Comment: Awarding points for repayment of a HOME loan has nothing to do with the competiveness of the application being submitted and is just plain wrong.

Comment: Up to ten points should not be given to developers as a preference for a loan that both parties agreed to years ago. There must be other ways to ensure repayment but not impact the cycle in this manner.

Comment: Make a special set-aside that includes only projects that have existing AHFA HOME funds in place. The remainder of the projects would then be allowed to compete in another pool that is entirely separate. This would seem like a much more fair solution, as it stresses both the need for re-investment in those projects previously awarded AHFA HOME funds and the need for more new affordable housing units in a given county.

AFHA Response: A maximum of five points will be given to an owner listed in the application for the repayment of an existing HOME loan. Points will be awarded based on the percentage (rounded down) of principal and/or interest repaid. Owner(s) will continue to receive points until a submitted application is funded. If an owner has more than one existing HOME loan, points will be cumulative up to five points. The points will be awarded as follows:

5 points - 100% (principal and interest)
4 points - 80% - 99.99% (principal reduction)
3 points - 60% - 79.99% (principal reduction)
2 points - 40% - 59.99% (principal reduction)
1 point - 20% - 39.99% (principal reduction)

Comment: Clarify the sources of funds to be used to pay the 2% extension fee. Many deals will not have participants capable of paying the fee.

AHFA Response: It is up to the owner/applicant to obtain the sources of funds to pay the required extension fee.

Comment: If an owner pays off a HOME loan and there is more than one partner, does each partner get five points on the new applications?

AHFA Response: All owners of record with AHFA will receive points for paying off or paying down the HOME loan.

Design Quality Standards (Addendum B-D)

Comment: Construction design guidelines should be established for Historic Rehabilitation projects.

AHFA Response: Historic Rehabilitation projects should follow the current AHFA Design Quality Standards. Any deviations from these standards must be approved by AHFA not less than fourteen (14) business days prior to submitting the application.

Comment: Continue making the program cost effective by not requiring a green building standards certification. Continue to provide the most pertinent smart building practices in the Design Quality Standards.

AHFA Response: No Comment: necessary.

Comment: Test for radon on rehabs to see if mitigation is needed before incorporating work into plans. It is difficult to provide radon mitigation to existing projects.

AHFA Response: Projects located in a Radon Zone 1 (highest level) must meet the Radon Mitigation Standards as required by the Environmental Protection Agency. The current requirements will remain in effect.

Comment: When requiring handrails and pickets at stairs to be constructed from steel or aluminum, is it the intent to require all existing handrails and pickets to be replaced if constructed of wood? Can existing handrails and pickets constructed of wood remain if no work is being done to the stairs? By code, if any work is done to a stair, the entire stair must be brought up to current building code.

Comment: Patio and porch/balcony components used as part of the building must have concrete slabs or decks and must be constructed so that no wood is exposed. Are existing non-compliant patio and porch balcony structures okay to be left "as is"? Or should they be brought up to these standards no matter what condition they are in?

Comment: Add the following item as number 13 to Section I.B.4.a. - Exterior Finishing Materials:

Gazebos, Picnic Shelters, Mail Kiosks, Compactor Structures:
Exposed components used as part of the structure must be constructed so that no wood is exposed. Concealment shall be with materials such as aluminum or vinyl siding or cementitious materials. Decorative rails and/or guard rail systems used shall be code compliant systems of vinyl, fiberglass or metal. Wood railings are not allowed. Gazebos and picnic shelters shall have table and bench seating.

AHFA Response: All exterior project amenities that have exposed components used as part of the structure must be constructed so that no wood is exposed. Concealment shall be with materials such as aluminum or vinyl siding or cementitious materials. Decorative rails and/or guard rail systems used shall be code compliance systems of vinyl, fiberglass or metal. Wood railings are not allowed. Gazebos and picnic shelters shall have table and bench seating.

Comment: Add the following for clarification to Section I.B.4.b.1. – Exterior Lighting:

Exterior lighting fixtures are required at all tenant entry doors. The fixtures are to be controlled from the interior of the tenant units.

AHFA Response: For Attached New Construction Rental Units: Adequate exterior lighting is required in all covered exterior breezeways/walkways. Exterior lighting fixtures are required at all entry doors. The fixtures must be controlled from the interior of the unit.

Comment: Allow the substitution of a linen cabinet with a minimum of four shelves in lieu of the medicine cabinet. The drawer base would still be required.

