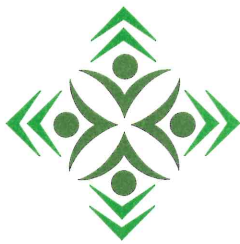

MUTUAL HOUSING
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September 18, 2024

Mr. Dean Minakami, Executive Director
Hawai`i Housing Finance and Development Corporation
677 Queen Street; Suite 300
Honolulu, Hawai`i 96813

Dear Mr. Minakami:

Subject: Low-Income Housing Tax Credit 2025 Qualified Allocation Plan

The Mutual Housing Association of Hawai`i, Inc. ("Mutual Housing") appreciates the opportunity to submit comments on the draft 2025 Qualified Allocation Plan for the State of Hawai`i's Low-Income Housing Tax Credit Program ("QAP"). We respectfully offer comments for your consideration on specific sections of the QAP.

## General Comments

We appreciate HHFDC's efforts to improve the efficiency of the deployment of tax credits and ensure that the most deserving projects are awarded this limited financial resource. The major concern we have with the proposed 2025 QAP is the timing of its implementation. Some of the proposed QAP changes are quite significant. There will be limited time to incorporate these changes and requirements into the 2025 financing applications, since any approval of the QAP plan would not be confirmed by the HHFDC Board of Directors until mid-November 2024 with the application due date in February 2025. As you know, it takes months, if not years, to plan and structure viable LIHTC projects. It would be best if these proposed changes are implemented in 2026 to allow developers adequate time to properly incorporate the new requirements.

In the case of our project planned for the 2025 application, we have been working on design for over 18 months. In particular, the new engineering and design requirements in the proposed QAP would be a major setback, since we are already close to completing permit drawings for submittal and have already submitted drawings to DCAB.

## QAP Comments

The following are specific comments on the 2025 QAP changes:

B. Minimum Thresholds - 4. Engineering or Capital Needs Assessment

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NeighborWorks® CHARTERED MEMBER

The new requirement of an Engineering study is one that would be hard to accomplish after November of this year. We recommend removing this requirement from the February 2025 application.

Appendix 2 – Design Requirements

This new QAP provision for design requirements is a major change to the LIHTC program. It would be difficult to meet these requirements in just three months after HHFDC board approval. There are also several requirements in the Appendix 2 that exceed current ADAAG standards or would not typically be designed or required by any governmental entity.

We are currently preparing to submit a 2025 HHFDC financing application. The following are examples where we would have difficulty in meeting the new design requirements or where we question the proposed specifications.

a. II. A. 4. We have questions on how this requirement will be interpreted and why it is necessary for all projects to have 12 inches of exposed brick or masonry veneers. This seems like a discretionary design feature that should not be promulgated in HHFDC's design requirements.

b. II. B. 2. In the case of our new project, in lieu of separate dining areas, some of our units have kitchen islands with the dual function for dining and food preparation. The requirement to keep a 60-inch clearance from any cabinets will be difficult as we have cabinets located below the kitchen islands and on the opposite side of seating areas.

c. II. B. 4. We are utilizing sliding pocket doors for a few ADA bathrooms to meet ADAAG clearances. This has generally been an accepted solution in past affordable projects in Hawai`i. Where areas are tight, adding swing doors will increase the bathroom size, which may result in reducing bedroom areas.

d. I. B. 8. All of the ADA units in our new project have tub/showers (with no roll in showers). The new requirement that a three-bedroom apartment must provide a bathroom with a shower and another with a bathtub is an extraordinary change. We are unclear if this is a problem with the B.8. requirement. This requirement is more onerous than ADAAG and other guidelines. ADAAG allows for tub/showers with a removable set. ICC A117.1 allows for tub/showers without removable set. Per IBC 1108.6, Group R-2 (Type A units) do not need to provide for roll in showers.

e. II. B. 9. Our project has "4" four-story structures. Our designers have dispersed the ADA units on the ground floors of 3 out of the 4 buildings, and we believe this meets the spirit of this requirement. The proposed requirement would compel projects like ours to redesignate ADA units on our upper floors which does not make sense for mobility-challenged tenants. Should this requirement be reconsidered?

(Per ADAAG 233 3.5 and 2021 IBC Handbook, dispersion is required only among the various types of residential dwelling units (1-BR, 2-BR, 3-BR, etc.) IBC Handbook further clarifies that all Type A units are permitted to be in the same building, and all may be located on the same floor level, which would typically be at grade.)

f. II. C. 4. This requirement appears to be stricter than ADAAG and ICC which allow knee and toe clearances within the turning spaces. Should this requirement be reconsidered?

g. II. D. 2. We seek to understand why we must have a dishwasher in our units. It is uncommon for LIHTC projects to have dishwashers in apartments, and this new requirement would add to both the construction and operational costs of Hawai`i's LIHTC rentals.

h. III. C. 2. Our current plans call for the installation of through-the-wall a/c units in the living rooms of all the apartments. Our design approach is consistent with how both low-income and market rate apartments have typically cooled apartments. This new requirement seems unnecessary and very expensive to implement.

i. III. C. 6. Our range hoods do not vent to the exterior of the building. This has been a consistent practice in all of our new rental projects and is common in market rate apartments. This is another cost-prohibitive and unnecessary requirement.

We thank you for the opportunity to submit comments on the QAP.

Sincerely,

David M. Nakamura
Executive Director

October 1, 2024

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Dear Mr. Minakami:

Thank you for the opportunity to review and provide feedback on the proposed 2025 QAP published on September 12, 2024. We appreciate the continued work at the agency and acknowledge that the QAP revisions are a considerable body of work for staff. We offer the following comments, questions and suggestions detailed below knowing that the review of the agency's work is significantly easier than its development.

The comments below are offered in the interest of collaboration and creating a QAP to deliver meaningful outcomes to Hawaii's low-income residents.

General Comments:

This is the third consecutive year in which the proposed QAP changes have been extensive and wide reaching. To meet the stringent readiness requirements that HHFDC has instituted over the past several rounds, developers (at this point in the funding cycle) are well into, if not through, plan development and permitting. To get through these milestones, they have spent hundreds of thousands of dollars, potentially millions, to secure site control and advance design work in preparation to apply in the forthcoming round. Extensive changes to the QAP for the forthcoming round put into jeopardy deep financial commitments by developers and will disincentivize them from making future investments required to deliver on funded projects quickly and on budget.

While significant overhauls of the QAP may be required, they should not be adopted just a few months in advance of the opening of a round in which they be implemented. Implementation of such extensive changes should be delayed to the following cycle to allow for project selection and predevelopment of projects that fit the new QAP. If the state truly values transparency and avoidance of the appearance of impropriety, the timing of implementation of the QAP changes should be revisited.

QAP Comments:

Page 3, II. Application and Award Process

1. In the last line of the second paragraph, "is" is missing after insertion of "doing so"

Page 7, III(B)(4)(a) – Engineering or Capital Needs Assessment

1. Engineering ***or*** Capital Needs Assessment – this wording would infer that it is one or the other? Is it?

2. The EPA and RD guidance for Preliminary Engineering Reports appear to be specifically for infrastructure pertaining to the development of water, wastewater, solid waste and stormwater projects. Is this the intent?
3. American Society of Civil Engineers does not appear to have guidance on PER (though they do cross reference RD guidance noted above). If these or the Federal Highway Admin requirements are not applicable, are there any standards to which the report must comply?
    a. Should reference to these requirements just be in the bullet points below, if applicable?
4. This requirement appears to be redundant with the requirements of III(B)(5).

Page 7, III(B)(5) – Plan and Cost Review

1. Who are the "HHFDC approved" estimators?
    a. What are the requirements to be an approved estimator?
    b. Has the agency solicited estimators?
    c. How can the state be sure there are enough "approved" estimators to perform the work needed?
    d. What are the protections regarding conflicts of interest between HHFDC/estimators/developers?
2. The creation of an HHFDC approved estimator is worrisome as failure to have enough estimators will create a demand imbalance and drive up the cost of reports and create bottlenecks due to both the number of apps and the short window of time between publication of QAP and app submittal.
3. The header includes "all applications" in parentheticals, but body of section references rehab and site work. Please clarify.
4. This appears to be redundant with the requirements of III(B)(4)(a).
    a. How are the reports different?
    b. Or how are they applied to projects differently?
5. Why was the executed contract eliminated as satisfying this requirement? A general contractor under contract to build at an agreed upon cost is the most knowledgeable about what a project costs to build.

Page 10, III(B)(12)(a) – Developer Fee

1. This change incorrectly assumes that larger transactions are "better", more difficult to execute and/or risky or somehow more desirable than smaller transactions.
2. This changes disincentivizes smaller transactions, which typically make up the deals funded by 9% LIHTC.
3. 9% deals tend to be smaller than bond deals given their limited capacity to maximize basis.
    - 9% transactions can often be funded with 9% LIHTC and conventional debt alone, requiring fewer state resources.

- 9% transactions are just as challenging (or more so) to structure and close and developers should be compensated based on that difficulty and risk.
- 9% transactions are instrumental to delivering LIHTC production to the neighbor islands, smaller communities and rural communities.

4. Most states have a different developer fee calculation for 9% and 4% transactions because the product type, goals and unique circumstances are so different between the types of funding and the projects delivered under the two programs.
   - Consider that the old calculation could pertain to 9% new construction, the new calculation to 4% new construction rather than apply a single calculation across the board.

Page 11, III(B)(15) – Development Cost

1. While the state has expertise in many areas, its expertise is not relevant to, nor sufficient, to dictate construction costs to projects.
2. The data that is available is to the state will be outdated, will be aggregated without specific analysis to address the many nuances that exist across a mass grouping of construction projects and the state is not plugged into the market in a way to address current and projected issues pertaining to cost escalation, supply chain issues and capacity and market demand.
3. Relative to the proposed Design Standards in Appendix 2, unless every project the state uses to collect data meets the requirements of Appendix II, would the state even have sufficient data to arrive at the cost to construct in accordance with the proposed new requirements?
4. If the state miscalculates project cost used in allocating resources - either by being conservative to limit allocation amounts or due to errors in its analysis - the entire pool of projects awarded will have funding shortfalls that will in turn result in request for additional funding and create a barrage of administrative work for the agency.
   a. This will also have a ripple effect across the entire capital stack of the projects and likely cause delays while debt and equity are restructured and other sources of local, state or federal funding navigate their respective processes.

Page 14, III(D) – Criterion 5 – State/Local Government Support

1. There are few state funding sources that have the capacity to fund projects at these levels on a sustained basis.
2. This criterion was instrumental in assisting with the deployment of HOME and HTF funding by local jurisdictions as it incentivized developers to use the funding to score.
   a. What incentive do developers have to use HOME and HTF if no chance of achieving a score? These funding sources have onerous requirements and are relatively small in amounts.
   b. Is HHFDC creating a larger issue for itself and the Counties with this change?

   c. Is there a contingency plan for deployment of HOME and HTF if developers no longer use the funding in the LIHTC program?

Page 19, III(D) – Criterion 13 – Percentage of Income Targeted Units

1. How does this calc account for non-LIHTC units such as those at the “missing middle” incomes – up to 100% AMI that are included in the LIHTC Use Restriction?
   a. Are those units part of the total? Are they left out of the calc all together?
2. The scoring for the “original” method might appear to be “better” – incentivizing 30% of the units at 30% AMI, but such high concentrations of lower AMIs make (unsubsidized) projects susceptible to even moderate financial volatility.
   a. By being able to include a small percent of income restricted, but non-LIHTC units, a project can support the higher concentration of lower income units by offsetting the financial vulnerability.
   b. Notwithstanding the rules for the Average Income Test (for compliance purposes) or the AMI set asides set forth the LIHTC Use Restriction, the scoring for this criterion should not disadvantage mixed income projects.
3. The scoring under the original method is quiet poor and thus incentivizes the income averaging approach.
4. Please confirm this is not a weighted average calc (relative to unit type) and that staff units are excluded from the calculation.

Page 22,III(D) – Criterion 18 – Underserved Areas

1. These appear to be zip codes and not census tracts.
2. What definition of underserved is being applied here?
3. What housing data does the agency have to support that these are in fact areas that are underserved?
   a. What criteria was used in determining the notion of underserved?
   b. Is said criteria being applied consistently and equally across all of the census tracts in the state?

Page 22,III(D) – Criterion 19 – Concentrations of Wealth

1. Is the agency actively promoting NIMBY-ism with this policy?
2. By framing this criterion this way, as opposed to incentivizing developments in QCTs (not withstanding revitalization plans, ie Criterion 18), or in areas with other specific data benchmarks, it appears that the agency has a goal of creating concentrations where low-income residents should reside.
3. There is significant data on the benefits of income integration on low-income households and communities.

  a. We should be promoting income integration not actively incentivizing the concentration of low-income residents to certain areas of our cities and islands.

Page 22, III(D) – Criterion 20 – Loan Repayment

1. How is this going to be determined?
2. If a project is financially feasible without RHRF, that project is at a scoring disadvantage because of this category. Is that the intent?
   a. To offset this there should be a criterion for projects to score 2 pts if they don't use RHRF.
3. All things being equal, is the agency trying to incentivize the use of state resources?
4. This incentive should be a part of the RHRF review/ allocation – not the LIHTC or volume cap allocation.

Page 22, III(D) – Criterion 21 – State Conveyance

1. This unnecessarily provides additional benefit to projects on government leased land as ownership of the improvements revert to the lessor at the end of the lease anyhow.
   a. With new and revised categories prioritizing development on government land, it doesn't seem necessary to further advantage such projects.
2. In the absence of stated goals and objectives of the agency, and understanding how this criterion would help achieve such goals and objectives, it is difficult to understand the impetus behind this criterion.

Page 22, III(D) – Criterion 22 – Need for Rehabilitation

1. This criterion is massively subjective and offers little guidance as to what would qualify.
2. With points that represent 6.5% of the total available points, it seems a disservice to all applicants to fail to provide more specific guidance.
3. It is confusing that this scored criterion, especially at such a significant percentage of total points, is being added when the agency has historically limited, and in recent years, rejected funding of rehab projects (regardless of scoring).

Page 23, Criterion 23 – Proximity to Amenities

1. Is the addition of a new Criterion needed to capture these elements? Can Criterion 8 and Criterion 3 be modified to encapsulate some of these points?
2. These items are all prevalent in urban areas which are already advantaged by scoring in Criterion 8.
3. This criterion further disadvantages LIHTC production in rural areas.
4. This criterion is at odds with the objectives of Criterion 18, underserved areas, which if they are underserved with housing, at likely to be underserved with services, access, etc.

5. This criterion offsets the scoring of Criterion 19, concentrated wealth, as areas of concentrated wealth are very likely to have access to all of these.
6. The additional leg work required to deliver 'proof' of all these new requirements is burdensome and adds to the many additional requirements being layered in the application process.
   a. Please weigh the cost-benefit of creating additional administrative work and requirements for applicants.
   b. Such requests increase the cost of preparing and delivering applications and ultimately the costs to projects.

Page 23, Criterion 24 – Point Deduction

1. Has the agency developed a policy or procedure as to how point deductions will be applied?
   a. Will that be shared with applicants or otherwise incorporated into the application?

Page 26, IV(B) – Set Aside and Average Income

1. Is this meant to be the IRS Average Income Test or is this a state specific version of income averaging?
2. Does HHFDC have a detailed and defined income averaging policy and updated compliance manual to account for income averaging?
3. Because the agency has historically eschewed income averaging, local developers/owners and local management companies may not have the knowledge or training required for income averaging compliance – might take time to develop.
   a. Has HHDFC staff has training on compliance for income averaging?
   b. Will training be offered to stakeholders?

Appendix 2
General Comments:

1. Which design and construction industry experts were consulted for the development of the Design Standards?
   a. Did HHFDC convene a stakeholders group or run these recommendations by builders in the community? Architects or engineers?
      i. If so, please refer us to notes from those working groups.
2. It is confounding as to why Design Requirements are being proposed that will apply to the forthcoming funding cycle when predevelopment of projects for the 2025 round should be well through preliminary design and into permitting.
   a. This change potentially puts at risk considerable investments developers have made in the interest of readiness and being able to deliver construction ready projects.
   b. The implementation of Design Requirements should be deferred to the 2026 round to ensure that projects can be selected and designed with these requirements in mind.

3. LIHTC housing constructed in Hawaii is already subject to numerous requirements; IBC, Fair Housing, DCAB, DPP, etc., etc. Why are additional requirement necessary?
4. Does the agency understand the cost implications of these new requirements?
    a. These requirements are needed presumably because construction in LIHTC is lacking in these areas. If that is the case, and the only data HHDFC has is based on projects not meeting these requirements, HHFDC's cost data is compromised.

Third paragraph

1. Will the agency develop a process for post award/ post-closing communication for notifications to changes?
2. On transactions with RHRF monthly draws are provided with change order documentation. Would delivery of such monthly draw detail to HHFDC constitute notification of changes?

As local Hawaii housing developers we appreciate our continued partnership with HHFDC and the opportunity to review the proposed 2025 QAP.

Regards,

Makani Maeva

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CATHOLIC CHARITIES HOUSING DEVELOPMENT CORPORATION

October 3, 2024

Mr. David Oi
Housing Finance Manager
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Dear Mr. Oi:

Thank you for the opportunity to review the proposed changes in the 2025 Qualified Allocation Plan (QAP). We have the following comments:

Under Scoring Criteria:

1. As we brought this up in the 2024 QAP review, Criterion 4. Project-Based Rental Assistance Subsidies. Project based vouchers (PBV) are much needed to maintain project financial stability with income targeting below 30% AMI. We can see in this 2025 proposed QAP that HHFDC is putting even greater emphasis on deeper income targeting, but without a plan for projects to compete for PBV in Honolulu County in the foreseeable future. The loss of four (4) points can be the difference between a winning project and a losing one. We would ask that a maximum of two (2) points be awarded to this criterion for counties that are already administering these subsidy programs, until such time that PBV are made available by Hawaii Public Housing Authority (HPHA) in Honolulu County, so projects could compete for them and be recognized and rewarded for the efforts to secure them.

2. We question the reduction of 5 points from 7 points to 2 points for State/Local Government Financing Support. This discourages projects from seeking other funding sources and solely relying on state funded sources. We would advocate for a 5 point criterion to make it a criterion worth pursuing.

3. We question the emphasis on developing on State/Local Government Owned Land with a score of 5 points. This criterion minimizes the impact of a market study to focus on where housing is needed, besides not relying on the HUD published Qualified Census Tract (QCT) as a guide in identifying areas to develop. We recommend the incorporation of the QCT for this criterion so every area in need has an equitable chance at affordable housing development opportunities.

4. Criterion 18. Underserved Areas. We ask HHFDC to qualify how these areas were selected and why some zip codes were included and others were not, with the possibilities of scoring duplicate points under two separate but similar categories under Criterion 16 and 18.

5. Criterion 19. Census Tracts with Concentrated Wealth. We ask if the word "wealth" is the correct choice of word, but "poverty", and if this criterion is not the same as Criterion 16. Qualified Census Tract. Also, if it's the

intent of HHFDC to encourage more developments in these areas, how do we reconcile the lack of availability of PBV to assist these households and help the project maintain long term financial viability.

6. Criterion 20. Loan Repayment. Please specify when repayment must be made by.

7. Criterion 23. Proximity to Amenities. We are uncertain why this criterion is worthy of 10 points, and if this criterion is not the same or very similar to Criterion 8, and therefore, should be removed or be incorporated in more details in Criterion 8.

8. Appendix 2, Design Requirement. We do not believe dishwasher and telephone jack should be made a requirement for the kitchen design and electrical provisions. Dishwashers are expensive items to replace and often lead to leaking if not properly maintained

Under Minimum Threshold, 12. Developer Fee, the capping of developer fee to no greater than $3,750,000 may be too restrictive as Deferred Developer Fee is often counted as a Source and at times actually used to cover cost overrun or other deficiencies in accordance with partnership agreements. We believe a percentage of total project cost as in prior year QAPs would work better with a measurement of set criteria, by number of units or cost estimate per type of construction, devised by a neutral third party estimator appointed by HHFDC, to set specific ranges in total project cost amount, and assign a not to exceed cap on the fee for each range. The developer fee helps to offset the amount of time, resources, and professional expertise expended in advance by the developer to make a project come to fruition, and continue with its pipeline, so keeping it restrictive may be counterproductive.

In addition, given the increase in acuity of care in the state, we believe that human social services need to be incorporated and considered in affordable housing development with operating budgets requiring such services to ensure tenant care for this vulnerable population,

We want to thank HHFDC for working so diligently to include as many perspectives as possible while staying objective and fair in your assessment of all the projects vying for the limited resources in our state. We believe the annual review and updating of the QAP is a necessary one and will enhance HHFDC's efforts to build as much affordable housing in every county and as efficiently as possible. We hope that you take our feedback as constructive from the perspective of a nonprofit sponsor/developer. We share and applaud your vision and hope you find a balanced approach in guiding affordable housing development activities in our state.

Respectfully,

Paul Y. Kobayashi, Jr.
Treasurer

SCD
STANFORD CARR DEVELOPMENT, LLC

October 4, 2024

VIA EMAIL: chelsea.n.newcom@hawaii.gov

Mr. Dean Minakami
Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Stuie 300
Honolulu, Hawaii 96813

Re: Testimony – First Draft 2025 Qualified Allocation Plan of the Low-Income Housing Tax Credit Program
Hearing: October 25, 2024 at 10:30 a.m.
Hawaii Housing Finance and Development Corporation (HHFDC) Board Room
677 Queen Street, Suite #300

Dear Director Minakami:

Stanford Carr Development (SCD) would like to express its concerns regarding the proposed changes to the Qualified Allocation Plan (QAP) for the Low-Income Housing Tax Credit (LIHTC) Program. While we acknowledge that many of the revisions are warranted and align with the goal of promoting affordable housing development, several proposed changes may inadvertently limit the production of affordable housing across the state.

Our primary concern is the timing of these substantial changes, just 100 days before the next LIHTC application submission deadline in mid-February 2025. A typical project requires an average of 15 months of planning prior to submission. Additionally, the proposal to provide cost limitations for vertical construction only 45 days before the deadline introduces significant uncertainty, hindering our ability to adequately plan and prepare. Further, should a project disqualify based on costs, what provisions are available to reapply without waiting another 12 months?

We are also concerned about the proposed cap on the Developer Fee, which may limit the amount of affordable housing production in the state. In a large 4% acquisition rehabilitation transaction, the proposed fee cap could result in

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up to a 50% reduction in fees, forcing developers to propose smaller projects to maintain financial viability—an outcome contrary to HHFDC's goals.

Developer Fees are often misunderstood as merely the developer's profit. In reality, the fees serve as a critical tool to absorb cost overruns and mitigate market risks.

The ability to rely on the Developer Fee to address unforeseen circumstances is crucial for developers to undertake the business risks involved in these projects. Investors also evaluate project feasibility by considering the "deal liquidity" available to solve potential issues, such as cost overruns and interest rate fluctuations.

As project budgets increase to support greater density, the Developer Fee should increase proportionally to reflect the additional risk taken on by the developer. We urge HHFDC to consider adopting a Developer Fee structure similar to those in other states, where the fee cap applies only to the amount of cash Developer Fee, with the option to defer the balance to be paid from future cash flow.

The inclusion of Appendix 2 Design Requirements in the First Draft of the 2025 QAP prompted our team to reflect on the origins of the Hawaii Housing Finance and Development Corporation (HHFDC). As early as 1935, the Territory of Hawaii recognized the critical shortage of affordable housing and passed Act 190, establishing the Hawaii Housing Authority (HHA), the precursor to today's HHFDC.

In 1976, Act 225 granted the HHA the authority to develop housing projects independently or in partnership with qualified partners, exempting these projects from numerous statutes, ordinances, and governmental regulations—an approach now reflected in Hawaii Revised Statutes (HRS) Chapter 201H-38. This history demonstrates a longstanding understanding that over-regulation can severely impact the availability of affordable housing.

The Tax Reform Act of 1986, which established the LIHTC program, aimed to engage the private sector in developing, constructing, and owning affordable rental housing. More recently, Hawaii's Senate Housing Committee Standing Committee Report #312 (2023) noted a nationwide trend among state housing finance agencies to prioritize the allocation of housing incentives to public housing agencies for state-owned developments. However, Internal Revenue

Code §42 indicates that the LIHTC program should give preference to projects that serve the lowest-income tenants for the longest periods, are in qualified census tracts, and contribute to a concerted community revitalization plan—without mentioning any preference for state-owned developments.

We strongly recommend that the 2025 LIHTC application round proceed under the existing 2024 guidelines and that efforts be directed toward finalizing the 2026 QAP early in 2025. Should deferral be infeasible, we have respectfully enclosed feedback on the proposed Appendix 2 Design Requirements.

Thank you for the opportunity to provide comments on the proposed First Draft 2025 QAP.

Respectfully,

Stanford S. Carr

Enclosure: Comments to Appendix 2, Design Requirements

# Appendix 2
# Design Requirements

KK 241002: Insert "new construction"

KR 240918: Does HHFDC intend to tie these requirements to DPP's process?

The terms of this Appendix 2 are the minimum requirements for any project awarded LIHTC.

Once final plans and specifications have been completed, owners must submit them to HHFDC (hard copy and on CD/DVD or through electronic transmission acceptable to HHFDC, in PDF format) and receive approval before commencing site work or construction.

At all times after award the owner is responsible for promptly informing HHFDC of any changes or alterations which deviate from the final plans and specifications approved by HHFDC at award. This includes changes required by local governments to receive building permits.

## I. DESIGN DOCUMENT STANDARDS

All documents must be prepared by an engineer or architect licensed to do business in Hawaii. Drawings must be to scale, using the minimum required scale as detailed below.

