



Categories:

Developer Fee Comments –

- Providence strongly opposes the defined maximum limits on developer fees. These practice disincentives larger projects, which carry a larger financial capacity requirement and a larger guarantee requirement while prioritizing smaller projects that are unlikely to be operationally feasible. All projects, regardless of scale or location, should be eligible for a full 15% developer fee (as structured and defined in previous QAP s).
- There is no incentive for developers to do large projects for minimal reward. The reward for syndicators is often deferred and will create large gaps putting Louisiana at a large disadvantage. Arbitrarily reducing eligible developer fees is not an effective way to control costs; it is an effective way to discourage the best practitioners from doing development in Louisiana.
- The structure for calculating developer feeds for rehabilitation and new construction projects is good; our concern is that a hard cap on the developer fees will make it extremely difficult for certain projects to be feasible. In particular, larger 4% projects may not happen with the \$1.5 million cap. We recommend that the calculation structure be maintained but that the developer fee caps be removed.
- Limiting or capping developer fees would likely result in limiting developer participation in the program. It is recommended that this item be removed from the QAP in its entirety.
- While the proposed developer fee calculation and limitation on 9% projects (\$1,000,000) is somewhat in line with IRS regulations, the 4% limitation (\$1,500,000) is not.
- We strongly believe that if LHC intends to move forward with a cap, an acceptable maximum developer fee should only be applicable to projects applying for the competitive 9% LIHTC and should be set as the lesser of \$1,500,000 or \$40,000 per unit for the project s total unit count, either of which fee calculation would be reasonable per common standards and consistent with LHC s intended cost-control. This limit would not apply to 4% LIHTC transactions

Staff's Response – Staff has removed the developer fee cap for all 4% deals. Increased the calculation to \$35K per unit on N/C and 35% Hard cost on Rehab with a maximum \$2 M for 9% deals

Selection Criteria Comments –

- Providence recommends re-establishing the Government Priority selection criteria points for developments located in Qualified Census Tracts in item (i). Removal of points for QCTs would potentially deprive federally designated census tracts from much needed investment in affordable housing; recommends not implementing the provision of washers and dryers as a mandatory threshold requirement for new construction properties. While these are valued amenities, they are not universally valued in all markets and tenant populations as well as present long term operating replacement cost factors. Providence recommends reducing the threshold requirement to the provision of washer dryer hookups in new construction properties...
- Minimum Square Footage was increased in the 2018 QAP by 50 SF for Efficiency and 1 Bedroom units, and 100 SF for 2 Bedroom units and larger. This increase is unrelated to the provision of decent, safe and sanitary housing and results in unnecessary increased cost which are in direct opposition of the push for greater efficiency and leverage of LHC resources. LHC should rely on the oversight and expertise of local jurisdictions to effectively address their own zoning and building code compliance.
- Removing the rehabilitation and new construction pools will also make the pool structure simpler to administer and clearer for applicants. Having pools within pools is complicated and leaves doubt as to how projects will be ranked and selected from the waitlist.
- Consider adding CNI as a target area
- Geographic Diversity: *Add CNI to option (b) in order to demonstrate LHC's belief that CNI results in a community of opportunity and choice, where residents can thrive: 100% and above of the Area Median Income for the MSA or within a Choice Neighborhood Planning or Implementation Grant area (11 pt.)*
- Given the urgent need to ensure Choice Neighborhood projects receive funding in order to meet HUD's timeline, we suggest considering either 1) adding additional points for CNI awarded projects (i.e. 5pts) or 2) omitting *Project Located in a Difficult Development Area (DDA)* all together.
- Revise selection (f) to Preservation of Historic Property rather than Preservation of Residential Historic Property and establish this characteristic as a separate selection criteria
- Limit the maximum points available under V. C. Project Amenities to 10 points.
- Additional financial support (Max 4 points) - *Increase points allotted in this section to 10 points*

Staff's Response – The selection criteria will be modified as follows:

- New construction projects awarded one additional point for infill if applicable.
- New construction projects that are a part of a concerted community revitalization plan will be eligible for 3 points.
- Choice Neighborhood Initiative developments will receive 2 increased points for a total of 3 points awarded to CNI developments, not developments in CNI census tracts.
- Four additional amenity points were included with, no maximum amount, for a total of 14 possible points.

Threshold Requirements Comments –

- **Negative Neighborhood Features** - Providence strongly opposes the threshold requirement that restrict new construction projects within a half-mile radius of selected incompatible uses. Providence supports a threshold requirement that no project in whole or in part be located directly next to or contiguous to any of the listed incompatible uses for all parishes, and not only the listed Metropolitan parishes.
- Eliminate negative neighborhood threshold items and any penalty for negative neighborhood features. Instead, offer points as incentives for positive neighborhood features and require the local/municipal district to support the location of the project. Local governments know their needs and should govern where projects are built.
- **Maximum Unit Development Cost** - recommends that the LHC eliminate the TDC caps as structures, which are based on HUD Public Capital cost limits that do not translate well to the structure of LIHTC development, and instead focus on how developers and their projects best leverage critical LHC resources.

