dhic
HOME TO OPPORTUNITY

August 21, 2015

Memorandum

To: A. Robert Kucab

From: Gregg Warren

Subject: Comments/Suggestions Regarding the 2016 North Carolina QAP

Thank you for the opportunity to offer comments regarding North Carolina's method of distributing low income housing tax credits. As you are aware, many in the development community have met to explore whether there is common ground among many of the partners you have worked with over the years. In those meetings, there was strong agreement that the NC Housing Finance Agency staff operate the program in a professional manner and you and your staff well respected by your partner developers.

As an organization that was fortunate enough to receive two tax credit awards this year, it is easy for us to say we like the outcomes this year, but that is not to say that we liked the selection process. DHIC's overarching concern with the current evaluation system is that awards are largely determined by the tie breaker and various credit caps for geographies and principals. We understand the logic regarding the credit caps and largely support the caps as written, but we do not think that awards based the current tiebreaker of credits per apartment unit are the best way to select projects. We therefore support a selection system that distinguishes projects across a number of measures such that few, if any awards, are based upon a tie breaker. The listing of potential changes discussed at the three develop meetings provides a useful base for us to offer you our suggestions or comments which are set forth in red type.

Set-Asides, Limits, and Threshold Criteria

Section II(B) The Agency will award tax credits remaining after awards described above to new construction projects, starting with those earning the highest scoring totals within each of the following four geographic and county income designation set-asides and continuing in descending score order through the last project that can be fully funded. The Agency reserves the right to revise the available credits in each set-aside in order to award the next highest scoring application statewide under Section II(G)(1).

LOW **%**	MODERATE **%**	METRO 37**%**	HIGH **%**

Changing the regions would be less radical than it seems, and responds to concerns about more amenities for site scoring hurting rural communities and lower rents preventing some counties from being competitive. The competition would be more "apples to apples."

We think that this idea has merit.

Section II(E)(1)(a)

The maximum awards to any one Principal will be:

- three, including no more than two in either the new construction or rehabilitation set-asides, or
- a total of $1,200,000 in tax credits, including all set-asides.

For purposes of the latter limit, new construction awards will be counted towards this limitation first (in score order), then rehabilitation awards.

Reducing the awards per Principal means fewer developers being "blanked" and would offset the benefit of added experience points.

We support the limit of three (9% deals only) but prefer that the cap remain $1.8 million or at least not less than $1.6 million.

Section III(C)(3)

(b) Applicants may only submit one application per site.

Changing what had been arguably a loophole.

We support.

Section IV(D)(1)(a)

In order to be eligible for an award of 9% Tax Credits, at least one Principal must have successfully developed, operated and maintained in compliance one Tax Credit project in North Carolina. The project must have been placed in service between January 1, 2009 and January 1, 2015. Such Principal must:

(i) be identified in the preliminary application as the Applicant under Section III(C)(5),

(ii) become a general partner or managing member of the ownership entity,

(iii) remain responsible, to the federal standard of "material participation", for overseeing the project and operation of the project for a period of ten (10) years after placed in service,

(iv) provide guarantees to the extent of any other member or partner, and

(v) be the Agency's initial, primary point of contact for the project.

A widely-agreed upon concept during the Greensboro meeting (in general, not necessarily the specifics).

We support.

Section VI(B)

The following minimum financial underwriting requirements apply to all projects. Projects that cannot meet these minimum requirements, as determined by the Agency, will not receive tax credits or RPP funding. The Agency will underwrite full applications so as to utilize the least amount of tax credits necessary for financial feasibility, including but not limited to requiring projects to increase the amount of private permanent financing.

This is an attempt to make clear what the Agency can do to avoid a dramatic decrease in unit production if the current tiebreaker becomes less significant.

??—not sure if we fully understand what this means…. how would this be determined and accomplished?

Section VI(B)(1)(a)

Projects applying for tax credits only will be underwritten with rents escalating at two percent (2%) and operating expenses escalating at three percent (3%) and must demonstrate cash flow (after all expenses and debt service) of at least $200 per unit annually in the fifth year of operations.

The amount of actual cash available is at least as important as DCR, plus this change is one of several suggested in case the current tiebreaker remains consequential.

We support and would support a higher level, say, $250/unit/annum.