### A. APPLICATION PLAN REQUIREMENTS

Plans must in PDF format and indicate the following:

1. Street name(s) where site access is made, site acreage, planned parking areas, layout of building(s) on site to scale, any flood plains that will prohibit development on site, retaining walls where needed, and adjacent properties with descriptions.
2. Unit floor plans, front, rear and side elevations of all building types and identify all materials to be used on building exteriors.
3. Location of, and any proposed changes to, existing buildings, roadways, and parking areas. Handicap parking spaces with access aisles and regular parking spaces must be clearly depicted.
4. Locations of all site and common area features such as playground(s), gazebos, walking trails, refuse collection areas, postal facilities, picnic shelter(s), sitting areas, and site entrance signage. All interior common areas must also be located and labeled, including offices, computer room, exercise room, maintenance room, sitting areas, library, card room, screen porches, interior resident storage rooms, etc.
5. Gross building square footage, Gross unit square footage (following HHFDC's areas measurement guidelines attached to the QAP), and Net unit square footage.
6. For projects involving renovation and/or demolition of existing structures, proposed changes to building components and design and also describe removal and new construction methods.

KR 240918: Does HHFDC review or send to DCAB? Whats the point of DCAB review?

KR 240918: HHFDC asking for hard copies when DPP going opposite?

### B. AWARDED PROJECT PLAN REQUIREMENTS

All awarded projects must submit to HHFDC for review a full set of completed drawings (24" x 36" or larger) that must include the following:

1. A Page Index at the front of the plan set showing location of all pages within the plans.
2. The plan set must include Section 1106 (Accessible Parking) and Section 1107 (Accessible Dwelling Units). Tables must be accurately populated by project architect.
3. Unit Matrix: Must show unit type and location of all units per building and per floor level.
4. Accessible Route plan: Must show locations of all accessible parking spaces and access aisles. Must show accessible route(s) throughout the property and accessible sidewalk to public right-of- way.
5. Site accessory plans: Plans to include drawings and details for site structures including picnic shelters, garden plots, arbors, garages, mailbox kiosks and gazebos. Must have details for handicap parking spaces with access aisles, site entry signage and accessible

BT 240919: They refer to Section 1106 and Section 1107 for accessible features which is reference to the International Building Code accessibility chapter. Will HHFDC be requiring that in addition to existing accessibility standards? Per our earlier discussions on Kamakee they should Use ADA for the Common Areas, FHA for the standard units and UFAS for the accessible units to be consistent with federal rules. Will DCAB even review IBC Chapter 11? Per DCAB they only review ADA.

KR 240918: No one else asks for routes?

BT 240919: They ask for a site accessory plan so landscape architect will be more involved in proposal plans.

(all) dumpster corals.
6. Foundation plans (dimensioned).
7. Structural plans: Must be prepared by a licensed engineer and be project specific.
8. Architectural plans: Must include dimensioned building floor plans (one detail per residential floor and per building), dimensioned unit plans for every type of unit (including Type A handicap units with roll-in showers and units with tub/showers, Type B (FHA) units and standard units). Unit plans must be 1/4" = 1'-0" scale or larger.

## II. BUILDING AND UNIT DESIGN PROVISIONS

### A. EXTERIOR DESIGN AND MATERIALS

1. The use of very low maintenance materials is required for exterior building coverings on all new construction projects. These include but are not limited to high quality vinyl siding, brick, or fiber cement siding. The use of metal siding is prohibited. Vinyl siding must have a .044-inch thickness or greater and a limited lifetime warranty. Where band/ledger boards attach to and are part of a vinyl siding application, metal z-flashing must be installed behind, on top of, and below bands.
2. All exterior trim, including fascia and soffits, window and door trim, gable vents, etc. must also be constructed of very low maintenance materials.
3. All buildings must include seamless gutters (if the building has gutters) and aluminum drip edge on all gable rakes and fascia boards. Drip edge must extend a minimum of 2 inches under the shingles, if the building has shingles. Downspouts must be installed so as not to drain across pedestrian path of travel.
4. All building foundations must have a minimum of 12 inches exposed brick or masonry veneer above finished grade level (after landscaping). No exposed footings will be allowed.
5. Breezeway and stairwell ceilings must be constructed of materials rated for exterior exposure.
6. Anti-fungal dimensional (architectural) shingles with a minimum 30-year warranty are required for all shingle roof applications. All other types of roof coverings or installations must have a minimum 30-year warranty.

### B. INTERIOR DESIGN AND MATERIALS

1. All residential units must meet minimum unit size requirements. The square footage measurements below will be only for square footage which is exclusively for the use of that unit and is fully enclosed, conditioned, and secured, measured as Net square footage from interior finish face of demising wall to interior finish face of demising wall, and do not include exterior wall square footage. Unconditioned, unenclosed, or unsecured areas such as lanais, patios, decks, porches, stoops, or unattached storage rooms cannot be included.

| | |
|---|---|
| Studio | 300 net square feet |
| 1 BR | 400 net square feet |
| 2 BR | 600 net square feet |
| 3 BR | 800 net square feet |
| 4 BR | 950 net square feet |
| 5 BR | 1,100 net square feet |

2. All units must have a separate dining area, except for Studio units. Dining areas may not be positioned in kitchens within a 60-inch clear floor space of any cabinets or appliances.
3. A room can only be considered a bedroom if, in addition to all other statutory and regulatory requirements governing bedrooms, it is a distinct room, fully physically separated from the rest of the unit (excepting HVAC penetrations), offering full physical and visual privacy, with a lockable door.
4. Sliding doors may not be used for bedroom or bathroom entry doors. Bedroom and bathroom

BT 240919: Why do they specifically say aluminum drip edge but don't specify aluminum gutters? Seamless gutters can be steel.

KR 240918: Vague/undefined terms

BT 240919: Why do they specifically say aluminum drip edge but don't specify aluminum gutters? Seamless gutters can be steel.

BT 240919: Why brick or masonry veneer and no exposed foundations? They are adding cost and potential maintenance.

KR 240918: So the slab edge cant be exposed?

KR 240918: What is the definition of anti-fungal?

KR 240918: Do "living rooms" count?

BT 240919: Separate dining area seem excessive for a one bedroom and they don't describe minimum requirements for it to be considered a dining area. Counter bar would not be allowed in this case as it has to be 60" from a cabinet or appliance.



KR 240918: So you can't use a pocket door for a bathroom or a barn door for bedroom?
NW 240918: Why so restrictive on the type of doors that be utilized in bathrooms and bedrooms? Sliding barn doors are utilized all the time in hotels and restroom entries due to space restrictions

KR 240918: What's a type A unit? Undefined term but probably an accessible unit

NW 240918: Excessive. Why do entrance and dining areas need to have non-carpet flooring? Also, dining area is a very broad term and needs to be defined. Our rentals have typically installed carpet in the living/dining room area

entries must use swinging doors.

5. Carpet and pad must meet FHA minimum standards. Carpets in Type A units must be glue-down type without padding.
6. Kitchens, dining areas, and entrance areas must have vinyl, VCT or other non-carpet flooring.
7. The minimum width of interior hallways in residential units is 42 inches.
8. The following areas must contain moisture resistant drywall: ceilings and walls of bathrooms, laundry rooms, mechanical closets, exterior storage closets, and behind kitchen sink base.
9. All Type A handicap units must be proportionately distributed to all buildings and on all accessible floor levels.

BT 240919: Why do the accessible units need to be proportionately distributed on all floors?

KR 240918: If this is consistent with IRC 2012, then ok.

BT 240919: Why the restriction on wall fans? May be required in some instances.

KR 240918: What if it's an exterior bathroom?

C. BATHROOMS

1. All bathrooms must include an exhaust fan rated at 70 CFM (minimum) vented to the exterior of the building using hard ductwork along the shortest run possible. Bath fans may only be installed in ceilings.
2. In all Type A units, the grab bars must be installed in compliance with ANSI A117.1, Sections 607 and 608 for bathing fixture specifications and Section 604 for toilet specifications around toilets.
3. Wood blocking must be installed for bathroom accessories, including towel bars, towel rings, toilet tissue holders, robe hooks, etc.
4. In Type A units, the 67 inches clear floor space may not include floor spaces under toilets or vanities.

KR 240918: How will HHFDC enforce this?

BT 240919: Why specify wood blocking? Metal may be better in some instances.

BT 240919: They are referencing the ANSI A117.1 Section 304.3.1.1 67" which is referenced in the IBC. Again, Why switch to a different standard?

D. KITCHENS

1. All residential units must have a frost-free Energy Star rated refrigerator with a freezer compartment. The following are the minimum sizes:

| | |
|---|---|
| 0-2 Bedroom | 14 cubic feet |
| 3 Bedroom | 16 cubic feet |
| 4 Bedroom | 18 cubic feet |

KR 240918: Check with appliance vendor

BT 240919: All units require a dishwasher? That seem excessive.

2. All residential units must have an Energy Star rated dishwasher and be installed beside the kitchen sink. In Type A units:
   a. kitchen sinks must be rear-draining and have sink bottoms insulated if bottom of sink is at or below 29 inches above finished floor;
   b. workstations must be installed beside the range with no wall to the left or right of the workstation;
   c. the wall cabinet mounted over the work station must be 48 inches maximum above finished floor to the top of the bottom shelf; and
   d. both the range hood fan and light must have separate remote switches mounted over the work station;
   e. pantry cabinets/closets must have 30 inches x 52 inches clear floor space centered on the door.
3. In Type A units and common areas, kitchen ranges with cooktop can be no higher than 34 inches above floor.

KR 240918: Is this a safety requirement?

NW 240918: Adding cost. Why have separate remote switches unless for non-accessible units?

**III. MECHANICAL, SITE AND INSULATION PROVISIONS**

A. PLUMBING PROVISIONS

1. All rental units require at least one full bathroom.
2. Three and four bedroom units require at least 2 bathrooms (including one bath with step-in shower and one bath with full tub).
3. All electric water heaters must have a Uniform Energy Factor of 0.93 efficiency or an

BT 240919: Three bedroom+ requires two baths (one full tub and one step-in shower).

KR 240918: Check with mechanical engineer

NW 240918:This provision is unnecessary and adds cost.
1. Newer buildings are going away from telephone jacks and cable connections due to the push to wifi boxes and cell phones from local cable companies
2. Ceiling fans are another added cost item that should have caveats. Why require ceiling fans if the unit has operable windows and PTAC air-conditioning?

Energy Factor of at least 0.95 efficiency and be a minimum of 40 gallons (50-gallon minimum for 3 bedroom and larger). This cannot be achieved by using an insulated water heater jacket. Water heaters may not be installed under HVAC air handlers. They may be installed beside the air handler or in separate closet.
4. Provide lever faucet controls for the kitchen and bathroom sinks.
5. All bathroom faucets, shower heads, and toilets must be EPA WaterSense rated.

B. ELECTRICAL PROVISIONS
1. Provide overhead lighting, a ceiling fan, telephone jack, and a cable connection in every bedroom and living room. If using ceiling fans with light kits, the fan and light must have separate switches.
2. Switches and thermostats must not be located more than 48 inches above finished floor height.
3. Receptacles, telephone jacks, and cable jacks must not be located less than 16 inches above finished floor height.
4. Initially-installed bulbs in residential units and common areas must be compact fluorescent, LED or pin-based lighting in 80% of all fixtures.

KR 240918: Is central AC aloud?

BT 240919: III.C.2. – Through-wall HVAC not allowed in 1 bedroom+. Does this include PTAC?

C. HEATING, VENTILATING AND AIR CONDITIONING PROVISIONS
1. All non-residential areas and residential units which are provided with air conditioning must have their own separate air conditioning systems. HVAC equipment must have a minimum SEER2 15.0 performance rating.

KR 240918: PTAC?

2. Through the wall HVAC units are prohibited in all but Studio units. They are allowed in laundry rooms and management offices where provided.
3. HVAC interior air handlers must be enclosed from return air grille to blower motor/filter.

KR 240918: Why?

4. The use of duct board is prohibited. Galvanized metal must be used for plenums and mixing boxes.
5. Fresh air returns must be a minimum of 12 inches above the floor.

KR 240918: Why?

6. Range hoods and micro-hoods must be vented to the exterior of the building.
7. All units 1,100 square feet or greater using heat pumps must use a minimum of 2-ton equipment.

BT 240919: They want electronic dampers with humidity controls which means outside air ducting . This would be a ceiling cassette type unit.

NW 240918: Need to review with mechanical engineer how this would affect our corridors

8. HVAC systems must provide outdoor air into conditioned building common areas and apartment units to meet ASHRAE 62.2 per Energy Star Multifamily certification requirements by introducing filtered fresh air into return air duct at air handler. Electrical control boxes with mechanical dampers that limits humidity and temperature extremes must be used. Fresh air ducting must use insulated galvanized piping.

BT 240919: Why are they so specific about insulation methods? They should just note that it has to comply with energy code.

D. BUILDING ENVELOPE AND INSULATION
1. Framing must provide for complete building insulation including the use of insulated headers on all exterior walls, framing roofs, and ceilings to allow the full depth of ceiling insulation to extend over the top plate of the exterior walls of the building, and framing all corners and wall intersections to allow for insulation.
2. Seal at doors, windows, plumbing and electrical penetrations to prevent moisture and air leakage.

**IV. ADDITIONAL PROVISIONS FOR REHABILITATION OF EXISTING HOUSING**

The following requirements apply to rehabilitation of existing units. Other than as described below, existing apartments do not need to be physically altered to meet the design standards for new construction specified herein.

A. Design documents must show all proposed changes to existing and proposed buildings, parking, utilities, and landscaping. An architect or engineer must prepare the design

BT 240918: Any replacement of existing materials or components must comply with design standards for new buildings. This could be problematic if you are renovating a historical building or if there are existing materials that are incompatible with new standards e.g. metal flashing differences, wall-mounted fans, etc. Also says "In addition to needs identified by HHFDC..." Where are these additional needs defined?

NW 240918: General Note Regarding rehabilitation scope guidelines: Every property is different and have gone through different levels of maintenance/upkeep so to specify/require minimum scope guidelines will potentially create unnecessary cost increases. For example, a building that is 30 years old may have gone through and replaced their sewer lines or shower valves in the last 5-10 years. Why require that this be replaced again? Rehabilitation of existing buildings need to be case by case.

drawings.

B. Any replacement of existing materials or components must comply with the design standards for new construction specified herein. In addition to needs identified by HHFDC, the rehabilitation scope of work must include/address the following:

Unit Interiors

- All mechanical and storage closets must have painted, moisture resistant drywall and finished flooring.
- Splash panels must be installed behind all ranges.
- Interior painting must include the entire unit.

NW 240918: Why specify the entire unit? Ceilings are typically in great condition

Plumbing

- Water heaters under kitchen countertops must be relocated.
- All polybutylene ("Quest") piping must be replaced.
- All original cast iron p-traps must be replaced.
- Tub/shower valves over twenty-five years old must be replaced.

KR 240918: No age limit?

Electrical

- All receptacles, switches, and cover plates must be replaced.
- In bathrooms, overhead ceiling light must be switched with the exhaust fan and the vanity light wired to a separate switch. Unless the vanity light is the only light source, in which case it then must be switched to the exhaust fan.

NW 240918: Why?

Heating and Air

- If range hoods were previously vented to the outside, the replacement hoods must be similar.
- Hard duct all new and existing bathroom exhaust fans where possible (in attics).
- Replacement air handlers must have enclosed air returns where possible.
- All outdoor HVAC condensers must have 410A refrigerant or better and properly sized line sets.

Miscellaneous

- Attic and roof insulation must meet R-30 minimum value.
- All Type A accessible units must be brought to current building standards to the greatest extent feasible.
- Existing fire walls in attics between units must be intact and solid.

C. Applicants must submit the following:

1. For properties built prior to 1978, a hazardous material report that provides the results of testing for asbestos containing materials, lead based paint, Polychlorinated Biphenyls (PCBs), underground storage tanks, petroleum bulk storage tanks, Chlorofluorocarbons (CFCs), and other hazardous materials. Professionals licensed to do hazardous materials testing must perform the testing.
2. A report assessing the structural integrity of the building(s) being renovated from an architect or engineer. Report must be dated no more than 12 months from the application deadline.
3. A current termite inspection report. Report must be dated no more than 12 months from the application deadline.

~~[content pending]~~

October 4, 2024

Chelsea Newcom
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Dear Ms. Newcom:

Thank you for the opportunity to contribute this feedback, which we hope will inform the development of the State of Hawaii's 2025 Draft Qualified Allocation Plan. We look forward to collaborating with the Hawaii Housing Finance and Development Corporation (HHFDC/ the Corporation) as you develop your affordable housing priorities. Lincoln Avenue Communities (LAC) is a mission-driven affordable housing developer currently active in twenty-seven states. In Hawaii, we are focused on developing ground-up new construction affordable housing and preservation of existing affordable housing using a 4 percent LIHTCs with tax-exempt bonds (TEBs).

## Developer Fee

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We appreciate that HHFDC's explanation that the proposed developer fee methodology in the draft QAP would result in higher developer fees as compared to the three-year average and that HHFDC is seeking to discourage inefficient production. Respectfully, we believe HHFDC may achieve better outcomes by taking a different approach developer fee limits for projects financed with Tax Exempt Bonds and 4% LIHTCs.

As affordable housing developers, the biggest challenge we face today is inflation and the escalating cost environment. The combination of rapidly rising land costs, building acquisition costs, construction materials costs and labor costs is a significant barrier to financing and delivering quality affordable housing communities to the market. Construction materials pricing and supply chain disruptions continue to be a significant challenge.

At the same time, rising interest rates have reduced the debt proceeds we can leverage to offset these increased costs. 4% TEB LIHTC transactions are financed primarily with tax-exempt debt, making up approximately 70% of the capital stack, so the impact of even small increases in interest rates is magnified significantly for these transactions. We believe the current market dynamics are important to share as they provide context and urgency for the following discussion.

By adopting strategies that maximize the eligible basis in bond finance deals, HHFDC facilitates developers' ability to raise additional tax credit equity. This can particularly impact on 4% LIHTC

transactions because the LIHTC in these transactions are not a competitive resource but rather come "as of right" if the project meets threshold requirements.

The Developer Fee limit for new buildings as proposed ($50k per unit or $3.75m, whichever is less) may be more appropriate for projects financed with 9% LIHTCs because of the finite amount of LIHTC ceiling that is available to the state; however, as noted above for projects financed with 4% LIHTCs and tax exempt bonds this leaves subsidy on the table that might otherwise fill project financing gaps.

We recommend HHFDC adopt a flat 18-20 percent developer fee (based on total development costs excluding developer fee and reserves) for new construction projects financed with 4% LIHTCs and TEBs. If desired, HHFDC could require developers to defer all developer fee above $50k per unit or $3.75m.

This will result in increased transactional feasibility and align with many of HHFDC's peer agencies, which allow for developer fees ranging from 18-25% for bond financed transactions.[1] The additional eligible basis generates incremental supplemental federal tax credit equity. This helps fill financing gaps and offsets rising construction costs, inflationary interest rates and operating expenses.

Additionally, we urge HHFDC to reconsider its proposed developer fee policy for existing buildings. Excluding acquisition basis from developer fee in favor of a fee based solely on rehabilitation hard costs can result in some highly problematic outcomes that may put many preservation assets at risk. Many affordable housing properties that are most at risk for opting out of affordability restrictions are year 15-20 developments. These tend to be well-maintained and in markets where they command a substantial rent-advantage. This makes them highly attractive to conventional and private equity acquirers that will pursue a qualified contract or otherwise seek opportunities to opt-out of affordability restrictions at year 30. In addition to being able to offer a higher price (based on conversion potential) these buyers also tend to have shorter-due diligence timelines than preservation buyers who often must seek a long-contract period to close into a syndication. As a result, for affordable housing developers to compete with private equity and conventional buyers we must offer higher prices. To exclude acquisition basis from the developer fee calculation this reduces eligible basis and makes preservation developers less competitive.

As recommended above, we suggest as an alternative adopting a flat 18-20 percent developer fee (based on total development costs – including acquisition basis and excluding developer fee and reserves) for rehab projects financed with 4% LIHTCs and TEBs. If desired, HHFDC could require developers to defer all developer fee above $50k per unit or $3.75m.

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[1] Selection of developer fee policies for 4% LIHTC transactions:
- 25% - Tennessee
- 20% - Kentucky, Ohio, North Dakota, Oklahoma, Wisconsin
- 19% - Arizona
- 18% - Florida, Iowa, West Virginia

Additional Context

It is important to acknowledge the role developer fees play in affordable housing transactions as well when you consider the appropriate fee setting mechanism. The IRS permits the inclusion of developer fees in eligible basis because these fees serve as the primary form of compensation for LIHTC developers. They pay for overhead of essential functions, including accounting, human resources, information technology, asset management, insurance and legal fees and many others. Developer fees also serve as the primary form of reimbursement for pre-development costs and resident services. It should also be noted that developers defer a substantial portion of this fee to fill project gaps and with uncertainty in the cost environment the additional fee effectively will serve as additional construction contingency, much drawn on today as construction costs skyrocket.

## Conclusion

Lincoln Avenue Communities appreciates the opportunity to work with HHFDC on the drafting of its 2025 Low-Income Housing Tax Credit QAP. We welcome the opportunity to discuss them with you further at your leisure and/or answer any questions you may have regarding our feedback. I can be reached at 646-585-5526 or tamdur@lincolnavenue.com.

Regards,

Thom Amdur
Senior Vice President, Policy & Impact

Cc: David Oi
David Garcia

## About Lincoln Avenue Communities

Lincoln Avenue Capital is one of the nation’s fastest-growing developers, investors, and operators of affordable and workforce housing, providing high-quality, sustainable homes for lower- and moderate-income individuals, seniors, and families nationwide. LAC is a mission-driven organization that serves residents across 26 states, with a portfolio of 150 properties comprising 26,000+ units.

**MARK** DEVELOPMENT, INC.
3165 Waialae Avenue, Suite 200, Honolulu, Hawaii 96816 Ph: (808) 735-9099 e-Fax: (781) 295-3427

October 4, 2024

Via Email

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Dear Mr. Minakami,

Subject: Comments to Draft Qualified Allocation Plan

Mark Development, Inc. (MDI) respectfully submits its written testimony to the proposed 2025 Low Income Housing Tax Credit (LIHTC) program's Qualified Allocation Plan (QAP). MDI has is an active developer, owner and property manager of projects financed with the LIHTC program. MDI has over 25 years of experience in participating in the LIHTC program.

The proposed changes to the QAP are a significant departure from the Hawaii Housing Finance and Development Corporation's (HHFDC) recent administration of the LIHTC program. MDI provides its comments on the various changes. However, we recommend these changes be reviewed further and be implemented in the calendar year 2030 or later. Program participants prepare to apply for LIHTC a year or more in advance of the application and incur expenses before submitting an application. Contrary to the opinion of some public officials, the award of government funding for affordable housing does not eliminate risk. In evaluating the proposed changes, consider our risk as developer to submit an application for LIHTC. It is common for third-party costs to be in excess of $1 million to be incurred prior to submitting an application. If we are unable to submit an application due to our project costs not meeting HHFDC's maximum cost limits, we still must pay our consultants for the work they complete.

The establishment of maximum construction cost limits, developer fee limits, rewarding projects that paydown the Rental Housing Revolving Fund loan faster and staff lowering soft costs in the application review promotes a "Race to the Bottom." It rewards projects that have the lowest costs and the lowest investment by HHFDC. In our assessment, the proposed changes reward applicants to understate their project costs further. In this environment of rising construction costs and fluctuations in the cost of building materials, putting such limits may be counterproductive as there may be funding gaps when projects are ready to close.

Unforeseen delays caused by government agencies due to insufficient staffing delaying ministerial approvals delaying closing further increase project costs. Our team of architects and engineers design projects balancing livability for residents, marketability, and practicality in designing projects within constrained project budgets. MDI is unique in that we are one of the few developers that also manages its own projects. As such, we design projects that are functional for our residents using materials and design that are efficient to maintain. The establishment of design standards creates additional requirements that may not be needed, delays projects and adds unnecessary costs to projects.

Our comments on the proposed changes are as follows:

B. Minimum Thresholds

4 a. Preliminary Engineering Report
5. Plan and Cost Review
We understand the need for a Preliminary Engineering Report and Certified Cost estimate as a measure of project readiness and to confirm cost estimates. MDI works directly with its engineers throughout the development process. As such, the advice and plans provided presented in our application reflect the recommendations of our engineers. This requirement adds an additional cost to the project, which is contrary to the goal of lowering project costs.

12. Developer Fee
Maximum Developer Fee of $50,000 per unit combined with a limit of $3,750,000 per project will limit the range of projects that will apply for LIHTC. Projects considered that are more complex and have higher risk will be difficult to undertake with this limitation. Furthermore, developer fee is considered additional contingency to cover unforeseen cost increase. The depletion of developer fee will put projects at risk of foreclosure or may make projects unattractive to investors resulting in lower pricing for tax credit equity. Development Cost efficiency is already contemplated and competitive in the QAP. Is HHFDC trying to discourage developers from submitting projects?

Please consider amending the developer fee limitation to allow for up to 15% of total development cost. As proposed, larger projects will become infeasible as the developer fee relative to percentage of project cost is too low and does not provide adequate contingency in the event there are unforeseen cost increases.

15. Development Costs
In general, development costs are specific to the project. Each project has a different financing structure and different circumstances that are reflected in their project costs. Imposing cost limitations will limit the breadth of the projects funded by the LIHTC program. Giving HHFDC authority to adjust budgets based on their prescribed standards will result in HHFDC making projects financially infeasible.

If everything is about low costs, free land, HHFDC will drive all LIHTC funded projects into already poorer communities on the west side of Oahu and never see LIHTC projects built in communities like Hawaii Kai.

The methodology used for establishment of maximum per unit and per square foot vertical construction costs is questionable. Does HHFDC have adequate construction cost data account for the different types of projects, building methods and materials that will apply for LIHTC?

The LIHTC program can fund diverse types of projects in which the construction costs will vary greatly. Furthermore, building materials and labor costs vary greatly based on location. Will costs be published for each island? Will costs be published for single family homes, high rises with elevators, garden style apartments with and without elevators, single floor apartment buildings? Has there been any consideration that the publication of maximum construction cost may exclude certain types of projects that are cost more to build.

If maximum development costs are established, it should be published in the QAP to provide for ample time for applicants to make a decision to apply for LIHTC.

Applicants incur substantial costs (approximately $1,000,000 or more) to submit an application. The publication of maximum costs 45 days prior to the application may exclude applicants that have incurred significant expenses in preparing its application.

