NIFA™

NEBRASKA INVESTMENT FINANCE AUTHORITY®

LOW-INCOME HOUSING TAX CREDITS

Notice and Record of Public Hearing

Our Mission

Growing Nebraska communities through affordable housing and agribusiness.

*** Proof of Publication ***

State of Nebraska)
Lancaster County) SS.

RECEIVED MAR 2 4 2023

NIFA
SHEILA GANS
1230 O ST STE 200
LINCOLN NE 68508

ORDER NUMBER 1146710

The undersigned, being first duly sworn, deposes and says that she/he is a Clerk of the Lincoln Journal Star, legal newspaper printed, published and having a general circulation in the County of Lancaster and State of Nebraska, and that the attached printed notice was published in said newspaper and that said newspaper is the legal newspaper under the statues of the State of Nebraska.

The above facts are within my personal knowledge and are further verified by my personal inspection of each notice in each of said issues.

Clerk of the Lincoln Journal Star

Signature Vagan Bonner Date 3-21-23

Notice of Public Hearing
Nebraska Investment Finance Authority For the 2024/2025 Housing Credit Allocation Plan
Notice is hereby given that the Nebraska Investment Finance Authority (the Authority) will hold a public hearing with respect to the 2024/2025 Housing Credit Allocation Plan (QAP) on March 31, 2023, at 10:00 a.m. CDT in the NIFA Board Room located at 1230 O Street, Suite 200, Lincoln, NE 68508. Persons requiring an accommodation consistent with the Americans with Disabilities Act with respect to access to the hearing or access to the Information on the Authority's website are asked to contact Sheila Gans at NIFA at (402) 434-3900 at least 48 hours in advance of the hearing. Members of the public may access the meeting by videoconference by using the registration link below:
https://us02web.zoom.us/meeting/register/tZUvd-2srTsvG9fM78elYLXdk4RAFwg8XdP8
The Authority will consider the information obtained at the public hearing and will take appropriate action that it may deem warranted including submission of the transcript of the public hearing to the Governor of the State, the designated elected official who must approve or disapprove the LIHTC Qualified Allocation Plan pursuant to Section 42 of the Internal Revenue Code of 1986.
A draft of the proposed 2024/2025 Housing Credit Allocation Plan is available on the Authority's website at www.nifa.org and at NIFA's office at 1230 O Street, Suite 200. Public comments may be submitted to NIFA in writing any time prior to the hearing to be held on March 31, 2023. Written comments should be addressed to Sara Tichota at NIFA at 1230 O Street, Suite 200, Lincoln, NE 68508-1402. For additional information, call (402) 434-3916.
1146710 3:20 ZNEZ

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Category: 0099 LEGALS
PUBLISHED ON: 03/20/2023

TOTAL AD COST: 51.66
FILED ON: 3/21/2023

Subscribed in my presence and sworn to before me on

March 21, 20 23

L Boone Notary Public

GENERAL NOTARY - State of Nebraska
UVA BOONE
My Comm. Exp. January 31, 2025

Omaha World-Herald

PROOF OF PUBLICATION

AFFIDAVIT

State of Florida, County of Charlotte, ss:

I, Madeline Vostrejs, being of lawful age, being duly sworn upon oath, hereby depose and say that I am agent of Column Software, PBC, duly appointed and authorized agent of the Publisher of Omaha World Herald, a legal daily newspaper printed and published in the county of Douglas and State of Nebraska, and of general circulation in the Counties of Douglas, and Sarpy and State of Nebraska, and that the attached printed notice was published in said newspaper on the dates stated below and that said newspaper is a legal newspaper under the statutes of the State of Nebraska.

PUBLICATION DATES:
19 Mar 2023

NOTICE NAME: Notice of Public Hearing (2024/2025 QAP)

PUBLICATION FEE: $58.10

Madeline Vostrejs
(Signed)______________________

VERIFICATION

State of Florida
County of Charlotte

NOTARY PUBLIC • STATE OF FLORIDA •

RACHAEL MARY SCHULTZ
Notary Public - State of Florida
Commission # HH135673
Expires on May 27, 2025

Subscribed in my presence and sworn to before me on this:

Rachael Mary Schultz
____
Notary Public

Notarized online using audio-video communication

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For the 2024/2025 Housing Credit Allocation Plan

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2023, (3) 19 - Sundays, ZNEZ

Nebraska Investment Finance Authority
2024/2025 Qualified Allocation Plan Public Hearing
Low Income Housing Tax Credit (LIHTC) &
NE Affordable Housing Tax Credit (AHTC) Program
March 31, 2023

Attendees: Kathy Mesner and Chris Lenz, Mesner Development; Connor Menard, Excel Development Group; Carly Davis, Hoppe Development; Teresa Kile, Primesites; Rob Woodling, Foundations Development; Darin Smith, Mindy Crook and Elizabeth Heistand, Arch Icon; Cassandra Stark, Christina Zink and Mechele Grimes, Nebraska Department of Economic Development.

Attendees via Zoom: Thomas Judds; Ryan Tull; Ashley Solt; Nick Zeller; Karen Schmeits; Neeraj Agarwal; Turner Lesnick; Ryan Durant; Ryan Harris; Alisa Wilson; Theresa Reeves; Christina McKasy; Jay Palu; Alicia Christensen; Thom Amdur; Matthew Danner; A G; David Holtzclaw; and Lynn Kohout.

NIFA Staff in Attendance: Sara Tichota, Robin Ambroz, and Pamela Otto.

NIFA Staff in Attendance via Zoom: Joe Spitsen and Kelly Schultze.

Meeting called to order at 10:02 a.m. CT

Summary of Public Comments categorized by topic:

Family Housing:

Darin Smith, Arch Icon

Darin Smith read from his written comments which are attached.

Please see response under written comments.

QCTs/Neighborhood:

Darin Smith, Arch Icon

Darin Smith read from his written comments which are attached.

Please see response under written comments.

<u>Development of Housing in Greater Nebraska:</u>

Darin Smith, Arch Icon

Darin Smith read from his written comments which are attached.

Connor Menard, Excel Development Group

Connor Menard read from his written comments which are attached.

Please see response under written comments.

<u>Mixed-Income:</u>

Carly Davis, Hoppe Development

Carly Davis read from her written comments which are attached.

Please see response under written comments.

<u>NDED Funding:</u>

Carly Davis, Hoppe Development

Carly Davis read from her written comments which are attached.

Rob Woodling, Foundations Development

The NDED funding timelines should be stretched out to match the timeframe of how long it is currently taking to have projects reach release of funds.

Chris Lenz, Mesner Development Co.

Chris Lenz read from his written comments which are attached.

Connor Menard, Excel Development Group

Connor Menard read from his written comments which are attached.

Kathy Mesner, Mesner Development Co.

NDED has become a federal agency basically and this is reflected in the slow turnaround time.

NDED Response: Thank you for your comments. The Department of Economic Development has taken your comments into consideration

and has revised the milestone dates for the 2024 and 2025 NIFA/NDED Joint Application as follows:

2024: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2022 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2021 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2024 NIFA/NDED Joint Application (HOME/HTF Program Year 2023).

2025: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2023 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2022 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2025 NIFA/NDED Joint Application (HOME/HTF Program Year 2024).

