Nebraska Investment Finance Authority
2020 Qualified Allocation Plan Public Hearing
Low Income Housing Tax Credit (LIHTC) &
NE Affordable Housing Tax Credit (AHTC) Program
August 5, 2019

Attendees: Mike Gawley, Holy Name Housing Corporation; Chris Lenz, Excel Development Group; Cindy Koster and Ryan Harris, Midwest Housing Equity Group; Mindy Crook and Darin Smith, Arch Icon; Ryan Durant, RMD; Paula Rhian, Horizon Bank; Thomas Judds, Michael Harpster, and Bob Goggins, Lincoln Housing Authority; Kathy Mesner, Menser Development; Lawrence Butler, LT Butler Engineering; Teresa Kile, K Consulting, LLC; Rob Woodling, Foundations Development; Matthew Cavanaugh, Nebraska Housing Developers Association; David Nickloy, Locke Capital; Carly Davis and Fred Hoppe, Hoppe Homes; Trent Rogers, Travois, Inc.; and Pam Otto, Nebraska Department of Economic Development.

NIFA Staff in Attendance: Tim Kenny, Sara Tichota, Robin Ambroz, Kirk Benner, and John Turner.

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

Summary of Public Comments categorized by topic:

Public Information \ Transparency

Kathy Mesner, Mesner Development:

> What is driving the train in regards to making applications public information? I object to the disclosure of the documents as it is proprietary information, including banking information, syndication, and spreadsheets. In addition, I believe every organization would have to agree that their work product is going to be made public, including engineers, bankers, and architects. The score sheet is fine. However, making applications and documents available opens a can of worms. Lawyers would say it's their work product and not open to public review.

Rob Wooding, Foundations Development:

> I concur with Kathy's comments.

Mike Gawley, Holy Name Housing Corporation:

> I concur with Kathy's comments.

Darrin Smith, Arch Icon:

I concur with Kathy's comments. If you're going to have it available, what is the motive? Are we legally required to do it, or is it just because someone doesn't know how to put an application together and wants to see others? Will developers know who asked to review their application or when the request is made?

Cindy Koster, Midwest Housing Equity Group:

I don't think applications should be available to the public until after the entire 2020 allocation has been awarded.

Chris Lenz, Excel Development Group:

Will just the total scores be listed on the website or will the scoresheet showing the score in each category be provided?

Darrin Smith:

If you need to post anything, follow Iowa's lead and post a rank master document.

Cindy Koster:

Scores should be published after the final application round is completed and not published after each round.

NIFA will make the scoring matrix available to the public after the Annual Competitive Allocation Cycle. Applications will be available to the public (other than during the active review process) upon written request.

<u>Lender\Syndicator Forms</u>

Kathy Mesner:

What is with the new commitment forms? I don't like the idea of making anything public on the internet. The forms don't help developers.

Ryan Harris, Midweest Housing Equity Group:

We can't consider the form a commitment as it doesn't include the information we need for a commitment. Most of the time, changes are made. We can't be held to this form.

Paula Rhian, Horizon Bank:

The form needs to be signed by both parties. We don't want any information made public, so the form doesn't help with that. Perhaps add language to the form that states the underwriting agrees with what's in the Exhibit 111.

Ryan Harris:

If we added that language, it would work.

Darrin Smith:

Can we hide pricing on Exhibit 111?

Chris Lenz:

Most developers don’t care about different terms or pricing, as they understand it’s different for every project and know it’s different pricing based on relationships, projects, etc.

NIFA will add an additional signature line to the forms so the applicant\owner can also sign. Additional language will be added to the form to state that the commitment\letter of interest is consistent with the Exhibit 111.

Ineligible Applicant

Kathy Mesner:

In the section on ineligible applicants, the previous three years language was removed. It is difficult when developers work to develop our own projects, but some develop projects for other organizations. While we try to guide those projects, try to hold hands and try to get them through the issues but not always possible. The questions are 1) Have we expanded the tail end liability for developers, and 2) Not sure who is meant by the applicant.

Cindy Koster:

MHEG is a part of the ownership, so could they be penalized? Who is meant by the term “applicant”?

NIFA will add clarifying language to the ineligible applicant section clarifying who is an ineligible applicant.

Senior Developments

Kathy Mesner:

The limitation of 50% of total allocation for senior units becomes difficult if you end up with a bunch senior units that were submitted and funded. How and when will they know what the percentages are? The points for senior developments was only increased by 1 point to a total of 2 points. I don’t think the two points will offset the issue with the scoring efficiencies.