Comment: Provide an exception to existing projects that do not have room for vanity cabinets with drawers without enlarging bathrooms, which may not be able to be done.

Comment: Provide an exception to rehab projects that have as small as a twenty-four inch door to a bathroom and it may not be possible to reinstall a thirty inch door.

Comment: Consider not requiring a medicine cabinet. Many times there is not enough space for a medicine cabinet and vanity.

Comment: Hallways that have a minimum clear width of thirty-six inches may be too narrow for FHA and ANSI standards where any door opens off of a hall. Insert language that states hallways with doors must meet the appropriate accessibility standards.

Comment: It is not always possible in rehabs for the water heater T&P relief valve discharges to be direct to exterior of the building and elbow down to 6 inches above finish grade. Give an exception to allow T&P to remain installed as it is.

Comment: Allow overhead wall lighting in half-baths.

Comment: Reduce the ninety square feet required for a bedroom to eighty square feet. Many existing Housing Credit developments funded by AHFA in the 90's may have secondary bedrooms that are less than ninety square feet. Many older Rural Development projects also have bedrooms smaller than ninety square feet. The Rural Development minimum was eighty square feet. By leaving ninety square feet as the minimum, a great many Housing Credit, Rural Development projects, and conventional projects would not qualify for rehab.

AHFA Response: These comments appear to be application specific project deviation requests. Deviations such as these should be requested and approved by AHFA s not less than fourteen (14) business days prior to application submission..

Comment: Revise the following requirement as follows: Individual ~~dumpster~~ trash receptacle at each home may be provided instead of a single trash dumpster.

AHFA Response: This recommended change will be made to the Design Quality Standards for Single-Family Rental Homes.

Comment: Add cultured stone to the full brick definition and allowable apron material.

Comment: Add cultured stone (man-made) and hard-coat stucco to the allowable exterior finish materials.

AHFA Response: Cultured stone will be added as an allowable exterior finish material.

Comment: Require that refrigerators and dishwashers be Energy Star rated, in lieu of all appliances.

AHFA Response: No changes will be made.

Comment: If the tub surrounds are hard tile or cultured marble, in lieu of fiberglass, solid wood blocking should be installed.

AHFA Response: This requirement is currently listed in the Design Quality Standards.

Comment: Add "at a minimum", 6 1/2 –inch deep double bowl stainless steel sinks are required in each unit.

AHFA Response: The recommended change will be added to the Rehabilitation Design Quality Standards.

__Compliance (Addendum E)__

Comment: The methods, timing, assessment, response and treatment of compliance issues have been unreasonable, unusually rigid, and unfair in making some determinations about what should be labeled non-compliance. It is unreasonable to deduct points for an issue that occurred and was corrected well after the submission of applications. This should stand as a correction, but not non-compliance and should not merit point deductions.

AHFA Response: AHFA, as the low-income housing credit agency and State participating jurisdiction for the HOME program, has a responsibility to ensure that the housing it finances is decent, safe and sanitary throughout the affordability period. Due to this responsibility, AHFA has placed certain non-compliance items as automatic point deductions in Addendum E of the 2014 draft Plans. The owner/management of a low income housing credit property and/or HOME funded property should have the responsibility to provide due diligence to ensure the housing they provide meets the required standards. Therefore, the automatic point deductions in Addendum E will remain.

Comment: No owner or management company should be inspected or audited more than another for compliance points.

Comment: A one strike policy is neither fair nor equitable especially when managing a large number of Housing Credit developments.

AHFA Response: Due to program requirements it is impossible for AHFA to inspect or audit each owner or management company the same amount of times in a year. AHFA does make sure to audit and inspect at least one property in an owner's portfolio. It should not matter how small or how large an owner/management company's portfolio is when performing due diligence to prevent noncompliance.

Comment: Developers and/or owners with serious or multiple compliance issues should be debarred from applying rather than imposing a system of point deductions which would be hard to implement, add additional burdens to AHFA, and difficult to be impartial.

AHFA Response: AHFA's compliance department was able to implement the system of point deductions without undue additional burdens. Developers and or owners have been debarred in the past, however, debarment came from extreme noncompliance issues and the point deduction system is used to encourage owner/management due diligence to prevent noncompliance.

Comment: There should be a grace period for remediation of physical and/or audit documentation standards in order for violations to be cured without penalty on 2014 applications.