Please define what is meant by non-vertical components. Does this refer to all other non-vertical construction costs including sitework, design, legal, financing and land acquisition? We are concerned that HHFDC will adjust the budget accordingly before making awards as it may lead to a budget shortfall. Most if not all of these costs are earned by third parties. Each project is different and has its unique costs due to its zoning, financing structure, local codes, and land acquisition agreements. How will HHFDC determine the allowable amount of costs? Will it publish a schedule for the various cost components so that we can inform our consultants that we cannot exceed this amount?

D. Criteria Point System

Criteria 5
Any level of support from the County should be rewarded at least one (1) point, regardless of the amount. The proposed minimum of $50,000 per unit is a very high threshold for the counties. Has HHFDC identified which funding programs available from the counties are available to fund projects at this level? I believe that setting this higher threshold would be a disincentive for Counties to invest its funds in affordable housing projects. With such a high threshold to score a point, counties may decide to invest their scarce resources in non-LIHTC projects. Consider lowering the threshold to $10,000 per unit multiplied by 100 units is $1,000,000? Why is a dollar threshold imposed as opposed to using a percentage of cost? Consider a tiered criteria awarding points based on the non-HHFDC funds as a percentage of development cost.

Criteria 18
What was the evaluation criteria used to identify the Census Tracts?  How is underserved defined? There needs to be transparency in how these census tracts were selected. An unintended consequence is that areas that rural areas would be at a disadvantage. Rural areas do not have large populations, and many have not had any affordable housing developed in their communities.  By implementing this criteria, we may continue to build affordable housing in the same communities, while neglecting those that do not have any affordable housing.

Criteria 20
Including the full repayment of the Rental Housing Revolving Fund (RHRF) loan as an evaluation criteria in the QAP for LIHTC program seems misplaced.  The RHRF program has its own administrative rules. Consequently, any underwriting criteria should be established in the RHRF program's administrative rule rather than the LIHTC program.

To qualify for scoring under this criterion, a project cannot use the state LIHTC.  Why on God's green earth would HHFDC do this.  You are taking away a needed source of funds. Under current economic conditions, most if not all projects leverage the state LIHTC and the RHRF. This criterion seems to be skewed to projects that receive a large investment from a federal or state agency to address its funding gap.  To evaluate this change, please identify any project that did not require the state LIHTC as a funding source and has fully repaid its RHRF loan. This may have been possible 20 years ago, but this would be extremely difficult in today's economic conditions.

Criteria 21 State Conveyance
Awarding points for offering to sell the project to a state agency for fair market value, subject to the commercially standard terms without establishing rules or processes is premature.  Execution is a concern for both the owner and the LIHTC investor. Our investor partners would not allow us to commit to the sale of the project to the state without knowing what the process is, how it will be executed on and knowing how they will be paid. This uncertainty will lead to lower pricing at best or investors deciding to not invest in projects.  Overall, why would HHFDC want to turn the LIHTC program into Public Housing?  The terrible condition of government owned housing is why the LIHTC program was created.

HHFDC has until recently sold its portfolio of affordable housing projects to private parties as they were a burden to the State to operate. State owned projects suffer from deferred maintenance and some projects required the State to fund their operating losses.   Mark Development, Inc. was part of a development team that purchased one of these projects in 2024. Has there been a policy shift for the State to return to owning and operating multifamily projects? Does the State have sufficient financial and staffing resources to optimally operate projects?

Criteria 22 Need for Rehabilitation
Awarding 10 points to rehabilitation project is excessive. Is this HHFDC's policy to prioritize rehabilitation projects over new construction? If this criterion is implemented, I recommend re-implementing the policy of awarding only one rehabilitation project per year from the 9% LIHTC.

Rural Communities

Please confirm that HHFDC's policy is to prioritize funding to urban areas. The following Criteria rewards projects that are located in urban areas:

Criteria 8: Many rural areas on the neighbor islands are not served by mass transit.

Criterion 18: The underserved areas identified are mostly in urban or suburban areas. Taking Kauai as an example, Lihue and Kapa'a are designated.

Criterion 23: Rural areas on the neighbor islands are located far from the listed services.

Rural communities would not have access to 5 to 15 points. If these scoring criteria is implemented, we recommend establishing a set-aside for rural projects on the neighbor island so that projects in those communities have access to the LIHTC program.

Appendix 2 - Design Requirements

We are curious as to what is prompting the need for design requirements. Have there been substandard housing projects developed with the LIHTC program? Please identify the issues. Are these requirements adopted from another program on the mainland? The danger of adopting requirements from a recommended practice or a different state is that there is no consideration of the quality of affordable homes developed in Hawaii. Is this addressing a problem that actually exists? Other states do not have a Disability and Communications Access Board to review plans for accessibility. Is it necessary to prescribe the type of door that is used to meet this requirement? If DCAB approves of a different type for door, would HHFDC accept?

The requirement to get HHFDC approval of the plans and specifications prior to starting construction seems to be an unnecessary layer of approval that can delay projects. Is there a staff architect and engineer to review and approve plans? Would HHFDC allow for variances from the guidelines if they are infeasible? What is the process? These are all concerns that need to be addressed before implementing this requirement.

When taken in its entirety, it seems that HHFDC has defined with specificity the type of project it desires to fund. One begs to ask if it may be more efficient to issue Requests For Proposals for the development projects that are predesigned and funded by the State rather than have an open application for just financing.

Historically, the LIHTC program has been successful in financing a range of different project types including: the privatization of state and federal public housing; housing for Department of Hawaiian Homelands beneficiaries; seniors; and housing in rural areas. The LIHTC program's strength has been its flexibility to provide each different type of project to compete in a transparent process while meeting the housing goals of the state. Mark Development, Inc. appreciates the opportunity to provide our comments on the proposed 2025 Qualified Allocation Plan. We also would like to recognize the HHFDC Board of Directors and the HHFDC staff for administering this successful program.

Aloha,

Craig Watase
Mark Development, Inc.

Oct. 4, 2024

Mr. David Oi
Housing Finance Manager
Hawai'i Housing Finance & Development Corp.
677 Queen St., # 300
Honolulu, HI 96813

Dear Mr. Oi:

Thank you for this opportunity to comment on the suggested changes to the 2025 Qualified Allocation Plan. My name is Sandra Oshiro, and I coordinate the Hawaii Young Adults in Transition (HYAIT), a support group for families with young and older adults on the autism spectrum. In full disclosure, I also serve on the board of the nonprofit Pacific Housing Assistance Corporation. However, I am speaking here solely on behalf of HYAIT and my family.

This letter represents several preliminary thoughts regarding the definition of disability that would determine eligibility for housing supported by federal Low-Income Housing Tax Credits. As presently drafted, the QAP section on disability would significantly narrow housing eligibility to only individuals who receive a disability-related source of income. While not defined, presumably this income refers to such sources as Supplemental Security Income and/or Social Security Disability Income. However, not all individuals with disabilities receive such income. Whether because of administrative barriers, an inability to navigate the system, or other factors, many who are significantly disabled do not receive assistance from government programs and often end up homeless.

We ask that HHFDC maintain its broader definition of disability so that all who need shelter will be eligible to apply for it. After consulting with Daintry Bartoldus, executive administrator of the Hawai'i Developmental Disabilities Council, we support her suggestion to use the following definition:

"For the purposes of housing eligibility under the Qualified Allocation Plan, a person with a disability is defined as an individual with a physical, sensory, cognitive, intellectual, or mental impairment that substantially limits one or more major life activities. This definition includes, but is not limited to, individuals with permanent,

temporary, or episodic conditions that impact mobility, cognition, communication, or self-care. Proof of eligibility can include medical documentation, self-certification of functional limitations, or documentation from a healthcare provider, social service agency, or relevant authority, and is not limited to those receiving federal disability benefits."

This definition aligns with the Americans for Disabilities Act and the Fair Housing Act, neither of which imposes an eligibility requirement limiting federally supported housing to those who receive disability benefits. Indeed, such a restriction may run counter to federal laws that prohibit discrimination against those with disabilities. To our knowledge, individuals with low-income, for example, are not required to show they receive government benefits to qualify for federally supported housing.

We will be submitting further comments on the proposed QAP for the Oct. 25, 2024 public hearing. We look forward to working together toward the goal of housing the most vulnerable in our community.

Thank you,

Sandra S. Oshiro
Coordinator
Hawaiʻi Young Adults in Transition
ssoshiro@gmail.com
(808) 226-4675

On Wed, Oct 16, 2024 at 7:20 PM Christopher Flaherty <cflaherty@3leafholdings.com> wrote:

Aloha David and thank you for the time on Monday. Please see my comments to the proposed QAP revisions. I do hope that we can continue to have a group discussion about these items as there are a lot smarter folks than I with really good insight. Thank you for allowing me to provide feedback.

1. **Plan and Cost Review** -

   a. A Plan and Cost review requires a full set of complete plans ready for permit from our experience if it is going to provide a real cost to construct.

   b. How will cost increases be handled for items such as labor increases and material increases? This Plan and Cost review will be at least 12 months old prior to closing.

   c. Will the Plan and Cost Review be paid by the applicant? These are quite costly and this adds to the predevelopment funds required to spend prior to an award.

2. **Developer Fee** - the move to limit Developer Fee has a few results:

   a. $50K/unit is a metric that could be the fee with no cap on the amount in total. Please note that the developer fee is an additional contingency amount to a project indirectly.

3. **Development Costs**

   a. Seems to be a duplicate of the Plan and Cost Review. One or the other would be best.

4. **Scoring Criterion 2 - Readiness**

   a. getting a project to Construction Drawings would be extremely risky and costly for developers without any certainty of an award. This change has several implications:

      i. Limits the number of developers that can apply for tax credits - typically only large, well capitalized developers

      ii. Developers would be carrying costs for much longer to closing

1. **Threshold Criteria - Project Readiness**

a. Proposed deletion of 201H Approval at the time of Application as a required criteria is helpful for projects that navigate an extended exemption/entitlement process

2. **Scoring Criterion 6 - State/Local Government Owned Land**

a. I do not support this measure as the State/Local Government Land applications already have an advantage in the mere fact that the land leases are almost always at $1 per year. More importantly, the proliferation of more public housing is not the answer. We have seen this show before. ..... remember the Public Housing projects of the past and present. ........ private/public partnerships are the best.

**Christopher M. Flaherty**
President
3 Leaf

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October 21, 2024

TO: Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300, Honolulu, HI 96813

FROM: Jeff Gilbreath, Executive Director
Hawaiʻi Community Lending, Inc
1315 Kalanianaole Avenue, Hilo, H 96720

RE: 2025 Low-Income Housing Tax Credit Qualified Allocation Plan

Aloha e Mr. Minakami,

I am writing in my capacity as Executive Director of Hawaiʻi Community Lending (HCL), a United States Department of the Treasury certified community development financial institution, to recommend the following amendments to the State of Hawaii's proposed 2025 Qualified Allocation Plan (QAP).

Our recommended amendments are informed by our organization's 24-year history in mobilizing public and private capital to address the housing needs of our local residents. Our experience includes accessing and deploying more than $143 million in grants and loans to assist more than 4,000 low- and moderate-income Hawaiʻi residents secure or sustain housing. More recently, our experience includes the Hawaiʻi Nonprofit Developer Capacity Building Program, funded by Kaiser Permanente and Hawaiʻi Community Foundation, to implement recommendations from a 1993 Non-Profit Housing Development study commissioned by the State Legislature to increase the capacity of the non-profit development industry.

Our recommended amendments to the 2025 QAP are as follows:

**Amendment 1: Establish a twenty-five percent (20%) set-aside of the State's annual credit for "Non-Profit Projects".** In states across the nation, governments set aside annual credit allocations and provide criterion points on their QAPs for projects led by non-profit developers. More specifically, in Arizona, the State has required that ten percent (10%) of its annual credit be set-aside for "Non-Profit Projects" defined as "Projects in which a qualified Non-Profit Organization is the Developer. The Managing Member or General Partner of the ownership entity that will be receiving the credits and operating the development through the Compliance Period and Extended Use Period must be the Developer or its Affiliate. The Non-Profit Organization must comply with I.R.C. § 42(h)(5)(C)."

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Considering the severe nature of our housing crisis and the disproportionate impact it is having on our local households at or below 80% area median income (AMI), our organization strongly supports a 20% set-aside within the Hawaii QAP for "Non-Profit Projects". Non-profit developers are uniquely positioned to stack grants and below-market and market-rate debt to deliver housing units our low-income residents can afford. This amendment would serve as a vehicle for the State to strengthen our non-profit developer industry consistent with the State Legislature's 1993 study referenced above and increase their capacity to help further address our State's 55,000+ housing unit shortage.

**Amendment 2: Establish a twenty percent (20%) set-aside of the State's annual credit to "Hawaiian Home Lands Projects" located on Hawaiian Home Lands.** States such as Arizona have created at "Tribal" set-aside in their QAPs, demonstrating the ability of American Indian Tribes in leveraging tax credits with public and private sources at rates up to 10 to 1 for affordable housing development serving its American Indian population, a population that is disproportionately represented in its homeless counts. In Arizona, the State sets aside millions of dollars each year for "Tribal" projects with a preference for veterans. The State of Arizona has found that this set-aside has allowed for American Indian Tribes to successfully leverage Federal Native American Housing and Self-Determination Act funding as well as private sources of capital from foundations and banks to develop affordable housing with a preference for veterans.

Similarly, in Hawaiʻi, our recent Point-in-Time Count data reports that Native Hawaiians are disproportionately represented in our homeless counts on Oʻahu at 28% of the total homeless population despite only being 19% of the population overall. At the same time, the State's historic and time-sensitive investment of $600 million into the Department of Hawaiian Home Lands could be leveraged over the next 2 years to increase the housing supply on Hawaiian Home Lands as a key strategy to address the housing needs of 30,000+ native Hawaiians, many of whom are facing homelessness or living in existing rental housing stock that could open up for the general public when housing is built on Hawaiian Home Lands.

HCL recommends the State support this type of innovative partnership between Department of Hawaiian Home Lands and non-profit developers for leveraging State tax credits with additional private funding sources as well as native Hawaiians' annual Federal Native American and Self-Determination Act allocation for affordable housing development. To achieve this goal, HCL recommends a 20% set-aside of the State's annual credit to "Hawaiian Home Lands Projects" located on Hawaiian Home Lands.

**Amendment 3: Update the criteria point system to provide priority points for "Non-Profit Projects".** HCL is requesting the criterion point system be updated to include a range of points from 0 to 9 for "Non-Profit Projects" and for "Hawaiian Home Lands Projects", as defined above.

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Based on the success of states, such as Arizona, in partnering with non-profit developers and Tribal communities to develop needed affordable housing units, the addition of these criterion points along with set-asides of the State's annual credit to "Non-Profit Projects" and "Hawaiian Home Lands Projects" will not only provide greater opportunity for non-profit developers and native Hawaiians to partner with the State to develop affordable housing units for fulfilling need, but also ensure our collective ability to maximize the leveraging potential of such projects while maintaining the affordability of these units in the long-term.

Thank you for your time and consideration. Should you have any questions or need additional information, please contact me directly at 808.587.7653 or jeff@hawaiiancommunity.net.

Sincerely

Jeff Gilbreath
Executive Director

TO: Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300, Honolulu, HI 96813

Dear Dean Minakami,

I am a long term Hawaii resident, very concerned about making our affordable housing programs be as effective as possible. I have traveled with Sen Chang to Singapore and Hong Kong, and followed his travels to other places around the world, to help understand some of the key features needed for effective affordable housing programs.

I urge the board to amend HHFDC's proposed 2025 Qualified Allocation Plan (QAP). The proposed 2025 QAP does not serve the best interests of the taxpayers or the low-income residents of Hawaii who urgently need long-term affordable housing. The three major shortcomings of the proposed QAP that I see are: too little incentive for perpetual affordability, too little incentive for government projects, and too many points based on geographic location. There are many additional details that could be addressed that Sen Chang has proposed and that I hope you will consider.

As to my major concerns:

First, the proposed QAP provides too little incentive for perpetual affordability. Today, applicants have no incentive–or ability–to extend affordability restrictions beyond 61 years. After 61 years, owners of awarded projects are free to evict the existing tenants, raise rents to market, and sell the projects for full market value. In many cases, the tenants petition the state and county governments to acquire the projects–forcing taxpayers to pay twice for the same project. While HB1763, signed into law as Act 235 (2024), requires perpetual affordability for recipients of Rental Housing Revolving Fund loans, there is no reason to exempt LIHTC-only projects from this requirement.

Second, the proposed QAP provides too little incentive for state and county government projects. Projects receiving government financing or located on government lands have received the imprimatur of the elected representatives of the people. They are also at no risk of rents rising to market levels, because governments have no profit incentive.

Third, the proposed QAP adds an unnecessarily large number of new points based on geographical location. These point changes do not appear to be based on observed needs in this state. It adds a whopping 10 points for "Proximity to Amenities" including grocery, shopping, and child care, despite an existing "Project Location and Market Demand" criterion that already incentivizes urban locations that are likely to be proximate to grocery, shopping, child care, and other necessary services. It also adds 5 points for "Census Tracts with Concentrated Wealth," despite no evidence that awarded projects are inequitably distributed throughout the state.

I am particularly concerned that LIHTC is not designed in a cost-effective way. LIHTC provides a direct handout of taxpayer dollars to developers; the tax credits are not loans and are never repaid. The state Rental Housing Revolving Fund gap financing that most LIHTC projects rely on is currently lent out on terms that are commercially unreasonable for taxpayers that support them: 57 year terms, 0.15 percent interest, no repayment until year 31 when the senior private loan is fully repaid, and reduced payments based on cash flow. It is an enormous commitment of taxpayer dollars, having received $1.047 billion in general fund appropriations over the last decade, the second largest after the Rainy Day Fund. The State has a fiduciary responsibility to ensure that these funds are deployed as efficiently as possible.

The proposed amendments aim to ensure that Hawaii's resources are used more efficiently and sustainably. By subsidizing government-owned housing projects that can grow in value and recycling financing for further development, these changes will secure long-term affordability for residents and promote a more equitable use of taxpayer dollars.

Thank you for the opportunity to provide testimony.

Respectfully,

Ellen Godbey Carson
Honolulu, Hawaii

*Expanding the range of opportunities for all by developing, managing, and promoting quality affordable housing and diverse communities.*

October 11, 2024

Mr. Dean Minakami
Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Re: Proposed 2025 QAP

Dear Mr. Minakami,

We appreciate the opportunity to review and provide input on the proposed 2025 QAP. Our suggestions, offered in a spirit of collaboration, focus on promoting cost-effectiveness, quality, and sustainability in the development of affordable housing for Hawaii's low-income residents.

We trust our perspectives will contribute constructively to a final product that effectively serves this vital need. With that goal in mind, we offer the enclosed comments and questions for your consideration.

Please feel free to contact either Marian Gushiken or myself if you would like to clarify any of the points raised in our response.

Sincerely,

Karen Seddon

Karen Seddon
Regional Vice President
EAH Housing

Enclosures

## III. Threshold and Selection Criteria

### A. Registration and Current Application

1. Failure to comply with the requirements of this subsection III(A) by 9% LIHTC or 4% LIHTC applicants will result in immediate rejection of the application for the corresponding application round. The Applicant also will be restricted from applying for any HHFDC resources in the next HHFDC financing round following the rejection date or twelve (12) months from the rejection date, whichever is longer.

*Comment/Question:*

*This provision can be considered punitive for these reasons:*

*Immediate Rejection: The automatic and immediate rejection of the application leaves no room for correction or rectification of minor errors or omissions. Applicants who may have made an unintentional or small mistake are penalized harshly, which could discourage participation and stifle creativity in the affordable housing space.*

*Long-Term Exclusion: The additional penalty of restricting applicants from applying for any HHFDC resources for up to 12 months or the next financing round is especially severe. This extended exclusion may be disproportionate to the initial non-compliance, especially if the error was minor or administrative. It can severely disrupt planning for developers who rely on these funds to meet affordable housing demands.*

*Reasonable Deterrents:*

*Instead of this harsh penalty, a more balanced approach might include:*

*Grace Period for Corrections: Allow applicants a reasonable window of time (e.g., 10 days) to correct any deficiencies in their applications. This ensures that only willful or significant non-compliance is penalized.*

*Tiered Penalties: Implement tiered consequences based on the severity of the non-compliance. Minor infractions could warrant a warning or smaller penalty, while more serious offenses could result in rejection or restrictions.*

*Application Point Deduction: Rather than immediate rejection, penalize non-compliant applicants by deducting points from their application scores, reducing their chances of approval but not fully disqualifying them.*

*These alternatives would still deter abuse while providing flexibility for honest mistakes, ensuring that projects that could benefit the community are not unnecessarily blocked.*

2. Each application will identify one validly existing entity as the Applicant. Only the identified Applicant will have the ability to make decisions regarding that application. The Applicant may enter into joint venture or other agreements, but HHFDC will not be responsible for evaluating those documents to determine the relative rights of the parties. If the application receives an award, the Applicant or an affiliated entity must become a managing member or general partner of the ownership entity.

*Comment/Question:*

*HHFDC previously required the Owner to apply for HHFDC programs. This appears to allow an affiliated project sponsor to be the Applicant. Please clarify.*

### B. Minimum Thresholds

3. **Project Readiness - All LIHTC applications**

   The applicant's proposed project must have the following discretionary, approvals at the time of application, as applicable (with supporting evidence and documentation satisfactory to HHFDC).

   - Zoning Approval / Compliance
   - ~~201H Approval~~
   - Special Management Area (SMA)
   - Other Approvals HHFDC deems necessary to determine the readiness of the project.

*Comment/Question:*

*If the Zoning is not in compliance and a 201H Exemption is being pursued, it seems that the only way to show compliance is an approved 201H Exemption. Please clarify.*

4. **Engineering or Capital Needs Assessment**

   a. Applications for new construction must include a preliminary engineering report (PER) which complies with American Society of Civil Engineers, Environmental Protection Agency, USDA Rural Development, and/or Federal Highway Administration requirements, as applicable. The PER should include:
      - scope of report
      - existing conditions (current state of project)
      - evaluation of existing infrastructure and systems, including but not limited to site conditions, drainage
      - analysis of previous reports or studies
      - description of new proposed project
      - preliminary design and drawings
      - environmental impacts, mitigation measures and required permits/approvals
      - cost estimates including engineering, construction, contingency and overall project cost
      - itemized component cost breakdown
      - project timeline and schedule

*Comment/Question:*

*Please provide weblinks to the American Society of Civil Engineers, Environmental Protection Agency, USDA Rural Development, and Federal Highway Administration requirements for a PER.*

   b. Applications for projects acquiring an existing property must include a capital needs assessment by a competent third party identifying:
      - deferred maintenance, physical needs and deficiencies, and material building code violations that affect the property's use, structural and mechanical integrity, and future physical and financial needs;
      - any work that must be completed immediately to address health and safety issues, violation of Federal or State law, violation of local code, or any work necessary to ensure that the building can continue to operate as affordable housing.

      All units need to be reviewed.

*Comment/Question:*

*What is the shelf life of the CNA prior to application?*

5. **Plan and Cost Review (all applications)**

Submit a certified cost estimate (plan and cost review) by a HHFDC approved construction estimator for rehabilitation and sitework (including any utility connections) based on a preliminary design.

The plan and cost review should review the following key elements:

a. Cost – Are the costs appropriate for the project?
b. Constructability – Are the plans adequately detailed and well designed so that the project will not run into excessive change orders?
c. Contingencies – Is there an adequate contingency amount for contingencies that arise during construction?

*Comment/Question:*

*What are the minimum requirements for Estimator? Does a General Contractor's Estimator qualify? What is the HHFDC review/approval process? If this section is for all applications, "new construction" needs to be added to "rehabilitation and sitework."*

*It is unrealistic to expect this level of "certification" of preliminary design plans, as there is minimal detail available at this point in the design process.*

**9. Debt Service Ratio**

a. Projects with hard debt service requirements with or without an application for an RHRF Project Award Loan must evidence a Debt Service Ratio of no less than 1.15x on all hard debt service requirements for the duration of the initial 15-year LIHTC compliance period. Applicants may underwrite an RHRF Project Award based on required terms, including cash flow contingent payments.

*Comment/Question:*

*It is industry standard to show the Asset Management Fee (AMF) below the line, therefore AMF should not be included in the Consolidated Application NOI.*

**12. Developer Fee**

a. Developer Fee includes developer fee, developer overhead, management fee, consultant fee, etc. (as indicated in the Developer Fee section of the Consolidated Application). Exceeding the threshold cap results in immediate rejection of the application.
b. All LIHTC:
   i. New Building – maximum developer fee of $50,000 per or $3,750,000 (whichever is less).

*Comment/Question:*

*While fee caps are intended to ensure public funds are used efficiently, overly restrictive caps can create a disincentive for developers to participate in affordable housing PPPs. Developers need adequate compensation to cover the risks they take and to ensure their financial viability for future projects. A more balanced approach involves fixing the cap at a reasonable level and allowing flexibility in how the fee is paid (e.g., a portion up front payable from development sources, with the remainder deferred or converted to equity). This would maintain developer participation while ensuring accountability in the use of public resources.*

*The developer fee is often a primary source of income for affordable housing developers, helping them cover operational costs and sustain their businesses. By unreasonably capping the fee, the developer's ability to generate necessary income is reduced, potentially threatening the long-term viability of their operations.*

*Affordable housing development involves significant risks, such as securing financing, dealing with regulatory hurdles, and managing construction timelines. Developers take on these risks with the expectation of being adequately compensated. If developer fees are capped too low, the financial rewards may not justify the risks, discouraging participation in the program.*

*By capping developer fees, there is a risk of misaligning incentives. Developers may become less motivated to take on larger, more complex projects, which often come with higher risks. Instead, they may focus on smaller, safer projects that offer lower returns, potentially reducing the overall impact of the PPP in addressing housing needs.*

**15. Development Costs**

a. No later than 45 days prior to the full application deadline, HHFDC will post maximum amounts per unit and/or per square foot for the vertical construction line items in new construction applications.
b. Applicants will propose costs for the non-vertical components. HHFDC will determine the appropriate amount for each based on:
   i. comparisons with other applications,
   ii. recently submitted cost certifications,
   iii. input from third parties, and
   iv. staff's professional judgment.

