QAP COMPARISON

This document highlights changes and differences between the 2020-2021 Qualified Allocation Plan (QAP) and the 2022-2023 QAP Draft.

The section titles and numbers in this document correspond with the 2022-2023 QAP Draft.

This document does not compare the appendices.

Contents

Section I. Executive Summary

The 2022-2023 QAP Draft highlights that DHCD updated the QAP to focus on six overarching goals:

- Supporting the production of new affordable rental units in markets throughout the state, with ongoing emphasis on units that will serve populations particularly impacted by the pandemic.
- Supporting the production of new affordable rental units for homeless families and for unaccompanied homeless adults, as the Commonwealth seeks to deconcentrate the population living in homeless shelters and to increase the supply of housing with services.
- Investing in projects whose sponsors are responding to climate change by incorporating into their projects green, sustainable and climate resilient designs, building materials, and construction methods.
- Promoting greater diversity within the affordable housing industry, to be measured both by deeper and more significant MWBE participation on specific projects and by greater diversity within the entities constituting the development teams.
- Providing stability in the investment environment for development teams who currently are coping with unfavorable construction costs, an unpredictable supply chain, and labor shortages exacerbated by the pandemic. The development teams are the delivery system for the increased production which the state so greatly needs.
- Reinforcing with all participants in the Commonwealth's LIHTC delivery system the critical importance of the original Congressional intent when the program was created in 1986. It is DHCD's belief that LIHTC units are intended to stand the test of time as affordable housing and to serve low- to moderate-income renters for generations to come.

Section II. Federal and State Requirements of the Qualified Allocation Plan

- Emphasized DHCD's commitment to supporting:
    - Green, sustainable, and climate resilient housing; and
    - Including units with services for homeless individuals and families
- Acknowledged that DHCD took into consideration the need for affordable housing in communities seriously impacted by COVID
- DHCD added the following characteristics for developers to structure projects that emphasize:
    - Projects with sponsors deeply committed to MWBE participation and to diversity within their development teams

Section III. Federal Credit Available in 2022-2023

- DHCD anticipates allocating all but about $1 million of the $18 million in 9% credits available to allocate in 2022 and 2023
- DHCD recognizes that the amount of 9% credit may change if Congress increases the per-capita annual authority
- DHCD highlights that the 4% credit value has increased significantly due to recent federal action
- The 2022-2023 QAP draft requires, not just strongly suggest, developers of preservation projects to submit 4% credit applications, not 9% credit applications
- The draft removes language referencing the strong demand for 4% credits in the 2020-2021 QAP, driven by the 13A portfolio

Section IV. Impact of Federal Legislation Enacted in Recent Years

- The draft highlights the federal law enacted in December 2020 that established a "4% floor" for tax-exempt bond projects, which has generated millions of dollars in additional equity for 4% projects
- The draft recognizes that the U.S. Treasury issued a notice of proposed rulemaking in October 2020 to set guidance on the average income test on topics including the initial designation of units, a modified "next available unit" rule, and "mitigation" measures that a taxpayer can take if one of the designated units ceases qualifying as a low-income unit. As of November 2021, Treasury had not yet issued final regulations.
- The draft highlights the change to the multiplier to calculate per capita allocation authority to $2.60 in 2022-2023. In 2021-2020, the multiplier was $2.8125

Section V. The Massachusetts State Housing Tax Credit

- The draft recognizes the 5 year expansion of the state credit authorized by the Economic Development Bond Bill signed in January 2021
- DHCD will deploy this expansion, in part, for the conversion of available and existing projects to housing suitable for homeless individuals and families

Section VI. Evaluation of the Need for Affordable Housing in Massachusetts

Note: Section VI of the 2020-2021 QAP was "Special Challenges in 2020-2021." This section has been removed from the 2022-2023 QAP Draft and there is no corresponding section in the draft.

- The draft recognizes the impact that the pandemic continues to have on the market, particularly the high pressure on the Boston multifamily housing market, and increased the need for affordable housing
- The draft recognizes the need for additional housing for extremely low income and homeless individuals remains significant

Section VII. Set-Aside Categories for 2022-2023

- The draft retains two set-aside categories established in the 2020-2021 QAP: a set-aside for production projects and a set-aside for preservation projects.
- The draft reiterates that DHCD will require, not just strongly suggest, that developers of preservation projects to submit 4% credit applications, not 9% credit applications
- For preservation projects, projects will have to fill a critical need for residents and the community, given the lack of other affordable housing in rapidly gentrifying communities
- The draft highlights that both production and preservation sponsors should note:
    - New design requirements including the requirement that the design and scope of projects must be consistent with the current goals of Enterprise Green Community standards and other characteristics consistent with the state's climate change goals
    - Developers must be committed to diversity within members of the development team

Section VIII. The Massachusetts Preservation Matrix

- The draft includes DHCD's expectations that Enterprise Green Communities standards are included in the approach of any rehabilitation project
- DHCD will release a design checklist specific to preservation/rehabilitation requirements early in 2022. The checklist will emphasize the importance of green, sustainable, and climate resilient design in rehabilitation projects.