AHFA Response: Proper due diligence should prevent the noncompliance items listed in Addendum E of the draft Plans.

Comment: For noncompliance penalty points for owner/project the definition of owner should apply solely to individuals and entities that have a controlling interest in a project.

Comment: The definition of owner should only apply to individuals and entities that have a controlling interest in a project. Owners with a passive interest and no decision making ability with respect to the operations and management should not be subject to the negative point deductions that may arise from non-compliance.

AHFA Response: All owners, regardless of the percentage of ownership interest, will suffer the consequences of noncompliance, excluding syndication investors.

Health and Safety Violations

Comment: The physical inspection standards should be clarified to differentiate between major and minor deficiencies.

AHFA Response: The physical inspection items listed in Addendum E of the draft Plans are major deficiencies.

Comment: Penalty point deductions for health and safety violations should be based on 30% of the units instead of 25% of the units.

AHFA Response: AHFA determined the percentage of units found to have missing, non-charged or empty fire extinguishers and missing or non-working smoke detectors for more than 30% of the units inspected not stringent enough to ensure safe housing. Therefore, the change to more than 25% will remain.

Comment: Points should not be lost for non-working smoke detectors if this is either because of a missing battery or obvious damage or removal by the tenant. This is an issue that owners and managers cannot control, as batteries are regularly stolen.

AHFA Response: AHFA follows the Uniform Physical Condition Standards (UPCS) for requiring that at least one functioning smoke detector per level of an individual unit. Therefore, this deduction will remain.

Comment: Compliance points for missing fire canisters above the cooktop surface or temperature limiting plates on the cooktop surface for more than twenty-five percent (25%) of the units inspected should not be deducted if fire suppression systems had never been installed.

Comment: Fire canisters above cooktops were not required on older projects. Some don't have range queens. What will be done in these cases?

Comment: The point deduction for missing fire canisters should be implemented over time to refrain from punishing experienced developers, who are also owners of many older units where these were not previously required, or such units should be grandfathered.

Comment: Define temperature limiting plates.

AHFA Response: Fire canisters above the cooktop surface or temperature limiting plates on the cooktop surface are only applicable for properties funded in 2013 or after. (Reference the Design Quality Standards in the 2013 Plan) Section II. B.b.iii. of Addendum E will have the words "if applicable" added to the beginning of this section.

Comment: The term "exposed wiring" should be defined more clearly.

AHFA Response: Exposed wiring is defined more clearly in Addendum E of the draft 2014 Plan in section II. B.a.iv.

Comment: Define "insect infestation". Is it one bug, living versus dead bugs?

Comment: Points should not be lost for insect infestation because owners and managers cannot control the cleanliness of the residents. Consider deducting points for failure to provide quarterly pest control services instead.

AHFA Response: Insect infestation is considered a large number of living bugs which pose a health and safety hazard. The owner/management is expected to maintain regular pesticide spraying to prevent such infestations. Additionally, the owner/management should perform regular inspections of their occupied units and require a certain level of housekeeping by the households occupying these units. No change will be made to this section of the plan.

Comment: Specify where "severe damage to sidewalks or parking lots" begins. Is AHFA looking for trip hazards or merely cosmetic as being a safety issue?

AHFA Response: Sidewalks and parking lots exhibiting damage that could pose a tripping hazard or damage a motor vehicle are examples of potential severe damage. No change will be made to this section.

Comment: What constitutes a broken step? For example: an aging steel stair riser that is exposed to the elements may have back plate rust of varying levels but when does that problem cross from being merely cosmetic to being a safety issue?

AHFA Response: The language in section II. B.a.vii. has been changed to "missing, broken or loose handrails or steps.

Occupied or Vacant Deficiencies

Comment: Define "missing bathroom or plumbing fixtures".

AHFA Response: Addendum E of the draft 2014 Plan changed the language from missing bathroom or plumbing fixtures to missing or inoperable plumbing fixtures. This means if any plumbing fixture which is supposed to be in a unit is missing or inoperable there will be an automatic point deduction.

Comment: What constitutes missing or damaged cabinetry?

Comment: Does "missing" include missing components such as an appliance handle or drawer front or cabinet door? Is a loose hinge or burned counter a violation? A more expanded and less subjective answer is needed here.

AHFA Response: Addendum E of the 2014 draft Plan has been changed to include missing or damaged cabinetry in the entire unit. Additionally, Addendum E of the 2014 draft Plan has further defined missing or damaged drawers in more than 25% of the units inspected. Addendum E of the 2014 draft Plan has been changed to state all missing or disconnected stoves, dishwashers or refrigerators will be considered a violation.