To be eligible for CDBG-DR funds in the 2024-25 NIFA/NDED Joint Application, Applicants (and any member of the project team, including developers, consultants, non-profits or housing agencies) that were approved for CDBG-DR funding under either (1) the Affordable Housing Construction Program or (2) received a NOIA for a NIFA/NDED Joint Application (HOME/HTF Program Year 2021 or prior) must have achieved HUD Environmental Clearance or greater. In general, this milestone aligns with the Funding Agreement stage. See order of milestones (i.e., stages) for an awarded project below:

1. **DED issues Notice of Preliminary Award/Notice of Intent to Award (NOIA) letter**
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4. **DED issues Funding Agreement and related legal documents to developer**
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6. **Ongoing Affordability Period Compliance and Monitoring**
7. **CDBG-DR Closeout**

For example: ABC Housing Developers successfully applied for CDBG-DR funding in the 2022 Joint Application round for the development of ABC

Place, LCC. NDED issued ABC Place, LLC a NOIA for that 2022/2023 LIHTC project. The ABC Place project team also includes ABC Housing Developers, ABC Consulting, and Anytown Housing Authority. Because they were on the project team for ABC Place, to be eligible for funding in 2024/25 for their XYZ Square project, ABC Housing Authority would need to have achieved HUD environmental clearance on ABC Place before DED would issue an NOIA for a 2024/2025 DED/LIHTC project. Similarly, if ABC Housing Developer successfully applied for a DED-funded project and received a NOIA for a Program Year 2021 or prior, ABC Housing Developer (or any member of the project team, including ABC Housing Developers, ABC Consulting, ABC non-profits or ABC Housing Authority) would need to have achieved HUD environmental clearance on that project before DED would issue an NOIA for a 2024/2025 DED/LIHTC project.

CDBG-DR Funding:

Rob Woodling, Foundations Development

The link in the application for CDBG-DR funding, does not state how much funding is available.

NDED Response: As the needs of the housing program change (e.g., a funding program becomes over- or under- subscribed), as grantee, DED is responsible for amending the underlying Action Plan to use the CDBG-DR funds most effectively. Amendments may include updates to the unmet needs assessment (UNA), the program sections, or reallocation of funding. The process required for completing such an amendment varies based on the specific scope of changes. In particular, and as defined in the Action Plan, substantial amendments will utilize the process for public participation. As with the initial Action Plan, all amendments are subject to HUD review and approval. The most up-to-date version of the Action Plan as amended, is made available on DED's CDBG-DR public website.

Design Standards:

Carly Davis, Hoppe Development

Carly Davis read from her written comments which are attached.

Please see response under written comments.

Bond Cap Maximum for LIHTC:

Carly Davis, Hoppe Development

Carly Davis read from her written comments which are attached.

Please see response under written comments.

Site Control:

Carly Davis, Hoppe Development

Carly Davis read from her written comments which are attached.

Please see response under written comments.

Efficient Housing Production:

Carly Davis, Hoppe Development

Carly Davis read from her written comments which are attached.

Please see response under written comments.

Chris Lenz, Mesner Development Co.

Chris Lenz read from his written comments which are attached.

Please see response under written comments.

Teresa Kile, Primesites

Understands that NIFA needs to be good stewards with the tax credits; however, the efficient housing measures make it difficult for developers with innovative ideas to score in this section, as the costs are higher.

Modifications to the Efficient Housing Production points in the 2022/2023 QAP reduced the weight of the efficiency points. NIFA will continue to evaluate these criteria. No change is proposed at this time.

<u>Supportive Services:</u>
Carly Davis, Hoppe Development
Carly Davis read from her written comments which are attached.

Please see response under written comments.

<u>Difficult to Develop Area:</u>
Carly Davis, Hoppe Development
Carly Davis read from her written comments which are attached.

Please see response under written comments.

<u>Bond Issuance Fee:</u>
Carly Davis, Hoppe Development
Carly Davis read from her written comments which are attached.

Please see response under written comments.

<u>Collaboration and Leverage:</u>
Rob Woodling, Foundations Development
Donated land leases should be considered as an eligible source.

NIFA will continue to evaluate this criterion.

<u>Natural Disaster:</u>
Rob Woodling, Foundations Development
The application states the natural disasters happened three years ago; however, they were four years ago. Does this section need to be rewritten?

NDED Response: In response to the historic disaster event and subsequent CDBG-DR allocation to support the state's long-term recovery process, language in the 22/23 QAP was adjusted to

specifically list DR-4420. The federal government makes available CDBG-DR funding to assist in the long-term recovery process. Following the historic winter storm and flooding of 2019, the State received an allocation of CDBG-DR to assist in closing the gap on the unmet needs specific to that disaster. CDBG-DR funding is determined by formula allocation at the federal level. In their allocation of this funding, HUD incorporates identification of a most-impacted and -distressed (MID) area. As the CDBG-DR grantee, NDED is held to the underlying federal requirements of that funding, which includes a current benchmark of 80% of the total allocation being invested in the HUD-defined MID area, for DR-4420, this includes Dodge, Douglas, and Sarpy Counties.

Until the available program funds are depleted, the State of Nebraska must use the funds allocated in a strategic manner, utilizing the funding in the most-impacted, vulnerable areas while addressing a wide range of projects and needs throughout the impacted areas. The point structure will remain the same for counties included in the CDBG-DR HUD Grant for Winter Storm Ulmer (DR-4420). The counties of Dodge, Douglas and Sarpy may receive two (2) points for Natural Disaster designation. Similarly, communities that saw significant housing loss can receive three (3) Natural Disaster designation points. Those communities include Fremont, Gretna, Inglewood, La Vista, Papillion, Waterloo, Valley, Springfield and Bellevue.

Threshold/Full Application Requirements and Dates:

Chris Lenz, Mesner Development Co.

Chris Lenz read from his written comments which are attached.

Please see response under written comments.

Kathy Mesner, Mesner Development Co.

Not allowing applicants to make changes to the application after the full application deadline will hinder the project. Before, applicants could change their applications between threshold and full application, which allowed for changes to be more efficient with the development. This will be very difficult, especially if the NDED wording does not change, as developers need to know now if they can apply for NDED funding.

NIFA is proposing to change the 2024 9% Full Application deadline from July 19, 2023, to August 1, 2023.

Resyndication:

Connor Menard, Excel Development Group

Connor Menard read from his written comments which are attached.

Please see response under written comments.

Appraisal Requirement:

Kathy Mesner, Mesner Development Co.

Requiring an appraisal is a bad idea, not only is it costly to have an appraisal completed, but what will happen when the sale price is higher than the appraisal value due to lot preparation work that was not considered in the appraisal. Also, the appraisal would be a year out from when any work would begin, so the appraisal would not be accurate.

NIFA will take your comment under advisement. Clarifying language has been added.

Positive Comments:

Kathy Mesner, Mesner Development Co.

Using total development costs is more transparent.

Carly Davis, Hoppe Development

- The threshold deficiency correction process will continue to help good projects from being thrown out on a technicality.
- We are excited about the opportunity to apply for NDED funding on 4% applications and believe this could be a powerful catalyst for limited gap funding to enable more projects to be submitted and awarded.
- We appreciate the opportunity to examine resyndication using straight 4%, no AHTC.

Connor Menard, Excel Development Group

We appreciate NIFA updating how rehabs are scored in the efficient housing production section. We know it wasn't NIFA's intent to essentially eliminate rehab projects by having them score 0's in the efficiency point categories by comparing them to previous years and having no weighted factor with the increase in construction pricing and interest rates form year to year. We hope this update will better reflect the cost efficiencies of each rehab project.

Meeting Adjourned at 10:39 a.m.

<u>Written Comments received</u> – See attached correspondence from:

- **Carly Davis, Hoppe Development**
- **Chris Lenz, Mesner Development Co.**
- **Brent Williams and Connor Menard, Excel Development Group**
- **Darin Smith, Arch Icon**
- **Rob Woodling, Foundations Development**
- **Ryan Durant, RMD Group LLC**
- **Thom Amdur, Lincoln Avenue Capital**

Carly Davis – Hoppe Development

<u>Positive Comments:</u>

- o The threshold deficiency correction process will continue to help good projects from being thrown out on a technicality.
- o We are excited about the opportunity to apply for NDED funding on 4% applications and believe this could be a powerful catalyst for limited gap funding to enable more projects to be submitted and awarded.
- o We appreciate the opportunity to examine resyndication using straight 4%, no AHTC.

