2015 QAP COMMENTS and DSHA RESPONSE

DSHA would like to thank all our partners for their feedback and comments to the 2015 Qualified Allocation Plan (QAP). DSHA has summarized the comments and feedback by category.

Needs and Priorities

- We would urge DSHA to amend its ranking process to "prohibit undue concentration".

DSHA Response: DSHA will be conducting research on all areas of the State for undue concentration of poverty and promoting areas of the state for increased affordable housing opportunities based on the 2015 Needs Assessment conducted by GCR Incorporated, The Reinvestment Fund and DSHA. DSHA will be releasing new data and analysis of these areas in 2015.

Preservation

- We appreciate the opportunity to comment on Delaware's draft 2015 Qualified Allocation Plan. We fully acknowledge and appreciate the entire set of preservation policies and programs established by the Delaware State Housing Authority. We recommend that DSHA maintain its $1,111,602 set-aside for proposals involving the preservation and rehabilitation of existing multifamily rental housing in the final 2015 Maintain the points awarded to proposals involving preservation. We also recommend that the 2015 QAP maintain the points awarded to proposals involving preservation***.***

DSHA Response: DSHA will maintain the preservation set-aside and all preservation points for 2015 and will continue to strive to balance all housing needs with the resources available to DSHA and our partners.

- Revise the requirement that Preservation tax credit projects have to be finished their 15 year initial compliance period. We recommend older tax credit projects have completed their 15 year initial compliance period by the proposed construction closing timeline.

DSHA Response: DSHA has made the recommended change for tax-exempt bond applications only. Tax-exempt bond applicants that are older tax credit projects can apply for new rehabilitation credits if their initial 15 year compliance period is complete prior to a proposed construction closing timeline.

- Remove Sites and Neighborhood Standards for Preservation projects and use waiting lists, turnover rate, recapitalization needs and track record of the sponsor and developer and on-going commitment to serve low income households as criteria instead.

DSHA Response: DSHA prioritizes Preservation projects in three ways:

- **Preservation of existing federal rental subsidy**
- **Physical deterioration due to age**
- **Potential financial instability**

However, in a situation in which all Preservation Pool applications are equally in need of preservation, then DSHA must rely on other factors to differentiate among the applications. Among the factors that then become significant are quality of location, access to services and transit, and protection of the environment, all of which are judged by the Sites and Neighborhood Standards section of the QAP. An applicant that can demonstrate its project achieves results in these areas should and would rank higher among its peers in the Preservation Pool. The same would be true among the applicants in the New Creation Pool; all other factors being equal, the application that best achieves results in all areas of the ranking categories would rank the highest. In the Sites and Neighborhood Standards ranking category also supports the State of Delaware's Strategies on Policies and Spending.

- DSHA should provide more points for the oldest preservation projects.
- DSHA should increase the Preservation point factor for subsidized properties to 10 points in the Preservation point category.

DSHA Response: DSHA recognizes that projects that are older than 20 years may have a more urgent need for rehabilitation; however, that may not always be the case, particularly for senior properties or older tax credit properties that have been well maintained. LIHTC resources are limited in Delaware to the small state minimum annual tax credit amount and DSHA must try to balance the needs of all types of Preservation projects under DSHA's definition.

Definitions - Elderly Development

- We applaud DSHA for broadening this requirement as federal rental assistance is not available or very rare for new creation properties. However, we would ask that you consider making the threshold to be 25% of the units at 30% of AMI or a lower threshold than 50% of the units. Sussex County's rent limits and incomes make it hard to be able to serve very low-income and have a feasible project. We would like to be able to serve households at 30% and below but the present financial mechanisms make that difficult when you need to have a feasible project that cash flow sufficiently.

- DSHA should consider less than the 50% of units at 30% of AMI. This mandate for elderly non-subsidized sites is not attainable, particularly in Kent and Sussex Counties.

DSHA Response: DSHA has made the recommended change and has revised the definition - Elderly new creation developments are only eligible if 25% of the development's units are subsidized or if 25% of the affordable units are at 30% of AMI and 30% area median rents. This includes developments that are a mix of rehabilitation and new creation. 25% of all new units must be subsidized or meet the 25% at 30% of AMI requirement.

- Senior properties should receive higher points for social services

DSHA Response: DSHA recognizes the value of social services for all residents living in affordable housing whether senior or families and will maintain the current social service point category for all applicants.

Other DSHA Requirements

- We strongly recommend that DSHA continues to keep the policy as stated on page 23 of the 2015 QAP Draft, "Once a development has received an allocation of credits, additional application(s) for credits for a subsequent phased development on the same or contiguous site(s) may not be submitted until such time as the original development is substantially complete and is at least ninety (90%) rented to qualified residents and demonstrates three months break-even operations as defined in the partnership operating agreement. DSHA may waive this requirement at its sole discretion". The policy was established to stress the need for performance as the primary criteria for allocating tax credits to projects with more than one phase. It is an objective measure that reflects sound public policy and provides DSHA with a prudent management tool to ensure that very scarce public resources are allocated only after proving both the sponsor's ability to perform and actual market acceptance. As an owner, developer, and manager with 60 years' experience, we believe this policy protects DSHA and the LIHTC program and we do not want DSHA to grant any waivers.

