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Michael Blade
Tennessee Housing Development Agency
502 Deaderick Street, Third Floor
Nashville, TN 37243

Dear Mr. Blade:

On behalf of the Tennessee Developers Council (TDC), I want to thank the Tennessee Housing Development Agency (THDA) for this opportunity to provide comments on proposed changes to the 2017 QAP. The following comments are given in the order presented from the THDA Proposed Changes Memorandum (the "Memo").

I. <u>Tiers should remain in the county needs score as it ensures greater geographic diversity than the proposed alternative while the other changes are acceptable under certain circumstances.</u>

A. Tiers should remain in the county needs score.

TDC recognizes the need in Tennessee to reduce use of the tiebreaker through creating deeper striation in scoring. We also recognize that the current county needs score system is imperfect in accomplishing this goal. That said, we believe that the proposed change to remove tiers would not significantly impact the tiebreaker and would create additional problems and unintended consequences.

Removing tiers creates the problem of concentrating awardees into fewer counties – resulting in less geographic diversity across the state. Without changing specific scoring criteria, it is also unclear how tier removal would result in fewer ties. In fact, it is likely the same number of ties would exist, thus negating the intended benefit.

While the tiered system is perhaps not a perfect system, absent creating more scoring striation elsewhere in the QAP it is better than the proposed alternative. We suggest THDA research neighboring states' methods for reducing ties and are willing to discuss this topic further. As completely changing the county needs score system to create more diversity amongst scoring seems unlikely in the immediate future, it is our suggestion that the tier system remain as is for 2017.

B. Increasing the weight of pipeline and prior allocation components is mostly agreeable.

While TDC sees no inherent harm in increasing the weight of pipeline and prior allocation components in the county needs score methodology, a consideration should be noted. Specifically, these components may not provide the best metrics for considering need for new units in counties where there have been substantial prior allocations dedicated to preservation projects.

II. Only the Innovation Round should be implemented this year rather than both the Innovation Round and the Scholar House initiative to increase the quality of both programs.

Developing two entirely new time and capacity intensive and untested program areas in a single year may likely impede their overall chances for success. We recommend that THDA consider implementing a just a single new initiative in the coming round so that appropriate staff and community resources can be dedicated to its roll-out, testing and design of evaluation protocols. We believe this is more likely to result in greater acceptance from the development community and more success in implementation.
TDC suggests piloting a single project Innovation Round first. It is important to consider that a Scholar House development could apply for this round in the first year as an innovative development. The possibility of Scholar House projects applying for the Innovation Round also provides for a metric of the demand for Scholar House projects and provides a trial-run experience before creating a Scholar House initiative in the future. This would also provide more subsidy predictability and more financial viability to a potential Scholar House applicant since they would be assured a full allocation (if they won the innovation round) than the uncertain amount of leftover credits potentially available.

III. The Innovation Set-Aside Selection Group should be composed of an independent panel.

As THDA's Innovation Set-Aside was inspired by a similar set-aside in Indiana's QAP, we suggest that, as in Indiana, the Innovation Set-Aside Selection Group be comprised of a panel of experts independent from THDA Staff and Board Members. Several of TDC's developer-members are active developers in Indiana and have found value in an independent non-agency selection group and the outside perspectives that can come with it. Such a system would also alleviate any appearance of preference or unfairness, as this can be a common concern with any subjective determination.

It should also be noted that there is an inconsistency between THDA's recent Memo and the draft language. The Memo states under Part III-B Insert that no more than one eligible development shall receive tax credits from the Innovation Set-Aside, the Memo later states in Part VIII-E Insert that the Selection Group "may select one or more Innovation Set-Aside Applications to receive a Preliminary Award Letter". TDC supports the funding of a single project under the Innovation Set-Aside in its inaugural year.

IV. Rural projects should be added to the list of basis boost eligible developments.

TDC finds no objection in limiting the eligible basis boost to specific development types. We acknowledge that financial conditions have changed dramatically since the implantation of the discretionary basis boost in the HERA legislation and that under current conditions limiting the use of the discretionary basis boost will allow THDA to issue additional awards. However, we find it prudent to add rural projects to the list of eligible developments. The economy has improved significantly since 2008 when a broad eligible basis boost was necessary. That said, rural projects still face unique challenges, like lacking economy of scale and lower market rents that necessitate deeper funding. Moreover, equity pricing in rural markets tends to be less favorable than pricing in urban markets further necessitating the need for access to additional credits provided by the basis boost.

