

Request for Action
By
Board of Commissioners

Approval of Final 2024 Qualified Allocation Plan

1. Summary of Issues

At its July 11, 2023 meeting, the Rhode Island Housing and Mortgage Finance Corporation (“RIHousing”) Board of Commissioners Credit Committee preliminarily approved a proposed draft and authorized publication of RIHousing’s intent to adopt the 2024 Qualified Allocation Plan (the “2024 QAP”), which governs the allocation of low-income housing tax credits (“LIHTC”). On July 12, 2023, RIHousing published notice of a public hearing on the proposed draft of the 2023 QAP in the Providence Journal and Noticias Rhode Island, and on RIHousing’s website. The public comment period ended on August 10, 2023.

A public hearing was held on July 25, 2023 via video conference with approximately 15 attendees. Written comments were received from three parties.

Staff proposes additional changes to the proposed draft of the 2024 QAP as summarized below to address public comments and to correct some clerical errors:

Section III(5) (page 26)	Modified the language to say “Individuals and families who are currently experiencing homelessness or who have experienced homelessness over the past 24 months.”
Section III(7) (page 26)	Changed “high end” of reasonable cost to “upper limit” of reasonable cost
Section III (Financing Points)(A) (page 34)	Added legal costs for zoning appeals as an extraordinary condition.

The final 2024 QAP is set forth at Attachment C. The 2024 QAP will become effective upon (i) final approval by the Board of Commissioners; (ii) approval by the Governor; and (iii) posting to the RIHousing website as a guidance document.

2. Summary of Public Comments

Commenter 1

Commenter 1, the Housing Network of Rhode Island, provided written comments, which are summarized and addressed below:

Comment 1

Commenter 1 expressed concerns regarding the requirement that “Sponsors should

ensure and be prepared to demonstrate that they are proactively marketing the units to households with tenant-based vouchers”. Specifically, Commenter 1 asked how a sponsor would “ensure and demonstrate” that they are proactively marketing units to voucher holders beyond notifying the PHA/RIHousing?

RIHousing staff will build this requirement into the property management procedures and documents such as the Affirmative Fair Housing Marketing Plan, Tenant Selection Plan and Management Plan. There will be several ways to demonstrate compliance and staff believes that the language as proposed is broad enough to allow for different approaches. Therefore, no change is recommended.

Comments 2&3

Commenter 1 suggested that the modification to the language in Section III regarding 9% credits and preservation transactions is redundant. Commenter 1 also noted that the language regarding priorities for LIHTC awards as they pertain to preservation transactions appears overly restrictive and does not leave room for flexibility.

The language was modified to eliminate any confusion regarding the ineligibility of proposals that are 100% constructed and do not produce any new units. Given the severe shortage of newly created affordable housing, and the small allocation received by the State, staff believes that the limitation on preservation awards is prudent and consistent with State objectives. Therefore, no change is recommended.

Comment 4

Commenter 1 questioned the following language change to priorities for LIHTC awards: “...who have experienced or are experiencing homelessness.” Commenter 1 suggested moving “currently experiencing” ahead of “have experienced” as order tends to suggest prioritization. Commenter 1 also provided the following example language: “who are currently experiencing homelessness or have experienced homelessness in the previous 24 months”.

Staff agrees with this recommendation and has modified the language accordingly.

Comment 5

In regard to the deletion of total development cost as a Threshold Criteria, Commenter 1 suggested that we should replace the term “high end” with wording that cannot be connoted as luxury.

Staff reviewed the section and has modified the language to say “...\$450,000 per unit represents the upper limit of reasonable cost.”

Comment 6

Commenter 1 requested a relaxation of the threshold requirement regarding marketability given the housing crisis, including a suggestion allowing a lower level

demonstration of need, rather than a third party market study, for 100% affordable developments.

Under the QAP and Request for Proposal processes, applicants are required to provide market comparables and other information to ensure that the proposed units can “achieve sustainable occupancy of 95% within 6 months of construction completion.” While there may be a shortage of housing across the State, marketability is geographically specific. In addition, RIHousing does not want to cannibalize previously funded developments that may be near a proposed new development. Only mixed income proposals are required to provide a third party market study. Therefore, no change is recommended.

Comment 7

Commenter 1 questioned the inclusion of state historic credits under the leveraging section of the Scoring since state historic credits may trigger prevailing wages and this drives up overall costs.

Developers are encouraged to identify every possible source available to develop their capital stack and then weigh the pros and cons of each source. Therefore, no change is recommended.