<u>Mixed Income:</u> Points are given for incorporating market rate units within a project. We'd like to see points awarded for 100% LIHTC projects incorporated into a larger mixed-income neighborhood. This would still support NIFA's goal of incentivizing mixed-income developments.

NIFA will continue to evaluate this criterion. No change is proposed at this time.

<u>NDED Funding:</u> To request HOME/HTF funds on new applications, release of funds on 2023 awarded projects is now required. I am concerned about the timing between the 2024 9% awards and 2025 9% applications. Will DED have any policies in place to ensure timely delivery of contract and review and approval of special condition items required to achieve release of funds?

NDED Response: Thank you for your comments. The Department of Economic Development has taken your comments into consideration and has revised the milestone dates for the 2024 and 2025 NIFA/NDED Joint Application as follows:

2024: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2022 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2021 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2024 NIFA/NDED Joint Application (HOME/HTF Program Year 2023).

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milestone aligns with the Funding Agreement stage. See order of milestones (i.e., stages) for an awarded project below:

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Design Standards: Design standards awards a point for “Solid Brick/Stone”. We think it would make sense to include other equally durable and attractive, but more affordable materials (for example Hardie Plank siding).

NIFA will continue to evaluate these criteria. No change is proposed at this time.

Bond Cap Limit for LIHTC: The bond cap limit for LIHTC-only needs aligned between application and QAP (in application says $24 million, align with the application says $22 million).

NIFA is proposing a max project bond cap limit of $26M per project for the 4% LIHTC/Bond only (no AHTC). The proposed limit has been updated in both documents.

Clarification Items:

- Site Control now requires an appraisal if Seller is an interested party. Can "interested party" be defined? What happens if the sale price deviates from the appraised value?

An interested party refers to a person or organization that can affect, be affected by, or perceive itself to be affected by the overall project development. This also refers to a person or organization that has a vested interest in the development. Clarifying language has been added.

- Efficient Housing Production – could we clarify that these are total development cost per LIHTC unit, or per unit? Same with LIHTC residential square footage? We know what practice has been, but the language is ambiguous.

The calculation process will remain the same; however, eligible basis will no longer be used and Total Development Cost (TDC) (excluding land, reserves, and NIFA fees) will be utilized for the TDC per unit and TDC per residential square footage calculations.

- Supportive Services: I'd like clarification on how the addition of a free, referral website as a supportive service works with the requirement that "All services must be paid by the owner."

Clarifying language has been added.

- We want to confirm that is pursuing points for a Difficult to Develop Area, you do not also need to align with a CCRP.

Clarifying language has been added. To receive two (2) points in the QCT/DDA section of the application the applicant must provide the required CCRP documentation as outlined in the application.

- Does the bond issuance fee include the issuing attorney fees, or are those extra?

Fees paid to NIFA as a bond issuance fee <u>does not</u> include fees to be charged by counsel retained by NIFA as "issuer's counsel" or fees to be paid to bond counsel. Such fees are payable by the developer and are in addition to the NIFA bond issuance fee. If the same law firm is retained to be both NIFA's issuer counsel and bond counsel, a single fee to cover both roles may be quoted.

Chris Lenz – Mesner Development Co.

<u>NDED Funding:</u> Closing with NDED is now taking at least nine months. It is our recommendation that the 2024 application year should reference the 2022 NIFA/NDED funding round and the 2025 application should reference the 2023 NIFA/NDED funding round. If this is not changed then we are requesting NIFA add a point category of two or three points for projects that do not request any funding at all from NDED.

NDED Response: Thank you for your comments. The Department of Economic Development has taken your comments into consideration and has revised the milestone dates for the 2024 and 2025 NIFA/NDED Joint Application as follows:

2024: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2022 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2021 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2024 NIFA/NDED Joint Application (HOME/HTF Program Year 2023).

2025: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2023 and prior NIFA/NDED Joint

Application (HOME/HTF Program Year 2022 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2025 NIFA/NDED Joint Application (HOME/HTF Program Year 2024).

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Threshold/Full Application Requirements and Dates: It is my understanding that once an application is submitted on July 19th for Full Review financial and material changes to the project are not allowed. Developers must now need to know if their projects are eligible to apply for NDED Gap financing well in advance of this date, like today. If ROF is received after July 19th the applicant cannot apply for NDED funding between the Threshold Deficiency feedback date and the Deficiency Correction Date of September 15th. The changes proposed by NDED will have projects requesting more tax credits than we have seen in the past.

NIFA is proposing to change the 2024 9% Full Application deadline from July 19, 2023, to August 1, 2023.

Efficient Housing Production: The changes made are going to have several unintended consequences. There are two possible scenarios that developers will use to circumvent this new formula of using total development costs. 1 – Land costs are going to be artificially inflated due to developers moving infrastructure work or other costs to the purchase price of the land and having a deal with the seller to reimburse them for those costs later. Reserves will be overfunded. 2 – total development costs will be reduced as a whole to achieve more points.

Clarifying language has been added. NIFA will require, as part of the Site Control requirements, a signed and dated certification stating all terms and conditions of the sale are included in the agreement and no other agreements between the parties exist. Appraisals are required for all applicants with an interested party. NIFA will only accept the investor/lender stipulated reserve amounts.

Brent Williams and Connor Menard – Excel Development Group

Positive Comment:

We appreciate NIFA updating how rehabs are scored in the efficient housing production section. We know it wasn't NIFA's intent to essentially eliminate rehab projects by having them score 0's in the efficiency point categories by comparing them to previous years and having no weighted factor with the increase in construction pricing and interest rates form year to year. We hope this update will better reflect the cost efficiencies of each rehab project.

Development of Housing in Greater Nebraska: By adding “new units” to this category, it would push developers to focus of new construction of housing, as opposed to rehabilitating housing, which many smaller communities need.

NIFA will continue to evaluate this criterion. No change is proposed at this time.

Resyndication timing in 4% App: We agree on going back to the 15-year requirement; however, we would like to see this done in the 9% application as well.

NIFA will continue to evaluate this criterion. No change is proposed at this time.

NDED Funding: When does release of funds need to be met: at full application, deficiency correction stage, or award date? Due to the timing of the rounds, anyone awarded HOME/HTF in the 2024 rounds would only have six months to get to release of funds to be eligible to apply for the 2025 year.

NDED Response: Thank you for your comments. The Department of Economic Development has taken your comments into consideration and has revised the milestone dates for the 2024 and 2025 NIFA/NDED Joint Application as follows:

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2025: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2023 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2022 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2025 NIFA/NDED Joint Application (HOME/HTF Program Year 2024).

To be eligible for CDBG-DR funds in the 2024-25 NIFA/NDED Joint Application, Applicants (and any member of the project team, including developers, consultants, non-profits or housing agencies) that were approved for CDBG-DR funding under either (1) the Affordable Housing Construction Program or (2) received a NOIA for a NIFA/NDED Joint Application (HOME/HTF Program Year 2021 or prior) must have achieved HUD Environmental Clearance or greater. In general, this milestone aligns with the Funding Agreement stage. See order of milestones (i.e., stages) for an awarded project below:

1. **DED issues Notice of Preliminary Award/Notice of Intent to Award (NOIA) letter**
2. **Underwriting and Compliance Reviews**
3. **HUD Environmental Clearance**
4. **DED issues Funding Agreement and related legal documents to developer**
5. **Construction and Lease-Up/Stabilization**
6. **Ongoing Affordability Period Compliance and Monitoring**
7. **CDBG-DR Closeout**

For example: ABC Housing Developers successfully applied for CDBG-DR funding in the 2022 Joint Application round for the development of ABC Place, LCC. NDED issued ABC Place, LLC a NOIA for that 2022/2023 LIHTC project. The ABC Place project team also includes ABC Housing Developers, ABC Consulting, and Anytown Housing Authority. Because they were on the project team for ABC Place, to be eligible for funding in 2024/25 for their XYZ Square project, ABC Housing Authority would need to have achieved HUD environmental clearance on ABC Place before DED would issue an NOIA for a 2024/2025 DED/LIHTC project. Similarly, if ABC Housing Developer successfully applied for a DED-funded project and received a NOIA for a Program Year 2021 or prior, ABC Housing Developer (or any member of the project team, including ABC Housing Developers, ABC Consulting, ABC non-profits or ABC

Housing Authority) would need to have achieved HUD environmental clearance on that project before DED would issue an NOIA for a 2024/2025 DED/LIHTC project.