V. <u>The cap on HUD-Designated Qualified Census Tract should remain at 50% as lowering it could disproportionately affect non-RAD/CNI deals in QCTs.</u>

Tennessee's current QAP and the anticipated 2017 QAP places a high priority on RAD and Choice Neighborhood Initiatives projects, most of which projects are be located in a QCT. Given the order of the cascade it is highly likely that RAD and CNI projects combined with the Non-Profit and Preservation set-asides will completely or near completely utilize the proposed 40% aggregate cap on credits for projects located in QCTs. As a result, it is likely that virtually no new construction projects (funded under the general pool) will be located in QCTs regardless of the merits of the project. As such, we do not recommend reducing the QCT cap.

VI. <u>Lowering the per development cap from $1.1 million to $800,000 is sound policy so long as it only applies to the 9% competitive round and more volume cap is dedicated to multifamily bond developments.</u>

Lowering the "per development" cap will facilitate a greater number of preservation transactions. Furthermore, as mentioned in the Memo, this change would encourage large preservation and rehabilitation deals that are better able to leverage the MTBA program. Given the current climate of pricing and low interest rates, and the need for more units, we agree with this change. That said, there is a need for dedicating more volume cap to multifamily bond deals and we hope to see this change as well.

VII. <u>The proposed policy to address "downzoning" unfairly punishes developers and counties interested in developing affordable housing and fails to motivate proper behavior from jurisdictions engaging in "downzoning".</u>

While we applaud THDA's efforts to design a policy solution that discourages jurisdictions from implementing negative NIMBY-oriented zoning ordinances we do not believe that the proposed policy solution offered by the Memo will result in an a positive outcome for affordable housing. 1) It punishes an entire county for what may be the actions of one town within that county, 2) it punishes developers wishing to develop in a particular county due to actions unrelated to those developers, and 3) it creates a policy tool for jurisdictions that do not want affordable housing to ensure future affordable housing will not be funded in their jurisdiction.

A more effective tool to encourage proper conduct from municipalities is rigorous enforcement of the Fair Housing Act through litigation. Litigation may likely be initiated by the injured developer or THDA. For this reason, TDC suggests that THDA look to other state QAPs, such as Texas', where language warns municipalities of the potential liability involved with fair housing issues and encourages them to consult with counsel. We believe that such a measure, for the purposes of a QAP, sufficiently addresses the issue of "downzoning".

County Needs Score Relating to Projects Funded under the RAD Set-Aside

Given that the RAD Set-Aside was created to address the limited time-frame of the RAD resource as opposed to locational need we recommend that projects funded under the RAD set-aside be ranked based on their physical needs rather than the county needs score. Likewise, we recommend that projects funded under the RAD set-aside not county against the otherwise relevant county caps, as they do not create new units or address housing preservation needs in the non-profit and privately owned subsidized portfolio.

Rehab Requirements in the Bond Program

In previous years TDC has expressed our concerns about the tiered-rehab requirements in the Bond Program Description (BPD). The present BPD requires larger projects to conduct a greater amount of rehab irrespective of the needs at the property simply because of the size of the property. We understand THDA has been reluctant in the past to eliminating the tiered approach to rehab requirements. While we have previously recommended THDA adopt an approach that is based solely on meeting requirements as set out in an independent 3rd party Physical Needs Assessment (PNA) we suggest as an alternative, modifying the current tier system in the BPD be revised to so that each tier is scaled against bond authority requested per unit as opposed to total bonds requested. This will make the rehab requirements neutral to the total number of units in a proposed project, which we feel is a fairer metric and will result in more appropriate rehab based on an individual project's needs.

Once again, TDC appreciates the opportunity to provide THDA with this feedback. We would be very happy to discuss any specifics you might have regarding these comments or other subjects of concern. Please feel free to contact me directly with any questions at 202-939-1753 or tamdur@housingonline.com.

Best Regards,

Thom Amdur
Executive Director