

Request for Action
By
Board of Commissioners

Approval of Final 2021 Qualified Allocation Plan

1. Summary of Issues

At the June 18, 2020 meeting, the Rhode Island Housing and Mortgage Finance Corporation (“RIHousing”) Board of Commissioners preliminarily approved a proposed draft and authorized publication of RIHousing’s intent to adopt the 2021 Qualified Allocation Plan (the “2021 QAP”), which governs the allocation of low-income housing tax credits (“LIHTC”). On June 19, 2020, RIHousing published notice of the public hearing and proposed draft of the 2021 QAP on the rulemaking website hosted by the Rhode Island Secretary of State. Additional notices advertising the public hearing were published on RIHousing’s website, in the Providence Journal and Nuevos Horizontes.

A public hearing was held on July 27, 2020 via teleconference, rather than in person, due to the COVID-19 pandemic. One person attended the teleconference. Written comments were received from 5 entities and RIHousing received several verbal comments through a Zoom meeting with The Housing Network.

Staff proposes the additional changes to the proposed draft of the 2021 QAP as described below to address public comments and to correct some clerical errors.

Summary of Sections Changed:

Section I (pages 4 & 5)	Language clarification
Section I (page 7)	Delete a reference no longer needed due to previous changes
Section II (pages 22 & 23)	Clarification
Section III(A)(1) (Page 26)	Provide additional clarity to Developer Capacity Criteria.
Section III (B) Scoring (page 31)	Add criteria for how Extraordinary Conditions will be accounted for in the weighted average total development cost category.
Section III (B) Scoring (page 34)	Increase points for community based non-profit and add criteria for qualification under the category
Section III (B) Scoring (page 36)	Delete proposed points for Broadband Access
Section III (B) Scoring (page 36)	Modify requirement for co-location of supportive services
Section III Negative Points (page 39)	Delete proposed negative points for non-compliance with Utility Benchmarking
Section VII (pages 48 & 56)	Correction to website hyperlinks

The final 2021 QAP, set forth at Attachment C, reflects the changes made to the proposed draft based upon the public comments and some additional clerical errors.

Comment 1

The commenter, SWAP, Inc., provided the following written comments:

1. **Applicants should not be penalized under the Utility Benchmarking Service (UBS) category for failing to sign-up for UBS and/or share the information with RIHousing.**

Specifically, the commenter noted that there are a variety of ways that utility data can be collected, and that accessing data for tenant paid utilities in scattered site properties is far more labor intensive than in single master metered buildings.

Staff reviewed the comment and determined that RIHousing can be more diligent in (i) working with borrowers to collect the UBS information, (ii) monitoring how borrowers are collecting the information and using it to manage their own portfolios, and (iii) seeking access to the project level data to measure how certain energy efficiency technologies are performing in real time.

Therefore, staff agrees with the comment and will remove the negative points for this category. Additionally, staff will develop internal procedures for monitoring compliance, working with borrowers to better understand how the data is being used to proactively manage portfolios and seeking access to the data so that energy efficiency measures can be reviewed for performance.

2. **The commenter suggests that the requirements for market study information are inconsistent.**

The 2021 QAP requires that a third-party market study be submitted only for mixed income proposals. The 2021 QAP does not require an application for a 100% affordable housing proposal to provide a market study as there is inherently less risk in a 100% affordable project. While RIHousing is mindful of the costs associated with a market study early in the development process, one of the Threshold Criteria in the 2021 QAP is marketability. The applicant must provide market information that, intentionally, can be gleaned through informal market research by the developer. The applicant is welcome to submit a formal market study if they so choose.

Therefore, staff does not believe any changes are required to this category of the 2021 QAP. Staff will review each application to ensure that the requested information is consistent with the 2021 QAP.