Additional Tax Credit Requests: The requirement of not allowing a developer fee to be increased and the deferred developer fee not to be decreased, seem to be an unnecessary restriction on developers.

NIFA will continue to evaluate these criteria. No change is proposed at this time.

Developer/Owner Financial Support: Many other states do not require this; however, it is essentially required as developers cannot leave two points on the table. The developers/owners are making the guarantees on the project and if any major shortfalls happen, it is up to the developer/owner to pay for it. Nebraska essentially has a 25% tax to developments in the state, which make it harder for developers/owners to provide high-quality, clean, safe affordable housing, when they have to take out 25% of their business.

NIFA will continue to evaluate this criterion. No change is proposed at this time.

Darin Smith – Arch Icon

Family Developments: The family development category requires 10% of units with four-bedroom or larger (1,500 SF). The average size of a house is 1,500 square feet. Requiring a four-bedroom apartment to be 1,500 is not an efficient use of LIHTC. We recommend 1,200 square feet for a four-bedroom apartment. Also, requiring 1,600 square feet for a five-bedroom apartment is not efficient use of LIHTC.

NIFA is reducing the required square footage of 4-bedrooms units or larger from 1,500 square feet to 1,200 square feet and a five-bedroom from 1,600 square feet to 1,500 square feet.

QCTs/Neighborhood: NIFA gives two points to QCTs and one point to Choice Neighborhoods which, in Omaha for example, are largely in QCTs.

Almost all ARPA related funding for housing is being driven into QCTs and Choice Neighborhoods especially in North and South Omaha. If the use of diversitydatakids.org is no longer used as a balance, what mechanism does NIFA intend to use to maintain balance and avoid continual over-concentration of LIHTC?

NIFA has not proposed any scoring changes in the QCT/DDA or Metro Only Areas of High Opportunity sections of the application.

Development of Housing in Greater Nebraska: If a developer does not score these points, they are much less apt to get an allocation. This section does not necessarily "incentivize" new developers into the rural market as they would not get the points we're assuming until they've received an 8609 for a qualifying development (if they actually received an allocation). How does a developer break into this scoring category. If NIFA chooses to continue with these points as proposed, NIFA may want or need to consider an open projects limitation.

NIFA will continue to evaluate this criterion. No change is proposed at this time.

Rob Woodling – Foundations Development

Track Record of Applicant and/or Owner: Consultants should be added to this section.

NIFA will continue to evaluate this criterion. No change is proposed at this time.

Ryan Durant – RMD Group LLC

NDED Funding: There needs to be more time given because deals are taking longer to close and especially with NDED funds. Also, penalizing a consultant for a developer not getting their project closed in a timely manner does not make sense, as the consultant does not have control over the project.

NDED Response: Thank you for your comments. The Department of Economic Development has taken your comments into consideration and has revised the milestone dates for the 2024 and 2025 NIFA/NDED Joint Application as follows:

2024: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2022 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2021 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2024 NIFA/NDED Joint Application (HOME/HTF Program Year 2023).

2025: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2023 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2022 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2025 NIFA/NDED Joint Application (HOME/HTF Program Year 2024).

To be eligible for CDBG-DR funds in the 2024-25 NIFA/NDED Joint Application, Applicants (and any member of the project team, including developers, consultants, non-profits or housing agencies) that were approved for CDBG-DR funding under either (1) the Affordable Housing Construction Program or (2) received a NOIA for a NIFA/NDED Joint Application (HOME/HTF Program Year 2021 or prior) must have achieved HUD Environmental Clearance or greater. In general, this milestone aligns with the Funding Agreement stage. See order of milestones (i.e., stages) for an awarded project below:

1. **DED issues Notice of Preliminary Award/Notice of Intent to Award (NOIA) letter**
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For example: ABC Housing Developers successfully applied for CDBG-DR funding in the 2022 Joint Application round for the development of ABC Place, LCC. NDED issued ABC Place, LLC a NOIA for that 2022/2023 LIHTC project. The ABC Place project team also includes ABC Housing Developers, ABC Consulting, and Anytown Housing Authority. Because they were on the project team for ABC Place, to be eligible for funding in 2024/25 for their XYZ Square project, ABC Housing Authority would need to have achieved HUD environmental clearance on ABC Place before DED would issue an NOIA for a 2024/2025 DED/LIHTC project. Similarly, if ABC Housing Developer successfully applied for a DED-funded project and received a NOIA for a Program Year 2021 or prior, ABC Housing Developer (or any member of the project team, including ABC Housing Developers, ABC Consulting, ABC non-profits or ABC Housing Authority) would need to have achieved HUD environmental clearance on that project before DED would issue an NOIA for a 2024/2025 DED/LIHTC project.

QCT/Choice Neighborhood: There is only one development group that can benefit from this point, so I believe it needs to be removed as it gives them an advantage that no other developer can get. If this point continues it encourages concentration of LIHTC in just certain small neighborhood pockets.

NIFA has not proposed any scoring changes in the QCT/DDA section of the application. The point you are referencing is not limited to Choice Neighborhood participants. It is available for neighborhoods with a redevelopment plan or evidence of a HUD Choice Neighborhood.

Metro Applications: Encourage language around transit-oriented development incentive for Metro projects.

NIFA will take your comment under advisement. NIFA expects to develop, with partners, criteria for Areas of High Opportunity for the 2026/2027 QAP. Language regarding access to public transportation will be considered.

Thom Amdur – Lincoln Avenue Capital

Private Activity Bond Volume Cap: One of the biggest barriers for the State of Nebraska is the small amount of PABs available for multifamily affordable housing development. Urge NIFA to advocate that the Governor increase the allocation available to NIFA for multifamily development.

NIFA will take your comment under advisement.

Urge NIFA to reconsider its $18 million and $22 million per development limits for projects financed with and without State AHTCs, respectively.

NIFA is proposing a max project bond cap limit of $26M per project for the 4% LIHTC/Bond only (no AHTC).

Private Activity Bond Volume Carry-Forward: Urge NIFA to update its carry-forward policy so that MF allocation carries-forward for multifamily utilization in the following year.

NIFA will take your comment under advisement.

Additional Private Activity Volume Cap Request: We appreciate the addition of NIFA willing to consider requests for additional PAB Cap of up to 10%. It is not clear if this can be requested at the time initial application, could this be clarified?

Clarifying language has been added.

4% LIHTC Developer Fee Policy: The maximum developer fee a 4% LIHTC development could include in eligible basis in Nebraska is approximately 10%. This effective developer fee cap is very low, and we believe is a primary reason that there are very few multifamily tax-exempt bond 4% LIHTC transactions in the state. We suggest amending the current maximum allowable fee methodology to allow for the typical 2-6-6 (contractor overhead, profit, general conditions) plus a maximum combined developer fee/developer overhead of 20-25% (of which everything above 15% must be deferred).

NIFA will take your comment under advisement.