Comment: If a unit has to be ready after 30 days' vacancy, what is the definition of "not cleaned or unsanitary vacant units: for units that have been vacant less than 30 days? There is much debate over what level is expected for a unit vacant two, four, seven, eighteen days, etc.

AHFA Response: AHFA compliance auditors inspect units which have been vacant for more than thirty days at the time of the compliance audit. A "not cleaned" unit means any vacant unit for which the previous household left and the owner/management did not remove furniture, clothes, mold, mildew or any damage to the unit caused by the previous household. A vacant unit will also be considered "not cleaned" if it has not been cleaned up after repairs to damage caused by the previous household.

Comment: It would seem logical that if management can get AHFA in a unit by reasonable means other than a door key, it should not be a point loss.

AHFA Response: Addendum E of the 2014 draft Plan states "units unable to be accessed or inspected by AHFA at the time of its inspection/audit due to an owner/management agent's inability to unlock the unit's exterior door locks". The owner/management agent should have a key which opens any door's exterior locks at all times. The owner/management agent should check this before an AHFA audit/inspection.

Comment: Provide a better understanding of what is meant by "severe or unrepaired damage to a vacant unit," and allowance for a fire or severe damage that was beyond our control, but too recent to have fixed.

Comment: Section B.b. lists areas which constitute "uninhabitable" units. Are these the only things that are considered in determining whether a unit is uninhabitable or not?

AHFA Response: Addendum E of the draft 2014 Plan states "unrepaired damage to a vacant unit not caused by a fire, storm, vandalism or natural disaster". The vandalism cannot be from the previous household while they were living in the unit to meet this exception. The term uninhabitable was removed from Addendum E of the draft 2014 Plan.

Site, Exterior or Common Area Deficiencies

Comment: Provide a clear definition of what is considered a "broken component" of gutters or downspouts. There are instances where damaged downspouts can still function normally. Does "broken component" include broken or missing splash blocks?

Comment: Section B.c.iii. refers to rotted siding and/or exterior trim which would allow water to penetrate behind the exterior. Is this intended to include exterior ceilings such as breezeways, brick walls and windows?

AHFA Response: Gutters or downspouts which do not function as intended means exactly what it says. Section B.c.iii. states, "siding and/or exterior trim has rotted and allows water to penetrate behind exterior". This means anywhere water penetration can cause damage to the property or potentially become a health and safety hazard for a tenant.

Documentation and File Deficiency

Comment: Deduct points for failure to provide updated utility allowance. We cannot determine if a tenant is charged excessive rent without the utility allowance.

AHFA Response: Because an owner/management agent is unable to determine if a household's gross rent is within the gross rent limits without a proper current utility allowance, AHFA is automatically deducting points if the owner/management's negligence causes a household's gross rent to exceed the gross rent limit once the proper current utility allowance has been obtained.

Comment: Documentation or file deficiencies should be increased from 25% of the files with deficiencies to 30% of the files.

AHFA Response: AHFA found the percentage of document or file deficiencies of more than 30% not stringent enough and therefore changed the percentage of document or file deficiencies to more than 25%.

HOME Loan Restructuring Policy (Addendum F)

Comment: Under the proposed plan, we're not sure if we apply for an extension of the HOME loan maturity before we have secured Affordable Housing Program (AHP) funds or do we wait until after the award of AHP funds. If we wait this presents a timing issue with the AHFA cycle and will presumably require some partial extension of the maturity (perhaps another year) to allow for a housing credit application to be processed and reach a closing.

Comment: The AHP program gives preference for applications that have secured all the other funding (housing credits, mortgage, etc.) prior to submission. There should be a way to reserve housing credits pending other sources like AHP. This would give all these deals a leg up in getting AHP funds to pay down the HOME loans.

AHFA Response: Housing Credits will not be reserved contingent upon receipt of the Federal Home Loan Bank's Affordable Housing Program funds.

Comment: Since the benefit of the HOME dollars was to the tenant and not the owner, I recommend that the HOME loans be carried forward in their entirety and that the developer not be forced to pay back dollars they received no direct benefit.