- We would like the long-standing DSHA rule that a developer is not permitted to submit a second phase of a project while the first phase has not reached 90% occupancy for 90 days to stand. While this rule has worked against some projects in the past, it has a strong logical basis-why support a second project before a first project is on firm footing. We believe DSHA is doing the right thing and maintaining this rule.

- We wish to discuss what is commonly referred to as the "Contiguous Rule". It is our understanding that the rule was enacted primarily to delay progression in a multi-phase project until such time as certain project milestones are met. The spirit of the rule was intended to prevent developers from over extending themselves in rental markets that are new and untested. The definition of contiguous is the sharing of a common border. Projects that are individually held in a single purpose entity which does not share ownership or economic benefit and each entity stand unto itself should not fall under the contiguous rule.

DSHA Response: DSHA will continue with the current policy and does not plan for any change.

- We would like DSHA to consider relaxing the audit requirements for general partners and developers and the management entity. Audited statements are very costly and are outside the scope of the State's responsibility. Maryland has a waiver requirement that DSHA should consider.

DSHA Response: DSHA has made a recommended change for tax-exempt projects that do not need HDF or state financing only. However, the most recent and prior year's financial statements will still be required. In addition, management firms will no longer need to provide audited financial statements; however, the most recent and prior year's financial statements will still be required. DSHA typically provides nearly $3 million dollars on most tax credit projects and has a fiduciary responsibility as a lender for the State of Delaware to ascertain the applicant and/or developer/general partner has the financial capacity to complete and/or maintain a development.

Leveraging and Local Contributions

- We believe the current policy to continue to balance the leveraging and local contribution for all projects vs. having scales for rural vs. non-rural projects should remain the same. In rural areas the cost to build is less expensive which gives those projects in Kent and Sussex County cost advantages, even though there may not be as many opportunities for other sources of gap financing and permanent financing.

- Due to the lower rents, rural projects cannot support as much debt or non-DSHA sources. Rural projects should have their own leverage scale.

- For the purposes of leverage, the additional equity generated by the 30% basis boost for being in a QCT, these amounts should not be counted as a permanent DSHA source.

- For rural projects in Kent and Sussex and specifically New Creation projects, they are at a disadvantage due to the nature of the small communities where they are located and rents typically being much less than New Castle County. To compensate for these inherent disadvantages the QAP should include points or point categories that recognize the dynamics of rural projects. These would include – Local contributions. Since there is no access to CDBG or HOME funds from the two lower counties available, rural projects should have a separate scoring system for local contributions.

DSHA Response: DSHA will continue with the current point categories and does not plan for any change for 2015. However, DSHA will take this into consideration for the 2016 QAP after more research and analysis on the different opportunities for funding in the counties and/or local municipalities.

Cost Containment

- DSHA should also reevaluate the cost savings threshold. The cost benchmarks are too low. Does any project ever come close to getting those points?

DSHA Response: DSHA has made the recommended change and has revised the point category and average per unit costs for new construction and rehabilitation projects based on cost certifications from 2009-2013.

Access to Transit

- Maintain direct incentives for projects located in close proximity to transit.

- The distance to services is biased against rural projects in small communities. The QAP should include a larger distance for access to services in rural communities. Ironically the drive time for rural locations may be the same or faster than it is for more urban areas due to a lack of congestion.

- Access to Services – provide points for owners/projects that provide transportation to these services.

DSHA Response: DSHA will continue with the current point categories and does not plan for any change for 2015. DSHA will continue to strive to meet the State Strategies for Policies and Spending and provide opportunities for applicants to meet the housing needs of the State of Delaware as well as transit connectivity to these developments.

Green and Energy

- Consider adopting third-party standards on energy efficiency.
- Consider working with state utilities to develop energy efficiency programs for multifamily housing.

DSHA Response: DSHA will take this into consideration for the 2016 QAP after more research and analysis on Delaware utility programs and how they can be maximized for affordable housing.

Community Compatibility

- Would DSHA consider raising the idea of adding "innovation in design" as a possibility to include in the QAP as another scoring mechanism? My thought is to foster creativity in design, add detail to the design and planning, DSHA would offer discretionary points to a submission. Currently, there is little incentive add superior materials or systems to a project such as full height brick / stone, articulations in the facades, bay windows, detail at the eaves and cornices,..., use renewable resources such as solar panels, geo-thermal heating - cooling, passive solar,...

  DSHA Response: DSHA has made the recommended change and has revised the point category of community design and added two points for to this category.

Bidding Protocol and DSHA Construction Standards

- We urge DSHA to adhere to, and not exceed, construction and life safety codes established by duly authorized public authorities or agencies mandated by law to review and establish such standards.
- DSHA's bid process is time consuming, costly and unnecessarily intrusive. While we recognize and applaud the objection and oversight and safeguarding public resources, we would suggest that this is also the objective of their HFA's, HUD and FHA. We find DSHA's standards to far exceed standards required by any of the aforementioned and encourage DSHA to revise its bid process to mirror FHA multifamily insurance.