Section IX. Recommended Cost Limits; Caps on Eligible Basis; Cap on Allocations Per Project

- The draft indicates that DHCD will release updated and revised cost limits during 2022, citing pressures on costs causes by the pandemic and supply chains.
- DHCD will be working to gather more data on costs related to green, sustainable, and climate resilient design before releasing new limits.

Section X. Threshold Criteria for 2022-2023 Tax Credit Applications

- For Threshold #2 "quality of site", the draft highlights that DHCD will strongly encourage developers to make enhancements to the site and project that are consistent with green and sustainable design.
- For Threshold #3 "evidence of local support or local processing", DHCD will consider alternative proposals by the sponsor to defray project costs through other non-state funding sources if DHCD determines that local support or contributions have been unreasonably withhold despite reasonable efforts by the sponsor to obtain support.
- For Threshold 11, "inclusion of units for extremely low income persons or families", the draft continues the requirement from the 2021-2022 QAP that sponsors must reserve at least 13% of units for ELI households

Section XI. The Competitive Scoring System

- The draft highlights that DHCD has made numerous changes within this QAP to the design/scope evaluation components of both fundamental and special project characteristics. The changes have been made to further DHCD's goals relative to green, sustainable, and climate resilient design.
- The draft notes the requirement to evaluate design components to ensure consistency with Enterprise Green Communities standards and to strongly encourage new construction projects to evaluate using passive house standards
- The draft continues the use of the senior housing design checklist
- Changes to Section A-1 "Financial Feasibility"
    - The draft prohibits letters of interest from a syndicator or investor who is involved or affiliated with parties who are involved in challenging or subverting the exercise of existing rights of refusal or purchase options by LIHTC developers.
    - DHCD will expect that investors exit the ownership entity in accordance with Section 42 and industry best practices.
    - For projects sponsored by a nonprofit, DHCD expects investors/syndicators to commit to business terms assuring that a qualified nonprofit organization will be permitted to exercise the statutory

right of first refusal (ROFR) under Section 42(i)(7) of the Internal Revenue Code at the statutory price and at terms that permit a purchase option at fair market value without any add-on for investor exit taxes.

    - In practice, this means at a minimum that the investor/syndicator LOI must acknowledge that the final transaction documents will allow the general partner/managing member to take all necessary actions to convey the property to a qualified nonprofit holding the ROFR or to a purchaser at market value during a period of at least three years after the end of the 15 year initial tax credit compliance period, without the need for any further consent or approvals by the investor/syndicator or its successor(s) in interest
    - These actions include:
        - soliciting offers to purchase the property,
        - commissioning an MAI appraisal to determine the fair market value of the property,
        - in the sole discretion of the general partner/managing member, based on the advice of tax counsel, determine whether an offer to purchase the property is adequate to trigger the ROFR, and
        - in the sole discretion of the general partner/managing member, either convey the property to the nonprofit holding the ROFR at the statutory purchase price or convey the property to a purchaser, including an entity related to the developer at fair market value (but not less than the total debt secured by the property).

- The investor/syndicator LOI must further acknowledge that the ROFR/option are an integral part of the overall business deal contemplated in the LOI and, accordingly, the sale of the property by the general partner/managing member pursuant to the terms of the ROFR/option, as well as actions to trigger the ROFR/option, shall not constitute a breach of fiduciary duty, and the investor's projected return on investment is not dependent on the receipt of any proceeds at the time of exit other than the ROFR statutory purchase price.
- DHCD will review final investor/syndicator LOIs at the beginning of the closing process for consistency with these principles, and may decide to provide further guidance to sponsor/owners as to requirements for DHCD approval of final investor/syndicator LOIs.
- The draft removes language that indicates DHCD's assumption that each sponsor will obtain $.95 per tax credit dollar available for development costs.

- Section A-2 “Fundamental Design Characteristics”
    - The draft highlights the requirement for designs to include consistency with the goals of Enterprise Green Communities standards
    - The draft updates parking needs to include provisions for transformer capacity and locations for future E-Vehicle charging stations
    - The draft adds a criteria about whether a project has incorporated energy conservation measures that meet or exceed the applicable Massachusetts Stretch Energy Code, regardless of whether the project is located in a community that has adopted the stretch code
    - The draft adds a criteria about whether a project has been designed to be “solar PV ready” for new and substantial renovation projects with flat roofs
    - The draft adds a criteria about whether a developer has applied for all available utility subsidy and rebate funding programs (i.e., LEAN Energy Rebates, Mass CEC rebates, etc.)
    - The draft requires Sponsors of renovation and adaptive re-use projects to submit a capital needs analysis prepared within two years of the submission date. Analysis must provide detailed capital improvement inventory and projected costs for repair or replacement over a 20-year period.
- Section A-3 “Development Team”
    - The draft includes criteria for DHCD to evaluate whether the sponsor/owner has included minority professionals within its organization and is able to document efforts to increase diversity among members of the development team
    - The draft requires sponsors to complete a MWBE checklist
    - The draft includes a criteria on the sponsors agreement to participate in the Housing Navigator and indicates that DHCD will verify whether the sponsor is appropriately listing completed units
    - The draft notes to sponsor/owners that the general contractor selected for the project must submit an independent cost certification to DHCD following the completion of construction.
- Section XI-B “Special Project Characteristics”
    - The draft updates the project characteristic for the inclusion of MBE/WBE members on the development team, and inclusion of an <u>acceptable</u> MBE/WBE utilization plan; and a <u>completed MBE/WBE checklist</u>
    - In order to qualify for a special project characteristic for projects located in communities with a certain amount of affordable housing, the draft increases the subsidized housing stock threshold from 10% to 12%