HHFDC will adjust the budget accordingly before making awards.

Applications proposing costs substantially more than HHFDC's determination may be ineligible for an award.

*Comment/Question:*

*The proposition in this section is unworkable and impractical to implement fairly and effectively, as it introduces an unreasonable level of subjectivity and judgement.*

*Developing construction costs for a project requires collaboration between multiple disciplines -architects, engineers, contractors, and cost estimators. Each consultant brings specialized knowledge that influences cost accuracy, from design intricacies to site conditions and regulatory demands. The process is highly dynamic, and the final costs depend on careful planning, risk management, and close coordination among all parties involved.*

*It takes months of collaboration with consultants to produce the studies and reports that inform architects and engineers for the overall design and to produce detailed plans that specify the materials, finishes, and structural elements of a project that must meet building and zoning codes, accessibility, and sustainability mandates.*

*Mandating developers to finalize and adjust construction costs 45 days before the consolidated application deadline is both impractical and insufficient. This compressed timeframe fails to account for the complexities of the project design and cost control efforts that the development team has already undertaken. Such a rigid requirement places developers at a disadvantage, potentially discoursing accurate proposals, and ultimately jeopardizes the viability of essential affordable housing projects.*

**D. Criteria Point System**

**Criterion 5. State /Local Government Financing** **0-2 Points**

The project will be receiving a permanent below market loan or grant from a State or local governmental agency other than HHFDC or a lease from a government agency (including HHFDC).

The project has received a commitment for a permanent below market loan, or grant, or a commitment of at least $50,000 but less than $175,000 per unit. A copy of a commitment letter, government action or contractual agreement must be included in the application. 1 points

The project has received a commitment for a permanent below market loan, or grant, or a commitment of more than $175,000 per unit. A copy of a commitment letter, government action or contractual agreement must be included in the application. 2 points

*Comment/Question:*

*The thresholds for local government support in Criterion 5 are set unrealistically high, particularly when compared to historical levels of County (or other support such as FHLB, etc.) support. Imposing limits that are difficult, if not impossible, for many projects to meet undermines the intent of fostering meaningful governmental involvement. By setting more attainable thresholds, we can better align with real-world funding patterns and encourage broader participation from local governments. I strongly recommend lowering these limits to create a more practical and achievable path for developers that functions as an incentive.*

**Criterion 6. State/Local Government Owned Land 0-5 points**

The project has received a lease from a government agency (including HHFDC). Applications will receive a percentage of the 5 points based upon the ratio of the square footage of the leased land to the total square footage of the project site. For example, if the square footage of the leased land is 50% of the total square footage of the project site, the applicant will receive 2.5 points.

*Comment/Question:*

*Add: "or a commitment to receive a lease" between "lease" and "from."*

**Criterion 13. Percentage of Income Targeted Units 0-10 points**

Applicants receive points by providing a preference to lower income tenants in accordance with the table below.

Applications will earn up to 8 points based on agreeing to comply with the applicable limits in the matrix below. In order to receive points, the application must reflect one set-aside election (average income or "original" minimum set-aside i.e., 40% at 60% or 20% at 50%) and meet the criteria below for the selected set-aside.

- For average income, the percent shown is the average AMI among the units' designations.
- For an original minimum set-aside, at least 30% of the units must be affordable to and occupied by households at the AMI shown.

*Comment/Question:*

*This section, when considered alongside VI.B (Compliance), requires clarification. While VI.B limits incomes to no more than 60% AMI, this section seems to allow up to 80% AMI, creating potential inconsistencies. Additionally, while deeper targeting of AMIs is commendable for prioritizing affordability, it must be balanced with HHFDC's underwriting requirements for financial feasibility and RHRF loan repayments. This is particularly important in jurisdictions that lack project-based vouchers, where the capacity to meet debt*

*service obligations may be strained. Aligning these criteria with realistic funding and revenue conditions to ensure project viability is recommended.*

**Criterion 18. Underserved Areas**

HHFDC will award 2 points for sites in the following Census tracts:

- Oahu (Honolulu County): Urban, 96813, 96814, 96816, 96817, Waipahu, 96797, Ewa Beach 96706
- Hawaii Island: Hilo, 96720, 96721, Puna, 96749, 96778
- Maui: Kahului, 96732, Wailuku, 96793, Lahaina, 96761
- Kauai: 96766, 96746

*Comment/Question:*

*These are Zip Codes, not Census Tracts.*

**Criterion 19. Census Tracts with Concentrated Wealth**

Applicants score under this criterion based on the percentage of families below the poverty rate in the Census tract containing the project site. The score depends on the other applications. The site in the tract with

- the lowest percentage receives 5 points,
- highest percentage receives 0 points.

Those between the highest and lowest will receive a proportional number of points based on their proximity to the lowest ratio. In the event a project will have buildings in multiple tracts, the calculation will be based on the one with the highest percentage.

*Comment/Question:*

*While incentivizing development in wealthier census tracts can promote integration, these areas are often subject to significant NIMBY (Not In My Backyard) opposition, which can delay or even block affordable housing projects. The 5-point weighting for projects in wealthier census tracts is too high, as it unduly penalizes projects in more feasible locations that are more economically advantageous for low-income residents.*

**Criterion 21. State Conveyance**

Applicants will earn 2 points for agreeing to offer to sell the project to a state agency for fair market value (as determined by a third-party appraisal), subject to commercially standard terms, no later than three years before the end of the extended use period. The agreement will be reflected in the Declaration of Restrictive Covenants.

*Comment/Question:*

*While this aligns with affordable housing preservation goals, greater clarity is needed around the specific terms of the process and what the agreement fully entails. The current lack of detail could dampen investor appetite, as uncertainties regarding timing, valuation, and sale conditions may introduce risk. This ambiguity could also impact the amount of equity investors are willing to commit, potentially affecting the overall financing of the project. Clear guidelines would help mitigate these concerns and ensure stronger investor confidence.*

**Criterion 22. Need for Rehabilitation**

HHFDC will award up to 10 points for applications it determines are proposing rehabilitation which will materially improve residents' quality of life (the extent of change between current conditions and results after completion).

*Comment/Question:*

*Criterion 22 requires more transparency on how HHFDC will determine and verify the extent of rehabilitation that materially improves residents' quality of life. Clear guidelines are needed on what qualifies as 'material improvements' and how those improvements will be measured or assessed both before and after the project's completion. Additionally, outlining the verification process - such as requiring inspections, third-party assessments, or resident feedback - will help developers understand the expectations and ensure compliance with this criterion.*

**Criterion 23. Proximity to Amenities**

New construction applications will score points based on the site being within the following driving or walking distances, measured in miles. The amenity must be open (not under construction or shut down) as of the application deadline. A single establishment may qualify for points under multiple categories. No more than 10 points will be awarded in this category.

*Comment/Question:*

*Criterion 23, which awards points based on proximity to amenities, inherently favors urban projects where such amenities are more accessible. However, this seems to contradict Criterion 19, which prioritizes projects in wealthier, often non-urban areas. These two criteria appear to be at odds, as non-urban areas typically lack the density of amenities required to score well under Criterion 23. Consider increasing the points for Criterion 23.*

**Criterion 24. Point Deduction**

HHFDC may deduct points from applications involving an Applicant which did not complete a representation from a prior award. For example, a loss of 4 points could be a consequence of not meeting the promised energy efficiency / green building standards.

*Comment/Question:*

*Criterion 24 lacks clarity on when and how applicants will be notified if they fail to fulfill a representation from a prior award. Without a clear process for providing notice, applicants may not have an opportunity to correct or address the issue before points are deducted. Establishing a formal notification timeline and process for addressing non-compliance would provide applicants with transparency and a fair chance to resolve any outstanding issues, ensuring that point deductions are applied consistently and justly.*

**Appendix 2 Design Requirements**

The terms of this Appendix 2 are the minimum requirements for any project awarded LIHTC.

Once final plans and specifications have been completed, owners must submit them to HHFDC (hard copy and on CD/DVD or through electronic transmission acceptable to HHFDC, in PDF format) and receive approval before commencing site work or construction.

At all times after award the owner is responsible for promptly informing HHFDC of any changes or alterations which deviate from the final plans and specifications approved by HHFDC at award. This includes changes required by local governments to receive building permits.

*Comment/Question:*

*Given the already stringent local building codes, accessibility requirements, and green building standards that projects must adhere to, these additional prescriptive requirements appear redundant and may place an unnecessary burden on developers. Projects are already navigating complex regulatory frameworks to ensure compliance, and imposing further specific requirements may create inefficiencies and delays.*

*At a minimum, if any design requirements are to be implemented, they should be delayed until 2026 at the earliest. This would allow developers time to adjust to the changes, plan their projects accordingly, and integrate these standards without compromising timelines or financial feasibility.*

*These requirements are redundant or in conflict with existing codes, not conducive to cost effective unit design, and do not necessarily enhance unit livability.*

| | |
|---|---|
| *General:* | *There are several references in the Appendix that don't seem to align with terms used in the FHA design manual and aren't mentioned in the ADA guidelines for new residential construction. If these are terms HHFDC has used in past projects, they should be clarified to avoid confusion.* |
| *II.A.2* | *"Very low maintenance materials" needs to be defined/clarified.* |
| *II.A.4* | *Does not permit exposed footings which must be covered with "exposed brick or masonry," which is not typical construction practice for projects in Hawaii.* |
| *II.B.1* | *Seems to imply square footage of a unit must be "conditioned" space in order to be counted against the minimum FA requirement shown and unconditioned space cannot be included. Flow through ventilation is cost effective and should not be prohibited.* |
| *II.B.2* | *Separate dining areas are not necessary or cost effective.* |
| *II.B.3* | *Bedroom doors do not need to be lockable.* |
| *II.B.4* | *Sliding and Pocket doors are a cost effective alternative that allow flexibility in design, particularly with borrowed light designed units.* |
| *II.B.5* | *Does not permit carpet padding in some unit types (Type A) but allowed in others, which is permitted in both the ADA and FHA. Padding provides better foot feel for the flooring and helps with impact sound isolation between units.* |
| *II.C.2* | *ANSI A117.1 is not a State ADA code requirement.* |
| *II.C.4* | *Clear floor space requirement conflicts with our understanding of requirements in the ADAAG and FHADM.* |
| *II.D.2.b, c, d* | *Dishwashers are not cost effective and present a long-term maintenance cost. Therefore, they should not be required. Adding dishwashers will significantly increase the electrical load and add to costs.*<br><br>*Refers to a "workstation" requirement but no definition or explanation is provided of what this amenity is and could conflict with ADA and FHA design requirements.* |
| *III.A.5* | *Standard design practice is based on State and County code and adding EPA WaterSense requirements will increase costs to the project.* |
| *III.B.1* | *This is entirely to prescriptive and not necessary, as it will add construction cost and long term maintenance cost.* |
| *III.C.2* | *Prohibiting through the wall HVAC units is impractical for projects designed with flow-through ventilation, as they are necessary when a resident needs an accommodation.* |
| *III.C.3* | *Is this requirement referring to a ducted return air from the grille to the air handler unit?* |

| | |
|---|---|
| *III.C.6* | *Requires microwave hoods to be directly vented which is not a common design feature in affordable projects.* |
| *III.C.8* | *Seems to require conforming to a higher design standard than current code. It also includes requirements for electrical control boxes to have features ("mechanical dampers") with which we aren't familiar.* |
| *III.D.1* | *Requires use of insulated headers and insulation detailing not typically used in temperate climates like Hawaii.* |
| *IV.B.* | *Replacement of existing materials or components to new construction standards may not be possible in rehabilitation projects, as new products may not fit and that will increase costs appreciably.* |

# Shelter of Wisdom

*Where Healing Begins*

P.O. Box 19112, Honolulu, HI 96817
Tel: (808) 383-9498 Fax: (808) 744-9812
org
email:

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Re: Comments on draft 2025 Hawai'i Qualified Allocation Plan

Dear Mr. Minakami,

Thank you for opportunity to comment on the draft State of Hawaii Low-Income Housing Tax Credit Program 2025 Qualified Allocation Plan (QAP). These comments are submitted on behalf of Shelter of Wisdom, a men's emergency homeless shelter. Collectively, we believe that limited state and federal affordable housing resources should be targeted, to the extent feasible, to serve the needs of our lowest income residents for the longest period of time, and to be owned and managed not for profit, but for the benefit of residents, and with maximum tenant protections. We also share HHFDC's commitment to fair housing, and recognize our state's obligation to affirmatively further fair housing under federal law.

There are many positive elements in the Hawaii QAP, and the proposed revisions for 2025, which we will recognize, but the QAP also falls short in several important respects.

Preserving long term affordability

First, we commend HHFDC for proposing to fully eliminate the "qualified contract" loophole, a feature of the federal statute which can sometimes permit owners to exit the LIHTC program after 14 years, evading the additional required 15 year "extended use" affordability period. Hawaii's prior QAP incentive to waive the qualified contract right is an insufficient protection, and the proposed required waiver of the provision is a best practice followed by 32 other states. Second, we support Hawaii's proposed increase of the required minimum affordability period from 30 to 45 years, but we urge HHFDC to increase this minimum requirement even further, consistent with its recent practice, and the example of other states. For

example, California requires a 55-year minimum affordability period; Oregon and New Hampshire require 60 years; and Vermont requires permanent affordability.
Third, we believe that HHFDC should do more to incentivize deeper income targeting in its LIHTC properties. In 2021 and 2022, respectively, Hawaii targeted 73% and 78% of its LIHTC units to families at 50-60% of the area median income (AMI). This is significantly higher than the average of QAPs nationally. Likewise, Hawaii's targeting of families at 20-30% of AMI fell below national averages.

Protections and incentives for nonprofits

Nonprofit ownership and management of LIHTC properties is consistent with maintenance of long-term affordability and protection of tenants from arbitrary management practices and rent increases. Nonprofit ownership also supports the long-term social housing ideal of decommodification – the ownership of property for the benefit of residents, not for profit. There are two important steps that HHFDC can take to achieve this goal.

First, HHFDC should increase the nonprofit set-aside from 10% to at least 50%. This is consistent with the state's recent practice of allocating a significantly higher percentage of tax credits to nonprofits than the required 10% minimum.

Second, and even more important, Hawaii should join the large majority of states that have taken steps to protect the LIHTC statutory right of first refusal (ROFR), which gives qualified non-profit owners (general partners) the right to fully acquire a LIHTC property at year 15 at below market rate. This crucial provision of the LIHTC statute has come under threat because of an ambiguous statutory phrasing that has allowed for-profit limited partners in several states to block non-profit acquisition. Protective language in state QAPs clarifies that the right does not depend on the existence of a 3rd party offer to trigger the ROFR, and also spells out the contours of the below market rate calculation. We recommend looking to the provisions of the New Hampshire QAP for strong language to protect the ROFR.

Tenant protections

The proposed 2025 QAP is missing some basic tenant protection provisions, which should be included in the final plan.

First, the LIHTC statute requires that all developments follow good cause eviction procedures – but there is no reference to this requirement in the QAP or the Compliance Manual, and no indication that there will be consequences for failure to comply with this rule. HHFDC should spell out the basic elements of good cause in both the QAP and in its compliance manual.

Second, residents of Hawaii LIHTC developments should be protected from excessive rent increases. Hawaii should join several other states in limited annual rent increases to 5% or less, even where increases in Area Median Income might technically permit a higher increase. Finally, the QAP should explicitly protect tenants' right to organize – and provide incentives for owners who demonstrate meaningful engagement with tenants in the management process.

Fair Housing Concerns

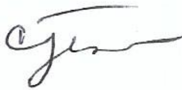
Hawaii's LIHTC production is heavily weighted toward 1- and 2-bedroom units, which does not accommodate large (or growing) families. Low-income families with children are already disadvantaged by the sharp decreases in housing assistance for families in the Housing Choice Voucher program, and Hawaii's poor track record of developing 3+ bedroom sized units is not helping. We urge HHFDC to add much stronger incentives than currently included in the draft QAP (p. 18) to increase the production of larger bedroom size units to accommodate families with children.

HHFDC's strong proposed incentives for underserved areas and low poverty areas (p. 22) are positive fair housing provisions that will improve the balance of LIHTC developments in the state, and should be preserved in the final QAP.

Finally, we note that neither the draft QAP nor the Hawaii LIHTC Compliance Manual include any reference to affirmative marketing plans, a key element of Fair Housing Act compliance. Likewise, there is nothing in the QAP supporting the statutory prohibition against discrimination against families with Housing Choice Vouchers. These missing items should be included in the final QAP.

Thank you for the opportunity to comment on the draft 2025 QAP, and we look forward to working with the HHFDC going forward.

Sincerely,



Carolina Jesus
Shelter of Wisdom, Director

PACIFIC HOUSING
ASSISTANCE CORPORATION
888 Iwilei Road, Suite 200
Honolulu, Hawaii 96817

October 21, 2024

Mr. Dean Minakami
Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813
Attn: Finance Branch

SUBJECT: LOW-INCOME HOUSING TAX CREDIT PROGRAM 2025 QUALIFIED ALLOCATION PLAN DRAFT

Dear Mr. Minakami,

Thank you for the opportunity to review and comment on HHFDC's proposed revisions to the 2025 Qualified Allocation Plan. We have reviewed the revisions with our design and disability consultants and offer these comments. Our main concern is that HHFDC is proposing major changes to the QAP so close to the 2025 funding round, without dialogue among the development and design community.

Section III. B. 2. Site Control

We recommend adding a site option lease agreement to demonstrate site control for projects on leased land.

Section III. B. 4. a. Engineering or Capital Needs Assessment

Many of the items required in the PER are also required in the Chapter 343 Environmental Assessment. If the PER must be completed by a licensed civil engineer, an unnecessary additional cost would be added to the project. This criterion provides no information on obtaining engineering services or credentials needed by firms. Will HHFDC provide a list of pre-approved firms to conduct PERs? Will HHFDC need to approve the PER, and if so, what is the expected timeframe for approval?

Section III. B. 5. Plan and Cost Review

Will HHFDC publish a list of approved construction estimators? Will HHFDC accept a cost estimate prepared by the project contractor for the vertical portion?

Section III. B. 12. Developer Fee

This restriction places an economic hardship on developers and does not recognize and compensate them for the work and skill performed. The typical affordable housing project takes at least six years from proposal to permanent loan conversion. Limiting the developer fee to $50,000 per unit or $3,750,000 (whichever is less) does not adequately compensate the developer for time spent on the project. The current maximum of 15% of the total development costs

(excluding developer fee) should be maintained to incentivize developers to build more affordable housing units.

Section III. B. 15. a. Development Costs
Please provide an explanation for shortening the timeframe from 90 to 45 days. We believe that 45 days prior to the full application deadline is too late for HHFDC to post the maximum amounts per unit and/or per square foot.

Criterion 2. B. Applicant's readiness to proceed with development of project
The proposed deletion of how points may be awarded leaves the point allocation ambiguous. We recommend clearly stating how points can be earned.

Criterion 5. State/Local Government Financing
We recommend removing the minimum dollar amount of $50,000 per unit. County agencies may not have the capacity to offer substantial loans and grants, especially as they are increasingly stressed to make sizable awards due to reductions in HUD HOME and CDBG appropriations.

Criterion 8. Project Location and Market Demand
This criterion gives preference to projects in a county's urban core/district versus rural district, making it difficult for neighbor island projects with limited public transportation to earn any points. Other criteria already give preference and points to projects in an urban core.

Criterion 12. Special Housing Needs
The proposed definition of "special housing needs" to mean persons receiving a disability source of income is too restrictive. Rather than qualifying people through their disability income, we suggest considering the limitations to their life activities. The Americans with Disabilities Act and Fair Housing Act define a person with a disability as anyone who has a physical or mental impairment that substantially limits one or more major life activities, has a history of such an impairment, or is regarded as having such an impairment. The definition should also include those with invisible disabilities such as chronic pain, mental health issues, and neurological conditions. Medical documentation from a healthcare provider or social service agency should be considered as proof of eligibility, instead of only proof of disability income.

We recommend adding an option for HHFDC to approve occupancy of a special housing needs unit for a tenant without special needs if the unit is vacant after a certain length of time, such as four months after the vacant unit is ready for occupancy. We also recommend that HHFDC convene a group to help guide this special housing needs section of the QAP.

Criterion 13. Percentage of Income Targeted Units
Please clarify the language in this section and table.

Criterion 18. Underserved Areas
We recommend eliminating this criterion. The points would primarily be awarded to Urban areas, which are already given points in other criteria.

Criterion 20. Loan Repayment
Please clarify this criterion.

Criterion 21. State Conveyance
This proposed change increases the number of points awarded to a project in which the developer agrees to offer to sell the project to a state agency for fair market value. Projects developed on state land are already relinquished at the end of the lease term. This criterion puts developers who lease land from others at a disadvantage. Most non-profit organizations cannot afford to purchase land, and leasing land makes these points unobtainable. Please explain the reasoning for adding this criterion.

Criterion 22. Need for Rehabilitation
This criterion awards an unfair number of points to rehabilitation projects. While maintaining existing units is important, new units are needed. Please consider lowering the number of points given to this criterion.

Criterion 23. Proximity to Amenities
While it is sensible to favor urban projects, perhaps not in so many ways and at such a level of points. Other criteria already offer additional points to projects in urban areas.
Criterion 24. Point Deduction.

This criterion does not state the total number of points that can be deducted, and the procedure for deducting points. The example shows that 4 points could be deducted. Please clarify why and how many points may be deducted.

VI. Compliance Monitoring Plan. B. Compliance. Set Aside and Average Income
Does this proposed change mean that developers of a mixed-income project that includes market rate units are not eligible to elect the average income minimum set-aside?

Appendix 2 Design Requirements
We recommend that HHFDC convene a group of design and construction experts who work on affordable housing projects to review and advise on proposed requirements in Appendix 2. Some of the requirements would unnecessarily add time and cost to a project, without improving building performance or quality of units. HHFDC requires review and approval of final plans and specifications, and we recommend providing a timeframe for this process to be completed. Certainly, these requirements should not apply to the applications for the 2025 funding round. We offer our comments on select design requirements as follows:

Appendix 2 Section II.A.1.
Prohibiting the use of metal siding is aesthetically limiting. If the goal is to have a higher quality material, a coating on the siding could achieve the intended result.

Appendix 2 Section II.A.4.
The requirement for buildings foundations to have a minimum of 12 inches of exposed brick or masonry veneer above finished grade level will add unnecessary costs without improving building performance.

Appendix 2 Section II.B.2.
The definition of a separate dining area is unclear. An L-shaped kitchen with an adjacent dining table is an efficient layout that reduces floor area and cost. Unit design should not be restricted as it limits the creativity of design professionals.

Appendix 2 Section II.B.3.
The definition of a bedroom as a room with full physical and visual privacy and a lockable door would result in fewer units and add to the cost of a project. One of our projects proposed nested units to maximize space. This requirement for a separate lockable door would reduce our overall number of units in the same building footprint, or would result in increasing the size of the building and adding significant cost to maintain the same number of units.

Appendix 2 Section II.D.2.
The requirement for all residential units to have Energy Star rated dishwaters installed beside the kitchen sink will add cost to a project. We recommend that the dishwasher, if installed, must be Energy Star rated and located beside the sink.

Appendix 2 Section III.C.2.
Through-the-wall HVAC units are self-contained air conditioners attached to an exterior wall that bring in fresh air, push cold air into the room, and remove hot air and humidity from the room. There are several Energy Star certified room air conditioners that are energy-efficient and more cost-effective than central and mini-split air conditioners. Prohibiting through-the-wall HVAC in all but studio units will add to design and installation costs for the project.

Appendix 2 Section III.C.6.
The requirement for range hoods and micro-hoods to be vented to the exterior of the building would not allow recirculating range hoods and add cost to a project.

Appendix 2 Section III.D.1.
The requirement for framing to provide for complete building insulation including the use of insulated headers on all exterior walls is excessive for Hawaii, especially if a building is designed to be naturally ventilated and ceiling fans are used rather than air conditioning. This is another requirement that will add to construction costs.

We appreciate the opportunity to provide these comments to the 2025 QAP draft. If you have any questions, please feel free to contact me at (808) 523-5681 or aawaya@pacific-housing.org.

Sincerely,

Audrey E. Awaya
Executive Director

RAINBOW HEALTH

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Re: Comments on draft 2025 Hawai'i Qualified Allocation Plan

Dear Mr. Minakami,

Thank you for opportunity to comment on the draft State Of Hawaii Low-Income Housing Tax Credit Program 2025 Qualified Allocation Plan (QAP). These comments are submitted on behalf of [ORGANIZATIONS]. Collectively, we believe that limited state and federal affordable housing resources should be targeted, to the extent feasible, to serve the needs of our lowest income residents for the longest period of time, and to be owned and managed not for profit, but for the benefit of residents, and with maximum tenant protections. We also share HHFDC's commitment to fair housing, and recognize our state's obligation to affirmatively further fair housing under federal law.

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First, we commend HHFDC for proposing to fully eliminate the "qualified contract" loophole, a feature of the federal statute which can sometimes permit owners to exit the LIHTC program after 14 years, evading the additional required 15 year "extended use" affordability period. Hawaii's prior QAP incentive to waive the qualified contract right is an insufficient protection, and the proposed required waiver of the provision is a best practice followed by 32 other states.

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Thank you for the opportunity to comment on the draft 2025 QAP, and we look forward to working with the HHFDC going forward.

Sincerely,

*Nathaniel Bossick*

Nathaniel Bossick, LCSW
Executive Director
Rainbow Health

Residential Youth Services & Empowerment
PO Box 11662 Honolulu, HI 96828

October 22, 2024

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Re: Comments on draft 2025 Hawai'i Qualified Allocation Plan

Dear Mr. Minakami,

Thank you for opportunity to comment on the draft State Of Hawaii Low-Income Housing Tax Credit Program 2025 Qualified Allocation Plan (QAP). These comments are submitted on behalf of Residential Youth Services & Empowerment (RYSE). Collectively, we believe that limited state and federal affordable housing resources should be targeted, to the extent feasible, to serve the needs of our lowest income residents for the longest period of time, and to be owned and managed not for profit, but for the benefit of residents, and with maximum tenant protections. We also share HHFDC's commitment to fair housing, and recognize our state's obligation to affirmatively further fair housing under federal law.

