

HOUSING AND REDEVELOPMENT AUTHORITY OF THE CITY OF SAINT PAUL, MINNESOTA

REPORT TO THE COMMISSIONERS

DATE: APRIL 10, 2019

REGARDING: STAFF REPORT REGARDING THE PROPOSED AMENDMENTS TO
THE MINNEAPOLIS/SAINT PAUL HOUSING FINANCE BOARD - LOW
INCOME HOUSING TAX CREDIT PROGRAM FOR 2020, CITYWIDE

Requested Board Action

This report requests HRA Board consideration of proposed changes to the Minneapolis/Saint Paul Housing Finance Board's *Low Income Housing Tax Credit Procedural Manual* ("Procedural Manual") and its *Qualified Allocation Plan* ("QAP") for 2020. The proposed changes are specifically identified in the 2020 Procedural Manual which is referenced in the attached **Procedural Manual** and the 2020 QAP which is referenced in the attached **Qualified Action Plan**.

Background

The Federal Tax Reform Act of 1986 created the Low Income Housing Tax Credits ("Credits") for qualified residential properties to encourage the production of affordable low-income rental housing. Credits provide a reduction in federal tax liability to owners and investors of qualified low-income housing developments. The owner/investors may use Credits annually for ten years ("credit period"), but qualified low-income housing projects must comply with federally-imposed rent and tenant income restrictions for 15 years with an extended use period of an additional 15 years ("compliance period"). At a minimum, 40% of the units must be affordable and rented to households at or below 60% of the area median income (AMI) or 20% of units must be affordable and rented to households at or below 50% of AMI for the duration of the restricted period. Federal law also gives preference to selected properties which serve the lowest income qualified tenants for the longest period, and projects which are located in qualified census tracts for community revitalization.

Pursuant to MN State Statute, Section 462A.221-462A.225, as amended, Minnesota Housing Finance Agency ("MHFA") is the State Credit Allocator for eligible statewide projects. The Minnesota Legislature also authorized the Minneapolis/Saint Paul Housing Finance Board

(“Housing Finance Board”) as the Credit Suballocator for eligible projects located in cities of Saint Paul and Minneapolis. Housing Finance Board must annually publish a Procedural Manual and QAP, which establish the timeline, process, and criteria by which the Housing Finance Board selects projects to receive Credits. The QAP must also identify the selection criteria to determine housing priorities of the housing credit agency which are appropriate to local conditions.

With the adoption of its 2020 Procedural Manual and 2020 QAP, the Housing Finance Board authorizes the HRA to administer the Credit Program for Saint Paul’s projects. Saint Paul’s Credit Allocation for 2019 is \$901,241 which is \$81,518 less than the 2019 Credit Allocation.

Summary of Changes to the Procedural Manual and Qualified Allocation Plan

As referenced in the Attachments, HRA staff recommends changes to the 2020 Procedural Manual and the 2020 Qualified Allocation Plan in order to reflect the priorities of the HRA Board. In summary, the proposed changes include the following:

2020 Procedural Manual

1. *General Amendments to the 2020 Procedural Manual.* The Minneapolis/Saint Paul Housing Finance Board retained special legal counsel to appropriately amend its 2020 Procedural Manual and 2020 QAP to reflect changes to the IRS Regulations, and amendments included formatting changes. Throughout the documents, Low Income Housing Tax Credits is referenced as “HTC”.

Additionally, when appropriate, the Procedural Manual and Qualified Allocation Plan were amended to distinguish between the 15-year compliance period requirements which are applicable to the project and the 10-year credit period requirements which are applicable to the equity investor.

2. Under Section III, *Policies and Procedures – Minimum Threshold for 4% Credit Projects* HRA staff recommends that Pre-Application Letters of Intent be no longer required for 4% Credit projects. However, 4% Credit projects must still demonstrate eligibility under the 4% Selection Criteria as outlined in the 2020 QAP.