- Section B-7. “Location in an Area of Opportunity”
  - The draft provides up to 4 points will be awarded in this category to projects located within .5 miles of a major public transit station, permitting ready access to employment opportunities
- Section I “Emphasis on Green, Sustainable, and Climate Resilient Design and Enhanced Accessibility”
  - The draft notes that green, sustainable, and climate resilient points are available only to projects already in compliance with Enterprise Green Community Standards
  - The draft will award up to <u>3 points for Green Building Certification</u> for either
    - Enterprise Green Communities Certification or
    - LEED Certification (Gold or platinum)
  - The draft will award up to <u>8 points for Building Energy Performance</u>:

New Construction Projects	**Rehabilitation Projects**
HERS index of 45[1] or less for each unit – 4 points	HERS index of 65 or less for each unit – 3 points
	HERS index of 55 or less for each unit – 5 points
Passive house certification – 8 points	EnerPHit[2] or Passive house certification – 8 points

  - The draft will award up to <u>3 points for Electrification</u> for
    - Electrification of heating and cooling systems (2 points)
    - Electrification of hot water (1 point)
  - The draft will award up to <u>3 points for On Site Clean Energy Systems</u>, to include:
    - On-site solar photovoltaics3 (2 points)
    - On-site wind energy (2 points)
    - On-site hydro-electric power (2 points)
    - Solar hot water generation (1 point)
    - Energy storage technology (1 point)

- The draft will award up to 3 points for Reduced Embodied Carbon of Building Materials, including:
  - Concrete: Compliance with low embodied carbon concrete Marin County Code for concrete used on project (2 points)
  - Insulation: Low embodied carbon exterior rigid insultation
  - Wood fiberboard (2 points)
  - Low GWP XPS foamboard4 for below grade (1 point)
  - LEED Materials analysis of embodied carbon impact of structure, insulation, and cladding systems and use of strategies to reduce embodied carbon by 10% in these building components (i.e., reduction of concrete and steel due to building form/design approach or alternative materials specifications) (1 point)
- For Enhanced Accessibility, the draft allows points for if 10% of more Group 2 units in projects that are subject to the 5% requirement
- For Proximity to Transit, the draft notes that DHCD will make up to $10 million in TOD funds from the Transit Oriented Development Program (created by economic development legislation enacted in January 2021) available for the first time in 2022.
  - DHCD anticipates making TOD funding awards of $1 million to $1.5 million per project with a max of $75,000 in TOD funds per affordable unit
  - Up to 6 points will be available for projects that
    - Eligible projects typically must be located within .5 miles of an existing or planned transit node, defined as a subway station, commuter rail station, bus station served by multiple high-frequency bus lines, or a ferry terminal, with safe and direct pedestrian or bicycle access between the proposed project site and the transit node
    - An eligible planned transit node must have an expected completion date on or before the expected occupancy
    - Projects also may be eligible if they are located between .5 and 1 mile of an eligible transit node and have other compelling TOD features, such as parking ratios of less than one space per unit or proximate secondary transit connections such as a public or private bus line
    - At least 25% of the occupants of projects assisted by TOD must have incomes no greater than 60% of AMI
    - Preference will be given to projects located in communities most severely impacted by COVID

- The draft notes that sponsors of age-restricted housing will not be eligible for this TOD funding

Section XII. The Application Process for Credit in 2022-2023

- DHCD has already announced the winter 2022 rental funding competition.
- DHCD anticipates scheduling at least one additional funding competition in 2022. Any additional competitions will be available to highly ready production projects. DHCD will announce details and deadlines for the additional 2022 competitions in spring 2022.
- DHCD anticipates holding two funding competitions in 2023, with details to be provided in future NOFAs.
- If DHCD is considering rolling applications, the draft adds a condition that projects must present a significant potential benefit to an underserved population

Section XIII. Processing Fees; Late Fees; Compliance Monitoring Fees

- The draft removes the requirement for projects that receive funding through the Tax Credit Assistance Program or the Tax Credit Exchange Program to pay an asset management fee in addition to a compliance monitoring fee.

Section XIV. Modification of the Allocation Plan

- No changes

Section XV. Program Policies

- The draft updates Boston's percentage goals for occupancy of the low-income units which reflect the racial and ethnic composition of the city.
- The draft removes language setting a 70% limit on setting any local preference.
- The draft updates the local preference language to include the requirement that any local preference does not have a discriminatory effect on protected classes
- The draft requires sponsors to list units on Housing Navigator when there is a local preference