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Thank you for the opportunity to comment on the draft 2025 QAP, and we look forward to working with the HHFDC going forward.

Sincerely,

Carla Houser
Executive Director

From: Toby Portner <tobyportner@gmail.com>
Sent: Wednesday, October 23, 2024 3:24 PM
To: Newcom, Chelsea N <chelsea.n.newcom@hawaii.gov>
Subject: [EXTERNAL] Testimony

Aloha,
Mahalo for the opportunity to provide testimony in advance of the HHFDC's decision about QAP. While I work for the state's Education for Homeless Children & Youth (EHCY) program, this comes from me as a private citizen.

My professional responsibility is to identify and support educational stability for kids and families in lacking a stable home. This includes families living in shelters, cars, & parks, though the majority are staying temporarily in homes of friends or family due to economic hardship.

There is a team of Liaisons across the state, and while their focus is removing barriers to full participation in school, they often end up helping connect parents with housing resources, as lacking a stable home presents challenges to regular attendance and every school move is likely to result in substantial learning loss. As a result of this layer of support, we are keenly aware of the need for more affordable housing for local people.

From your position at the helm of potential efforts to improve our housing situation, I urge you to consider all options that pave the way to improved affordable housing stock, including:
- Giving greater weight to preserving long-term affordability
- Creating stronger protections and incentives for nonprofit developers
- Enchancing renter protections, and
- Addressing fair housing concerns, particularly in relation to unit size.

If any state can diversify solutions to this nationwide problem, it's us. Mahalo for your consideration and hard work to this end,

Toby Portner

Sent from my iPhone

Dean Minakami, Executive Director
Hawaii Housing Financing and Development Corporation
677 Queen Street; Suite 300
Honolulu, Hawaii 96813

Dear Mr. Minakami,

Highridge Costa appreciates the opportunity to comment on the latest draft Qualified Allocation Plan provided by HHFDC and respectfully offer our comments for your consideration in hopes that the State will arrive at the best QAP to enable the continued provision of quality affordable housing to the most in need residents of Hawaii.

Our comments, in order of appearance in the draft QAP, are as follows:

**B. Minimum Thresholds – 3. Project Readiness**

Changes to this section saw the requirement of a 201-H approval removed from the minimum threshold to apply for financing. Zoning approval/compliance remains as a requirement. Removing 201-H approval here while keeping zoning approval seems odd. Most projects going through 201-H do not comply with their existing zoning and are seeking exemptions for that reason. In the interest of projects being able to move quickly after receipt of an award, we believe the requirement of having a 201-H or other applicable program approval (ex. Maui's 2.97) to be a reasonable one. We further believe it would be reasonable for HHFDC to require that a project have all discretionary approvals necessary for development in place at application. Further requirements, such as planning department submittals and the like, would be an unreasonable cost burden (ex. design, overhead, land carry) and risk (ex. QAP changes rendering a project uncompetitive, falling out of a QCT/DDA, availability of state financing) to developers without the assurance of a financing commitment from the State.

**B. Minimum Thresholds – 4. Engineering or Capital Needs Assessment**

In this section, a requirement to submit a preliminary engineering report was added. The PER is required to contain several analyses, including itemized cost breakdown and project timeline. It should be noted that a PER would generally be produced at some point in the early design process (as required by 201-H, for example) and may or may not contain these items. Cost estimates at that time, especially before agency comment, etc are not likely to be accurate. Since timeline for LIHTC projects is chiefly based on financing awards, that is also not likely to be accurate and would theoretically need to be updated in each financing round. This is an undue cost burden on developers when each application round is already quite expensive under the current rules. Analysis of engineering should be left to the state and local agencies responsible for permitting who have the expertise to comment on such matters. Finally, it seems redundant to require an engineer's cost estimate when a certified GC estimate is already required

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elsewhere in the application. We feel it would be more prudent to allow the appropriate agencies to review and comment on engineering matters and for HHFDC to continue to rely on the GC's certified cost estimate as they are the most qualified, not the engineer, to estimate construction costs. If HHFDC wishes to move forward with the requirement for a PER at application, it should accept the PER used in a 201-H application and not unnecessarily add additional requirements thereto.

**B. Minimum Thresholds – 5. Plan and Cost Review**

The primary change in this section was the removal of experience requirements for the GC providing the certified cost estimate for the application. In lieu of this, HHFDC is to provide an approved list of construction estimators. It is not clear when this list will be created and who is going to be on it. We feel the previous experience requirement was sufficient, but if the process for getting a GC on the approved list is clearly laid out we would find this change reasonable. In any event, a quality construction estimate can take time to produce, so we would ask that HHFDC publish its list at least 120 days before the application is due so that the select list is not bottlenecked with dozens of applicants at the last second.

**B. Minimum Thresholds – 8. Contractor Profit Limitation**

This section is largely unchanged from previous years, but one thing we encountered on a recent cost certification was a lack of clarity on whether P&P bonds paid for by the contractor factor into the 14% test. If paid for by the owner, they are not factored in, so we feel it should be made explicit that they are not factored in when the GC pays for them either.

**B. Minimum Thresholds – 12. Developer Fee**

The new maximum developer fee of $3.75 MM for 4% projects should be removed. This removes any incentive for developers to build higher density, more efficient projects. The previous 15% threshold, which was further reduced by the 7% limit to maximize scoring, is reasonable and creates additional eligible basis as well as additional contingency to tap into in the event of project cost overruns. As has happened in other states where an absolute maximum fee was introduced, the change proposed here will result in smaller, likely less efficient (from a cost and operational standpoint) projects as 75-unit projects will achieve the maximum possible developer fee. With no incentive to take on additional risk to build larger projects, the average project size will inevitably decrease and the average cost per unit will increase. With limited land availability in infill, TOD areas, small low-density projects run counter to HHFDC's goal to provide housing in the places where Hawaii's residents live and work.

**B. Minimum Thresholds – 15. Development Costs**

This section introduces a maximum cost per unit or square foot for vertical construction to be announced 45 days before applications are due. 45 days prior to application is simply an unreasonable amount of time for developers to respond to unforeseen cost maxima. The number of exhibits in the application that are affected by hard cost budgets is substantial and often require support by third parties. We feel this section should be removed in its entirety as project scoring already provides incentive for developers to ensure their costs are as low as possible. A certified cost estimate by a qualified GC is already required for the application and safeguards against the possibility of unrealistic project budgets being submitted.

**D. Criteria Point System – Criterion 6. Developer Fee (Deleted)**

The previous scoring associated with developers taking a reduced fee has been removed. We feel this section, in combination with previous years' developer fee minimum threshold, achieved HHFDC's goal of keeping developer fees under control without having unintended consequences related to project size and efficiency. We feel the deletion of this criterion should be reversed.

**D. Criteria Point System – Criterion 5. State/Local Government Financing**

In previous years, this criterion provided points to a project with any sort of financing from a state and local government agency other than HHFDC. The draft QAP sets a minimum dollar amount of $50,000 per unit to receive any points. We believe that some points should be awarded to projects in which counties/agencies who contribute any meaningful amount (for example, $1 MM) to a project. Many counties have limited budgets to award these sorts of funds and we shouldn't discourage them from contributing what they can.

**D. Criteria Point System – Criterion 5. Energy Efficiency and Green Building**

Can HHFDC clarify that its policy accepting architect certification in lieu of LEED certification is intended to remain in place after these changes? It appears on our interpretation that is the case, but the language doesn't seem completely clear. The current policy allows projects to benefit from meeting sustainability standards without incurring the cost of LEED or equivalent certification, which we feel is the most efficient way to frame this criterion.

**D. Criteria Point System – Criterion 13. Percentage of Income Targeted Units**

This criterion saw a significant reduction in average AMI to achieve maximum score. While we applaud the effort to allow more flexibility in maximum scoring AMI levels on a project, HHFDC should note that this will inevitably result in higher per unit requests for soft financing such as RHRF because project NOI will inevitably be reduced. As a reference point, we tested the new rule on one of our recent projects and determined that the updated rules would have resulted in an additional RHRF request of roughly $11,000 more per unit.

**D. Criteria Point System – Criterion 18. Underserved Areas**

Providing additional point scoring to underserved areas, particularly areas impacted by disasters such as the Maui fires is admirable. It is unclear, however, how these zip codes were arrived at or what policy goal is being pursued. Clarification by HHFDC would better allow comment on this section.

**D. Criteria Point System – Criterion 19. Census Tracts with Concentrated Wealth**

As currently drafted, this section incentivizes development of affordable housing in areas that already have high concentrations of poverty. While the intent may be to ensure affordable housing is available in these areas, the likely outcome is to only increase the concentration of households in poverty in these areas. The research in this arena is extensive – introducing lower income families into higher income areas has positive outcomes, but this criterion would do the opposite. We recommend this criterion be removed in its entirety.

**D. Criteria Point System – Criterion 20. Loan Repayment**

This section is unclear, so it is difficult to evaluate what the intent is. Is the goal to incentivize developers to only use RHRF as an interim/construction source and have it repaid upon permanent loan conversion? If not, when would the loan need to be repaid to receive these points? Does a project that repays its RHRF debt out of available cash flow over the course of the term receive these points? Once we have a better understanding of the state's goals, we will be able to provide additional comment.

**D. Criteria Point System – Criterion 21. State Conveyance**

We are in opposition in principle to any mechanism that forces sale to a state agency over the course of a project life. The history of public housing in Hawaii and the US generally is fraught with

mismanagement, insufficient rehabilitation, and below par living conditions for the residents. Introducing the possibility to have privately owned and maintained housing fall under the umbrella of the state without good reason (such as the project being built on state land, etc) is, simply put, bad public policy and not in alignment with the goals of HHFDC. It would be helpful for HHFDC to explain its policy goals in adding this criterion so we can better understand what other potential measures could be put in place to accomplish them.

**D. Criteria Point System – Criterion 22. Need for Rehabilitation**

This section gives a very substantial point allowance to projects that establish that rehabilitation will materially improve residents' quality of life. Is this intended only for acquisition-rehab projects? If so, this gives an overwhelming advantage to such projects in scoring. It would be helpful for HHFDC to better define "materially improve resident's quality of life" so that we can understand the intent of this criterion. Acquisition-rehab projects do not add to Hawaii's existing housing supply. With such constrained production of new housing, projects in need of capital improvements should first explore opportunities to refinance that might allow them to complete those improvements without the use of state resources.

**D. Criteria Point System – Criterion 23. Proximity to Amenities.**

We are not in opposition to scoring that advantages projects within reasonable proximity to amenities, however, the distances provided are quite small and worsened by the fact that the distances must be a driving or walking route (as opposed to as the crow flies). There is also a concern that these proximities reduce the incentive for developers to pursue rural projects or projects on neighboring islands that may not have the same access to amenities as we might see in Honolulu. Finally, it is disheartening that no scoring for proximity to public transit is included. As rail access improves, proximity to public transit may be incredibly impactful to the quality of life for residents. We would encourage HHFDC to add scoring that incentivizes development near rail stations, bus stops, and the like.

**D. Criteria Point System – Criterion 24. Point Deduction**

The language enabling HHFDC to deduct points seems to allow for point deduction of any amount deemed reasonable for any infraction they identify. Maximum point deductions, durations of deductions (in years) and the infractions that lead to them should be defined if HHFDC is to introduce this concept. To ensure fairness, the QAP should also stipulate that points may only be deducted for infractions that take place on projects submitted after the introduction of this section of the QAP. In the event that deductions occur, the developer should also have a reasonable opportunity to

appeal/explain the infraction and whether there were extenuating circumstances that may have been outside the developer's control.

**Appendix 2 – Design Requirements**

Every project that is likely to apply in the next year already has its design in place, which may or may not comply with these guidelines. It should be noted that these projects will likely have to come back to HHFDC for 201-H amendments, which will create an immense burden on HHFDC development team staff. Further, it's unclear why HHFDC sees fit to provide design guidelines as a prerequisite for financing. Introducing these requirements as a prerequisite for 201-H approval seems the more prudent course of action and would have the benefit of not causing conflict with projects that have already received approval. If HHFDC determines these guidelines are necessary, a provision that exempts projects that submitted their 201-H prior to the publishing of the QAP must be included to avoid redesign by an untold number of projects already in the pipeline.

**Closing Remarks**

Highridge Costa appreciates and applauds HHFDC's efforts to update its current QAP and to introduce more objective and clearer scoring into its application process. With this said, our overarching comment is that, with so many projects already in the pipeline, such changes are likely to be extremely disruptive and require careful implementation. Changes should be implemented over time to give the development community the chance to adapt their pipelines to new rules, rather than be forced to apply for financing with projects whose plans were developed without knowledge of what those rules would be. We would advise that HHFDC take the appropriate time needed for public comment and iterative, collaborative discussion in order to arrive at a Qualified Allocation Plan that results in a stable, productive affordable housing industry in Hawaii. We appreciate the opportunity to comment on the QAP and would be happy to discuss further. Feel free to contact me direct at 424-258-2906 at your convenience.

Mahalo,

Mohannad H. Mohanna

President

Highridge Costa

TRADEWIND
CAPITAL
A TRADEWIND GROUP COMPANY

201 Merchant Street, Suite 2050
Honolulu, HI 96813

October 24, 2024

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation ("HHFDC")
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

**Re: Low-Income Housing Tax Credit ("LIHTC") 2025 Draft Qualified Allocation Plan (the "draft QAP")**

Dear Mr. Minakami,

By way of background, Tradewind Capital ("TC") is a local-based investment firm that has been investing in both real estate and local businesses in the State over the last three decades. Our mission statement is we are part of a local family of companies doing good business for our Hawai‘i with a vision to enable Hawai‘i's people and businesses to succeed, fostering the prosperity and well-being of our community.

Despite our long history of commercial real estate investment and development, we are new to the LIHTC affordable housing space acting in a developer role. Our affiliated companies, such as Island Insurance, have been investing in tax credits to support LIHTC projects for many years. LIHTC affordable housing development aligns with our organization's capabilities and mission and is consistent with the type of community investment we, and our predecessor companies, have been pursuing in the islands for nearly a century. This upcoming 2025 funding round, we are preparing to submit our first application for LIHTC financing as a project developer, with another project slated for the 2026 funding round.

As you know, the tax credit business model can be very complex for those unfamiliar with the program and structure. As a new entrant into the LIHTC development space, our organization has spent a considerable amount of time and resources researching and studying the LIHTC

program and previous QAPs, and planning, designing, and entitling our first project to submit this upcoming 2025 funding round.

One of the consistent themes we have heard from various advisors in the industry is the preference for “shovel ready projects” to ensure the highest likelihood of execution. To achieve this, we have been planning, designing, and entitling our project over the last year and a half. Our first major concern with the draft QAP is the specific design requirements it implements with short notice that, candidly, would make our project infeasible despite being modeled after other successful LIHTC developments in our community. We understand the desire to ensure a baseline standard of living, but we worry about 1.) the specificity of these design standards, 2.) the timing they would realistically need to come out by to properly design around, and 3.) the risk that it continues to change year after year with short notice.

Our second major concern with the draft QAP is the preference for projects on state/government owned land. The location of a project is a critical component of the quality of life of a resident. The draft QAP supports this idea with the revisions to Criteria 18, 19, and 23 which score projects based on location. With these points in mind, why then favor projects on state/government owned land rather than encouraging private projects that can be strategically selected for their location by developers to create the best living experience for Hawaiʻi citizens? The fact that projects on state/government owned land generally have no land basis is a significant benefit to the project already. This also discourages new developers into the space because it is very difficult for a first time LIHTC developer to win an RFP on state/government owned land with a proposal based on a LIHTC financed business plan.

Our organization is different that most developers in the space, as we do not only focus on affordable housing development, but rather all types of commercial investments including residential, industrial, office, retail, hospitality, both in debt and equity. Our investment decisions need to pass through an investment committee which evaluates our decisions on a risk spectrum. There are many local investment firms like ours with the capability of playing in this space and delivering quality affordable housing, however, with consistent significant changes to the QAP and considerable capital at risk, in can be tough for organizations to stomach the risk of entering the space. We greatly appreciate HHFDC’s willingness to consider feedback from our

organization as a new entrant as we are aligned in the mission of creating quality affordable housing for Hawaiʻi's people.

Specific comments to the draft QAP are as follows:

B.1. Design Requirements: the design requirements are very extensive and late for introduction to the 2025 QAP. Our project, despite being modeled after other LIHTC funded projects, would not meet some of the requirements, and would result in a significant redesign that would realistically disqualify us for the 2025 funding round. We ask that HHFDC, at a minimum, delay implementing these standards for the 2025 funding round to be worked out with more collaboration from developers.

B.4. Engineering or Capital Needs Assessment: is a "preliminary engineering report" an industry standard report? The first sub-bullet is "scope of the report"; shouldn't the QAP state what the scope of the report needs to be?

B.12. Developer Fee: do these limits apply to 4% bond projects? Is so, the cap of $3,750,000 seems very low commensurate with the risk of the project and the overhead required to see it through completion.

B.14.a. LIHTC Developer Experience: what is an "affiliated entity". The term is undefined.

B.15.a. Development Costs: maximum development cost introduced only 45 days prior to the full application deadline seems problematic since a project would be deep into design and entitlements prior to this time.

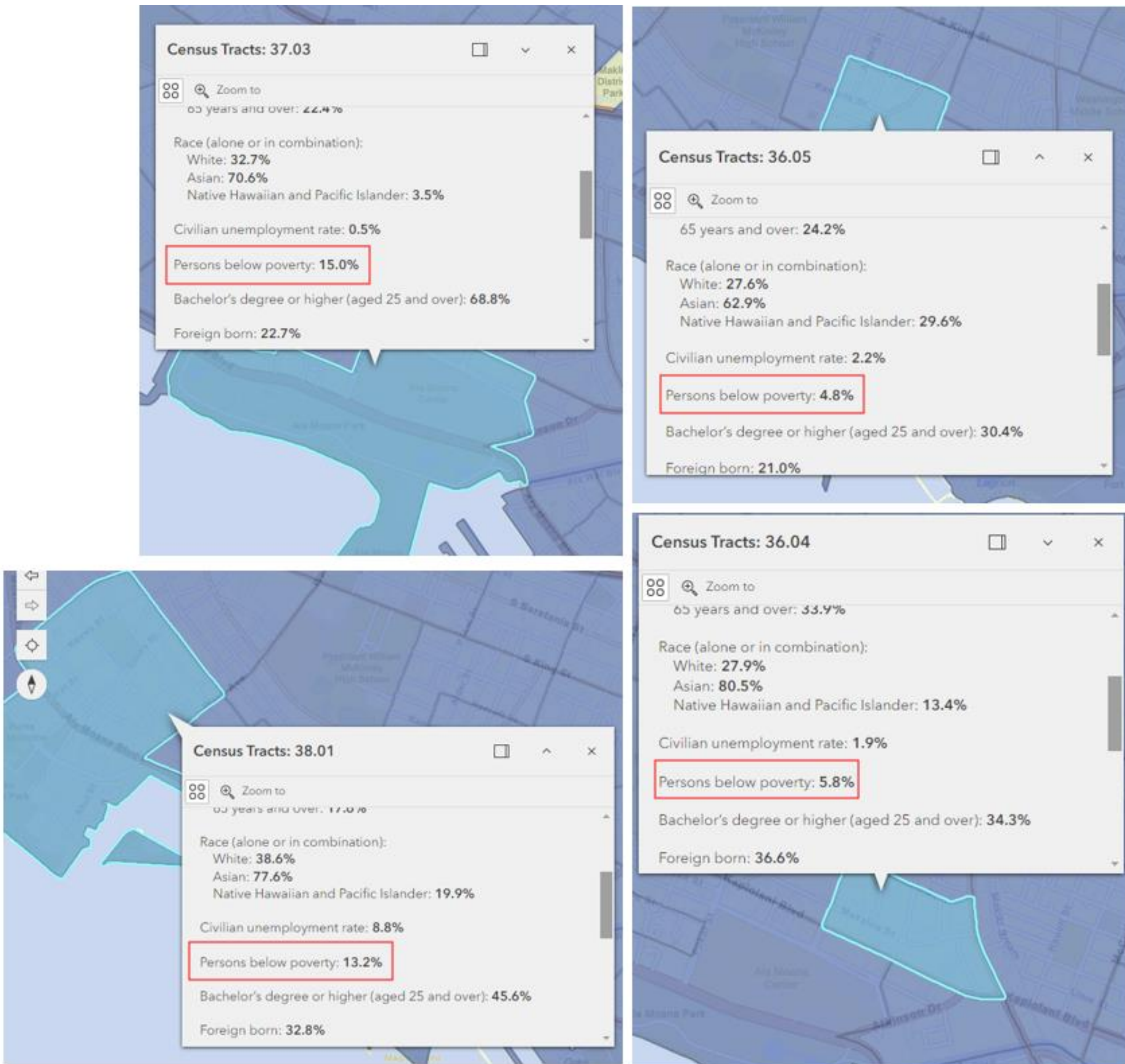
C. Low-Income Housing Tax Credit project financed with Tax-exempt Bonds: if these projects are not subject to the scoring under the Criteria Point System, what are the expected changes to the scoring for tax-exempt bond deals and will developers be able to comment on the proposed changes?

D. Criteria 6: State/Local Government Owned Land: as noted in our opening remarks, we do not believe projects on state/local government own land should be prioritized. The merit of a project should stand on its own and not be favored because of who owns the land. Projects on state/local government owned land already have advantageous economics due to below market rent or land value.

D. Criteria 13: Percentage of Income Targeted Units: should the total points be 8 instead of 10?

D. Criteria 18: Underserved Areas: we worry about defining underserved areas by certain zip code boundaries. Zip codes are broad, and certain neighborhoods or streets within a zip code might have a character significantly different than the broader district. What was the criteria to select these zip codes? What about areas that have not had affordable housing projects built in their district for decades?

D. Criteria 19: Census Tracts with Concentrated Wealth: how do you determine the "percent of families below the poverty rate"? Where is this data published? Is this data accurate? Based on a cursory scan of DBEDT census tract data, the area defining Ala Moana Shopping Center-Kapiolani Blvd (Tract 37.03) and Kaka'ako (Tract 38.01) shows 15.0% and 13.2%, respectively, for persons below poverty. The neighboring census tracts of Sheridan-Makaloa Street (Tract 36.05) and Kaheka-Makaloa Street (Tract 36.04) that are perceived as lower-income communities relative to Kapiolani Blvd and Kaka'ako shows 4.8% and 5.8%, respectively, for persons below poverty. This would suggest Kapiolani Blvd and Kaka'ako have a higher concentration of impoverished residents and would score worse in the draft QAP relative to Sheridan-Makaloa-Kaheka street, which we believe is counter to the intent. Similar inconsistencies can be found in various tracts within the Honolulu urban core.




D. Criteria 21: State Conveyance: is this a “put option” to a state agency (i.e. the state agency must buy it from the developer/owner) or a “right of first refusal” in favor of a state agency? Is there a period of time that this option must be exercised by, or does it encumber the property into perpetuity?

Who would select the appraiser, HHFDC or the developer/owner? Is it just one appraisal or one provided by each party? If multiple appraisals, how is the final value determined?

VI. B. Compliance: for the average income minimum set-aside, the first sub-bullet says, "the designations for any bedroom type cannot exceed 60% of area median income". Shouldn't it allow for designations above 60% of the area median income ("AMI") to average out at 60% AMI?

Mahalo for allowing us to provide our comments to the draft QAP.

Sincerely,

Chris Fong
Tradewind Capital

Oct. 22, 2024

Mr. Dean Minakami
Executive Director
Hawaiʻi Housing Finance & Development Corp.
677 Queen St., Suite 300
Honolulu, HI 96813

Dear Mr. Minakami:

Thank you for the opportunity to provide our final comments on the proposed changes to the 2025 Qualified Allocation Plan. My name is Sandra Oshiro, and I coordinate the Hawaii Young Adults in Transition (HYAIT), a support group for families with young and older adults on the autism spectrum. In full disclosure, I also serve on the board of the nonprofit Pacific Housing Assistance Corporation. However, I am speaking here solely on behalf of HYAIT and my family.

The QAP is an important document. It sets the policy for the distribution of millions of dollars in federal Low-Income Housing Tax Credits (LIHTC). The credits help developers finance affordable housing, but they are limited. As such, the credits should support the most vulnerable in our community, including those with disabilities, rather than benefiting the wealthy. Unfortunately, the latest draft of the QAP represents a step backward.

As presently worded, the QAP section on special housing needs would significantly narrow housing eligibility for individuals with disabilities. They would need to receive disability-related income to be eligible for LIHTC housing. However, not all individuals with disabilities receive income from sources such as the Supplemental Security Income (SSI) program, the Social Security Disability Insurance (SSDI) program, and veterans' disability benefits. Individuals with significant disabilities who do not receive assistance from these government programs for various reasons can readily become homeless.

The current QAP draft removes eligibility for individuals with disabling conditions who require independent living services to maintain housing or live outside of institutions. It also excludes people with disabilities who face challenges finding safe,

affordable, and permanent housing. No explanation has been provided for these changes and we are deeply concerned about their immediate and long-term effects.

We respectfully urge the HHFDC to reconsider and maintain its broader definition of disability, ensuring that all individuals in need of shelter remain eligible to apply. After consulting with Daintry Bartoldus, executive administrator of the Hawaiʻi Developmental Disabilities Council, we support her recommendation to adopt the following definition:

"For the purposes of housing eligibility under the Qualified Allocation Plan, a person with a disability is defined as an individual with a physical, sensory, cognitive, intellectual, or mental impairment that substantially limits one or more major life activities. This definition includes, but is not limited to, individuals with permanent, temporary, or episodic conditions that impact mobility, cognition, communication, or self-care. Proof of eligibility can include medical documentation, self-certification of functional limitations, or documentation from a healthcare provider, social service agency, or relevant authority, and is not limited to those receiving federal disability benefits."