HOPPE

DEVELOPMENT

March 30, 2023

Nebraska Investment Finance Authority
c/o Sara Tichota
1230 O Street, Suite 200
Lincoln, NE 68508

RE: 2024/2025 QUALIFIED ALLOCATION PLAN COMMENTS & FEEDBACK

Thank you for the opportunity to provide feedback on the 2024/2025 draft QAPs and applications.

First, there are several changes that we agree will strengthen the affordable housing program and simplify the application process:

- The threshold deficiency correction process will continue to help good projects from being thrown out on a technicality.
- We are excited about the opportunity to apply for DED funding on 4% applications and believe this could be a powerful catalyst for limited gap funding to enable more projects to be submitted and awarded.
- We appreciate the opportunity to examine resyndication using straight 4%, no AHTC.

We have a few areas of concern:

- Points are given for incorporating market rate units within a project. We'd like to see points awarded for 100% LIHTC projects incorporated into a larger mixed-income neighborhood. This would still support NIFA's goal of incentivizing mixed-income developments.
- To request HOME/HTF funds on new applications, release of funds on 2023 awarded projects is now required. I am concerned about this timing between the 2024 9% awards and 2025 9% applications. Will DED have any policies in place to ensure timely delivery of contract and review and approval of special condition items required to achieve release of funds? We currently have a project that is unable to receive release of funds until we determine NIFA's gap financing and get new coordinating commitments from other funding sources. Achieving release of funds is not entirely within the developers' control.
- Design standards awards a point for "Solid Brick/Stone". We think it would make sense to include other equally durable and attractive, but more affordable materials (for example Hardie Plank siding).

- The bond cap limit for LIHTC-only needs aligned between application and QAP (in application says $24M, while the application says $22M).

We'd also like additional clarification on several items:

- Site Control now requires an appraisal if Seller is an interested party. Can "interested party" be defined? What happens if the sale price deviates from the appraised value?
- Efficient Housing Production - could we clarify that these are total development costs per LIHTC unit, or per unit? Same with LIHTC residential square footage? We know what practice has been, but the language is ambiguous.
- Supportive Services: I'd like clarification on how the addition of a free, referral website as a supportive service works with the requirement that "All services must be paid by the owner."
- We want to confirm that if pursuing points for a Difficult to Develop Area, you do not also need to align with a CCRP.
- Please clarify: does the bond issuance fee include the issuing attorney fees, or are these extra?

Thank you for your consideration.

Sincerely,

HOPPE DEVELOPMENT

MESNER DEVELOPMENT CO.

Clifford F. Mesner
Kathryn L. Mesner

1415 16th Street, Suite 200 – P O Box 335
Central City, Nebraska 68826
P: (308) 946-3826 – F: (308) 946-3827

cliff@mesnerlaw.com
kathy@mesnerlaw.com
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March 30, 2023

NIFA 2024/2025 Qualified Action Plan
Public Hearing Comments

Application Page 4

3. 2024: Applicants and any member of the project team, including developers, consultants, non-profits, or housing agencies that were approved for projects from the **2023 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2022 and prior)** must be at release of funds stage or greater to apply for HOME/HTF funds in the 2024 NIFA/NDED Joint Application (HOME/HTF Program Year 2023).

2025: Applicants and any member of the project team, including developers, consultants, non-profits, or housing agencies that were approved for projects from the **2024 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2023 and prior)** must be at release of funds stage or greater to apply for HOME/HTF funds in the 2025 NIFA/NDED Joint Application (HOME/HTF Program Year 2024).

CDBG-DR: Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for DED or **DED/NIFA Joint Application projects from 2022, or prior**, must be at ***award agreement stage or greater*** to apply for CDBG-DR funds in the 2024-25 NIFA/NDED Joint Application. (NEED DEFINITION)

2022 Application date was 3/16/2022 and the Award date was 6/17/2022.

2023 Application Date was 7/20/2022 and the Award date was 10/21/2022.

In the 2022 funding round, Mesner Development Company received four awards with the following GAP Financing provided by DED:

- One without any DED funds
- One with Nebraska Affordable Housing Trust Funds administered by DED
- One with HOME funds administered by DED
- One with disaster relief funds administered by DED

As of today, March 31, 2023, the project with no GAP financing from DED closed in November 2022 (5 months after award); The project with Trust Funds received ROF on January 24, 2023 (7 months from award); The project with HOME funds received ROF this Monday, March 27th, 2023 (9 months from award), The project with CDBG-DR has not yet received ROF. No contracts have been signed and no projects have closed on debt or equity.

Regarding the 2023 funding round, as of today, of the three 2023 projects Mesner Development received a LIHTC award, two have HOME funds and one has CDBG-DR funds. None of these projects have received ROF and according to the revised joint NIFA-DED application, we cannot apply for any DED HOME/HTF funds for the 2024 round if we have not secured ROF by July 19, 2023, for projects awarded on October 21, 2022.

Though I agree with the premise that projects should be at ROF from a previous year for a developer to apply for the next round, it appears to me that the timing for this change is impossible to achieve for both DED staff and developers. DED needs to remember that two full years of funding were awarded in 2022 and now we are expected to receive ROF by July 19th for projects just awarded in October. Given the current state of program management and the unprecedented length of time it is now taking to achieve ROF these potential changes are not feasible for DED to achieve and allow developers to access GAP funding in future rounds.

The requirements for a developer to close with DED have not fundamentally changed in the 20+ years I have been working with this funding source. What has changed is the length of time that elapses from award to receiving ROF. The rule of thumb started out originally at 4 months and in the last five years has increased to six months. Today we are waiting at a minimum of nine months to close and receive ROF. Developers and our partners should not have to wait nine months or more to close with DED. NIFA changed the timing of its LIHTC rounds to help us secure contractors so we can begin construction in early spring. We are now at the first of April and the only dirt we have moved is on a project without DED GAP funding.

It is our recommendation that the 2024 application year should reference the 2022 NIFA/DED funding round and the 2025 application should reference the 2023 NIFA/DED funding round. If this is not changed then we are requesting that NIFA add a point category of two or three points for projects that do not request any funding at all from DED. Surrounding states that I have worked in are funding most, if not all their LIHTC projects without any state or federal HUD GAP financing.

Threshold/Full Application Requirements and Dates

With the change from Threshold Application submission to Full Application on July 19th the changes in the DED section of the joint application further emphasize the need to question prohibiting the access of DED funds if projects from the prior two years are not at ROF. It is my understanding that once an application is submitted on July 19th for Full Review financial and material changes to the project are not allowed. Developers must now need to know if their projects are eligible to apply for DED GAP financing well in advance of this date, like today. If ROF is received after July 19th the applicant cannot apply for DED funding between the Threshold Deficiency Feedback date and the Deficiency Correction Date of September 15th.

The changes proposed by DED will obviously limit the number of applications NIFA will receive that need GAP funding to be feasible. The result will be that most tax credit applications will be submitted without DED funding and will then need to apply for more tax credits than we have seen in the past.

Application: Efficient Housing Production Page 52

Efficiency Calculations are now being proposed to use Total Development Cost (excluding land, reserves, and NIFA fees) instead of Eligible Basis.

I firmly believe this change is going to have several unintended consequences. It has always been mentioned that Nebraska is one of the only states that is concerned about an efficient use of tax credits.

I applaud NIFA's effort to be good stewards of the credits we receive in the most transparent ways possible. The current efficiency calculations utilizing Eligible Basis allow everyone to see the financial structure of a project specifically through the submission of NIFA Exhibit 111. We all need to understand the difference between A: total project costs, B: eligible basis, and C: amortized costs. The formula is A=B+C. Some project costs are eligible to receive tax credits, some are not. The project costs that are not eligible for tax credits are paid for by amortized debt and/or equity and GAP financing. Having a developer reduce eligible basis costs to ask for less credits is not the same as hiding or totally removing the cost from the budget just to get funded. If that cost is reduced or eliminated from eligible basis, it still must be covered by other financial resources.