Section VI(B)(2)(a)
New construction (excluding adaptive reuse): minimum of $3,400 per unit per year not including taxes, reserves and resident support services. For applications where the project will be paying for water/sewer, the minimum is $3,800 per unit. [*and a corresponding change for rehabs*]

Results in more of an "apples to apples" comparison.

We support and would support and even higher minimums such as $3,600 and $4,000 respectively.

Section VI(B)(1)(d)
The Agency will conduct a survey of affordable housing lenders to determine required range(s) of interest rates for private permanent financing, as may vary based on amortization periods. Applications must be within the applicable ranges. The Agency will announce such rates by the deadline for market analysts to mail studies. During full application underwriting, the Agency may determine that the interest rate on a loan must be reduced where an application shows an excessive amount accruing towards a balloon payment.

There are many QAP requirements designed to avoid taking excessive risks. Having one for interest rates is especially important since they increase to the extent a project becomes infeasible. An alternative would be to require developers return an award if the numbers were sufficiently different than at award. Plus this is another suggestion in case the current tiebreaker remains consequential.

We support.

Section VI(B)(7)
Developer fees shall be the greater of $600,000 or $13,000 per unit for new construction projects, and twenty-eight percent point five (28.5%) of PDC line item 4 for rehabilitation projects, both being set at award.

The simplest way to ensure a certain amount of paid fee at award, which is something responsible lenders and equity providers will require. (Another suggestion in case the current tiebreaker remains.)

We support.

Scoring Criteria

The Agency will calculate the average cost of land per unit listed among new construction preliminary applications and award points based on the following matrix:

more than 40% below	at least 20% below but with within 40%	within 20% of the average	over 20% but less than 40%	equal to or greater than 40%
__ points	_ points	0 points	-_ points	-__ points

We do not support this as written.

The Agency will calculate the average federal tax credits plus RPP per unit requested among new construction full applications (the tax credit amount will be the ten year total) and deduct or award points based on the following matrix:

more than 20% of the average	-_
between 15% and 20%	-_
between 10% and 15%	-_
between 5% and 10% over	-_
within 5% of the average	0
between 5% and 10% under	+_
between 10% and 15%	+_
between 15% and 20%	+_
less than 20% of the average	+_

We support but do not support the addition of RPP in this calculation.

Up to ___ (__) points will be awarded per project for which the Principal meeting the eligibility requirement in subsection (D)(1)(a):

- received an award in the 2010 through 2015 cycles which counted against such Principal's maximum tax credit limit, and
- is a managing member or general partner in a project a which qualifies as "Section 42" for purposes of the [*property tax statute*] (wholly-owned subsidiaries of the Principal also qualify).

We think that this has merit

Each Applicant has __ points to apply to its applications as it chooses.

We like this idea if it is x points per Applicant, no matter how many applications they submit.

The Agency will award the following points to applications in the listed counties based on the extent of past allocations of federal tax credits:

Need more detail to comment on this.

(a) Eligibility:

Only loans or grants from the following sources will qualify for points under this subsection (B)(2):

(i) HOME Investment Partnership,

(ii) Community Development Block Grant (CDBG) program funds, and

(iii) other established local government housing development funds.

Applications including market-rate units will be ineligible for points under subsection (B)(2) unless the total housing expense for all market-rate units are at least twenty percent (20%) higher than the maximum allowed for a unit at 60% area median income. Adjustments to the purchase price of the land by the seller, Agency loans, state credits and bond financing are not sources of mortgage subsidy. The amount provided by a local government will be reduced by the amount included in the project budget for any impact, tap or related fees charged by that local government and the cost of land sold by that local government.

(b) Required Terms:

In order to qualify for points under subsection (B)(2), loans must be listed as a source in the full application, comply with the requirements of Section VI(B)(6)(b), and have a term of at least twenty (20) years and an interest rate less than or equal to two percent (2%). See Section IV(C)(2) for a restriction on RPP loans for applications with local government financing.

(c) Metro Region:

Applications will earn points based on the total amount of qualifying funds committed per unit (excluding an employee/manager's unit), as described below:

Funds/Unit	Points	Funds/Unit	Points
$6,000	6	$14,000	14
$8,000	8	$16,000	16
$10,000	10	$18,000	18
$12,000	12	$20,000	20

The calculation includes all units and amounts will not be rounded up. The funds-to-unit ratio approved by the lending source determines the score.