This definition aligns with the Americans with Disabilities Act and the Fair Housing Act, which do not limit federally supported housing to individuals receiving disability benefits. Indeed, such a restriction may run counter to federal laws that prohibit discrimination against those with disabilities. To our knowledge, individuals with low incomes, for example, are not required to show they receive government benefits to qualify for federally supported housing.

We look forward to working together to achieve the goal of housing the neediest in our community. Societies are judged by how they treat their most vulnerable members. Hawaiʻi, land of aloha, should not be an exception.

Thank you,
*Sandra S. Oshiro*
Sandra S. Oshiro
Coordinator
Hawaiʻi Young Adults in Transition
ssoshiro@gmail.com
(808) 226-4675

From: Matthew Cohen <matthewalancohen@gmail.com>
Sent: Wednesday, October 23, 2024 7:08 AM
To: DBEDT HHFDC Applications <hhfdcapplications@hawaii.gov>
Cc: Sue Berk <sue.berk@hawaiiantel.net>
Subject: [EXTERNAL] Comments on October 25 hearing re: Qualified Allocation Plan (QAP) of the Low-Income Housing Tax Credit Program (LIHTC), and proposed amendments.

Dear Dean Minakami

I am writing to provide comments on the proposed revisions to the 2025 Qualified Allocation Plan (QAP). My name is Matthew A Cohen, and I am a parent of an adult with intellectual disabilities.

As currently drafted, the QAP's disability section limits housing eligibility to individuals who solely rely on disability-related income sources. The current definition excludes individuals with disabilities who, despite facing significant challenges, may not qualify for government assistance programs.

Please consider the following definition of a person with a disability:

"For.the.purposes.of.housing.eligibility.under.the.Qualified.Allocation.Plan?a.person.with.a. disability.is.defined.as.an.individual.with.a.physical?sensory?cognitive?intellectual?or. mental.impairment.that.substantially.limits.one.or.more.major.life.activities¡.This.definition. includes?but.is.not.limited.to?individuals.with.permanent?temporary?or.episodic. conditions.that.impact.mobility?cognition?communication?or.self_care¡.Proof.of.eligibility. can.include.medical.documentation?self_certification.of.functional.limitations?or. documentation.from.a.healthcare.provider?social.service.agency?or.relevant.authority?and. is.not.limited.to.those.receiving.federal.disability.benefits."

A broad definition of disability ensures all individuals in need can access housing. The proposed definition aligns with the Americans with Disabilities Act and the Fair Housing Act.

Thank you for your consideration. Please don't hesitate to contact me if ic can provide further comments or answer any questions.

Sincerely

Matthew Cohen

October 22, 2024

To: **Hawaii Housing Finance and Development Corporation**
Re: **2025 QAP process - comments**

Thank you for this opportunity to comment on the suggested changes to the 2025 Qualified Allocation Plan. My name is Lynette Young-Pak and I am a parent of an adult with Intellectual Disabilities.

As presently drafted, the QAP section on disability would significantly narrow housing eligibility to only individuals who receive a disability-related source of income. While not defined, presumably this income refers to such sources as Supplemental Security Income and/or Social Security Disability Income. However, not all individuals with disabilities receive such income. Whether because of administrative barriers, an inability to navigate the system, or other factors, many who are significantly disabled do not receive assistance from government programs and often end up homeless.

We have personally experienced the complex and extremely frustrating process of trying to obtain assistance from government entities, e.g. SSI, so not every disabled person will be able to obtain such assistance, even with help from “normal” adults.

We ask that HHFDC maintain its broader definition of disability so that all who need shelter will be eligible to apply for it. After consulting with Daintry Bartoldus, executive administrator of the Hawaiʻi Developmental Disabilities Council, we support her suggestion to use the following definition:

“For the purposes of housing eligibility under the Qualified Allocation Plan, a person with a disability is defined as an individual with a physical, sensory, cognitive, intellectual, or mental impairment that substantially limits one or more major life activities. This definition includes, but is not limited to, individuals with permanent, temporary, or episodic conditions that impact mobility, cognition, communication, or self-care. Proof of eligibility can include medical documentation, self-certification of functional limitations, or documentation from a healthcare provider, social service agency, or relevant authority, and is not limited to those receiving federal disability benefits.”

This definition aligns with the Americans for Disabilities Act and the Fair Housing Act, neither of which imposes an eligibility requirement limiting federally supported housing to those who receive disability benefits. Indeed, such a restriction may run counter to federal laws that prohibit discrimination against those with disabilities. To our knowledge, individuals with low-income, for example, are not required to show they receive government benefits to qualify for federally supported housing.

Sincerely,

*Lynette Young-Pak*

**STATEWIDE INDEPENDENT LIVING COUNCIL OF HAWAII**

17 October 2024

Dear Mr. Minakami,

The Statewide Independent Living Council of Hawaii (SILC) is a consumer-controlled council that works to promote Independent Living and the integration of persons with disabilities into the community. It is made up of representatives who are appointed by the Governor, with at least 51% of the members being persons with disabilities.

Hawaii's federally funded State Plan for Independent Living (SPIL) prioritizes promoting accessible and affordable housing for people with disabilities. It recognizes the crucial role that safe and accessible housing plays in ensuring individuals with disabilities can live fulfilling and independent lives within their communities.

The current QAP defines disability broadly, in line with the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA). This ensures that all people with disabilities, regardless of their income source, are eligible for LIHTC housing. The proposed changes would narrow the definition of disability to only those individuals who receive disability-related income, however many people with disabilities in our community do not rely on this needs based income source.

Additionally, Section 504 of the Rehabilitation Act of 1973 is a civil rights law that prohibits discrimination against people with disabilities in programs and activities that receive federal financial assistance. This includes housing programs and services funded by the Department of Housing and Urban Development, and other federal agencies.

SILC is committed to working with the HHFDC to ensure that all people with disabilities in Hawaii have access to safe, accessible, and affordable housing.

Mahalo,

Patrick Gartside
Chairperson

Patrick@HawaiiSILC.org

**Call or Text:** (808) 585-7452 **Email:** info@HawaiiSILC.org **Online:** www.IndependentLivingHawaii.org

1050 Queen St Suite 100, Honolulu Hawaii 96814

October 23, 2024

Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813
hhfdcapplications@hawaii.gov

RE: **Draft 2025 Qualified Allocation Plan Amendments**
**Hearing date: Friday, October 25, 2024, at 10:30 a.m.**

Aloha Director Minakami,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii to provide comments on the Hawaii Housing Finance and Development Corporation's ("HHFDC") 2025 draft Qualified Allocation Plan ("QAP"). NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals, including many affordable housing developers.

While we appreciate HHFDC's efforts to improve the QAP, NAIOP Hawaii members have several concerns identified below.

1. **Timing**

- **Issue**: The timing for review and adoption of the proposed amendments is simply too rushed to be effective or fair.

- **Concern**: The proposed changes are not minor. Their scope is significant and potentially harmful to the entire affordable housing industry. A robust discussion and debate with full disclosure from HHFDC on its desired outcomes, and thorough responses from all stakeholders who have the expertise to help plan and achieve those goals, is critical to this process and will take time. Furthermore, funding applications are due in February and most if not all developers have been planning and working on their projects for the past 1-3 years or more, based on the current QAP. Therefore, after the wisdom and effectiveness of the proposed changes are more appropriately analyzed and discussed, Developers should be allowed sufficient time and ability to adjust and make necessary changes to projects before implementation begins.

2. **Developer Fee Caps and Cost Controls**

    - **Issue**: The proposed caps on developer fees are viewed as overly restrictive.

    - **Concern**: Limiting developer fees in the manner proposed will not adequately compensate or incentivize developers for the significant risks they take, especially in complex or high-impact projects. This will also reduce the financial viability of projects and deter or limit developer participation and competition in affordable housing initiatives.

3. **Complexity and Subjectivity in Construction Cost Controls**

    - **Issue**: The requirement for developers to finalize construction costs 45 days before the application deadline is impractical.

    - **Concern**: Construction cost development is a multi-step, collaborative process that requires careful planning over many months and often years. The strict deadline, combined with subjective cost assessments by HHFDC, will hinder developers' ability to submit accurate and competitive proposals, potentially jeopardizing project viability.

4. **Inconsistencies in Design and Threshold Requirements**

    - **Issue**: Some of the proposed design requirements appear redundant and may conflict with existing local building codes, accessibility standards, and cost-effective design principles.

    - **Concern**: These prescriptive design requirements are unnecessary in the QAP, will increase application and predevelopment project costs, delay timelines, and lead to inefficiencies. Additionally, certain terms and standards referenced in the QAP require further clarification, as they do not seem to align with widely accepted industry standards such as FHA and ADA guidelines.

NAIOP remains concerned with the potential negative impacts of the amendments to the QAP and would appreciate the opportunity to continue to work with you on the draft QAP.

Mahalo for your consideration,

Reyn Tanaka, President
NAIOP Hawaii

October 24, 2024

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

Dear Mr. Minakami:

Thank you for the opportunity to provide feedback on the proposed 2025 QAP published on September 12, 2024. We appreciate the continued work at the agency and respectfully offer the following comments and suggestions for your consideration.

General Comments

We appreciate HHFDC's efforts to improve the efficiency of the issuance of tax credits and ensure that the most deserving projects are awarded this limited financial resource. A major concern we have with the proposed 2025 QAP is the timing of its implementation. This is the third consecutive year in which the proposed QAP changes have been extensive and wide reaching. To meet the stringent readiness requirements that HHFDC has instituted over the past several rounds, developers are deep in plan development and permitting already, if not having completed these milestones. To meet these milestones, hundreds of thousands of dollars, and in some cases millions, have been spent to secure site control and advance design work all in preparation to just apply in the forthcoming round. Extensive changes to the QAP for the forthcoming round highly jeopardize developers financial commitments and will disincentivize developers from making future investments. To plan and structure viable LIHTC projects it takes months, if not years to coordinate. Implementing the proposed regulation changes in mid-November 2024 with an application deadline of February 2025, makes it infeasible for developers to pivot and adjust to what is being proposed. Developers need adequate time to incorporate the new requirements, and we suggest implementing the approved changes starting in 2026.

Page 7, III(B)(5) – Plan and Cost Review

1. Has HHFDC identified who the "approved" estimators are? Will there be adequate estimators available to perform the work. Concerned this could cause delays, as well as drive up costs, in addition to potential conflicts of interest between HHFDC, the estimator(s) and the developer(s).
2. Why is the executed contract with the general contractor eliminated as this requirement? A general contractor is the most knowledgeable about what a project will cost that is under contract.

Page 10, III(B)(12)(a) – Developer Fee

1. This change doesn't incentivize the development of smaller projects, which typically are the deals funded by 9% LIHTC. 9% deals generally are smaller than bond deals

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given the limited capacity to maximize basis and 9% transactions are often funded with just 9% LIHTC and conventional debt alone, not needing additional state resources to make these transactions pencil.

2. Most states have different developer fee calculations for 9% and 4% transactions because the transaction types vary greatly. The product type, goals and unique circumstances are different between the two financing structures and the developer fee calculations should therefore also be calculated differently.
3. 9% transactions are challenging to structure and to execute a closing on, if not more so than a 4% financed transaction. Developers should not be disincentivized from developing a more difficult and riskier project, they should be compensated for developing these types of transactions. These smaller 9% transactions deliver affordable housing to small and rural communities on neighboring islands.

Page 11, III(B)(15) – Development Cost

1. The state has expertise in many areas, however it is concerning the changes proposed would dictate construction costs to projects, an area developers have real time data on. Developers are plugged into the market and issues pertaining to cost escalation, supply chain issues, capacity and market demand. The concern is the information the state would use as data will be outdated, will be aggregated without specific analysis to address the many nuances that exist across a mass grouping of construction projects rather than what impacts certain construction designs and in certain market areas.
2. If the state miscalculates project costs used in allocating resources - either by being conservative to limit allocation amounts or due to errors in its analysis - the entire pool of projects awarded will have funding shortfalls that will in turn result in request for additional funding and create a barrage of administrative work for the agency. This will also have a ripple effect across the entire capital stack of the projects and likely cause delays while debt and equity are restructured and other sources of local, state or federal funding navigate their respective processes.

Page 19, III(D) – Criterion 13 – Percentage of Income Targeted Units

1. Clarification is needed, does this calculation account for non-LIHTC units such as those at the "missing middle" incomes –up to 100% AMI that are included in the LIHTC Use Restriction?
2. The original scoring which incentivized 30% of the units at 30% AMI seemed better (though not great), but pushing such high concentrations of lower AMIs make (unsubsidized) projects susceptible to even moderate financial volatility. By allowing a small percent of income restricted, non-LIHTC units in a project will support the higher concentration of lower income units by offsetting the financial vulnerability.
3. One thing of note, is this scoring criterion should not disadvantage mixed income projects, currently the proposed changes aren't clear. Please confirm this is not a weighted average calc (relative to unit type) and that staff units are excluded from the calculation.

Page 22,III(D) – Criterion 18 – Underserved Areas

1. Clarity is needed, are underserved areas determined on zip codes or census tracts. It appears to be based on zip codes and not census tracts. Is this criteria being applied

consistently and equally across all of the census tracts in the state, or how is this being determined?

Page 22,III(D) – Criterion 19 – Concentrations of Wealth

1. This proposed change seems NIMBY-ism is being promoted with this policy, creating concentrations of areas where low-income residents should reside. Developers should continue to be incentivized to develop in QCTs or areas with specific data benchmarks. The promotion of income integration should be promoted, not the steering of low-income residents to certain areas of our cities and islands.

Page 22, III(D) – Criterion 20 – Loan Repayment

1. Uncertain how this is going to be determined. If a project is financially feasible without RHRF, will that project be at a scoring disadvantage because of this category? The criterion should have an offset if RHRF is not used, such as a point advantage.
2. The incentive should be a part of the RHRF allocation and not the LIHTC or volume cap allocation.

Page 22, III(D) – Criterion 22 – Need for Rehabilitation

1. This criterion is very broad and subjective, and more guidance is needed for what would qualify.
2. The scoring criterion seems especially significant for projects the agency has historically limited, and in recent years, rejected funding of rehab projects (regardless of scoring).

Page 23, Criterion 23 – Proximity to Amenities

1. These items are all prevalent in urban areas which already receive an advantage by scoring in Criterion 8 and further disadvantages LIHTC production in rural areas.
2. This criterion is at odds with the objectives of Criterion 18 addressing underserved areas, which if they are underserved with housing, are very likely to be underserved with services, access, etc.
3. Additionally, the increased administrative leg work required to deliver 'proof' of all these new requirements is burdensome and adds to the many additional requirements being layered in the application process. These requests by the state increase the cost of preparing and delivering applications and ultimately the costs to projects.

Page 23, Criterion 24 – Point Deduction

1. We are uncertain how point deductions will be handled, is there a policy or procedure that has been developed? It should be incorporated into the application for clarity on how deductions will be applied.

Page 26, IV(B) – Set Aside and Average Income

1. Is this a state specific income averaging test, or is it meant to be the IRS Average Income Test?
2. HHFDC should have a detailed and defined income averaging policy, as well as an updated compliance manual. Historically the agency has steered away from income averaging, and therefore local developers/owners and local management companies may not have the knowledge or training required for income averaging

compliance. Stakeholder training should be offered on compliance for income averaging.

Appendix 2
General Comments:

1. In the development of the Design Standards, did HHFDC hold a stakeholders group or was outreach done for recommendations from builders, architects, or engineers in the community? If a working group was not engaged to develop the Design Standards, we propose allowing stakeholders to participate in the development of such standards.
2. Newly proposed Design Requirements should not be implemented until the following funding round. It is infeasible for developers to address new standards in the forthcoming funding cycle, when the predevelopment of projects for the 2025 round should already be well through preliminary design and into permitting. This change potentially puts at risk considerable investments developers have already made to meet readiness and be able to deliver construction ready projects.

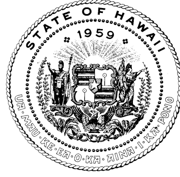
The comments provided are offered in the interest of collaboration and creating a QAP to deliver meaningful outcomes to Hawaii's low-income residents. We sincerely thank HHFDC for the opportunity to review and provide feedback on the proposed 2025 QAP.

Respectfully,

Seth Gellis
President

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kiaʻāina o ka Mokuʻāina ʻo Hawaiʻi*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kiaʻāina o ka Mokuʻāina ʻo Hawaiʻi*



KALI WATSON
CHAIRPERSON, HHC
*Ka Luna Hoʻokele*

KATIE L. LAMBERT
DEPUTY TO THE CHAIR
*Ka Hope Luna Hoʻokele*

**STATE OF HAWAII**
**DEPARTMENT OF HAWAIIAN HOME LANDS**
*Ka ʻOihana ʻĀina Hoʻopulapula Hawaiʻi*
P. O. BOX 1879
HONOLULU, HAWAII 96805

October 25, 2024

VIA EMAIL: hhfdcapplications@hawaii.gov

Mr. Dean Minakami
Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaiʻi 96813

**RE: First Draft 2025 Qualified Allocation Plan Low-Income Housing Tax Credit Program**
**Hearing: October 25, 2024 at 10:30am**
**Hawaii Housing Finance and Development Corporation (HHFDC) Board Room**
**677 Queen Street, Suite #300**

The Department of Hawaiian Home Lands (DHHL) appreciates the opportunity to submit comments on the draft 2025 Qualified Allocation Plan for the State of Hawaiʻi's Low-Income Housing Tax Credit Program (QAP). The current draft QAP contains certain proposed changes that would be favorable for DHHL project applications for LIHTC. We respectfully offer comments for your consideration on certain sections of the draft QAP.

**Criterion 6. State/Local Government Owned Land**

DHHL appreciates the QAP revision concerning State/Local Government Owned Land, which pulls out this point scoring opportunity into its own separate criterion (page 15). DHHL understands that the proposed revision will allow for applications to receive a percentage of the 5 points based upon the ratio of the square footage of the leased land to the total square footage of the project site.

Hawaiian Home Lands (HHL) are comprised of some of the most challenging lands to develop and deliver lots and projects for beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended, (HHCA). Every point that DHHL project applications may be eligible for in this highly competitive process will be beneficial for DHHL project applications for LIHTC.

**Criterion 16. Qualified Census Tract**

DHHL especially supports the QAP revision regarding underserved areas for affordable housing, which are those where there is a clear gap between the demand for and supply of affordable housing, compounded by economic and social challenges (page 21). DHHL understands that

these areas are identified by analyzing Census Tracts where residents are among things, severely "housing burdened," defined as spending greater than 30% of a household's income on housing.

In 2020, DHHL conducted a study among all its beneficiaries including current lessees[1] and waiting list applicants[2] for homestead awards. The purpose of the study was to assess the current condition and needs of DHHL beneficiaries and was designed to be consistent with studies conducted in previous years. These studies provide the most recent beneficiary data. In addition, the U.S. Department of Housing and Urban Development (HUD) commissioned the "Assessment of Native Hawaiian Housing Needs."[3]

Much of HHL exist and majority of the beneficiaries of the HHCA reside in underserved areas. While Census Tract data regarding HHL and HHCA beneficiaries is not completely accurate and does not provide the full scope of population, income-levels, financial challenges, and other necessary data concerning HHL and HHCA beneficiaries, DHHL supports this QAP revision because DHHL project applications stand to greatly benefit from this QAP revision.

**Criterion 19. Census Tracts with Concentrated Wealth**

DHHL appreciates that scoring would be comparative among applications based on the Census Tract poverty level of the site (page 22). As previously noted, Census Tract data regarding HHL and HHCA beneficiaries is not completely accurate and does not provide the full scope of poverty rates and other data concerning HHL and HHCA beneficiaries on Census Tracts but, DHHL supports this QAP revision because DHHL project applications could greatly benefit from this draft QAP revision.

**Criterion 21. State Conveyance**

DHHL particularly appreciates the QAP draft revision which outlines that scoring is based on a willingness to sell the property to a state government agency for fair market value (as determined by a third-party appraisal), subject to commercially standard terms, no later than three years before the end of the extended use period. As a state government agency that is currently and will continue to acquire lands and projects that are conducive to the mission of DHHL and the HHCA, DHHL stands to greatly benefit from this QAP revision**.**

**Criterion 22. Need for Rehabilitation**

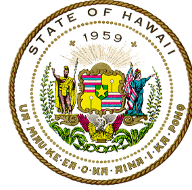
DHHL appreciates that the revised QAP allows for scoring to be based on the extent to which an award would improve residents' quality of life (the extent of change between current conditions and results after completion). HHL where DHHL has successfully used LIHTC funds include Hoʻolimalima on the leeward side of Oʻahu, LaʻīʻŌpua on Hawaiʻi island, and the Waimānalo Kupuna Housing Project.

1 DHHL Beneficiaries Study Lessee Report, 2020 (December 30, 2020),
Department of Hawaiian Home Lands
2 DHHL Beneficiaries Study Applicant Report, 2020 (December 30, 2020),
DHHL Applicant Report (hawaii.gov)
3 Housing Needs of Native Hawaiians: A Report from the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs (May 2017),
https://www.huduser.gov/portal/sites/default/files/pdf/HNNH.pdf

**Criterion 23. Proximity to Amenities**

DHHL appreciates the QAP revision of scoring based on distance to certain establishments and facilities. DHHL continues to seek to develop communities where beneficiaries can "live, work, and play," as opposed to somewhat isolated homestead communities and subdivisions. However, DHHL has a slight concern that due to the geographic location of HHL being situated in some of the most remote and rural areas that lack adequate access to water and other infrastructure needs, certain DHHL project applications that could greatly benefit HHCA beneficiaries, may not be eligible for points in accordance with this QAP revision.

We thank you for the opportunity to submit comments on the draft 2025 QAP. Should you have any questions please contact Oriana Leao, DHHL's NAHASDA Government Relations Program Specialist at oriana.a.leao@hawaii.gov.



# The Senate
## Ka ʻAha Kenekoa

STATE CAPITOL
HONOLULU, HAWAIʻI 96813

October 24, 2024

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Number 300
Honolulu, Hawaii 96813

Dear Mr. Minakami,

I urge the board to amend HHFDC's proposed 2025 Qualified Allocation Plan (QAP). While I appreciate the board's willingness to revisit the QAP only one year after the last revision, this year's proposed QAP falls well short of what the taxpayers and the residents of low income housing deserve. This testimony describes the three major shortcomings of the proposed QAP: too little incentive for perpetual affordability, too little incentive for government projects, and too many points based on geographic location. Attached please find a complete list of the many changes that should be made to address these shortcomings as well as an easy to read summary of all the proposed changes to the QAP.

First, the proposed QAP provides too little incentive for perpetual affordability. Today, applicants have no incentive–or ability–to extend affordability restrictions beyond 61 years. After 61 years, owners of awarded projects are free to evict the existing low income tenants, raise rents to market, and sell the projects for full market value. In many cases, the tenants petition the state and county governments to acquire the projects–forcing taxpayers to pay twice for the same project. While HB1763, signed into law as Act 235 (2024), requires perpetual affordability for recipients of Rental Housing Revolving Fund loans, there is no reason to exempt LIHTC-only projects from this requirement.

Second, the proposed QAP provides too little incentive for state and county government projects. Projects receiving government financing or located on government lands have received the imprimatur of the elected representatives of the people. They are also at no risk of rents rising to market levels, because governments have no profit incentive. Therefore, they should be prioritized beyond the four points currently allocated to these two categories.

Third, the proposed QAP adds an unnecessarily large number of new points based on geographical location. These point changes do not appear to be based on observed needs in this state. It adds a whopping 10 points for "Proximity to Amenities" including grocery, shopping,

and child care, despite an existing "Project Location and Market Demand" criterion that already incentivizes urban locations that are likely to be proximate to grocery, shopping, child care, and other necessary services. It also adds 5 points for "Census Tracts with Concentrated Wealth," despite no evidence that awarded projects are inequitably distributed throughout the state.

As you are aware, the Low Income Housing Tax Credit (LIHTC) is a direct handout of tax revenue to developers. LIHTC is not a loan and is never repaid. The state Rental Housing Revolving Fund gap financing most LIHTC projects rely on is currently loaned out on commercially unreasonable terms: 57 year terms, 0.15 percent interest, no repayment until after the senior private loan is fully repaid, and reduced payments based on cash flow. It is an enormous commitment of taxpayer dollars, having received $1.047 billion in general fund appropriations over the last decade, the second largest in the state budget after the Rainy Day Fund. It is our fiduciary responsibility to ensure that these funds are deployed as efficiently as possible, to create the most housing possible, and to serve the most residents possible.
By subsidizing government-owned housing projects that can grow in value and perpetually affordable private sector projects, these changes will secure long-term affordability for residents and promote a more equitable use of taxpayer dollars. Thank you for the opportunity to provide testimony.

Respectfully,

Stanley Chang
Senator, District 9
Chair, Committee on Housing

Attachments:
Recommended Changes to the 2025 LIHTC QAP
Summary of Changes to the 2025 LIHTC QAP

# Recommended Changes to the 2025 LIHTC QAP

This document outlines the recommended changes for the 2025 Low-Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP).