Comments 8, 9, 13

Commenter 1 sought to expand the definition of “Extraordinary Conditions,” which are costs deducted from the weighted average per unit (“WAU”) calculation used for scoring purposes. Specifically, Commenter 1 suggested including (i) legal costs associated with zoning when communities are resistant to the proposed housing and (ii) road infrastructure costs for rural development.

Currently, environmental remediation, prevailing wages, demolition as part of a historic redevelopment, and the installation of on-site water and sewer in rural locations are considered extraordinary conditions.

Many proposed developments require planning and zoning approvals, and staff would consider those standard costs. However, staff recommends that costs associated with the appeal of a zoning denial by a local jurisdiction (to the State Housing Appeals Board, Superior Court, and/or the Supreme Court) be considered extraordinary.

Many proposed developments, both urban and suburban, also require new roadways, sidewalks and other infrastructure to comply with local zoning. Staff does not recommend a change to include such costs as extraordinary for rural locations.

Comment 10

Commenter 1 suggested changing “elderly population” to “older adults” in the General Points section of the scoring.

The section in question is specific to differentiating elderly from special needs and is considered consistent with industry practice. No change is recommended.

Comment 11

Commenter 1 had the following concerns about the scoring section for the provision of 30% units for extremely low-income (“ELI”) households:

- a. **The increased point allocation for developments including 30% AMI units is predicated on the State being able to use ERA2 funds to provide a project based operating subsidy for ELI units. When will information be available to developers regarding the ERA2 subsidy so that they can contemplate it as a source? Will developers actually need to apply for the subsidy or will all projects awarded LIHTC that propose 30% be guaranteed the resources?**

As of the drafting of the 2024 QAP, the expectation is that the ERA2 funding will be available when the Request for Proposals is issued; at which time program guidelines will be circulated. It is anticipated that applicants will need to apply for the ERA2 funding as it will not be automatically awarded.

- b. **With regards to the section beginning “a service plan and memorandum of understanding” – point of clarity: is this only required if the population is “special needs” and not homeless? Homelessness appears to be a designation outside of “special needs.” What does “appropriate services” mean as services differ by client need even within certain population designations. For example – people may be identified as being part of the IDD community but will need varying levels of services and that wouldn’t be known by the developer at the time of their application.**

The point category is broad and is applicable to 30% AMI households that may be comprised of any of the following “...(i) who have income at or below 30% of median income, (ii) are homeless and coming from the Coordinated Entry List or (iii) have special needs...” A household could be special needs, or homeless, or both.

In regard to “appropriate services” and “which must be approved by RIHousing”, RIHousing will endeavor to provide guidelines in the application to assist developers and service providers with their plans. The overall intent is to ensure that developers will engage experienced service providers who are well-versed in the needs of the intended population(s) to be served.

No change from the proposed language is recommended.

Comment 12

Commenter 1 took exception to the proposed language modification in regard to overall readiness to proceed under the planning and zoning section of the scoring.

The purpose of the section is simply to convey that, without zoning approval, an application is not likely to be competitive. The words “adequately demonstrate” are a recognition that each site is unique and the approval process in each community is unique. Therefore, we think the work “adequate” provides additional context for the developer. No change from the proposed language is recommended.

Comment 13

Commenter 1 sought clarity on how the weighted average per unit calculation works across building types and questioned whether it skews toward larger units since future demographics suggest that smaller units are needed.

The proforma includes a scoring page that illustrates the math associated with the calculations.

As to unit size, the goal of the weighted average is to even out the development costs across developments building the same type of building, but which may have different unit counts and bedroom sizes. As noted last year, the scoring and WAU calculation appear to disincentivize larger units, and while demographic data suggests that families are getting smaller, developers have conveyed that they currently have waiting lists for three-bedroom units and larger. Therefore, no change is recommended.

Comment 14

Commenter 1 is concerned that graduation rates may not indicate quality of education. Commenter 1 also questioned how the metric is measured since certain smaller communities don't have high schools.

Graduation rates are published annually and easy to measure. The current list of graduation rates illustrates that some urban communities would receive points in this category and some non-urban communities would not earn points. We also note that there are other scoring metrics in the QAP that favor urban communities over non-urban communities, and this is part of the balance between meeting the State's goal of ensuring affordable housing across all municipalities. In regard to those communities without high schools, applicants should utilize the graduation rates of the community that the municipality partners with for high school enrollment.