(d) [High, Moderate, and Low Income Counties or] East, Central and West Regions:

Applications will earn points based on the total amount of qualifying funds committed per unit (excluding an employee/manager's unit), as described below:

Funds/Unit	Points	Funds/Unit	Points
$3,000	10	$6,000	16
$4,000	12	$7,000	18
$5,000	14	$8,000	20

The calculation includes all units and amounts will not be rounded up. The funds-to-unit ratio approved by the lending source determines the score.

We support this.

(i) NEIGHBORHOOD CHARACTERISTICS (MAXIMUM 18 POINTS)

Excellent: 18 points if the trend of real estate development within a Half Mile indicates being an area currently targeted for a substantial amount of high-end, market-rate investment, including at least some new or recent construction We think this is too subjective and would suggest deleting this category—further, it disadvantages redevelopment projects.

Good: 15 points if structures within a Half Mile are well maintained or the site qualifies as a Redevelopment Project (see Section II(B)(2)(b))

Fair: 6 points if structures within a Half Mile are not well maintained and there are visible signs of deterioration

Poor: 0 points if structures within a Half Mile are Blighted or have physical security modifications (e.g. barbed wire fencing or bars on windows)

Half Mile: The half mile radius from the approximate center of the site (does not apply to Amenities below).

Blighted: A structure that is abandoned, deteriorated substantially beyond normal wear and tear, a public nuisance, or appears to violate minimum health and safety standards.

(ii) AMENITIES (MAXIMUM 48 POINTS)

Other than applications with tribally-appropriated funds (described at the end of this subsection), points will be determined according to the matrix below. In order for an amenity to be eligible for points, the application must include documentation required by the Agency of meeting the applicable criteria. In all cases the establishment **must be open to the general public and operating as of the preliminary application deadline**.

	driving distance in miles			
Primary Amenities (max 24 points)	**≤ ½**	**≤ 1**	**≤ 2**	**> 2**
Grocery	12 pts.	9 pts.	6 pts.	0 pts.
Shopping	6 pts.	4 pts.	2 pts.	0 pts.
Pharmacy	6 pts.	4 pts.	2 pts.	0 pts.
Secondary Amenities (max 24 points)	**≤ 1**	**≤ 2**	**≤ 3**	**> 3**
Second Primary Amenity	3 pts.	2 pts.	1 pt.	0 pts.
Third Primary Amenity	3 pts.	2 pts.	1 pt.	0 pts.
Other Service	3 pts.	2 pts.	1 pt.	0 pts.
Second Other Service	3 pts.	2 pts.	1 pt.	0 pts.
Healthcare	3 pts.	2 pts.	1 pt.	0 pts.
Public Facility	3 pts.	2 pts.	1 pt.	0 pts.
Second Public Facticity	3 pts.	2 pts.	1 pt.	0 pts.
Bus/Transit Stop	3 pts.	2 pts.	1 pt.	0 pts.

For example, an application will receive 4 points (shouldn't this be 2 points?) if the driving distance between the site and a pharmacy is greater than 1 mile but not more than 2 miles.

The driving distance will be the mileage as calculated by Google Maps and must be a drivable route as of the preliminary application deadline. The measurement will be:

- the point closest to the site entrance to or from
- the point closest to the amenity entrance.

Driveways, access easements, and other distances in excess of 500 feet between the nearest residential building of the proposed project and road shown on Google Maps will be included in the driving distance. For scattered site projects, the measurement will be from the location with the longest driving distance(s).

The following establishments qualify as a Grocery:

Aldi	Food Lion	Kroger	Super Target
Bi-Lo	Fresh Air Galaxy Food Centers	Lowes Foods	Trader Joe's
Bo's Food Stores	The Fresh Market	Piggly Wiggly	Walmart Express
Bloom	Harris Teeter	Publix	Walmart Neighborhood Market
Compare Foods	IGA	Red & White	Walmart Supercenter
Earth Fare	Ingle's Market	Sav-Mor	Whole Foods
Family Foods	Just $ave	Save-A-Lot	

The following establishments qualify as Shopping:

Big Lot's	Kmart	Walmart
Dollar General	Maxway	Walmart Express*
Dollar Tree	Roses'	Walmart Supercenter*
Family Dollar	Target	
Fred's Super Dollar	Super Target*	

*these will not count as Shopping if also being awarded points as a Grocery

To qualify as a Pharmacy the establishment must have general merchandise items for sale (not including pharmacies within hospitals).