**Criterion 1 - County Income Adjuster [0-2 pts]**: (pg. 13): Applications receive points based on the MTSP income limits as determined by HUD. HHFDC will use the 60%, 4-person income limit for determining point allocations between the counties.
*Recommendation: Keep the same but request evidence that without this criterion, neighbor island projects would fall below their proportion of statewide need.*

**Criterion 5 - State/Local Government Financing [0 to 2 pts]** (pgs 14-15)**:** project will be receiving a permanent below market loan or grant from the government other than HHFDC or a lease (inc. HHFDC).
*Recommendation: Increase State/Local Government Financing to 6 points. Government Financing demonstrates the importance of the project to other government agencies, and projects currently being developed by School Facilities Authority, Hawaii Public Housing Authority, Department of Hawaiian Home Lands should be given priority over purely private projects.*

**Criterion 6 - State/Local Government Owned Land [0 to 5 pts]** (pg. 14-15): Used to be combined with Criterion 5 - State/Local Government Financing [0 to 2 pts] as an "AND/OR" option for a total of 7 pts, but has been separated into its own criterion.
*Recommendation: Increase State/Local Government Owned Land to 12 points. Government Owned Land preserves the affordability of the project, because governments need not maximize profits and have no incentive to allow projects to raise rents to market. Purely private developments may raise rents to market, evict existing low income tenants, and sell for full market value once affordability restrictions expire, defeating the purpose of the LIHTC program. This is one of the most important tools HHFDC has to ensure that applicants are developing perpetually affordable housing.*

**Criterion 7 - Energy Efficiency and Green Building [0 to 4 pts]** (pg. 15): Projects which promote smart growth, energy, and water conservation, operational savings and sustainable building practices may be awarded up to 4 pts.
*Recommendation: Award points based on quantified reductions in building operations and maintenance costs.*

**Criterion 10 - Length of Affordability Commitment [0 to 7 pts]** (pg. 18): Applicants shall receive points for committing to an additional use period beyond the minimum "extended use period".

| Total Extended Use Period (Total Length of Affordability | Points |
|---|---|

| **Commitment):** | |
|---|---|
| 61 years or more | 7 points |
| 55 to 60 years | 4 points |
| 50 to 54 years | 3 points |
| 45 to 49 years | 2 points |

*Recommendation: Replace "61 years or more" with "Perpetual Affordability" (subject to waiver by State) and increase the maximum points from 7 to 10 points.*

**Criterion 13 - Percentage of Income Targeted Units [0 to 10 pts]** (pg. 19-20): Applicants receive points by providing a preference to lower income tenants in accordance with the table below.

| Points | Minimum Set-aside election | |
|---|---|---|
| | Average Income | 30% in Original @ |
| 8 | 51% | 30% |
| 4 | 54% | 40% |
| 2 | 57% | 50% |

*Recommendation: Delete any preferences for income targeting below federal requirements to ensure long term financial sustainability of the projects.*

**Criterion 14 - Involvement of a Qualified Non-Profit Organization [0 or 2 pts]** (pg. 20): Project involves a Qualified Non-Profit Organization as defined in Section 42 IRC and will elect to receive an allocation from the non-profit set-aside. The Qualified Non-Profit Organization is to own an interest in the project and materially participate in the development and operation of the project throughout the Extended Use Period.
*Recommendation: Replace this "non-profit organization" with "organization required to use all financial surplus to develop additional housing in the State." Non-profits can and do pull out financial surpluses from their housing projects to invest in other sectors, which this application process should not reward. Whether for profit, non-profit, or government, awarded agencies should be required to keep their housing-generated profits in housing.*

**Criterion 19 - Census Tracts with Concentrated Wealth [0 to 5 pts]** (pg. 22)**:** applicants with the lowest percentage of families below the poverty rate in the Census tract will receive 5 pts; highest percentage receives 0 pts.
*Recommendation: Reduce to 2 points to make equal to Underserved Areas.*

**<u>Criterion 20 - Loan Repayment [0 or 2 pts]</u>** (pg. 22)**:** Applications involving full repayment of a Rental Housing Revolving Fund loan will earn 2 points.
*Recommendation: Make this a threshold criterion to require all applicants to fully repay RHRF loans. Applicants who cannot repay their RHRF loans should not be awarded these funds.*

**<u>Criterion 21 - State Conveyance [0-2 pts]</u>** (pg. 22)**:** Applicants will earn 2 points for agreeing to offer to sell the project to a state agency for fair market value no later than three years before the end of the extended use period.
*Recommendation: Specify that the conveyance must be for nominal consideration. This should not be a right of first refusal requiring the state to pay twice for the same project, but a transfer ensuring that low income tenants are secure in their homes, without additional cost to the taxpayer.*

**<u>Criterion 22 -Need for Rehabilitation [0-10 pts]</u>** (pg. 22)**:** HHFDC will award up to 10 points for applications it determines are proposing rehabilitation which will materially improve residents' quality of life (the extent of change between current conditions and results after completion).
*Recommendation: Specify that the need for rehabilitation also includes the preservation of existing low income units that would expire otherwise.*

**<u>Criterion 23 - Proximity to Amenities [0-10 pts]</u> (**pg. 22)**:** New construction applications will score points based on the site being within the following driving or walking distances, measured in miles. The amenity must be open (not under construction or shut down) as of the application deadline. A single establishment may qualify for points under multiple categories.

| AMENITIES | <1 mile | <2 miles |
|---|---|---|
| Grocery | 3 | 2 |
| Shopping | 3 | 2 |
| Child Care | 4 | 3 |
| Healthcare | 2 | 1 |
| Public Facility | 3 | 2 |

*Recommendation: Delete this criterion. This is a duplicative criterion. The Project Location and Market Demand criterion (6 points) expressly prioritizes projects in urban areas and in proximity to employment opportunities, medical and education facilities, and mass transit stations. With that criterion, there is no evidence that projects are being built in remote areas without access to amenities like grocery, shopping, child care, healthcare, and public facilities.*

QAP Criteria that were removed:

**Reasonableness of Development Costs [0-16 pts]** (pg. 13)**:** projects received points based on the development cost per residential square foot; those with the lowest cost received the most points.
*Recommendation: Restore this criteria but reduce the number of points to 5. Developers should have some incentive to minimize cost of development per square foot, and the LIHTC application should reflect that.*

**Developer Fee [0-3 pts]** (pg. 14)**:** The applicant elected to limit the total Developer Fee as a percentage of the total development cost (excluding developer fee) as presented in the application.
*Recommendation: Restore this criteria because developer fees are addressed elsewhere in the new criteria.*

# Summary of Changes to the 2025 LIHTC QAP

This document outlines changes made to the 2025 Low-Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP). The QAP sets forth the criteria to evaluate and allocate LIHTC to affordable housing projects in Hawaii.

**Document Outline** **Page**


Criteria Added 1
Criteria Changed 3
Criteria Staying the Same 7
Criteria Removed 9
Other Changes 10


**Key**

HHFDC's rationale for QAP change
*Recommendation*
QAP language added
QAP language removed

**Links**

- 2025 QAP First Draft
- 2024 QAP
- HHFDC's QAP Major Revisions Memo

## Criteria Added:

**Criterion 18- Underserved Areas [0 or 2 pts]** (pg. 22)**:** Projects in certain census tracts that are underserved will be awarded 2 points.

- HHFDC's rationale: Underserved areas for affordable housing are those where there is a clear gap between the demand for and supply of affordable housing, compounded by economic and social challenges. These areas are identified by analyzing Census Tracts where residents are among things, severely "housing burdened", defined as spending greater than 30% of a household's income on housing.
- States that use criteria: Arizona, Iowa, Kansas, New York

**Criterion 19 - Census Tracts with Concentrated Wealth [0 to 5 pts]** (pg. 22)**:** Applicants with the lowest percentage of families below the poverty rate in the Census tract will receive 5 pts; highest percentage receives 0 pts.

- HHFDC's rationale: Scoring is comparative among applications based on the Census tract poverty level of the site.
- States that use criteria: Indiana
- *Recommendation: Reduce to 2 points to make equal to Underserved Areas.*

**Criterion 20 - Loan Repayment [0 or 2 pts]** (pg. 22)**:** Applications involving full repayment of a Rental Housing Revolving Fund loan will earn 2 points.

- HHFDC's rationale: Scoring is based on repaying a Rental Housing Revolving Fund loan.
- States that use criteria: none
- *Recommendation: Make this a threshold criterion to require all applicants to fully repay RHRF loans. Applicants who cannot repay their RHRF loans should not be awarded these funds.*

**Criterion 21 - State Conveyance [0-2 pts]** (pg. 22)**:** Applicants will earn 2 points for agreeing to offer to sell the project to a state agency for fair market value no later than three years before the end of the extended use period.

- HHFDC's rationale: Scoring is based on willingness to sell the property to a future state government agency.
- States that use criteria: none
- *Recommendation: Specify that the conveyance must be for nominal consideration. This should not be a right of first refusal requiring the state to pay twice for the same project, but a transfer ensuring that low income tenants are secure in their homes, without additional cost to the taxpayer.*

**Criterion 22 - Need for Rehabilitation [0-10 pts]** (pg. 22)**:** HHFDC will award up to 10 points for applications it determines are proposing rehabilitation which will materially improve residents' quality of life (the extent of change between current conditions and results after completion).

- HHFDC's rationale: Scoring is based on the extent to which an award would improve residents' quality of life.
- States that use criteria: Kentucky, Louisiana
- *Recommendation: Specify that the need for rehabilitation also includes the preservation of existing low income units that would expire otherwise.*

**Criterion 23 - Proximity to Amenities [0-10 pts]** (pg. 22)**:** New construction applications will score points based on the site being within the following driving or walking distances, measured in miles. The amenity must be open (not under construction or shut down) as of the application deadline. A single establishment may qualify for points under multiple categories.

| AMENITIES | <1 mile | <2 miles |
|---|---|---|
| Grocery | 3 | 2 |
| Shopping | 3 | 2 |

| Child Care | 4 | 3 |
| --- | --- | --- |
| Healthcare | 2 | 1 |
| Public Facility | 3 | 2 |

- HHFDC's rationale: Proximity to Amenities Scoring is based on distance to certain establishments and facilities.
- States that use criteria: Arizona, Arkansas, Idaho, Kansas, Michigan, Oklahoma
- *Recommendation: Delete this criterion. This is a duplicative criterion. The Project Location and Market Demand criterion (6 points) expressly prioritizes projects in urban areas and in proximity to employment opportunities, medical and education facilities, and mass transit stations. With that criterion, there is no evidence that projects are being built in remote areas without access to amenities like grocery, shopping, child care, healthcare, and public facilities.*

**Criterion 24 - Point Deduction [no points specified]** (pg. 23): HHFDC may deduct points from applications involving an Applicant which did not complete a representation from a prior award. For example, a loss of 4 points could be a consequence of not meeting the promised energy efficiency/green building standards.

- HHFDC's rationale: HHFDC would have the ability to deduct points based on the Applicant not completing a representation made in a past application.

## Criteria Changed:

**Criterion 5 - State/Local Government Financing [0 to 2 pts]** (pgs 14-15)**:** project will be receiving a permanent below market loan or grant from the government other than HHFDC or a lease (inc. HHFDC).

- New: The project has received a commitment for a permanent below market loan, or grant, or a commitment of **at least $50,000 but less than $175,000 per unit**.
- Old: The project has received a commitment for a permanent below market loan, or grant, or a commitment of **less than 10% of the total development cost.**
- New: The project has received a commitment for a permanent below market loan, or grant, or a commitment of **more than $175,000 per unit**
- Old: The project has received a commitment for a permanent below market loan, or grant, or a commitment of **greater than 10% of the total development cost.**

- HHFDC's rationale: Changes to a per-unit calculation to remove what was another "race to the bottom" incentive
- *Recommendation: Increase State/Local Government Financing to 6 points. Government Financing demonstrates the importance of the project to other government agencies, and projects currently being developed by School Facilities Authority, Hawaii Public Housing Authority, Department of Hawaiian Home Lands should be given priority over purely private projects.*

**Criterion 6 - State/Local Government Owned Land [0 to 5 pts]** (pg. 14-15): used to be combined with Criterion 5 - State/Local Government Financing [0 to 2 pts] as an "AND/OR" option for a total of 7 pts, but has been separated into its own criterion.

- HHFDC's rationale: Pulls out this point scoring opportunity into its own separate criterion.
- States that use criteria: South Carolina
- *Recommendation: Increase State/Local Government Owned Land to 12 points. Government Owned Land preserves the affordability of the project, because governments need not maximize profits and have no incentive to allow projects to raise rents to market. Purely private developments may raise rents to market, evict existing low income tenants, and sell for full market value once affordability restrictions expire, defeating the purpose of the LIHTC program. This is one of the most important tools HHFDC has to ensure that applicants are developing perpetually affordable housing.*

**Criterion 9 - Developer and Property Management Experience [0 to 6 pts]** (pg. 16) The development team demonstrating the ability to meet all terms, conditions, and requirements set forth in the application materials will be awarded 2 points. Any applications submitted to HHFDC within the previous five-year period may be considered when awarding points for this criteria.

1. Number of LIHTC projects placed in service by the Applicant or an affiliated entity. The number of LIHTC projects placed in service in which the Applicant's consultant that had a contractual obligation with the Project Owner throughout the construction/rehabilitation period continues to participate in the management of the project throughout the extended use period, may be included in the scoring

| Projects Placed in Service | Points |
|---|---|
| None | 0 |
| 1 - 5 | 0.5 |
| 6+ | 1 |

2. Number of LIHTC projects placed in service in Hawaii without extensions, additional HHFDC resources, or other accommodations (HHFDC may elect to award points despite having granted an accommodation.)

| Projects Placed in Service | Points |
|---|---|
| None | 0 |
| 1 - 3 | 0.5 |
| 4+ | 1 |

3. Number of LIHTC projects managed by the Management Agent

| Projects Managed | Points |
|---|---|
| None | 0 |
| 1 - 5 | 0.5 |
| 6+ | 1 |

4. Number of LIHTC projects located in the State of Hawaii managed by the Management Agent

| Projects Managed | Points |
|---|---|
| None | 0 |
| 1 - 3 | 0.5 |
| 4+ | 1 |

- Removed: "Negative points, up to a total of 5 points may be given to general partners, co-developers, management agents or any other member or agent of the Development Team at HHFDC's sole discretion for failure to meet the terms, conditions, and requirements set forth in the application materials, unless it is demonstrated to the satisfaction of HHFDC that the circumstances were entirely outside the control of the owner (refer to Certification and Assurances of the applications). The negative points may also be assessed when any of the general partners, co-developers, management agents or any other members or agent of the Development Team is applying for any HHFDC resources in the next HHFDC financing round or twelve (12) months from the date of the incident, whichever is longer."

- HHFDC's rationale: The scoring changes from a penalty to not receiving points for past projects receiving some form of HHFDC accommodation.
- States that use criteria: Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Iowa, Maryland, Missouri, New Hampshire, Oregon, Vermont.

**Criterion 10 - Length of Affordability Commitment [0 to 7 pts]** (pg. 18): Applicants shall receive points for committing to an additional use period beyond the minimum "extended use period".

| **Total Extended Use Period (Total Length of Affordability Commitment):** | **Points** |
|---|---|
| 61 years or more | 7 points |
| 55 to 60 years | 4 points |
| 50 to 54 years | 3 points |

| 45 to 49 years | 2 points |
|---|---|

- Removed 40 to 44 years receiving 1 pt.
- States that use criteria: Connecticut, Georgia, Nevada, New Mexico, North Dakota, Ohio
- *Recommendation: Replace "61 years or more" with "Perpetual Affordability" (subject to waiver by State) and increase the maximum points from 7 to 10 points.*

**Criterion 13 - Percentage of Income Targeted Units [0 to 10 pts]** (pg. 19-20): Applicants receive points by providing a preference to lower income tenants in accordance with the table below.

| Points | Minimum Set-aside election | |
|---|---|---|
| | Average Income | 30% in Original @ |
| 8 | 51% | 30% |
| 4 | 54% | 40% |
| 2 | 57% | 50% |

- Added: Applications will earn up to 8 points based on agreeing to comply with the applicable limits in the matrix below. In order to receive points, the application must reflect one setaside election (average income or "original" minimum set-aside (i.e., 40% at 60% or 20% 20242025 Qualified Allocation Plan Hawaii Housing Finance and Development Corporation Page 20 at 50%) and meet the criteria below for the selected set-aside.
    - For average income, the percent shown is the average AMI among the units' designations.
    - For an original minimum set-aside, at least 30% of the units must be affordable to and occupied by households at the AMI shown.
- Removed: Projects may score multiple times under the Percent of Income Targeted Units" category (i.e., electing 80% of LIHTC units at 50% AMGI and 20% of LIHTC units at 30% AMGI for 10 points). However, projects may only score once under a specific "Area Median Income" category (i.e., if 70% of LIHTC units at 50% AMGI is elected, the project cannot elect 30% of LIHTC at 50% AMGI to account for 100% of LIHTC units). The highest award possible is 10 points. Please see example scoring under this criterion below: The income restrictions shall be included as part of the declaration of land use restrictive covenants based on unit count.
- States that use criteria: Arkansas, Missouri, New Hampshire, Rhode Island, South Dakota, Virginia
- HHFDC's rationale: The scoring changes from a penalty to not receiving points for past projects receiving some form of HHFDC accommodation.

- *Recommendation: Delete any preferences for income targeting below federal requirements to ensure long term financial sustainability of the projects.*

**Criterion 14 - Involvement of a Qualified Non-Profit Organization [0 or 2 pts]** (pg. 20): Project involves a Qualified Non-Profit Organization as defined in Section 42 IRC and will elect to receive an allocation from the non-profit set-aside. The Qualified Non-Profit Organization is to own an interest in the project and materially participate in the development and operation of the project throughout the Extended Use Period.

- Changed from “0 to 2” -> “0 **or** 2”.
- HHFDC’s rationale: Applicants are either a non-profit or not.
- States that use criteria: Massachusetts, Missouri, New York, Georgia, New Mexico
- *Recommendation: Replace this “non-profit organization” with “organization required to use all financial surplus to develop additional housing in the State.” Non-profits can and do pull out financial surpluses from their housing projects to invest in other sectors, which this application process should not reward. Whether for profit, non-profit, or government, awarded agencies should be required to keep their housing-generated profits in housing.*

## Criteria Staying the Same:

**Criterion 1 - County Income Adjuster [0-2 pts]** (pg. 13): Applications receive points based on the MTSP income limits as determined by HUD. HHFDC will use the 60%, 4-person income limit for determining point allocations between the counties.

- States that use criteria: none
- *Recommendation: Keep the same but request evidence that without this criterion, neighbor island projects would fall below their proportion of statewide need.*

**Criterion 2 - Applicant’s readiness to proceed with development of project [0-16]**: Ability to resolve issues so the project commences in a timely manner

- Schedule, water and sewer availability, project budget (6 pts)
- Discretionary approvals, environmental requirements, land use/zoning (max of 4 pts)
- Ministerial approvals, construction drawings, necessary studies (6 pts)
- States that use criteria: California, Colorado, Delaware, Massachusetts, Minnesota, Oregon, Vermont, Virginia, Washington

**Criterion 3 - Tenant Services and Amenities [0 to 4 pts]**: To enhance the livability of the project.

- States that use criteria: Alabama, Missouri, California, Delaware, Idaho, Indiana, Maine, Mississippi, Nevada, New Jersey, North Carolina, Ohio, Wyoming

**Criterion 4 - Project-Based Rental Assistance Subsidies [0 to 4 pts]**: Eligible tenants pay approx. 30% of their gross monthly income towards rent.

- States that use criteria: Oregon, Louisiana, Missouri, Oklahoma, Georgia

**Criterion 7 - Energy Efficiency and Green Building [0 to 4 pts]**: Projects which promote smart growth, energy, and water conservation, operational savings and sustainable building practices may be awarded up to 4 pts.
- States that use criteria: Connecticut
- *Recommendation: Award points based on quantified reductions in building operations and maintenance costs.*

**Criterion 8 - Project Location and Market Demand [0 to 6 pts]**:

| Located in a County's urban core | 3 points |
|---|---|
| Located in an urbanized area | 2 points |
| Located in a master planned community | 1 point |
| Located in a rural district in proximity to employment opportunities and medical and educational facilities | 0 points |
| Located within 0.5 miles of mass transit station | 3 points |

- States that use criteria: Idaho, Iowa, Missouri, Oregon, South Carolina

**Criterion 11 - Available Unit Sizes [0 to 3 pts]**: housing that provide larger units which are available to individuals with children or large families.
- States that use criteria: Texas, North Carolina, Oregon

**Criterion 12 - Special Housing Needs [0 to 2 pts]:** housing for tenant populations with special housing needs such as persons receiving a disability source of income, a survivor of domestic violence, frail elders, and individuals experiencing homelessness.
- States that use criteria:  Delaware, Alabama

**Criterion 15 - Opportunity for Home Ownership [0 or 1 pt]:** offers tenants an opportunity to home ownership.
- States that use criteria: Louisiana, North Dakota

**Criterion 16 - Qualified Census Tract [0 or 1 pt]:** housing which contributes to a concerted community revitalization plan as determined by HHFDC.
- States that use criteria: Indiana, Arizona, Iowa, Kansas, New York

**Criterion 17 - Historic Nature [0 or 1 pt]**: project will preserve historic nature of an existing building.
- States that use criteria: Arizona, Connecticut, Indiana

## Criteria Removed:

**LIHTC and HHFDC Resource - Efficiency and Leveraging [0-10 pts]** (pg. 13): 1A) Applicants scored under this criterion based on the ratio of HHFDC resources (LIHTC, RHRF, DURF, or any other Permanent Financing provided by or through HHFDC) over the number of LIHTC units; and 1B) Applicants scored under this criterion based on the ratio of HHFDC resources requested (LIHTC, RHRF, DURF, or any other Permanent Financing provided by or through HHFDC) over total project cost.

- HHFDC's rationale: These selection criteria create an incentive known as a "race to the bottom": developers have an incentive to make increasingly aggressive representations. Removing them contributes to the need to adopt the other cost policies.
- States that use criteria: South Carolina, Idaho

**Reasonableness of Development Costs [0-16 pts]** (page 13)**:** projects received points based on the development cost per residential square foot; those with the lowest cost received the most points.

- HHFDC rationale: These selection criteria create an incentive known as a "race to the bottom": developers have an incentive to make increasingly aggressive representations. Removing them contributes to the need to adopt the other cost policies listed above.
- States that use criteria: Pennsylvania, Oklahoma, North Carolina, Arkansas
- *Recommendation: Restore this criteria but reduce the number of points to 5. Developers should have some incentive to minimize cost of development per square foot, and the LIHTC application should reflect that.*

**Developer Fee [0-3 pts]** (pg. 14)**:** The applicant elected to limit the total Developer Fee as a percentage of the total development cost (excluding developer fee) as presented in the application.

- HHFDC's rationale: Removes this criterion.
- States that use criteria: Nevada
- *Recommendation: Keep this because developer fees are addressed elsewhere in the new criteria.*

**Waiver of Qualified Contract [0-14 pts]:** Applicants that elected to waive the right to exercise a request for a qualified contract pursuant to Section 42(h)(6)(E)(i)(II) of the IRC would be awarded 14 points.

- HHFDC's rationale: All owners will waive the ability to request a qualified contract (no longer a point criterion).

## Other Changes:

1. **Threshold and Selection Criteria - Specifying an Applicant** (pages 4-5)
    a. Each application will identify one validly existing entity as the Applicant. Only the identified Applicant will have the ability to make decisions regarding that application. The Applicant may enter into joint venture or other agreements, but HHFDC will not be responsible for evaluating those documents to determine the relative rights of the parties. If the application receives an award, the Applicant or an affiliated entity must become a managing member or general partner of the ownership entity.
    b. HHFDC's rationale: Submissions must identify an entity as the Applicant. If awarded, the Applicant (or an affiliate) will become a managing member or general partner of the ownership entity.
2. **201H approval no longer necessary** (pg. 6-7)
    a. HHFDC's rationale: No longer is a threshold requirement.
3. **New Specific requirements for Engineering or Capital Needs Assessment** (page 8)
    a. New construction must include a preliminary engineering report that complies with relevant standards from the American Society of Civil Engineers, Environmental Protection Agency, USDA Rural Development, and/or Federal Highway Administration.
    b. Construction that acquires existing property must include Capital Needs Assessment by a competent 3rd party.
    c. HHFDC'S rationale: Added as a required submission for new construction applications.
4. **Compliance - Average Income** (pg. 26): the project must comply with one of the low-income minimum set-aside requirements of Section 43 IRC as chosen by the owner at the time of receiving the credits. Tenant income is calculated in a manner consistent with annual income under Section 8.
    a. OLD: 1) 20 percent or more of the units in the project are occupied by tenants having a household income of 50 percent or less of the area median gross income (the "20-50 requirement"), OR 2) 40 percent or more of the units in the project are occupied by tenants having a household income of 60 percent or less of the area median gross income (the "40-60 requirement").
    b. NEW: Only new construction and rehabilitation projects not subject to an existing LIHTC Declaration of Restrictive Covenants are eligible to elect the average income minimum set-aside. Applicants must comply with the following:
        i. The designations for any bedroom type cannot exceed 60% of area median income.
        ii. The project cannot contain unrestricted, market rate units.
        iii. Owners of projects with more than one building must select that each is part of a multiple building set-aside.

c. HHFDC's rationale: Applications for certain projects can indicate electing the third minimum set-aside. Owners doing so must comply with three HHFDC requirements.

5. **Plan and Cost Review requirements** (page 7)
    a. Qualified Estimator:
        i. Original: Qualified construction estimator with a minimum of 5 years' experience.
        ii. New: Qualified HHFDC approved construction estimator with a minimum of 5 years' experience, specifically for rehabilitation, sitework (including utility connections), and vertical construction.
    b. Scope of Cost Estimate:
        i. Original: Sitework and vertical construction.
        ii. New: Rehabilitation, sitework (including utility connections), and vertical construction.
    c. Statement of Competence:
        i. Original: Confirmation of experience and relevance to the type of project.
        ii. New: Same requirements, but explicitly states the need for HHFDC approval.
    d. HHFDC's rationale: As one component of a multi-part new approach in addressing development costs, Applicants will contract with an HHFDC-approved third party to prepare an estimate (no longer may be a related general contractor). However, the work does not include vertical construction (covered below).
6. **Developer Fee** (pg. 10)
    a. Maximum Developer Fee:
        i. Original: Maximum developer fee percentages and amounts for 9% [maximum developer fee of 15% of the total development costs (excluding developer fee) or $3,750,000 (whichever is less)] and 4% [maximum developer fee of 10% of the acquisition costs and 15% of the rehabilitation costs (excluding developer fee) or $3,750,000 (whichever is less)].
        ii. New: Adjusted maximum developer fee amounts and percentages, including a new cap of $50,000 per unit for new buildings and 40% of rehabilitation hard costs for existing buildings.
    b. HHFDC's rationale: Both amounts would produce results higher than what has been the three-year average.
    c. David's comments: Changing to a per unit cost. Only based on construction where we have costs to the project. It normalizes the scores. For smaller projects the fees will go up, for larger projects fees will go down.
7. **Minimum Affordability Period section- Qualified Contract** (pg. 11)
    a. New additional clause that all owners will waive their right to request a qualified contract.

b. HHFDC's rationale: All owners will waive the ability to request a qualified contract (no longer a point criterion).