AHFA Response: As developers of affordable housing, specifically those involving the Housing Credit and HOME programs, AHFA participating developers receive incentives in the form of development fees that are paid, in most instances, upfront to the general partnership upon successful project completion. In addition, in many instances the same developer/owner generates additional sources of revenue because certain services (construction, management, maintenance, etc.) are generally performed by parties related to the developer/owner who originally created the development. Based on these incentives, the developer/owner executed promissory notes that provided a below-market rate of interest and deferral of accrued interest and principal until maturity. All of these benefits accrued to the developer/owner, not the end-users. End-users are able to obtain more affordable housing because of the program requirements, not because the developer/owner "passed-through" the reduced rents. Participation in the HOME Loan Program by developers is voluntary based on the terms and conditions as specified in the annual Housing Credit and HOME program allocation Plans.

A flat 1% refinancing fee should be charged to each project.

AHFA Response: An extension fee of one percent (1%) will be due if thirty percent (30%) or more of the principal and all accrued interest is repaid and a fifteen year extension is granted. An extension

fee of 1.5 percent will be due if less than 30% principal and all accrued interest is paid at maturity and a five year extension is granted.

Comment: Once the HOME Loan matures, AHFA should take the remaining balance not paid and underwrite each deal individually based on realistic standards using audited operating costs and rents supported by the market. The amount a project can support and that is determined to be feasible should be converted to a twenty year amortizing loan. The remaining balance should be converted to a twenty year cash flow based loan that is due and payable at maturity.

Comment: We believe this policy would be fair to everyone involved. Each HOME deal is different and should be underwritten based on the rents in its market and the project's ability to repay a portion of the loan. This will enable AHFA to install a policy that is fair to everyone and allow the projects to pay down as much as possible. We believe that with these above mentioned changes, the program can continue with its goal of providing affordable housing.

Comment: The provision that gives any points to owners who have paid down the original HOME loan provides an unfair and disproportionate advantage to owners that have HOME loans that are coming due and should be eliminated.

Comment: Requiring such a high percentage of payment appears to be unrealistic and not fairly distributed between more urban areas and rural areas.

Comment: We believe AHFA should not forgive any outstanding HOME loan debt. Forgiving debt will create immediate tax issues for investors. Forgiving the HOME loan does not represent sound housing policy. AHFA should instead use the amounts paid down on the HOME loan to establish a perpetual housing fund.

Comment: Do not provide for principal forgiveness. Structure the renewal as a long-term renewal of the HOME loan at least at the applicable AFR combined with an interest rate subsidy to avoid original issue discount and related cancellation of indebtedness issues.

Comment: Rather than an arbitrary 33% threshold, the Plan should be based on an individual analysis of whether and to what extent a project has the financial capability of repaying all or a portion of the HOME loan and permit extensions of the HOME loans, particularly in connection with rehabilitation and/or a continued commitment to restricted rent and tenant targeting.

Comment: If an arbitrary level of payment is retained, it should be not more than 20%, instead of 33%. Projects which do not meet this threshold should be permitted to participate in the AHFA's programs, subject to the condition that all amounts financially feasible, which result from such transaction, including up to one-half (1/2) of all developer fee payment from transaction sources, be applied in further payment of the HOME loan. Consistent with participation in housing credit rounds, the renewal term should also be a minimum of 15 years, not five years.

Comment: It may cause problems if AHFA "entertains" any HOME loan extensions/pay downs for properties that are more than one year away from maturity. The wording in the DRAFT seems to suggest that AHFA is open to pay-off at any time prior to maturity. If you limit these extensions requests to no more than one year prior to maturity, it will be a much more orderly process, especially as the number of HOME loans maturing increases.

It would work best if, within the one-year window prior to maturity, the applicant;

a. Expresses intent to pay down the HOME loan, and by what amount;
b. Provides either "soft" commitments or letters of interest, from both the permanent lender and the investor to support all the sources for the transaction;
c. Provides all of the documentation in items 1-13 on page 1 of Addendum F;
d. Pays the appropriate fee (based upon the proposed paid-down balance of the HOME loan).
e. And then, gets a two-three year extension of the current HOME loan, to enable him/her to apply for housing credits in at least two cycles. He/she must agree to continue to submit applications during this extension. If this can be accommodated, it gives both AHFA and the applicant a bit more flexibility.