I see two possible scenarios that developers will use to circumvent this new formula of using total project costs. One, land costs are going to be artificially inflated due to developers moving infrastructure work or other costs to the purchase price of the land and having a deal with the seller to reimburse them for those costs later with additional debt post award. Reserves, especially rent up reserves, are going to be overfunded to move project costs into that account. Though both examples are not illegal per se, they are just a few of the ways to easily reduce total project costs for better efficiency points.

The second scenario, which I hope our syndicators and banks in the room have or will address, is that total development costs will be reduced as a whole to achieve more points. This is a more realistic outcome that I anticipate happening. I'm going to reduce my construction costs low enough to score well in all three categories. The problem with this scenario is that the true construction costs still exist and will have to be addressed after award either through additional debt, higher equity pricing or requesting additional credits. Basically NIFA, syndicators and banks will not be receiving true project costs at application underwriting.

If we leave the efficiency calculations as they are now, we at least see a true picture of what the total development costs are, what the proposed eligible basis is and what costs are contributing to debt and other funding sources. The current formula is a win for NIFA since it allows a project to ask for less credits and absorb those costs into debt and other non-NIFA funding sources and equity.

Thank you for the opportunity to share our comments with you today.

Christopher F. Lenz
Mesner Development Co.

EXCEL DEVELOPMENT GROUP
DEVELOPMENT · MANAGEMENT · CONSULTING

03/30/2023

Nebraska Investment Finance Authority
1230 O Street, Suite 200
Lincoln, NE 68508-1402

RE: NIFA 2024/2025 Draft QAP Comments

Dear NIFA:

Overall, we believe NIFA has a good Draft 2024/2025 QAP. Like last years QAP It does a good job balancing location points, cost efficiency points, leverage points, etc. We think there's some other states that skew way too much to location points or way too much to cost efficiency points. We commend NIFA for doing a good job balancing all the categories and their points. With that, we do have a few comments/suggestions to improve the Draft 2024/2025 QAP.

QAP Change: "*If there are not at least four applications proposing rehabilitation developments, the measurements from the previous year(s) shall be used with an increase applied (if applicable) based on the average new construction change in costs from the previous year.*"

First off, we appreciate NIFA updating how rehabs are scored. We know it wasn't NIFA's intent to essentially eliminate rehab projects by having them score 0's in the efficiency point categories by comparing them to previous years and having no weighted factor with the increase in construction pricing and interest rates from year to year. We hope this update will better reflect the cost efficiencies of each rehab project.

QAP Change: *"Within the last twenty-four (24) months, the Applicant/Developer has materially participated in the development of* ***new units*** *of owner-occupied housing or rental housing."*

Is it NIFA's intent for developers to only develop new construction in rural areas and not do rehab projects in rural areas? That's what this change pushes developers to do. Talking with rural communities, they're desperate for any kind of housing whether it be new construction or rehab of older housing units. This would unnecessarily hurt the town who doesn't need 10 new homes but could use 8 homes being rehabbed and 2 new homes. It hurts the smaller communities to which these points are for. As hard as it is to make smaller projects work, we would advice not to add any new unnecessary restrictions that would make it harder to develop housing in our rural communities.

QAP Change (4% App): "*Developments that have received an allocation of LIHTC in a previous year are not eligible to apply for an allocation of LIHTC (either 9% or 4%) for that development until ~~20~~* ***15 years*** *after the date the last building was placed in service."*

We agree on going back to the 15 year requirement for resyndication and we recommend making the same change to the 9% application as the current change is only on the 4% application. Why the difference between the applications for this update? Housing is housing and this should be the same time period for the 4% and 9% application.

<u>QAP Change:</u> *"Applicants and any member of the project team, including developers, consultants, non-profits or housing agencies that were approved for projects from the 2024 and prior NIFA/NDED Joint Application (HOME/HTF Program Year 2023 and prior) must be at release of funds stage or greater to apply for HOME/HTF funds in the 2025 NIFA/NDED Joint Application (HOME/HTF Program Year 2024)."*

Release of funds needs to be met at what stage of the application: at full app, deficiency correction stage, or award date? If awarded HOME/HTF in the 2024 rounds at the end of October 2023. If you need a release funds by full app submission of the next round (May 9, 2024). That means you only have 6 months to get to release of funds to be eligible for the 2025 year. We would suggest NDED/NIFA to looking into possibly pushing this requirement back to the prior program year.

QAP: *"Additional Tax Credit Requests: The developer fee shall not be higher than the original amount from the final application submittal. The deferred developer fee shall not be less than the original amount reflected in application submittal."*

These seem to be unnecessary restriction on developers. Developers can't lower their deferred developer fee or increase their developer fee after award for whatever reason. But syndicators can adjust their credit pricing after award, banks can adjust their construction and perm rates after award, and State Agencies can award developers less tax credits than they asked for. These items are an unnecessary burden to developers and we would recommend them being allowed with NIFA's approval as there are certain circumstances where they're needed.

QAP: *"DEVELOPER / OWNER FINANCIAL SUPPORT: Aggregate of deferred fees and/or capital contribution or personal loan is 25% or more of the total of the developer fee and overhead."*

Many other states don't require this, (essentially required as you can't leave 2 points on the table). Developers/Owners have arguably the most skin in the game. The developers/owners are making the guarantees on the project and if any major shortfalls happen in the project it's up to developers/owners to pay for it. Nebraska essentially has a 25% tax to developments in the state. No other state that Excel develops in requires this. It makes it harder for developers/owners to provide high-quality, clean, safe affordable housing when they have to take out 25% of their business.

Sincerely,

Brent Williams

Brent Williams
President
402-219-3943
brent@exceldg.com

Connor Menard

Connor Menard
Development Director
402-219-3943
connor@exceldg.com

Arch Icon NIFA 2024-25 QAP / Application Comments

Family Developments

10% 4-Bed or larger (1,500 SF) – 1,500 sf is the average size of a house. A 1,500 sf apartment is too large and not an efficient use of LIHTC. We recommend 1,200 sf for a 4 bedroom apartment.

5 bedrooms for apartments (1,600 SF) is not an efficient use of LIHTC.

QCTs / Neighborhood

NIFA gives 2 points to QCTs and 1 point to Choice Neighborhoods which, in Omaha for example, are largely in QCTs. Almost all ARPA related funding for housing is being driven into QCTs and Choice Neighborhoods especially in North and South Omaha. All of this leads to more concentration of affordable housing.

If the use of diversitydatakids.org is no longer used as a balance, what mechanism does NIFA intend to use to maintain balance and avoid continual over-concentration of LIHTC?

Development of Housing in Greater NE

What is the purpose or rationale for offering the 2 points for development in Greater Nebraska? In the new QAP it's under the heading "Incentivize Development Across Rural Nebraska".

1. Metro vs. Non-Metro Scoring - Developers who qualify get those points regardless of whether the application is metro or non-metro. That seems counterintuitive. As it is, a qualifying developer who doesn't do metro would score higher in metro than a developer who does only metro. This doesn't seem appropriate.
2. Incentivization
    a. 2022 and 2023 had one single developer get 7 non-metro allocations.
    b. Only one non-metro application did not get these points and it was one of two that did not receive an allocation but was an alternate.
    c. Among 18 total allocations in 2022 and 2023 (7 developers), it appears only 3 (2 developers) did not get the 2 points for Greater Nebraska.

    If developers don't score these points they are much less apt to get an allocation. Conversely, if they get these points they immediately have a 2 point advantage regardless of development, metro or non-metro. As it stands this will likely benefit the same developers year in and year out and creates at least the perception of preferential and/or discriminatory treatment. And, it does not necessarily "incentivize" new developers into the rural market as they would not get the points we're assuming until they've received an 8609 for a qualifying development which we would expect to take 2-3 years (if they actually received an allocation). How does a developer break into this scoring category?