Staff's Response –

Threshold criteria will remain unchanged from the 2021 QAP. An analysis of developer selections from prior QAP funding round showed that all projects, including rehabilitation and preservation, opted to provide the amenities that are in the threshold section. These items represent quality of life measures that the LHC seeks to incorporate into standard quality housing.

Basis Boost Comments –

- Projects with competitive LIHTCS may qualify for a 15% boost in the draft QAP. Basis boost determination should be 30% to maximize credits available to projects.
- Reinstate the 30% Basis Boost for Developments in Qualified Census Tracts
- Many developments in Qualified Census Tracts (QCTs) would be difficult or impossible without the full 30% Basis Boost
- We would like to return to the one level of basis boost at 30% for all projects in Qualified Census Tracts
- (QCT) and Difficult to Develop Areas (DDA) and census tracts with AMI above 80%. All of these target areas are critical to support the provision of affordable housing.

Staff's Response –

The Basis Boost tier will remain the same. NCHSA recommends that state agencies should set standards for determining which areas and/or developments are eligible for the state designated basis boost of up to 30% to ensure the boost advances state priorities and is not used too broadly. As such, LHC has found the previous basis boost policy to be too broad in terms of development locations and too restricting regarding resident choice. Due largely in part to the nature of the LIHTC program, approximately 64% of Louisiana LIHTC properties are located in areas that have a poverty rate above 30% and approximately 60% are located

in QCTs. A balance is needed to ensure that low income residents have options and are not inadvertently excluded from higher income areas and areas of opportunity.

Affordability of Accessible Units -

- Establish an Underwriting Guideline requiring a Deposit to Reserves of \$800.00 per newly constructed affordable residential unit and \$1,200.00 per renovated affordable residential unit to be utilized for unit, building, or site modifications to accommodate accessibility needs of individual residents beyond those accommodated by universal design.

Staff's Response -

The Deposit Reserves will remain the same. LHC cares deeply for the needs of those who are living with disabilities. The competitive process of the LHC QAP incentivizes developers to provide additional mobility impaired or sensory impaired unit, in excess of the minimum Section 504 requirements, by awarding points for these additional units. Typically, at least 20% of the units in LHC's awarded LIHTC developments are accessible. Since the majority of LHC's developments receive federal funding, they are subject to Section 504 Requirements. So, if a request for reasonable modification occurs, the properties are required to cover the cost of those modifications unless doing so would result in undue financial or administrative hardship.

There are multiple methods for providing accessibility. Sometimes it is possible to provide accessibility through a relatively cost-effective procedural accommodation, instead of a more costly structural modification. Since the majority of our developments have 20% or more dedicated to mobility or sensory impaired individuals, the reasonable accommodation is often utilized instead of a reasonable modification. Together, the point incentives and federal requirements enhance the capacity to meet the needs of those who have a reasonable accommodation request covered under Fair Housing.

Tenant Selection Plan-

- **Adopt policies giving consideration to formerly incarcerated individuals.** Specifically, that LHC should adopt policies, requiring owners to use an admissions policy that includes an inclusive criminal background screening policy, stating that: Arrests, juvenile records, or any expunged, vacated, or sealed convictions will be excluded from consideration, housing providers will only consider felony offenses or misdemeanor sex offense convictions that have taken place within the past three years, housing providers will make their screening policy available publicly and a copy of any completed background check report available to the applicant, the housing provider will perform an individualized assessment that involves the consideration of mitigating circumstances, denial letters should include language about the availability of a reasonable accommodation for tenants with disabilities, and housing providers be required to include language in their lease that they will not terminate tenancy based solely on an arrest.
- **Adopt Tenant Selection Plans with criminal background screening policies compliant with HUD's 2016 guidance** on "Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions. Specifically, Reject Tenant Selection Plans that contain a blanket ban on applicants with criminal records; Reject Tenant Selection Plans that allow for denial based simply on an arrest record; Reject Tenant Selection Plans that consider juvenile records; Require that Tenant Selection Plans call for an individualized assessment of each applicant that includes consideration of mitigating circumstances, including but not limited to evidence of rehabilitation efforts, post-conviction conduct, whether the conviction in question was related to an applicant's disability and any risk could be mitigated or eliminated by reasonable accommodation, and

whether the conviction arose from the applicant's status as a survivor of domestic violence, sexual assault, dating violence, or stalking; Require that Tenant Selection Plans limit their lookback period for criminal records to a maximum of three years; and Provide for an appeal process where an applicant is denied based on criminal records.

Staff Response –

- **The LHC is evaluating ways in which its current Tenant Selection Plan policies may be modified.** LHC is aware of the adverse impact federal and state polices have historically had on disenfranchised groups including minorities, women, the disabled, veterans, children, and formerly incarcerated individuals. These policies, being incremental in nature, must be constantly critiqued and improved to further equitable access to resources including fair housing laws. The LHC believes that these policy changes must a part of a collective effort as no one program or policy document such as the QAP, will solve the issues presented. In consideration of the comments and information submitted on this issue, LHC will, within the available regulatory flexibility afforded and in accordance with the law, be diligent in giving consideration to the possible unintended adverse impact of our program polices on formerly incarcerated individuals and modify them as may be necessary to eliminate that impact.