Commenter 2

Commenter 2, Pennrose, provided the following written comments:

Comment 1

Commenter 2 had 3 comments related to the revised point category for the provision of ELI units: (i) a request for clarification regarding how a Supportive Services Plan would meet QAP requirements; (ii) concern that ELI units without supportive services may create units for high-need populations without providing appropriate care; and (iii) concern that to achieve 20% of the units in a 60 unit building for 30% households, 12 project based vouchers would be required which would trigger prevailing wage or require more subsidies.

As to (i), as noted in Commenter 1, Comment 11(b), RIHousing will endeavor to provide guidelines in the application to assist developers and service providers with their plans. The overall intent is to ensure that developers will engage experienced service providers who are well-versed in the needs of the intended population(s) to be served. No change recommended.

As to (ii), not all ELI households require supportive services. Some households simply have extremely low incomes because they are underemployed or in a low wage job. RIHousing is attempting to make a distinction between (i) households that require supportive services to ensure that they remain safe and can maintain tenancy and (ii) households that do not require that type of support. No change recommended.

As to (iii), developers are encouraged to identify other types of operating support, such as the HPF-ELI Program which will bridge the gap between a residents' ability to pay 30% of their gross household income toward rent and the established 50% Low-Income Housing Tax Credit (LIHTC) rents for the applicable unit size. No change recommended.

Comment 2

Commenter 2 sought the following clarifications within the Transit and Connectivity point section: If a development proposes to build a new bus shelter and includes this scope in the project budget, would it be eligible for transit points? In addition, would an exterior, secure bike shelter also qualify for bike storage points?

If an application includes a Memorandum of Understanding or Letter of Intent between the developer and RIDOT regarding the installation of a new bus stop and it is less than ½ mile from the proposed site, then, in concept, it would appear to be eligible for transit points. An onsite secure exterior bike shelter would likely qualify for points under this section of the QAP.

Comment 3

Commenter 2 sought clarification as to whether each phase of a multi-phase project must have a commercial component to receive points under this category or whether a commercial space in one phase that serves the community as a whole is sufficient for the second phase to receive points under this category.

Each phase is funded separately and subject to the scoring criteria in place at the time of application. Therefore, having a commercial component in Phase 1 does not satisfy the requirement for a commercial component in Phase 2. No change recommended.

Comment 4

Commenter 2 had four comments in regard to the points awarded for Efficiency: (i) due to challenges related to the RNC Tier II target, they suggested alternatives that can be employed; (ii) Commenter 2 asked, more specifically, whether the QAP can incorporate more comprehensive standards, such as FitWell or Enterprise Green Communities, to better fit developer and agency goals for healthier, more sustainable living environments (vs. focusing on energy use alone); (iii) Commenter 2 sought clarification regarding available renewable energy opportunities and suggested that there should be guidance in the QAP pertaining to how to get in the queue to source

renewable energy from the grid; and (iv) Commenter 2 sought confirmation that “other renewable energy systems” includes community net metering or similar.

As to (i), the RNC Tier II benchmark is established by RI Energy to increase building performance by stretching the existing energy code requirements. RI Energy and their vendor, ClearResult, work with developers to fully evaluate construction projects under the RNC program at the 50% plan submission stage. We encourage our developments to utilize the RNC program because it ensures that they meet a higher energy efficiency standard and that they are eligible for quantifiable building incentives and rebates. No change recommended.

As to (ii), RIHousing has engaged a consultant to undertake a wholesale revision to the Design and Construction Guidelines. The revised guidelines should be completed by December 2023. No change recommended.

As to (iii), in regard to renewable energy source availability, RIHousing staff will work with the Office of Energy Resources to identify a contact to assist developers as they navigate the process, including applications for community net metering.

As to (iv), community net metering is considered an “other renewable energy system” in the QAP. No change recommended.

Commenter 3

Commenter 3, Lincoln Avenue Capital, provided the following written comments:

Comment 1

While Commenter 3 supports the modification to the TDC per unit cap, they requested consideration of TDC cap exclusions such as the exclusion of land costs, acquisition basis and additional consultant and legal costs.

The QAP currently outlines extraordinary conditions and does make exceptions for certain costs. Given a review of recent closed transactions and projects that were recently approved for financing, the new language removing a firm TDC cap and substituting “reasonable costs” seeks to balance the current dynamic economic environment and cost containment concerns. Furthermore, acquisition costs can vary dramatically; so, while excluding high acquisition costs for one project may be advantageous, a general exclusion such as this may disadvantage a developer who was able to reduce their acquisition costs. We encourage developers to utilize the Site Acquisition Program which provides grants for land and building acquisition. As for consultant and legal costs, RIHousing firmly believes that it is within the developer’s control to minimize soft costs, including consultant and legal costs. No change is recommended.