Chris Lenz:

Would the same thing happen on the senior development limitation as the Urban\Rural split? If you do the same thing for senior developments, it will make it difficult for a developer to know where they stand for Round 2.

Mike Gawley:

Does the senior development limitation include CRANE? You could have senior allocation eaten up before CRANE is allocated.

Cindy Koster:

The efficiency of a 12 unit senior project in a rural area can't be compared to a development in an urban area. Why would you limit any type of unit if it works?

Darrin Smith:

If the senior development limitation is left in the QAP, I think the best efforts language from the urban\rural split should apply to the senior development allocations.

NIFA has removed the limitation of 50% of the total annual allocation for senior developments. The total of 2 points for a senior development will remain.

<u>Supportive Services</u>

Kathy Mesner:

Two separate lists for supportive services should be created: one for family and one for senior. Quarterly services are difficult enough, but going to monthly is even more difficult.

Chris Lenz:

The list of new services is fine but the frequency is the issue. The developers know their projects. Don't mandate monthly services.

Darrin Smith:

We are too involved with services that could be handled with referrals. You may be working with a nonprofit or someone else. Three services is plenty and quarterly is enough.

Fred Hoppe, Hoppe Homes:

We shouldn't have to provide a service more than you get yourself. You don't go every month to the dentist.

Kathy Mesner:

Services should be quarterly or annually. The term “spring cleaning” is coined for a reason because it is once a year. We provide a dumpster for tenants for 10 days and watch it fill up. It would not have the same impact if we did it monthly.

NIFA has adjusted the frequency requirements for many of the supportive services to align with these comments.

Natural Disasters

Chris Lenz:

For the Natural Disaster points, could NIFA provide a list of communities that can apply and indicate when they can apply? If there is a deadline, then there won’t be an issue of awarding points after an application has been submitted and then a disaster occurs. Perhaps make it a threshold item and have a point box to check so the developer has to request the points. What is the difference between a State declared and Presidential declared disaster?

Kathy Mesner:

I concur with Chris regarding the list. Is 2 points enough for the Natural Disaster points?

David Nickloy, Locke Capital:

Make it a checkbox and put it on the applicant to show the loss of housing and qualification of disaster points.

Rob Woodling:

Going back five years for disaster is a lot of counties and disasters. Is there a better way to look at this?

NIFA has removed the State declared disaster language and will refer to information provided by FEMA to determine whether an area is located in a Presidential declared disaster area and the area has experienced a loss of housing.

Opportunity Zones

Fred Hoppe:

It does not appear there is a 30% basis boost for building in an Opportunity Zone. Since it’s been mandated that HOME funds, Trust funds prioritize development in Opportunity Zones, then LIHTC developments in those areas should receive the full 30% basis boost.

NIFA has determined that 24 of the 44 Opportunity Zones are also Qualified Census Tracts (QCTs), which are eligible for up to a 30% basis boost. Developments in Opportunity Zones that are not in a QCT are eligible for a 15% basis boost and may be eligible for up to a 30% basis boost if it is located in a Census Tract where no other LIHTC developments are located.

Mixed Income

Fred Hoppe:

You receive a 3 point benefit for having a 20% market units in your project, but you can't income average if you have market-rate units. There are other issues with having market rate units. There is a real disadvantage to making your units part of the neighborhood, as you can't share a clubhouse with the community and still get points. For the whole project, if community amenities are available, they should count as points.

Until further guidance is provided by the Internal Revenue Service (IRS), NIFA will not allow the income averaging set-aside election for mixed income developments.

A development may include a clubhouse for the community; however under the LIHTC regulations, in order for the cost of the clubhouse to be included in eligible basis, the clubhouse must either be used solely for the tenants of the development or located in a QCT and qualify as a community service facility.

General

Teresa Kile, K Consulting:

FHLBank awards are sometimes not awarded until later in the year. Could we move the FHLBank documentation requirement to the carryover deadline?

Financing commitments are required at the time of the Conditional Reservation submittal. If a development has applied with FHLBank and has not received notice of an award, the applicant\owner can submit a letter demonstrating an alternative funding source commitment in the event the FHLBank funds are not awarded.

Rob Woodling:

The line item for construction contingency should be removed from the final cost certification worksheet. By the time the development reaches cost certification, if any of the contingency is spent, it should be moved to the appropriate category.