    If NIFA truly wants to incentivize rural development and developers without preference somehow give one or two points to any application that is for rural development and make it a non-metro only scoring item.

    For reference, Iowa recognizes LIHTC experience by awarding 1.) one point for developers who have received 8609's on 2 LIHTC developments in the past 5 years, and 2.) two points for developers who have received 8609's on 3 LIHTC developments in the past 5 years. This is for any LIHTC development anywhere, not just Iowa.

    Furthermore, If NIFA chooses to continue with these points as proposed, NIFA may want or need to consider an open projects limitation.

☐Yes ☐No Rob Woodling

written comment 3/3/23

PHA REFERRAL ~~AGREEMENT~~COMMITMENT:

The development owner has ~~entered into an agreement~~committed to working with the local Public Housing Authority (PHA) to consider households from the PHA waiting list as potential tenants: ☐Yes ☐No **(1 point)**

*Attach a copy of the ~~agreement~~ commitment and proof of delivery as **Exhibit 205,** dated within one (1) year of the applicable ~~final~~ full application deadline.*

Note: If the community does not have a PHA, the owner may utilize the nearest PHA or the office responsible for administering the Section 8 program.

DEVELOPER / OWNER FINANCIAL SUPPORT:

A partner/member of the development agrees to defer payment of a fee payable by the development or a partner/member agrees to make a capital contribution or personal loan to the development. Aggregate of deferred fees and/or capital contribution or personal loan is 25% or more of the total of the developer fee and overhead.

☐Yes ☐No **(2 points)**

Note: This financial support must be in addition to any proceeds of the syndication of the LIHTC and AHTC, and/or third-party loans. This commitment of financial support must be part of the sources and uses of funds at all review levels to receive points in this category.

TRACK RECORD OF APPLICANT AND/OR OWNER: / Consultant should be added

Number of previous LIHTC Developments: ______ **(1 point)**

List all LIHTC developments, detailing the project number, development name, date placed in service, and role in the development (choose one from the drop down box) as Exhibit 206. Applicant and/or Owner entities that do not have a track record in the State of Nebraska or at least one (1) development placed in service, are not eligible for this point. ~~Complete one Certification of Experience-Applicant and Owner (developer, owner, general partner, managing member) and Authorization of Release of Information for each State LIHTC Allocating Agency (including Nebraska), in which the applicant and/or owner, has at any time had a role in a LIHTC development. Copies of emails sent to each State Allocating Agency and the corresponding Authorization of Release of Information must be uploaded as **Exhibit 206**.~~ If applying for NDED funding, please refer to the HOME/CDBG-DR/HTF Applicant Information section of the application. See Exhibit Examples for Exhibit.

Applicant and/or Owner (as defined in Exhibit 206) with unfavorable prior performance identified in exhibit 206 and as determined solely in NIFA's/NDED's opinion may not qualify for points in this category.

Any outstanding noncompliance issues that have a response due date prior to the ~~final~~ full application deadline must be submitted to NIFA at least ten (10) business days before the ~~final~~ full application deadline.

From: Ryan Durant
To: Sara Tichota; Pamela Otto
Subject: 2024/2025 QAP/Application Comments
Date: Friday, March 31, 2023 11:24:14 AM

Hi Sara & Pam,

Here are some comments about the current application:

Page 4 - Item 3: I agree with a lot of the other comments that there needs to be more time given because deals are taking longer to close and especially with DED funds. Also trying to penalize consultants for a developer not getting their project closed in a timely manner doesn't make a lot of sense. The consultant has no control over that project timeline or funding so I believe the consultants should be removed from the language. As a consultant I work with multiple developers so it would get very confusing. (This same language shows up multiple times in the application)

Page 14 - QCT/Choice Neighborhood: There is only one development group that can benefit from this point so I believe it needs to be removed as it gives them an advantage that no other developer could get. If this point continues it encourages concentration of LIHTC in just certain small neighborhood pockets.

I would still encourage language around Transit Oriented Development incentive for Metro projects.

Thanks for your time and consideration.

--
Ryan M. Durant
President

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March 31, 2023

Shannon Harner
Executive Director
Nebraska Investment Finance Authority
1230 "O" Street, Suite 200
Lincoln, NE 68508-1402

Dear Ms. Harner:

Thank you for the opportunity to submit feedback on Nebraska Investment Finance Authority's (NIFA) 2024-25 Qualified Allocation Plan (QAP). Lincoln Avenue Capital (LAC) is a national affordable housing developer that specializes in new construction and preservation affordable housing. We are actively exploring development opportunities in Nebraska utilizing the 4% Low-Income Housing Tax Credit (LIHTC) in conjunction with Private Activity Bonds (PABs).

Private Activity Bond Volume Cap Availability

One of the biggest barriers we face in the state of Nebraska is the small amount of PABs available for multifamily affordable housing development. Although the 4% LIHTC is a relatively shallow subsidy, historically one of the main advantages of the program is its relative ease of execution and predictability of obtaining the PABs. It is difficult to make investment decisions to take down land for development in a state like Nebraska where the resource is scarce and rationed out in small increments. We recognize that NIFA uses PABs for both single-family mortgage finance as well as multifamily development and that the overall allocation received by NIFA for housing is not determined by NIFA but rather dictated by the Governor. In addition to the QAP policy recommendations we are advocating for in the comments below; we urge NIFA to also advocate that the Governor increase the allocation available to NIFA for multifamily development. We further welcome your advice on how best developers like LAC can advocate for more PAB resources for NIFA.

We believe that if NIFA were able to access more PABs and dedicate a larger portion for multifamily on an annual basis the state would benefit from increased program participation and additional housing production. Additionally, having additional PAB will enable NIFA to initiate other policy changes that can further boost housing production , transactional efficiency and mission priorities. We also urge NIFA to consider tweaking its carry-forward policy.

It may also be timely for NIFA to consider additional long-term single-family deployment strategies that, if implemented, could stretch the PAB cap further while still meeting its single-family and multifamily housing targets. For example, Colorado Housing Finance Agency and the Tennessee Housing Development Agency both have very robust single-family programs but use little of their PAB for single-family MRBs by deploying blended taxable-tax-exempt single-family structures as well as single-family drawdown bond structures. Finally, to the extent that multifamily PAB allocation is not used in any given year, we urge NIFA to update its carry-forward policy so that the MF allocation carries-forward for multifamily utilization in the following year.

Market Conditions

As affordable housing developers, the biggest challenge we face today is inflation and the escalating construction cost environment. Construction materials pricing and supply chain disruptions continue to be a significant challenge. Land prices and building acquisition costs remain stubbornly high and labor costs are a significant barrier to financing and delivering quality affordable housing communities to the market.

To make matters worse, rising interest rates have reduced the debt proceeds we are able to leverage to offset these increased costs.[1] 4 percent LIHTC transactions are financed primarily with tax-exempt debt, making up approximately 70 percent of the capital stack, so the impact of even small increases in interest rates is magnified significantly for these transactions. We believe the current market dynamics are important to share as they provide context and urgency for the next discussion.

Requests for Private Activity Bond Cap

We understand that given the limited amount of PAB available to NIFA, it must ration out its available cap. However, we urge NIFA to reconsider its $18 million and $22 million per development limits for projects financed with and without State AHTCs, respectively. The feasibility of multifamily bond developments benefits from economies of scale. The larger the transaction, the greater the ability to achieve efficiencies including spreading out the fixed costs of issuance and soft costs as well as procurement strategies like bulk purchasing. Larger projects also have lower average per unit operating costs, which helps with transactional feasibility. In today's market conditions, the current PAB $22 million ceiling limits new construction projects in Nebraska to +/- 120 to 140 units. This range could decrease substantially if interest rates, construction, land costs and/or insurance premiums increase (or if LIHTC equity pricing decreases). Given the overhead, risk-profile, cost of capital and economies of scale many national bond developers target minimum deal sizes of between 150 and 200 units, which is not possible to achieve in Nebraska at this time.