To qualify as a Secondary Amenity, the establishment must meet the applicable requirement(s) below.

Second and Third Primary Amenity: Another Grocery, Shopping and/or Pharmacy (not used as Primary Amenity)

Other Service: A restaurant, bank/credit union, or gas station with convenience store

Healthcare: A hospital, urgent care business, general/family practice, or dentist (not to include orthodontist); does not include medical specialists or clinics within pharmacies

Public Facility: Any of the following:

- community or senior center with scheduled activities operated by a local government
- public park owned and maintained by a local government containing, at a minimum, playground equipment and/or walking/bike trails and listed on a map, website, or other official means
- library operated by a local government open at least five days a week
- public school (elementary, middle, or high school) This should include charter schools

Bus/Transit Stop:

- in service as of the preliminary application date,
- on a fixed location and has a covered waiting area--- Delete this covered waiting area requirement,
- served by a public transportation system six days a week, including every hour between 7:00AM and 7:00PM on weekdays, and
- within 0.25 miles walking distance of the proposed project site entrance using existing sidewalks and crosswalks.

A commitment of at least $250,000 in tribally-appropriated funds (including through the Native American Housing Assistance and Self Determination Act) qualifies for 24 points, not to exceed the total for subsection (ii). The commitment must meet the requirements of Section VI(B)(6)(b).

On the whole, we like these proposed changes set forth above.

(iii) SITE SUITABILITY (MAXIMUM 24 POINTS)

6 points if there is no Incompatible Use, which includes the following activities, conditions, or uses within the distance ranges specified:

Half Mile

- airports
- chemical or hazardous materials storage/disposal
- industrial or agricultural activities with environmental concerns (such as odors or pollution)
- commercial junk or salvage yards
- landfills currently in operation
- sources of excessive noise
- wastewater treatment facilities

A parcel or right of way within 500 feet containing any of the following:

- adult entertainment establishment
- electrical utility substation, whether active or not
- distribution facility
- factory or similar operation
- jail or prison
- large swamp

Any of the following within 250 feet of a proposed project building:

- frequently used railroad tracks
- high traffic corridor
- power transmission lines and tower

3 points if there are no negative features, design challenges, physical barriers, or other unusual and problematic circumstances that would impede project construction or adversely affect future tenants, including but not limited to: power transmission lines and towers, flood hazards, steep slopes, large boulders, ravines, year-round streams, wetlands, and other similar features (for adaptive reuse projects: suitability for residential use and difficulties posed by the building(s), such as limited parking, environmental problems or the need for excessive demolition)

3 points if the project would be visible to potential tenants using normal travel patterns

3 points if a proposed project building would be within 500 feet of at least two structures currently in use for residential, commercial, educational, or governmental purposes (excluding Blighted structures or Incompatible Uses)

3 points if there are single family homes, apartments, or other residential buildings for at least 10 households within a Half Mile

3 points if traffic controls allow for safe access to the site; for example limited sight distance (blind curve) or having to cross three or more lanes of traffic going the same direction when exiting the site would not receive points

We support the changes set forth above.

(iv) CENSUS TRACT DATA (MAXIMUM 10 POINTS)

(two points for each increment group over 64.1% in the first map below)

(two points for being outside of either a "Severely Distressed" area or MSA county)

This is not explained clearly. Need more information to comment.

Other suggestion by DHIC:

1. Most developers agree that they want a system that is fair and treats all projects equally. There is no rationale for the cap on non-profit awards and the cap should be removed.
2. Allow bond applications to be submitted on a rolling basis. Allow bond deals to be underwritten at credit pricing that is generally available to developers.
3. Increase number of redevelopment projects to 6.
4. Concerning Appendix B: garden plots should count for family projects, not just seniors; clarification on the use of duct board for main trunk lines; the 12" exposed brick veneer above finished grade required in II.A.5. should be allowed to be masonry if not basic concrete block.