Comment 2

Commenter 3 proposed changes regarding Developer Fee Limitations. More specifically, they recommended that RIHousing (i) consider changing the fee for 9% LIHTC projects to a flat 15% of acquisition costs plus other eligible development costs and (ii) change the developer fee structure for 4% LIHTC/bond deals to a flat 18-20% of acquisition costs plus other eligible development costs.

Rhode Island receives the small state minimum in 9% allocated LIHTC, and as a small state, we try to balance funding the maximum number of units and/or projects possible while still ensuring that developers are paid for their efforts and risk. For new production, the developer fee is based on units regardless of the overall TDC. This is also part of overall cost containment considerations. For tax exempt bond deals, the developer's fee as outlined in the Developer's Handbook has been updated and will be published in the 2024 Handbook to reflect developer fee policy for 4% new production and 4% preservation deals. In each case, there is a maximum base fee and an opportunity to increase the fee to 15% as long as the additional fee above the base fee is deferred and the additional equity generated is used to cover project costs. RIHousing current guidelines are consistent with NCSHA Recommended Best Practices. No change is recommended.

Comment 3

Commenter 3 had concerns regarding the minimum rehabilitation cost per unit and recommended that RIHousing raise its minimum rehabilitation cost per unit from \$15,000 to \$25,000.

RIHousing requires a Capital Needs Assessment (CNA) for all preservation and/or rehabilitation transactions. The CNA provides a third-party review of property conditions and outlines property needs over a 15 or 20 year schedule. RIHousing believes that the CNA is the best guide for determining rehabilitation budgets. Furthermore, while many projects have budgets far in excess of \$15,000 per unit, not every project requires even a moderate upgrade. Mandating a higher per unit minimum rehabilitation cost might unnecessarily over-subsidize a project. No change is recommended.

Comment 4

Commenter 3 suggested additional flexibility regarding the One-to-One Replacement Policy and provided the following example: the state may find it desirable to repurpose existing studio apartments to 1-bedroom units or combine smaller complexes to allow for larger family units. Commenter 3 also stated that HUD may want to de-densify various public housing sites and suggested that RIHousing's

replacement policy should allow for some offsite replacement for various cases or to promote mixed income housing (with agency approval).

The current one-for-one replacement policy was added to the QAP over 20 years ago when RIHousing financed its first HOPE VI transactions to ensure no net loss of units. The current policy does allow for offsite replacement in some situations. It is also designed to accommodate small changes in unit size based on demographics and market conditions. No change is recommended.

Public Hearing Comments:

1. Participants were supportive of the elimination of the total development cost as a Threshold Criterion.
2. Two participants discussed the expansion of the definition of “Extraordinary Conditions,” which are discussed in Comment 8 above.
3. One participant sought clarity regarding proposals which have planning/zoning meetings scheduled soon after applications are due (i.e., zoning approvals are in process but not in place at time of application). In response, staff reiterated that it is incumbent on the developer to meet application deadlines and underscored the importance of meeting the Readiness to Proceed criterion.

3. Recommendation

Staff recommends that the Board of Commissioners approve the attached resolution adopting the 2024 QAP and recommending the 2024 QAP for final approval and endorsement by the Governor.

4. Attachments

- a. Resolution
- b. 2024 Qualified Allocation Plan – Blackline (to proposed draft 2024 QAP)
- c. 2024 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;

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 2024 Qualified Allocation Plan (the “2024 QAP”).

NOW, THEREFORE, BE IT:

RESOLVED, that RIHousing adopt the 2024 QAP for the State of Rhode Island in substantially the form attached hereto at Attachment C, and hereby recommends the 2024 Plan be approved and endorsed by the Governor of the State of Rhode Island; and

RESOLVED, that RIHousing develop and distribute a Request for Proposals soliciting applications for 2024 LIHTC pursuant to the 2024 QAP; and

RESOLVED, that the Executive Director, Deputy Executive Director, and Director of Real Estate Development, each acting singly, be, and hereby are, authorized and empowered and directed to take such action as she or he, in her or his sole discretion, shall deem necessary or desirable to effectuate the foregoing resolutions.