3. **The commenter is concerned that the additional points for proposals that include a commercial component puts proposals for housing in non-urban communities at a disadvantage.**

Staff has reviewed the comment. The points in this category are part of the Comprehensive Community Development section, which seeks to ensure that housing is well connected to the community in which it is located. Incentivizing mixed-use housing

is one of the goals. While these criteria may be more applicable in some communities than others, housing in non-urban communities is typically eligible for the 10 points associated with housing in communities with less than 10% affordable housing.

Therefore, staff does not believe any changes are required to this category of the 2021 QAP.

4. **The commenter seeks clarification regarding 8 points for fully permitted housing.**

Staff reviewed the comment and believes the language clearly states that all three items must be in place in order to receive 8 points: "...for a fully permitted development that has building permits secured AND specifications are at least 75% complete AND architect confirms in writing that the plans and specification can be 100% complete within 30 days AND the application includes a signed schedule of values..."

The commenter further states that points should be awarded for design/build projects with a lower percentage of architectural plan completion, which includes a contract with architect for completion in a time frame that meets the goals to move the development forward on an aggressive schedule and includes a schedule of values from a contractor with a guaranteed final contract price that will not exceed application proforma.

Staff has reviewed this comment and notes that RIHousing has had mixed results from design/build contracts, including costly cost overruns due to poorly executed design/build projects and therefore, strongly discourages them and is considering disallowing design/build altogether. Therefore, staff does not recommend this change to the 2021 QAP.

5. **The commenter believes the cost of providing broadband access is prohibitive in scattered site developments and would impact ongoing financial stability of a project.**

This comment is addressed under "Comment 3(3)" below.

Comment 2

The commenter, Valley Affordable and Barbara Sokoloff Associates, provided 2 written comments:

1. **Current LIHTC scoring puts Senior Housing projects at a disadvantage in the LIHTC QAP/Scoring.**

Staff reviewed the comment. The comment is applicable to 2 scoring criteria, the Total Development Cost ("TDC") per unit and the LIHTC per unit. The 2021 QAP uses a weighted average methodology based on type of construction. As smaller units inherently cost less than larger units, the weighted average methodology was vetted with the development community specifically to create parity between smaller units (senior and/or smaller households) and larger units (family households). The two categories account for 20 of 135 points.

Given that (i) 135 total points are available for a wide variety of criteria, (ii) RIHousing receives a wide variety of projects geared to various populations and (iii) it has been determined that new housing units are required across multiple income bands and demographic groups in RI, staff has determined that no change to the scoring is required.

2. **Effective Penalty for using State funds. The commenter suggests that the point category for minimizing RIHousing or State Housing Grant Funds be eliminated. It is not a point category in similar states and commenter feels it is inappropriate for a project to be penalized because of the sources of capital.**

Staff reviewed the comment. The State of Rhode Island has limited grant sources for the development of affordable housing. RIHousing is mindful of the cost of affordable housing and is focused on cost containment. Therefore, in order to incentivize developers to focus on cost containment and the limited pool of state grant funds, staff feels it is appropriate to incentivize developers to limit their use of state grant dollars. Staff has determined that no change to the scoring is required.

Comment 3

The commenter, The Housing Network (“THN”), provided the following verbal comments during a video conferencing call:

1. **Ensure that the points allocated toward solar include “or other renewables.”**

Staff reviewed this comment and determined that the term “or other renewables” is already included in the bullet points under the larger description of the point category. Therefore, staff believes no change to this category is required.

2. **Provide clarity in the Threshold Criteria section of the QAP related to Financial Feasibility. Is it project specific or does it also include the developer’s balance sheet?**

Staff reviewed this comment and determined that the Financial Feasibility section clearly focuses on project specific financial criteria such as debt service coverage, balanced sources and uses and assessment of real estate taxes. However, the Developer Capacity Section will be updated to clearly require a review of the financial capacity of the developer.

In addition, staff is preparing a training for developers to review the 2021 QAP and assist developers in strengthening the quality of their applications.