Comment: The following should be the basis for the AHFA HOME refinancing Policy:

If at the time of maturity a HOME loan is not repaid, or for any remaining balance not paid, AHFA should underwrite each loan according to realistic underwriting standards using two years audited operating cost and market supported rents. If it is determined that a development can support a repayment of debt, convert that amount to a 20 year amortizing loan. The remaining balance should be refinanced for 20 years as a "cash flow" mortgage that is due and payable at maturity. It will be necessary to structure the interest rate on the debt to be sure it meets IRS requirements to avoid possible cancellation of indebtedness income. This can be done by having a "net" interest rate of 0.5% on both amortizing and cash flow loans. An interest rate subsidy (where no cash changes hands) similar to an RD loan can be used.

Each development meeting AHFA's requirements for refinancing should be eligible to apply for additional rehab housing credits. If successful in obtaining housing credits, the HOME loan should be re-underwritten, and to the extent additional funds are available, further repayment of the HOME debt should be made. A full 15% developer fee should be allowed with 50% of that fee used as an additional pay down on the HOME loan.

This change recognizes that each HOME is different and enables AHFA to more fairly enact a policy that provides the assistance where needed, and creates a mechanism to repay the HOME loan based on ability to pay.

Comment: If the development gets refinanced by AHFA, based on their underwriting, the project should be eligible to apply for additional housing credits. If the project is then awarded an allocation of housing credits, the HOME loan should be re-underwritten. If there are excess funds available on the project, with the use of housing credits, the additional excess will go to further pay down the HOME loan. The developer fee for rehabs on existing AHFA Home loans should be 15%. The project can use 50% of the developer fee to pay down additional amounts on the HOME loan.

Comment: Consider allowing the HOME restructurings to be funded outside the normal funding cycle along with applicable additional housing credits and waiving any current Plan points restricted to services, locations, etc., that might not be otherwise available on these older projects; especially where tenant occupancy would be jeopardized. Some states refer to these as supplemental set-asides.

Comment: Do not award an owner for simply paying off his debt. If AHFA determines that housing credits should be utilized to recast HOME debt, consider the following:

- Publish a list of existing HOME loan projects (at least 3-4 months in advance of the application due date) that will be submitted for housing credits;
- Do not count housing credit awards for the existing AHFA HOME loan projects against the county cap, thus allowing other developers to compete on a level playing field; and
- Cap the amount of housing credits that existing HOME loan projects could win in any given cycle—perhaps 8% of the housing credit allocation.

AHFA Response: When the HOME program was being developed, borrowers elected to take HOME program funds in the form of a loan versus AHFA's efforts to extend these funds as a grant. The HOME Loan Restructuring Policy is intended to ensure that the maximum amount of HOME loan due from borrowers, as originally agreed upon by the terms in the loan documents, is paid to AHFA by the stated maturity date of the HOME loan. All borrowers must elect to restructure their respective HOME loans based on the following two options:

1. ***If thirty percent (30%) or more of principal and all accrued interest is paid, a fifteen (15) year extension will be granted. A one percent (1%) fee must be paid on the extended balance amount.***
2. ***If less than thirty percent (30%) of principal and all accrued interest is paid, a five (5) year extension will be granted. A 1.5% percent fee must be paid on the extended balance amount.***

Borrowers will be required to reimburse AHFA for any third-party costs, including without limitation, legal fees, architect and engineering fees, consultant (construction or otherwise) fees and environmental fees incurred by AHFA during the evaluation of the extension request until completion and final approval. The remaining balance will be structured as a cash flow loan based on terms acceptable to AHFA.

Miscellaneous

Comment: Decouple Alabama HOME funds from the Low-Income Housing Tax Credit program.

Comment: We support keeping the HOME funds and Housing Credits together and not separating the funds as more housing units can be created and/or rehabbed by combining those funds.

Comment: Utilize Alabama HOME funds for activities other than new construction.

AHFA Response: Due to the decrease in HOME appropriations, HOME funds will continue to be leveraged with Housing Credits and other sources of funds to develop multifamily new construction housing developments containing no more than 56 units. Combining HOME funds with Housing Credits is the most efficient and effective method for developing affordable housing.

Comment: Prioritize projects that provide permanent supportive housing.

Comment: Create a Housing Credit set-aside for proposals involving the preservation and rehabilitation of existing multifamily rental housing.

AHFA Response: No additional incentives or set-asides will be added to the Plans.

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Again, AHFA thanks all individuals and entities who provided comments for consideration in developing the final 2014 State Qualified Action/Allocation Plans. All comments and AHFA responses provided in this summary are subject to modification and approval by the applicable authorities as specified under Section 42.