We recognize that these ceilings are likely set low to allow for multiple projects to be funded (given the small amount of PAB available) and that there isn't necessarily a perfect policy solution at hand to suggest; however, we believe that NIFA may drive additional units by allowing for larger PAB requests and funding one or two "larger" projects in each category and backfilling with a smaller allocation to preservation transaction, which tend to need less volume cap.

[1] Our industry has benefited in recent years from historically low interest rates; however, as monetary policy has shifted, we believe there is an added sense of urgency to take additional action. Since the beginning of 2022, the yield on the 10-year Treasury has nearly tripled, increasing from 1.5% to as high 4.07% as recently as March 2, 2023. Given the latest inflation reports (6% in February) and the signaling from the Federal Reserve, we anticipate rates to continue to rise in the coming year.

We do appreciate and support the proposed amendment to increase the per development PAB ceiling by inflation in future years (at the Executive Directors discretion) but do not think this is sufficient. We believe increasing the ceiling, particularly in combination with our recommendations below will allow NIFA to fund a greater number of units and use its AHTCs more strategically for mission priorities.

We also appreciate the addition of section 5.5 of the QAP (Additional Private Activity Volume Cap Request), permitting NIFA to consider requests for additional PAB Cap of up to 10%. We believe this will be particularly helpful for projects with cost overruns or changing market circumstances that may make it difficult to achieve the IRS' 50 percent test. It is not clear from the way the section is drafted if a request can be processed at the time of the initial application – we would appreciate it if NIFA's staff could clarify this in its next draft.

Current 4% LIHTC Developer Fee Policy Summary

Assuming the use of standard industry contractor cost control measures[2] (Builder/Contractor Overhead: 2%, Builder/Contractor Profit: 6%, General Conditions: 6%), the maximum developer fee a 4% LIHTC development could include in eligible basis in Nebraska is approximately 10%. This effective developer fee cap is very low, as compared to your peer HFAs, and we believe is a primary reason that there are very few multifamily tax-exempt bond 4% LIHTC transactions in the state. Given that Nebraska has excess PAB capacity and carries forward a substantial amount of volume cap each year, we believe NIFA has a unique opportunity to increase multifamily bond production through a basis maximization strategy. I have copied NIFA's 4% Developer Fee Policy below as a point of reference.

(b) For purposes of determining the amount, if any, of 4% LIHTC (and AHTC, if applicable) to be reserved for a particular development, NIFA will limit the amount of developer/contractor overhead, profit and fees, general requirements, and consultant fees included in the eligible basis to an amount not to exceed 24% of the total eligible basis of the development.

Example: Total Eligible Basis
- (Builder/Contractor Overhead)
- (Builder/Contractor Profit)
- (General Requirements)
- (Developer Overhead)
- (Developer Fee)
- (Tax Credit Consultant Fee)
- (Real Estate Consultant Fee)

= Adjusted Eligible Basis

X 24%

= Maximum amount allowable for developer, contractor overhead & profit, general requirements & consultant fees includable in eligible basis for LIHTC 42(m) Letter purposes

[2] HUD has issued cost-control and safe harbors standards for numerous multifamily programs including Section 8, Mixed-Finance and Choice Neighborhoods which adhere to the 2-6-6 standard. In the vast majority of QAPs around the country this is also the "norm"

Basis Maximization Recommendation

From a practical perspective, increasing developer fees in a rising cost environment, as we are experiencing today, generates additional eligible basis and additional tax credit equity. This can be particularly impactful on tax-exempt bond transactions where the 4 percent LIHTCs are capped by eligible basis rather than an annual state ceiling. Lincoln Avenue Capital and other developers typically defer a substantial portion of our developer fees to fill project gaps. One way to frame our proposal of increasing developer fees in a rising cost environment is that the additional fee effectively will serve as additional construction contingency, much drawn on today as construction costs skyrocket.

We suggest amending the current maximum allowable fee methodology for to allow for the typical 2-6-6 (contractor overhead, profit, general conditions) Plus a maximum combined developer fee/developer overhead of 20-25% (of which everything above 15% must be deferred). This is a common strategy that many state housing finance agencies across the country have implemented, including Arizona, Kentucky, Ohio, Oklahoma, Oregon, and Tennessee. Additionally, we recommend eliminating the cap on developer fee on acquisition basis (currently set at 5%) for projects that are purchased from an unrelated party.

Basis Maximization Explanation

Maximizing developer fees, within the constraints of the tax law, regulation, and reasonable underwriting, is a proven and successful method of generating additional LIHTC eligible basis, and in turn, equity proceeds which help fill project gaps and/or reduce the need to obtain state tax credits. This strategy has been deployed around the country to help fill project financing gaps where soft sources may be lacking or oversubscribed. We typically defer a substantial portion of our developer fee to fill project gaps and with uncertainty in the construction cost environment, the additional fee effectively serves as additional construction contingency. When the state of Tennessee increased its developer fee for bond developments from 15% to 25%[3] in 2014 the state experienced an immediate and rapid increase in unit production and preservation in 2015 and beyond (see appendix for details). What is even more remarkable about these production increases is that Tennessee does not have another significant source of soft financing for 4% transactions, and it has a regressive property tax system that includes the value of the tax credit equity in the property tax assessment.[4]

We believe it is important to acknowledge the role developer fees play in affordable housing transactions as well when you consider the appropriate fee setting mechanism. The IRS permits the inclusion of developer fees in eligible basis because these fees serve as the primary form of compensation for LIHTC developers. They pay for overhead of essential functions, including accounting, human resources, information technology, asset management, insurance and legal fees and many others. Developer fees also serve as the primary form of reimbursement for pre-development costs and resident services. If you are interested, we would be happy to share a case study that illustrates the potential impact of revising the 4 percent LIHTC developer fee methodology.

[3] Developer fee above 15% must be deferred per the THDA's Bond Program Description.

[4] Tennessee does not use any statewide home funds or housing trust funds for multifamily production.

We believe that the risk and financing profile of bond transactions, particularly in the current marketplace, warrant a different treatment. Developers take on more risk on bond deals because of the extended pre-development period and the high proportion of foreclosable debt, for which the developer is responsible. The developer fee compensates developers for these risks. The additional eligible basis generated by the increased fee will also generate more tax credit equity which will help offset reduced debt proceed brought on by rising interest rates and help plug gaps brought on by rising construction costs. Unlike 9 percent transactions, the additional eligible basis generated by increased fee will not deplete the overall supply of 4 percent credits, which as described above are “as of right” and uncapped.

Conclusion

Lincoln Avenue Capital appreciates the opportunity to work with NIFA as it works on its upcoming QAP. We welcome the opportunity to discuss them with you further at your leisure and/or answer any questions you may have regarding our feedback. If it is helpful, we can illustrate the impact of these proposals through case examples as well. I can be reached at 860-287-1635 or tamdur@lincolnavecap.com.

Regards,

Thom Amdur
Senior Vice President, Policy & Impact

About Lincoln Avenue Capital

Lincoln Avenue Capital is one of the nation’s fastest-growing developers, investors, and operators of affordable and workforce housing, providing high-quality, sustainable homes for lower- and moderate-income individuals, seniors, and families nationwide. LAC is a mission-driven organization that serves residents across 22 states, with a portfolio of 119 properties comprising 22,000+ units.

cc: Sara Tichota

LINCOLN AVENUE CAPITAL

Appendix: Tennessee 4% Unit Production After Developer Fee Increase