8. **New Development cost requirements** (pg. 11)
    a. Posting of Maximum Amounts: No later than 45 days prior to the full application deadline.
    b. Cost Proposals for Non-Vertical Components:
        i. Applicants: Propose costs for non-vertical components.
        ii. HHFDC: Determines appropriate amounts based on:
            1. Comparisons with other applications.
            2. Recently submitted cost certifications.
            3. Input from third parties.
            4. Staff's professional judgment.
    c. Budget Adjustments:
        i. HHFDC will adjust the budget accordingly before making awards.
        ii. Applications proposing costs substantially more than HHFDC's determination may be ineligible for an award.
    d. HHFDC's rationale: Another component of the multi-part approach is HHFDC will post a limit for what applications can show for vertical construction costs. HHFDC also will determine the appropriate amount of other budget line-items based on several factors.
9. **New Design Requirements** (pgs. 6 and 38-)
    a. Requires new design documents and building provisions to qualify for a LIHTC award.
    b. HHFDC's rationale: Nearly all LIHTC allocating agencies have minimum standards for design and construction

Testimony of the Hawaiʻi Appleseed Center for Law and Economic Justice
Comments on Draft 2025 Hawaiʻi Qualified Allocation Plan
HHFDC Board Room, 667 Queen St.
Friday, October 25, 2024, at 10:30AM

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Dear Mr. Minakami,

Thank you for the opportunity to comment on the draft State Of Hawaii Low-Income Housing Tax Credit Program 2025 Qualified Allocation Plan (QAP). These comments are submitted on behalf of Hawaii Appleseed. We believe that limited state and federal affordable housing resources should be targeted, to the extent feasible, to serve the needs of our lowest income residents for the longest period of time, and to be owned and managed not for profit, but for the benefit of residents, and with maximum tenant protections. We also share HHFDC's commitment to fair housing, and recognize our state's obligation to affirmatively further fair housing under federal law.

There are many positive elements in the Hawaii QAP, and the proposed revisions for 2025, which we will recognize, but the QAP could be improved in several important respects.

<u>Preserving long term affordability</u>

First, we commend HHFDC for proposing to fully eliminate the "qualified contract" loophole, a feature of the federal statute which can sometimes permit owners to exit the LIHTC program after 14 years, evading the additional required 15 year "extended use" affordability period. Hawaii's prior QAP incentive to waive the qualified contract right is an insufficient protection, and the proposed required waiver of the provision is a best practice followed by 32 other states.

Second, we support Hawaii's proposed increase of the required minimum affordability period from 30 to 45 years, but we urge HHFDC to increase this minimum requirement even further, consistent with its recent practice, and the example of other states. For example, California requires a 55 year minimum affordability period; Oregon and New Hampshire require 60 years; and Vermont requires permanent affordability.

Third, we believe that HHFDC should do more to incentivize deeper income targeting in its LIHTC properties. In 2021 and 2022, respectively, Hawaii targeted 73% and 78% of its LIHTC units to families at 50-60% of the area median income (AMI). This is significantly higher than the average of QAPs nationally. Likewise, Hawaii's targeting of families at 20-30% of AMI fell below national averages.

<u>Protections and incentives for nonprofit and government projects</u>

Nonprofit ownership and management of LIHTC properties is consistent with maintenance of long term affordability and protection of tenants from arbitrary management practices and rent increases. Nonprofit ownership also supports the long term social housing ideal of decommodification – the ownership of property for the benefit of residents, not for profit. There are two important steps that HHFDC can take to achieve this goal.

First, HHFDC should increase the nonprofit set aside from 10% to at least 50%. This is consistent with the state's recent practice of allocating a significantly higher percentage of tax credits to nonprofits than the required 10% minimum.

Second, and even more important, Hawaii should join the large majority of states that have taken steps to protect the LIHTC statutory right of first refusal (ROFR), which gives qualified non-profit owners (general partners) the right to fully acquire a LIHTC property at year 15 at below market rate. This crucial provision of the LIHTC statute has come under threat because of an ambiguous statutory phrasing that has allowed for-profit limited partners in several states to block non-profit acquisition. Protective language in state QAPs clarifies that the right does not depend on the existence of a 3rd party offer to trigger the ROFR, and also spells out the contours of the below market rate calculation. We recommend looking to the provisions of the New Hampshire QAP for strong language to protect the ROFR.

Finally, the proposed QAP provides too little incentive for state and county government projects. Projects receiving government financing located on government lands have received the imprimatur of the elected representatives of the people. They are also at no risk of rents rising to market levels, because governments have no profit incentives.

Tenant protections

The proposed 2025 QAP is missing some basic tenant protection provisions, which should be included in the final plan.

First, the LIHTC statute requires that all developments follow good cause eviction procedures – but there is no reference to this requirement in the QAP or the Compliance Manual, and no indication that there will be consequences for failure to comply with this rule. HHFDC should spell out the basic elements of good cause in both the QAP and in its compliance manual.

Second, residents of Hawaii LIHTC developments should be protected from excessive rent increases. Hawaii should join several other states in limited annual rent increases to 5% or less, even where increases in Area Median Income might technically permit a higher increase.

Finally, the QAP should explicitly protect tenants' right to organize – and provide incentives for owners who demonstrate meaningful engagement with tenants in the management process.

Fair Housing Concerns

Hawaii's LIHTC production is heavily weighted toward 1- and 2-bedroom units, which does not accommodate large (or growing) families. Low income families with children are already disadvantaged by the sharp decreases in housing assistance for families in the Housing Choice Voucher program, and lack of developing 3+ bedroom sized units is not helping. We urge HHFDC to add much stronger incentives than currently included in the draft QAP (p. 18) to increase the production of larger bedroom size units to accommodate families with children.

HHFDC's strong proposed incentives for underserved areas and low poverty areas (p. 22) are positive fair housing provisions that will improve the balance of LIHTC developments in the state, and should be preserved in the final QAP.

Finally, we note that neither the draft QAP nor the Hawaii LIHTC Compliance Manual include any reference to affirmative marketing plans, a key element of Fair Housing Act compliance. Likewise, there is nothing in the QAP supporting the statutory prohibition against discrimination against families with Housing Choice Vouchers. These missing items should be included in the final QAP.

Thank you for the opportunity to comment on the draft 2025 QAP, and we look forward to working with the HHFDC going forward.

Sincerely,

*Arjuna Heim*
*Director of Housing Policy*

Affordable Housing Connections LLC
dba AHC Hawaii RB-23812

October 22, 2024

Mr. Dean Minakami, Executive Director
Hawaii Housing Finance & Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

Re: Proposed 2025 LIHTC QAP

Dear Mr. Minakami:

Mahalo for the opportunity to provide comments on the proposed 2025 QAP. My comments are based on my over 25 years of experience using LIHTCs as the principal equity source in developing and managing affordable rental housing in the islands.

III. A. Registration and Current Application

1. The immediate rejection of an application for failure to comply seems excessively severe given the time, effort and cost required to apply. HHFDC should be seen as a facilitator, willing to work with applicants to point out minor errors/mistakes and get projects financed quickly to produce more housing. I think this proposed change may be a result of short staffing and/or critical expertise or both. Restricting the applicant from applying for any HHFDC financing for at least 12 months is even more severe. A more balanced approach is needed to move the project forward unless the failure to comply is of such a nature leaving HHFDC no option but to reject the application.
2. In the past HHFDC has required that the Owner be the applicant. This proposed change is ambiguous and needs further clarification or just leave it as the Owner.

B. Minimum Thresholds

3. Project Readiness – All LIHTC Applications

Zoning Approval/Compliance
Getting zoning approval via 201H without HHFDC financial support is essentially impossible for LIHTC projects. Please clarify this application pre-requisite.

5. Plan and Cost Review (all applications)
   Will HHFDC provide a list of approved construction estimators? Does HHFDC agree and understand that at this early stage of the design/renovation process the drawings submitted with the application are still subject to potential substantial changes?
7. Smoke Free
   Can inclusion in the management plan in addition to the tenant lease negate the need for a separate certification by the Owner?
12. Developer Fee
   a. Clarify management fee to be the Asset Management Fee (ASM) and not a Property Management Fee (PMF). In doing so please recognize that neither the AMF nor the PMF are included in the Developer Fee. The PMF is included above the line and the AMF is below the line.
   b. All LIHTC – a cap on the development fee restricts the developer's ability to be more creative in financing a project. The developer's creativity could result in less dependence on other state and county financing sources.
14. LIHTC Development Experience
   b. Add at least two (2) years' experience managing that 1 project with no red flags issued by HUD.

D. Criterion Point System

13. Income Targeting – a balancing process that that make or break a project. Project based vouchers are extremely hard to acquire. Counties are limited to 20% of their federal allocation for project basing. As a result, developers must be very attentive to the desire to develop the project vs the operational needs of the project. Income averaging could be helpful in this regard but the loss of equity in increasing the AMI vs the gain in income from higher rent must be carefully balanced. While providing more units at 30% AMI is a worthy goal there is a tippy point.
14. Involvement of a Qualified Non-Profit Organization - Add operating in Hawaii for at least 5 years. Increase points to 5 and provide a scale with 5 as maximum points.
18. Underserved Areas – the areas listed are Zip Codes not Census Tracts.
21. State Conveyance – I am opposed to this provision as it may have an impact on the LIHTC investor pool.

24. Point Deduction – I am opposed to this provision. This should be addressed in the Registration and Current Application section. Perhaps an increased application fee for those who did not meet prior obligations.

This concludes my comments. Mahalo Nui for the opportunity.

Sincerely,

Kevin R. Carney, (PB) NAHP-E
President and Principal Broker
808-221-0205
Kevin.Carney23@outlook.com

DATE: October 22, 2024

TO: Mr. Dean Minakami, Executive Director
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300, Honolulu, HI 96813

FROM: Patrick F. Hurney, Director of Housing Development

RE: 2025 Low-Income Housing Tax Credit Qualified Allocation Plan

Dear Dean Minakami,

I urge the board to amend HHFDC's proposed 2025 Qualified Allocation Plan (QAP). The proposed 2025 QAP does not serve the best interests of the taxpayers or the low-income residents of Hawaii who urgently need long-term affordable housing. This testimony describes the three major shortcomings of the proposed QAP: too little incentive for perpetual affordability, too little incentive for government projects, and too many points based on geographic location. Attached please find a complete list of the many changes that should be made to address these shortcomings as well as an easy to read summary of all the proposed changes to the QAP.

First, the proposed QAP provides too little incentive for perpetual affordability. Today, applicants have no incentive–or ability–to extend affordability restrictions beyond 61 years. After 61 years, owners of awarded projects are free to evict the existing tenants, raise rents to market, and sell the projects for full market value. In many cases, the tenants petition the state and county governments to acquire the projects–forcing taxpayers to pay twice for the same project. While HB1763, signed into law as Act 235 (2024), requires perpetual affordability for recipients of Rental Housing Revolving Fund loans, there is no reason to exempt LIHTC-only projects from this requirement.

Second, the proposed QAP provides too little incentive for state and county government projects. Projects receiving government financing or located on government lands have received the imprimatur of the elected representatives of the people. They are also at no risk of rents rising to market levels, because governments have no profit incentive.

Third, the proposed QAP adds an unnecessarily large number of new points based on geographical location. These point changes do not appear to be based on observed needs in this state. It adds a whopping 10 points for "Proximity to Amenities" including grocery, shopping, and child care, despite an existing "Project Location and Market Demand" criterion that already incentivizes urban locations that are likely to be proximate to grocery, shopping, child care, and other necessary services. It also adds 5 points for "Census Tracts with Concentrated Wealth," despite no evidence that awarded projects are inequitably distributed throughout the state.

LIHTC is a direct handout of taxpayer dollars to developers; the tax credits are not loans and are never repaid. The state Rental Housing Revolving Fund gap financing most LIHTC projects rely on is currently lent out on commercially unreasonable terms: 57 year terms, 0.15 percent interest, no repayment until year 31 when the senior private loan is fully repaid, and reduced payments based on cash flow. It is an enormous commitment of taxpayer dollars, having received $1.047 billion in general fund appropriations over the last decade, the second largest after the Rainy Day Fund. It is our fiduciary responsibility to ensure that these funds are deployed as efficiently as possible.

The proposed amendments aim to ensure that Hawaii's resources are used more efficiently and sustainably. By subsidizing government-owned housing projects that can grow in value and recycling financing for further development, these changes will secure long-term affordability for residents and promote a more equitable use of taxpayer dollars.

Thank you for the opportunity to provide testimony.

Respectfully,

*Patrick F. Hurney*
Director of Housing Development
Hope Services Hawaii

Attachment

# Recommended Changes to the 2025 LIHTC QAP

This document outlines the recommended changes for the 2025 Low-Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP).

**Criterion 1 - County Income Adjuster [0-2 pts]**: (pg. 13): Applications receive points based on the MTSP income limits as determined by HUD. HHFDC will use the 60%, 4-person income limit for determining point allocations between the counties.
*Recommendation: Keep the same but request evidence that without this criterion, neighbor island projects would fall below their proportion of statewide need.*

**Criterion 5 - State/Local Government Financing [0 to 2 pts]** (pgs 14-15)**:** project will be receiving a permanent below market loan or grant from the government other than HHFDC or a lease (inc. HHFDC).
*Recommendation: Increase State/Local Government Financing to 6 points. Government Financing demonstrates the importance of the project to other government agencies, and projects currently being developed by School Facilities Authority, Hawaii Public Housing Authority, Department of Hawaiian Home Lands should be given priority over purely private projects.*

**Criterion 6 - State/Local Government Owned Land [0 to 5 pts]** (pg. 14-15): Used to be combined with Criterion 5 - State/Local Government Financing [0 to 2 pts] as an "AND/OR" option for a total of 7 pts, but has been separated into its own criterion.
*Recommendation: Increase State/Local Government Owned Land to 12 points. Government Owned Land preserves the affordability of the project, because governments need not maximize profits and have no incentive to allow projects to raise rents to market. Purely private developments may raise rents to market, evict existing low income tenants, and sell for full market value once affordability restrictions expire, defeating the purpose of the LIHTC program. This is one of the most important tools HHFDC has to ensure that applicants are developing perpetually affordable housing.*

**Criterion 7 - Energy Efficiency and Green Building [0 to 4 pts]** (pg. 15): Projects which promote smart growth, energy, and water conservation, operational savings and sustainable building practices may be awarded up to 4 pts.
*Recommendation: Award points based on quantified reductions in building operations and maintenance costs.*

**Criterion 10 - Length of Affordability Commitment [0 to 7 pts]** (pg. 18): Applicants shall receive points for committing to an additional use period beyond the minimum "extended use period".

| Total Extended Use Period (Total Length of Affordability Commitment): | Points |
|---|---|
| 61 years or more | 7 points |
| 55 to 60 years | 4 points |
| 50 to 54 years | 3 points |
| 45 to 49 years | 2 points |

*Recommendation: Replace "61 years or more" with "Perpetual Affordability" (subject to waiver by State) and increase the maximum points from 7 to 10 points.*

**Criterion 13 - Percentage of Income Targeted Units [0 to 10 pts]** (pg. 19-20): Applicants receive points by providing a preference to lower income tenants in accordance with the table below.

| Points | Minimum Set-aside election | |
|---|---|---|
| | Average Income | 30% in Original @ |
| 8 | 51% | 30% |
| 4 | 54% | 40% |
| 2 | 57% | 50% |

*Recommendation: Delete any preferences for income targeting below federal requirements to ensure long term financial sustainability of the projects.*

**Criterion 14 - Involvement of a Qualified Non-Profit Organization [0 or 2 pts]** (pg. 20): Project involves a Qualified Non-Profit Organization as defined in Section 42 IRC and will elect to receive an allocation from the non-profit set-aside. The Qualified Non-Profit Organization is to own an interest in the project and materially participate in the development and operation of the project throughout the Extended Use Period.
*Recommendation: Replace this "non-profit organization" with "organization required to use all financial surplus to develop additional housing in the State." Nonprofits can and do pull out financial surpluses from their housing projects to invest in other sectors, which this application process should not reward. Whether for profit, non-profit, or government, awarded agencies should be required to keep their housing-generated profits in housing.*

**Criterion 19 - Census Tracts with Concentrated Wealth [0 to 5 pts]** (pg. 22)**:** applicants with the lowest percentage of families below the poverty rate in the Census tract will receive 5 pts; highest percentage receives 0 pts.
*Recommendation: Reduce to 2 points to make equal to Underserved Areas.*

**Criterion 20 - Loan Repayment [0 or 2 pts]** (pg. 22)**:** Applications involving full repayment of a Rental Housing Revolving Fund loan will earn 2 points.
*Recommendation: Make this a threshold criterion to require all applicants to fully repay RHRF loans. Applicants who cannot repay their RHRF loans should not be awarded these funds.*

**Criterion 21 - State Conveyance [0-2 pts]** (pg. 22)**:** Applicants will earn 2 points for agreeing to offer to sell the project to a state agency for fair market value no later than three years before the end of the extended use period.
*Recommendation: Specify that the conveyance must be for nominal consideration. This should not be a right of first refusal requiring the state to pay twice for the same project, but a transfer ensuring that low income tenants are secure in their homes, without additional cost to the taxpayer.*

**Criterion 22 -Need for Rehabilitation [0-10 pts]** (pg. 22)**:** HHFDC will award up to 10 points for applications it determines are proposing rehabilitation which will materially improve residents' quality of life (the extent of change between current conditions and results after completion).
*Recommendation: Specify that the need for rehabilitation also includes the preservation of existing low income units that would expire otherwise.*

**Criterion 23 - Proximity to Amenities [0-10 pts]** (pg. 22)**:** New construction applications will score points based on the site being within the following driving or walking distances, measured in miles. The amenity must be open (not under construction or shut down) as of the application deadline. A single establishment may qualify for points under multiple categories.

| AMENITIES | <1 mile | <2 miles |
|---|---|---|
| Grocery | 3 | 2 |
| Shopping | 3 | 2 |
| Child Care | 4 | 3 |
| Healthcare | 2 | 1 |
| Public Facility | 3 | 2 |

*Recommendation: Delete this criterion. This is a duplicative criterion. The Project Location and Market Demand criterion (6 points) expressly prioritizes projects in urban areas and in proximity to employment opportunities, medical and education facilities, and mass transit stations. With that criterion, there is no evidence that projects are being built in remote areas without access to amenities like grocery, shopping, child care, healthcare, and public facilities.*

QAP Criteria that were removed:

**Reasonableness of Development Costs [0-16 pts]** (pg. 13)**:** projects received points based on the development cost per residential square foot; those with the lowest cost received the most points.
*Recommendation: Restore this criterion but reduce the number of points to 5. Developers should have some incentive to minimize cost of development per square foot, and the LIHTC application should reflect that.*

**Developer Fee [0-3 pts]** (pg. 14)**:** The applicant elected to limit the total Developer Fee as a percentage of the total development cost (excluding developer fee) as presented in the application.
*Recommendation: Restore this criterion to incentivize developers to reduce their fees.*

**From:** Bartoldus, Daintry <Daintry.Bartoldus@doh.hawaii.gov>
**Sent:** Thursday, October 24, 2024 4:26 PM
**To:** DBEDT HHFDC Applications <hhfdcapplications@hawaii.gov>
**Subject:** Written views relative to the QAP

Dear Hawaii Housing Finance and Development Corporation (HHFDC),

To create a more inclusive and appropriate definition of disability for housing eligibility under a Qualified Allocation Plan (QAP) that goes beyond solely those receiving disability benefits, we should consider using a definition based on functional limitations, a person's Access and Functional Needs. (a few years ago, we changed a housing bill removing "special needs" (which tells us nothing about the person's needs) to Access and Functional Needs, which tells us the specific needs of a person. This aligns with broader disability rights frameworks. Here's an approach that could work well:

**1. Functional Definition of Disability**

Instead of focusing solely on disability benefits, the definition could emphasize functional limitations that impact major life activities, including but not limited to:

- **Physical impairments** (e.g., mobility limitations, chronic health conditions)
- **Cognitive or intellectual disabilities**
- **Sensory** (e.g., vision, hearing)
- **Mental health conditions**
- **Developmental disabilities**

**2. Alignment with Legal Definitions**

The definition could align with the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA). For example:

A person with a disability is anyone who has a physical or mental impairment that substantially limits one or more major life activities, has a history of such an impairment, or is regarded as having such an impairment.

**3. Broader Eligibility Beyond Disability Benefits**

Eligibility for housing units should not rely solely on proof of receiving Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI). Instead, it could be based on medical or functional assessments from healthcare providers, disability

advocacy organizations, or self-reported functional limitations that can be verified through medical or professional documentation.

**4. Inclusivity of Temporary and Invisible Disabilities**

The definition should account for:

- **Invisible disabilities**, such as chronic pain, mental health issues, or neurological conditions.
- **Temporary disabilities**, where individuals may experience impairments that limit life activities for extended periods but are not permanent.

**Sample Broader Definition for the QAP:**

For the purposes of housing eligibility under this Qualified Allocation Plan, a person with a disability is defined as an individual with a physical, sensory, cognitive, intellectual, or mental impairment that substantially limits one or more major life activities. This definition includes, but is not limited to, individuals with permanent, temporary, or episodic conditions that impact mobility, cognition, communication, or self-care. Proof of eligibility can include medical documentation, self-certification of functional limitations, or documentation from a healthcare provider, social service agency, or relevant authority, and is not limited to those receiving federal disability benefits.

This broader approach would ensure the inclusion of people who experience significant barriers to housing access but may not be enrolled in disability benefit programs.

Thank you for this opportunity to submit the State Council on Developmental Disabilities views relative to the QAP.

Sincerely,

Daintry

Daintry Bartoldus< MSW. PhD

Executive Administrator

Hawaii State Council on Developmental Disabilities

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October 25, 2024

Dean Minakami
Hawaii Housing Finance and Development Corporation
677 Queen Street 300
Honolulu, HI 96813

Subject: Proposed 2025 QAP Amendments for LIHTC Program

Dear Director Minakami,

Mahalo for the opportunity to provide input on the proposed amendments to the 2025 Qualified Allocation Plan (QAP) for the Low-Income Housing Tax Credit (LIHTC) Program. On behalf of Kalaniana‘ole Development, a new affordable housing developer with expertise in finance, construction, architecture, and law, we would like to offer insights on several proposed changes that may inadvertently challenge Hawai‘i's affordable housing objectives.

Firstly, the Appendix 2 Design Requirements in conflict with HHFDC's foundational mission to foster affordable housing development. Since 1935, Hawai‘i has recognized the pressing need for accessible housing, initially through Act 190, which led to the creation of the Hawai‘i Housing Authority, now HHFDC. In 1976, Act 225 granted HHA broader authority, embedding flexibility into housing regulations to more effectively address the state's housing shortage. Further, Section 42 of the Internal Revenue Code reinforces prioritizing LIHTC allocations for projects that serve low-income tenants, are situated within qualified census tracts, and align with revitalization efforts—without specifying preference for state-owned properties. Ensuring that the QAP remains consistent with these priorities will help preserve a fair, inclusive approach to affordable housing development across the state.

Secondly, the proposed cap on Developer Fees introduces considerable challenges, especially for larger 4% acquisition-rehabilitation projects. A reduction of up to 50% in fees may force developers to scale down projects to remain financially viable, which risks diminishing overall affordable housing output—a result contrary to HHFDC's mission. More than a source of profit, Developer Fees serve as a critical safeguard against cost overruns and unforeseen market conditions. These fees provide developers with the necessary liquidity to address unexpected challenges, while investors consider this "deal liquidity" essential to ensure stability in fluctuating markets. Projects of higher density with greater financial risk especially benefit from Developer Fees scaled in proportion to the project's complexity. As seen in other states, applying

the cap only to the cash Developer Fee and permitting the remainder to be deferred for future payment could sustain project viability while mitigating risk.

Finally, our primary concern is the timing of these proposed changes, given that the LIHTC application deadline is now fewer than 100 days away in February 2025. Preparing for LIHTC applications typically requires a minimum of 12-18 months of rigorous planning. The recently introduced construction cost limits, effective just 45 days before the submission deadline, pose a significant obstacle to thorough project preparation. For projects that might be disqualified based on these recent cost criteria, is there an opportunity to resubmit without a mandatory year-long delay?

Given these considerations, we respectfully recommend maintaining the existing 2024 guidelines for the 2025 application cycle to provide developers with adequate planning time. Alternatively, efforts could be focused on finalizing the 2026 QAP early in 2025. Should this deferral not be feasible, please find our enclosed feedback regarding Appendix 2 Design Requirements.

Mahalo for your attention to these comments, and we look forward to ongoing dialogue and collaboration to further enhance affordable housing opportunities for Hawai‘i residents.

Warmest aloha,

Patti Tancayo
President & CEO
Kalaniana‘ole Development

October 30, 2024

To: Dean Minakami and David Oi, HHFDC
From: Sandra Oshiro, HYAIT
Re: Correcting comments made by QAP consultant

Please allow us to correct the comments made by your agency's QAP consultant during Friday's public hearing.

Contrary to his statements, we did not claim that the proposed QAP would exclude individuals with disabilities from LIHTC housing. Anyone who carefully listened to our testimony or reviewed our submitted comments would understand that we advocated for expanding the definition of disability to ensure broader eligibility for housing. At no time did we state that the proposed plan would prevent individuals with disabilities from LIHTC housing.

We appreciate that your consultant is not a member of HHFDC and does not represent the agency or its staff, who have actively fostered trust and a spirit of collaboration in our interactions. We value our relationship with the agency and look forward to working together on initiatives such as supportive housing.

Thank you for the opportunity to clarify the public record. We respectfully request that this clarification be posted with other testimony on the agency's QAP landing page.

Sincerely,
Sandra Oshiro
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