3. **The commenter expressed concern about the negative points for UBS, which was addressed in Comment 1(5) above (submitted by SWAP, Inc.). Regarding the new scoring category “free broadband access” for all residents, is it applicable to all units or just common spaces? Is it reasonable and fair to score a single building the same as scattered sites since it more expensive to provide free access in multiple buildings?**

Staff has reviewed this comment and determined that given recent events and the increase in virtual learning, provision of free broadband or internet access to all is vitally important. However, given that the same comment was received by 3 different organizations, staff has determined that additional research should be undertaken to better assess initial and on-going costs before incorporating into the 2021 QAP.

Comment 4

The commenter, Omni Development Corporation and the Wingate Companies, provided 3 written comments:

1. **Minimum point threshold for HUD Foreclosure and Community Impact Set Aside.** The commenter would like to see a fixed-point threshold requirement rather than the proposed point threshold, which is based on an average of all scored proposals for 2 reasons:
 - a. **As the named developer of Barbara Jordan 2 (“BJ2”) based on an RFP that had different criteria than the 2021 QAP.**
 - b. **BJ2 faces deal constraints that other proposals eligible for the 10 points associated with communities without 10% affordable housing, do not face.**

Staff has reviewed these comments and determined that because up to 40% of the annual small state allocation is being set aside for specific criteria for which it is probable BJ2 will qualify, it is incumbent upon the developer to submit a competitive application. The point category changes from 2020 to 2021 are nominal so therefore the commenter was aware of the point categories when they submitted their response to the BJ2 Request for Proposals (“RFP”). Applicant scores under the LIHTC RFP vary year to year. Therefore, it is impossible to provide a “fixed point threshold” since it could be much higher or lower than the cumulative 2021 scores. Requiring the set aside applicant to score at least as high as the average, ensures that the set aside applicant is submitting a competitive application. It would be unfair to applicants applying for the remaining small state allocation if the set aside applicant submitted an application with a score that was significantly lower than the other applications. No change is recommended.

2. **The commenter is seeking Clarification on the Total Development Cost Cap.**

Staff reviewed the comment, which seeks clarification between the absolute cost cap of \$375,000 per unit and the weighted average cost cap, which takes into consideration extraordinary conditions such as prevailing wages (as well as environmental remediation, demolition on non-contributing historic structures and the installation of on-site water treatment systems in rural locations) (the “Extraordinary Conditions”).

The cost cap of \$375,000 per unit for gross unweighted total development cost is absolute. While the 2021 QAP does allow for Extraordinary Conditions, it does not elaborate on how the costs associated with the Extraordinary Conditions should be factored into the weighted average score. Therefore, staff will amend the 2021 QAP to define how the costs for the Extraordinary Conditions should be factored into the scoring.

Comment 5

The commenter, NeighborWorks Blackstone River Valley, provided the following written comments.

1. **Building type weighting calculations.** The commenter is supportive of the 5 building types used to calculate a weighted average score for total development cost and LIHTC per units. The commenter is seeking clarification on how the scoring was calculated.

Subsequent to receiving the written comments, staff followed up with a phone conversation to breakdown how the calculation is implemented. The commenter provided a follow-up email confirming his understanding and withdrawing the comment.

2. **Community Based Non-profit.** The 2021 QAP awards 1 point for a community-based non-profit with a track record of community engagement and has operated housing in the neighborhood. The commenter suggests adding additional criteria such as requiring the inclusion of low-income board members, incorporation in the State of Rhode Island, and Internal Revenue Service (“IRS”) 501(c)3 status. The commenter also suggests that non-profit sponsors should receive 5 points rather than 1 point under this criterion.

Staff has reviewed this comment. IRS 501(c)3 status is already a requirement under the criteria but will be clarified. Staff does agree that requiring the organization to be incorporated in the State of Rhode Island is important. Given the mission focus of these organizations, staff agrees that this category should be worth 2 additional points for a total of 3 points, rather than 1 point. Staff suggests adding 2 additional points to this criterion rather than the 4 points the commenter was requesting.