3. Under Section III, *Policies and Procedures (Q) - Monitoring for Compliance*, this amendment states that HRA staff or Delegate must physically inspect the property and review tenant files every three years during the 15 year compliance period. Compliance monitoring requirements are also noted in the annual Suballocator’s Compliance Monitoring Manual.
4. Under Section IV (E) *Project Eligibility –Income Averaging*, IRS regulations now recognize “Income Averaging” as a new Credit set-aside requirement (i.e. number of units that must meet both rent and income restrictions) for the 15- year Compliance Period. In contrast to existing set-aside requirements (i.e. 20% of units rented to households at 50 % AMI or 40% of the units rented to households at 60 % AMI), income averaging allows more flexibility to serve households with a wider AMI range (from 20% AMI to 80%AMI) so long as the Credit project still complies with the federal 60%AMI requirement on an average basis. IRS developed this new Income Averaging regulation in order to increase rental affordability to low and very low-income households, and to facilitate development of economically integrated housing.
5. Section IV (E) *Project Eligibility – Income Averaging*: Projects that elect the Income-Averaging Set-Aside must meet all Federal requirements as well as major requirements imposed by the Housing Finance Board including, but not limited to, the following: (1) 100% Credit projects that did not file its final IRS 8609 Credit Allocation Form may elect the Income Averaging Set-aside only if such project has not received funds that otherwise require rent affordability, such as federal HOME funds; (2) Income Averaging tiers may be set at 10% increments from 20% AMI to 80% AMI; (3) Reasonable parity in unit types and unit sizes across income tiers is required; (4) Units with project-based rental assistance will be considered as 50% AMI units for the purpose of Income Averaging. Other requirements are so noted in the attached Chart.
6. Under Section IV (E) *Project Eligibility –Gross Rent – Utility Allowance*. IRS regulations require that Credit projects calculate gross rent to include utility allowances. On the other hand, HUD developed utility allowances for its HUD-assisted properties. To address these

disparate federal requirements, IRS regulations now provide additional guidance relating to utility allowances when determining gross rent. For HUD assisted projects, such as HOME financed developments, project owners may use utility allowances established by HUD regulations. For non-HUD assisted buildings, project owners may implement the required utility allowances by using applicable Saint Paul PHA utility allowances or applicable HRA-approved utility schedules.

7. Under Section IV (Q), *Fair Housing Policy*, Credit projects must develop and maintain Affirmative Marketing Plan for the time period identified in the project's Declaration of Land Use Restrictive Agreement ("LURA").
8. Section IV (R) *Tenant Selection Plan* requires Credit projects create a tenant selection plan which recognizes recent HUD regulations regarding tenant selection. A draft tenant selection plan must be submitted at time of application.
9. Under Section VII – Submission Requirements for Credit Projects, new application requirements for 9% Credit projects include a complete appraisal as well as submission requirements for projects that elect the Income Averaging Set-aside. Similar requirements are established for 4% Credit projects.
10. Under Section VII – Submission Requirements for Income Averaging Projects that request changes to building unit mix must provide additional documentation. Requests for such changes will be considered at the sole discretion of the Housing Finance Board.
11. Monitoring Fees: The Housing Finance Board reserves the right to adjust Compliance Monitoring Fees which are published in the annual Tax Credit Compliance Manual. Projects that elect the Income Averaging Set-aside may require additional compliance monitoring fees.

2020 Qualified Allocation Plan (9% Credit Projects)

1. Under *Article III – Definitions*, the “Delegate” means an agent or private contractor retained by Housing Finance Board to perform Credit Compliance Monitoring. This amendment is a procedural change.
2. Under *Article III, Definitions*, IRS regulations recognize Income Averaging as a new option to meet the minimum set-aside test required under Section 42 of the Code. IRS developed Income Averaging in order to promote economically integrated affordable housing as a Credit project may be able to serve very-low income households (under 50% AMI) as well as moderate income households (80% AMI).
3. *Amount of 9% HTC for 2020*, Saint Paul will receive \$901,241 of Credits for the 2020 Credit year.
- 3 Under *Article IX, Compliance Monitoring – Record Keeping*, Credit owners must obtain documentation to support each Credit tenant’s income certification. Documentation must be consistent with federal Section 8 requirements, HUD occupancy requirements for HUD Subsidized Multifamily Housing Programs, and the Housing Finance Boards, Compliance Manual.
4. Under *Article IX, Compliance Monitoring – Owner’s Annual Certification*. These amendments recognize the Income Averaging Set-Aside election and Tenant Income Certification documentation. The owner also certifies whether the project had any Fair Housing findings, and whether tenants were evicted other than for good cause. These two certifications are codifications of current practices. Additionally, owners must annually certify whether project received a Minnesota Housing set-aside allocation which consequently requires that the project has a non-profit entity that materially participates with the operations of the development.
5. Under *Article IX, Review*, HRA or its Delegate shall review project certifications, supporting documentation, tenant files as well as physically inspect the Credit project every three years. This amendment codifies existing Compliance Monitoring practices.