NIFA has removed the construction contingency line from the final cost certification worksheet.

Fred Hoppe:

The Metro/Non-Metro set-aside should be applied in each round.

NIFA uses its best efforts to meet the Metro/Non-Metro set-aside overall for the Annual Competitive Application Cycle.

Chris Lenz:

If you get an award in Round 2 in June, you aren't going to be able to start construction until November or December if you have HOME funds. In some states you can do that but not with Nebraska weather. We should strive for 2021-2022 to go from a Round 1 in October to a September/August application deadline for Round 1.

NIFA has structured the application deadlines to allow enough time for applicants to make adjustments to their applications between the Threshold and Final deadlines, as well as between application rounds.

Kathy Mesner:

If we have an amenities list, is it necessary to have them listed on the floor plan or site plan also? I would suggest the answer is no. The architect certification should be enough.

NIFA will require the amenities to be shown on the floor plan or site plan to ensure the architect is aware of the requirements & has designated the space as needed.

Meeting adjourned at 11:32 a.m. CDT.

Written Comments received – See attached correspondence from:

- **Jim Rieker, Advantage Capital**
- **Ryan Harris, Midwest Housing Equity Group**
- **Janet Latimer, Horizon Bank**
- **Rob Woodling, Foundations Development**

Summary of Written Comments:

Jim Rieker, Advantage Capital:

<u>Public Information/Transparency:</u> Applauds public information language.

NIFA will make the scoring matrix available to the public after the Annual Competitive Allocation Cycle. Applications will be available to the public (other than during the active review process) upon written request.

<u>Ineligible Applicant:</u> As referenced in the QAP and application documents the message seems to be that NIFA is focused on fees. NIFA should focus on making sure construction progress is taking place and if not, why. Developers should be vetted for their ability to close with proper zoning and numbers, as per their application. Several suggestions were offered including the current annual allocation limit per developer be an ongoing limit of 20% and if the developer has requested credits to be refreshed, this would make the developer ineligible to apply for credits for up to 24 months.

NIFA currently has deadlines in place to monitor the completion progress of a development. NIFA will continue to monitor and evaluate the current required benchmarks. The QAP does not have a mechanism to allow for "refreshing" of credits. If a development is not completed by the deadline established under IRC Section 42, the credits will be returned and reallocated.

<u>Extension Fees:</u> Does not agree with language unless the extension is due to weather delays impacting everyone. Any extension should be subject to fees.

The QAP allows in NIFA's discretion to grant an extension if certain conditions have been met, including a written explanation of the conditions based on facts and circumstances illustrating that the request for an extension is reasonable and payment of a $500 extension fee.

<u>Competitive Allocation Deadlines:</u> My understanding was that NIFA was going to move up the first round to allow for early spring construction. The timing established moved the award date back farther.

NIFA has structured the application deadlines to allow enough time for applicants to make adjustments to their applications

between the Threshold and Final deadlines, as well as between application rounds.

CRANE 2021: What would it look like to not allow AHTCs on CRANE and utilize those AHTC for 4% bond deals?

Pursuant to the Affordable Housing Tax Credit Act (Act), AHTCs are not available for 4% bond developments. NIFA will continue to evaluate the language as presented in the Act and administer the AHTC in accordance with the Act.

On-Site Inspection/File Review: Would like to see this section include verification of construction detail and supportive service with penalty for breach of either.

NIFA will continue to evaluate monitoring processes.

LIHTC Set-aside Categories: Is there a place where the Metro and Non-Metro is defined?

NIFA uses Metropolitan Statistical Areas (MSA) to define Metro and Non-metro. The term "MSA" has been added to the application.

Senior Development: I see language about Fair Housing for seniors but what about discrimination against families for other "special purpose" issues, such as veteran or homeless.

Developers must meet all Fair Housing requirements.

Exhibit 105 Zoning: To receive full points, zoning should be 100% in place to the point building permits can be pulled.

NIFA will continue to evaluate the Exhibit 105 zoning requirements.

Exhibit 111-Underwriting Criteria: For a family unit, replacement reserve amount of $250 per unit, per year is generally not enough, however the amount may be acceptable for most senior projects. Most investors are going to want to see $300-$350 on family projects.

NIFA includes minimum underwriting criteria only. Investor requirements may exceed NIFA's minimum requirements. NIFA will continue to evaluate the minimum requirements.