3. **Space for co-location of supportive services.** The commenter agrees that the co-location of services is important, however suggests that if it is another facility owned by the sponsor and is within walking distance, it should be eligible for the points.

Staff has reviewed the comment and agrees that the criteria should be amended to include either provision of services on site OR in another facility owned by the sponsor, or an affiliate, within 1/2 mile of the proposed project.

4. **Free Broadband Service to residents.** The commenter believes the cost of providing this service is prohibitive in scattered site developments and would impact ongoing financial stability of a project.

This comment is addressed under “Comment 3(3)” above.

5. **Applicants should not be penalized for failing to sign-up for UBS and/or share the information with RIHousing.**

This comment is addressed under “Comment 1(1)” above.

Comment 6

The commenter, ONE Neighborhood Builders, provided the following written comments via email:

1. **Non-profit set-aside. The spirit of this policy, I believe, is to support local, mission-focused, community-based organizations. The tax status alone is insufficient.**

This comment is addressed in Comment 5(2) above.

2. **Scoring – Consider allocating points for workforce housing (up to 120% AMI), that while restricted are effectively market-rate.**

Staff reviewed this comment. Currently, any unit not seeking LIHTC is considered market rate and is eligible for the points. No change is required.

3. **Scoring – co-location of supportive services. There is no need to develop space for the provision of services. Providers prefer home-based delivery of care or having the clients meet at their clinic. Additionally, many developments have existing nearby spaces that can be used for service delivery as needed.**

This comment is addressed in Comment 5(3) above.

The 2021 QAP will become effective upon (i) final approval by the Board of Commissioners; (ii) approval by the Governor; and (iii) 20 days after filing with the Secretary of State.

2. Recommendation

Staff recommends that the Board of Commissioners approve the attached resolution adopting the 2021 QAP and recommending the 2021 QAP for final approval and endorsement by the Governor.

3. Attachments

- A. Resolution
- B. 2021 Qualified Allocation Plan – Blackline (to proposed draft 2021 QAP)
- C. 2021 Qualified Allocation Plan – Final (Clean)

Attachment A

**Resolution of the Board of Commissioners of
Rhode Island Housing and Mortgage Finance Corporation**

WHEREAS, Rhode Island Housing and Mortgage Finance Corporation (“RIHousing”) has been designated by the Governor as the Tax Credit Allocating Agency for the State of Rhode Island (the “State”);

WHEREAS, the Revenue Reconciliation Act of 1989, as amended, requires tax credit allocating agencies to allocate low-income housing tax credits (“LIHTC”) according to a Qualified Allocation Plan (the “Plan”);

WHEREAS, the Plan must establish priorities and criteria for allocating the tax credits that best meet the housing needs of residents of the State of Rhode Island and must be adopted pursuant to a public hearing and comment period; and

WHEREAS, housing needs for the State of Rhode Island have been established pursuant to the Rhode Island Consolidated Plan: 2020-2024 and are incorporated into the 2021 Qualified Allocation Plan (the “2021 Plan”).

NOW, THEREFORE, BE IT:

RESOLVED, that RIHousing adopt the 2021 Plan for the State of Rhode Island in substantially the form attached hereto at Attachment C, and hereby recommends the 2021 Plan be approved and endorsed by the Governor of the State of Rhode Island and Providence Plantations; and

RESOLVED, that RIHousing develop and distribute a Request for Proposals (RFP) soliciting applications for 2021 Low-Income Housing Tax Credits pursuant to the 2021 Plan; and

RESOLVED, that the Executive Director, the Deputy Executive Director and the Director of Development, each acting singly, be, and hereby are, authorized and empowered and directed to file or cause to be filed the 2021 Plan with the Office of the Secretary of State, to execute or cause to be executed any and all certificates, instruments, letters of instruction and documents as shall be required to cause the filing of the 2021 Plan with such office, and to take such further action as she or he, in her or his sole discretion, shall deem necessary or desirable to effectuate the proposed filing and the foregoing resolutions.