6. Article IX (4) requires that the compliance correction period will be no more than sixty days for which the HRA or Delegate may extend correction period pending good cause. HRA's delegate will submit any proposed extension denials to HRA staff for final determination.
7. Under *Saint Paul's Site Selection Priorities #7 - Economic Integration*. It is recommended that this site selection priority be eliminated due to its lack of efficacy, and the conflict with the new IRS regulation of Income Averaging. It is anticipated that Income Averaging will be a more effective means of encouraging economic integration within a Credit building.
8. A new *Saint Paul's Site Selection Priorities #7* is proposed to award site selection points on a prorated basis that support affordable housing developments that serve more households at or below 50% AMI.
9. Under *Saint Paul's Site Selection Priority #9 – Homelessness*. An additional note states that applicants claiming these site selection points must house homeless households, except homeless youth, who are referred through the Ramsey County Coordinated Entry system.

2019 Qualified Allocation Plan (4% Credit Projects)

In recognition of limited tax-exempt financing, 4% Credit projects requesting 2020 financing must be scored 35 points pursuant to the 4% Site Selection Criteria which affirms HRA priorities as follows:

- Site Selection Priority points are awarded to projects that require no gap financing or projects which secured permanent capital financial commitments from more than one funding source other than the Saint Paul HRA funding sources. This amendment now requires project-specific capital financial commitment documentation including funding amounts, financial terms, and conditions submitted in writing from the designated contributor.

- 4% Credit projects currently provide affordable housing for twenty (20) years. Last year, the HRA Board also approved site selection priority points to be awarded to affordable housing developments that offer longer affordability periods of 30, 40, 45 years. Consequently, a procedural amendment is now needed to have the owner agree that Section 42 income and rental restrictions apply to the time period for which the site selection priority points were selected.
- Priority points will be awarded to affordable housing developments with intermediary costs or soft costs of 0-30% of total development costs (1-15 points) in recognition of current cost factors.

Future Action

Upon HRA Board consideration of the proposed 2020 Procedural Manual and 2020 QAP, the HRA staff will prepare final recommendations for HRA Board endorsement to the Minneapolis/Saint Paul Housing Finance Board which will hold a public hearing on May 8, 2019 for formal adoption of the 2020 Procedural Manual and 2020 QAP.

The 2020 Credit Applications will be due on June 28, 2019. Staff will request HRA Board action to reserve 2020 Credits in September.

Green/Sustainable Development Projects that receive 2020 Credits must comply with the Minnesota Overlay developed in coordination with Green Communities as well as the *Saint Paul Sustainable Building Policy*.

Compliance

Qualified low-income housing developments that receive 2020 Credits must comply with applicable compliance requirements.

Public Purpose

Discussion of proposed changes to the 2020 Credit Program that will promote the construction or preservation of rental housing that is affordable to Saint Paul residents with incomes at or below 60% of area median income.

Recommendation

The Executive Director requests comments from at the HRA Board of Commissioners regarding any proposed changes to the 2020 Low Income Housing Tax Credit Procedural Manual and 2020 Qualified Allocation Plan.

HRA staff will make appropriate changes in recognition of HRA Board recommendations. On April 24, 2019, the HRA Board will consider the final endorsement of proposed changes for consideration by the Minneapolis/Saint Paul Housing Finance Board.

Sponsored by: Commissioner Chris Tolbert

Staff: Joe Collins, 266-6020

Attachments

- 2020 Procedural Manual
- 2020 Qualified Allocation Plan
- Proposed amendments to 2020 Procedural Manual
- Proposed amendments to 2020 Qualified Allocation Plan
- Proposed 2020 Scorecard/Worksheet
- Proposed Tenant Selection Plan Sample