DSHA Response: Under DSHA's construction standards, the first requirement is that all plans and specifications of affordable housing multifamily developments must meet all state, federal and local code requirements. DSHA construction standards include requirements for sustainability, energy efficiency, long term maintenance, and reduction of operating costs, and building codes do not always

address these factors. DSHA's construction standards have been long standing policies that have proven successful.

DSHA will continue with the current bidding protocol and does not plan for any change for 2015. However, DSHA does plan to reach out to the Developer community in 2015 to look at ways to reduce costs and increase efficiencies with DSHA's bidding process for the LIHTC program.

HDF Supplement

Rent Levels

- The underwriting criteria if using HDF funding of adding income targeting to the requirement for both 9% and 4% tax credit deals. Why add this additional income targeting requirement? Proposed project will serve a mixture of incomes as a result of the market study and the new balance weighted income criteria and have to serve households below 60% of AMI as well. That more than meets the requirements of HDF funding of serving households with incomes at or below 80% of median income.

- Let's try this balanced weighted income category in the QAP without the extra requirement of a prescribed number of units at certain percentages of AMI that comes with the use of HDF funding. Developers need the flexibility to determine the right mixture of incomes to be served to make the projects feasible without additional income targeting requirements.

- DSHA should consider allowing 4% deals to push the rents to the maximum tax credit limits. We understand the goal is to keep the tax credit projects as affordable as possible, but in particularly areas of the State like Wilmington, can handle the higher rents.

DSHA Response: The HDF income and rent targeting is essentially more flexible for 4% tax-exempt applicants seeking HDF funding than last year. DSHA has reduced the minimum point requirement for tax-exempt bond applicants so that applicants may determine which point categories can be maximized while not requiring heavy income targeting. In the 2014 QAP, the Balanced Income Targeting was 20 points and was very specific to certain income levels; therefore, no HDF targeting requirement was needed. However, in 2014, the feasibility of the targeting was difficult to attain. In previous years of the QAP, there was similar HDF income targeting. A 4% tax-exempt applicant can now decide to income target 5% of the units @ 40% AMI; 5% @ 50% of AMI and the remaining units – 90% @ 60% AMI which makes projects more feasible. However, the applicant may not receive any points in the Balanced Income Category, but may increase points in leveraging and other categories.

DSHA will also consider allowing higher rents in certain areas of the state, if the market study and DSHA internal data can support higher rents. However, per the 2015 QAP, all rents should be approved by DSHA prior to application submission.

Additional HOME Funds

- We commend DSHA for the clear 2015 policy changes made in an effort to spur affordable housing production through the use of the 4% tax exempt bond program. We believe this will provide more affordable housing opportunities to residents of our State. We do, however, disagree with the policy language found in the 2015 HDF supplement which mandates that gap financing, in the form of State HOME funds, can only be leveraged following a deferral of 50% of the developer's fee. Leveraging our experience with 4% transactions in other states, LNWA does believe that many 4% bond deals will require some level of supplemental funds over and above the HDF financing. In a situation in which the owner and the developer do not share an identity of interest, this measure could prevent an owner from finding a qualified development consultant to work within the program/financing structure. As an example, an owner of affordable housing with little or no tax credit experience may look to leverage a development consultant to recapitalize a legacy project. In this case, a consultant would be providing expertise to the owner in a "fee only" manner. This policy mandate, found on page 7, will prohibit an owner who lacks the required tax credit program experience, a threshold requirement, from being able to compensate a consultant for their work in a reasonable manner considering the inherent risks of real estate development.

- We suggest that Delaware State HOME funds be allocated to projects in a similar manner as New Castle County HOME funding. Any and all gap filling funds should be made available to a project that shows the need prior to a 50% deferral of developer's fee to further encourage Owners to participate in the 4% bond program. Due to the HDF financing already being a competitive allocation of resources, this clause, we believe, is a deterrent towards full leveraging of the program and runs counter to the objectives of overall tax exempt program policy

DSHA Response: DSHA has made the recommended change and has revised the requirement to 25% deferral of the developer fee. Any consultant working with a non-profit may negotiate how the payment will be deferred and paid at a later date.

- We would like existing projects with current HOME funds to be allowed to request new financing outside of current caps or roll-over the HOME debt, don't count this debt at all in the source calculations.

DSHA Response: Preservation of the current tax credit portfolio continues to be of importance to DSHA and the State of Delaware. However, current state debt, whether HOME or HDF, was for tax credit purposes considered real debt at allocation and is still considered debt to be repaid at some point in the future to DSHA. In 2014 and for 2015, DSHA did and will continue to allow applicants with current DSHA to apply for re-syndication for new credits and allow new HOME or HDF debt up to the per unit limits. DSHA will be analyzing and developing future strategies for these type projects in 2015.