Exhibit 116-AHTC Investor Interest/Commitment: Nebraska AHTC market is established with pricing above $.60. The letter should be the same as federal letter with no pricing minimums. The minimum could be an issue if pricing falls below the threshold. Also, if the federal investor is pricing for both federal and state credits more questions should be asked.

NIFA will continue with the established $.60 minimum price, however we will continue to evaluate and review. Please note new forms were introduced for Exhibits 108 and 116.

Ryan Harris, Midwest Housing Equity Group:

Public Information: MHEG feels the release of all application materials and supplemental information and documentation could release proprietary and confidential information. In addition, making all materials public exposes the application process to controversy. Will NIFA's decision be final even if someone reviewing the public information catches a misstake NIFA made in the scoring process?

NIFA will make the scoring matrix available to the public after the Annual Competitive Allocation Cycle. Applications will be available to the public (other than during the active review process) upon written request. The delivery process and procedures are in the process of development.

Senior Development: Senior developments are limited to one and two bedroom units. The application only allows for a senior development to receive 2 points maximum. Only one new construction senior project received credits last year. Consider increase the points to at least 5 points in this category.

The points allotted for senior developments increased from one point in 2019 to two points in 2020. NIFA will continue to monitor and evaluate the impact of the efficiency points as well as points for senior developments.

Mixed Income Development: We would like to see a comment stating the lots must be contiguous if choosing this category.

The requirement that lots must be contiguous for mixed income developments is a requirement of Section 42 of the Internal Revenue Code. To assist applicants, NIFA will so note in its application.

Supportive Services: This seems to be an additional expense for the developments operations. Five supportive service for a CRANE application is excessive and drives up costs. We would like to see the maximum frequency of any service option to be quarterly.

NIFA has adjusted the frequency requirements for many of the supportive services to align with these comments.

Exhibits 108-110: The form does not represent either a letter of interest or commitment. We would prefer to see all financing sources have a firm letter with clear expectations for the development team.

NIFA does not intend for Exhibits 108-110 to take the place of commitment letters between the parties and therefore the forms are not as detailed or inclusive as commitment letters. NIFA will add an additional signature line to the forms so the applicant\owner can also sign. Additional language will be added to the form to state that the commitment\letter of interest is consistent with Exhibit 111.

Natural Disaster Designation: We would like to see NIFA's list of communities or areas which are eligible for the 2 points as determined by NIFA.

NIFA has removed the State declared disaster language and will refer to information provided by FEMA to determine whether an area is located in a Presidential declared disaster area and has experienced a loss of housing.

Janet Latimer, Horizon Bank:

Exhibits 108-110 and 116: The forms do not seem to be consistent. Not opposed to a standard form however the proposed form does not constitute an actual commitment as both parties are not signatories.

NIFA does not intend for Exhibits 108-110 to take the place of commitment letters between the parties and therefore the forms are not as detailed or inclusive as commitment letters. NIFA will add an additional signature line to the forms so the applicant\owner can also sign. Additional language will be added to the form to state that the commitment\letter of interest is consistent with Exhibit 111.

Site Information: The site information section of the application appears to no longer have a viable choice for project building tri-lexes or four unit buildings. Perhaps an "other' box would solve the issue.

NIFA will add an "other" box to this section of the application.

Rob Woodling, Foundations Development:

Rent and Income Limits: The NIFA website, 2019 Rent and Income Limits links to a website run by Novogradac. NIFA should return to publishing annual Rent and Income Limits.

NIFA will continue to evaluate the use of the Novogradac link upon release of the 2020 Rent and Income Limits.

Public Information: The draft 2020 QAP details that applications would be available for review by other developers after each application deadline. We do not believe that other developers should have access to proprietary work product. We fully support transparency in publishing detailed scoring information as it would allow for transparency of scoring without causing harm to developers.

NIFA will make the scoring matrix available to the public after the Annual Competitive Cycle Allocation. Applications will be available to the public (other than during the active review process) upon written request.

Cost Certification Worksheet: A line item for "Construction Contingency" is included and in our opinion should be removed. When costs are finalized all contingency should have been spent in other line items or not spent at all.

NIFA has removed the construction contingency line from the final cost certification worksheet.

LIHTC Rehabilitation: Projects previously receiving an award of LIHTC that have gone through the initial 15 year compliance period should not be eligible for another award of LIHTC. The projects should be in sound physical condition and if not owners should not be rewarded with new credits. There is a need for new units to alleviate the shortfall of affordable units.

NIFA will monitor.