NH&RA | NATIONAL HOUSING & REHABILITATION ASSOCIATION

August 14, 2023

Jim Tassos
Deputy Director of Tax Policy and Strategic Initiatives
National Council of State Housing Agencies
444 North Capitol Street NW, Suite 438
Washington, DC 20001

Re: NCHSA Task Force on Recommended Practices in Housing Credit Administration

Dear Mr. Tassos,

Thank you for the opportunity to provide feedback on the National Council of State Housing Agencies (NCSHA) Recommended Practices in Housing Credit Administration (RP). National Housing & Rehabilitation Association (NH&RA) and our members work closely with both NCSHA and Housing Agencies to preserve and develop new affordable housing across the country.

We appreciate the time and consideration that went into crafting the proposed changes and are thankful to NCSHA and the task force for including many of our earlier suggestions. Several of our comments urge the RPs to go a little farther and are made in the spirit of continuous improvement.

RP1: Qualified Allocation Plans. NH&RA and our members are excited about these changes.

RP2: Allocation and Underwriting of Bond Deals. NH&RA and our members are excited about these changes.

RP6: Allocation Procedures and Site Visits. We appreciate the changes and believe that the application process could be further refined by Housing Agencies relying on third party reviews submitted with applications.

For site visits, we urge Housing Agencies to rely on and align their inspection schedule with HUD inspections to help reduce duplication. While a bit outside of the scope of this RP, we also urge Housing Agencies to rely on the statutory language from the Housing and Economic Recovery Act of 2008 which eliminates the requirement for annual income recertifications for 100 percent LIHTC properties.

RP7: Development and Management Experience. Developer experience is often measured by the issuance of 8609s. While we appreciate the changes in RP17, we nevertheless urge states to consider other metrics for judging developer experience, especially in states where the issuance of 8609s can be a drawn-out process. We believe that out-of-state experience using LIHTCs is a more likely indicator of success than in-state non-LIHTC experience and should be ranked as such.

RPs 10 & 11: Facilitating Rural/Native American Housing Development with the Credit. Performing market studies and setting rents in rural areas can be tricky. The National Council of Housing Market Analysts (NCHMA), an NH&RA Council, published a *Best Practices for Rural Rental Housing Market*

Studies White Paper and we urge inclusion in the recommended practices and QAPs. Rent setting can be particularly difficult when market rent is 80 percent of AMI and must be handled thoughtfully with investor and lender input.

RP13: Sustainable Development. We largely agree with the sentiment of this proposed change, but caution that affordable housing is needed in every part of the country. Advancements in construction materials and techniques have dramatically improved the likelihood of those structures surviving extreme weather events and the increased costs of those materials and techniques should be factored into allowable development costs. We fear that this proposed change could disincentive affordable housing in areas where it may be needed most following disaster.

RP14: Ensuring Reasonable Development Costs. NH&RA and our members are excited about these changes. Beyond the list included, we would add that deals with Investment/Solar Tax Credits have a fundamentally different cost structure. We also believe that unit/development type is an important distinction. There is a lot of variation between single-room occupancy, garden walk-ups and a 200-unit deal with several elevators that should be accounted for.

RP15: Developer Fee Limits. NH&RA and our members are excited about these changes.

RP17: Issuance of IRS Form 8609. NH&RA and our members are excited about these changes. We further suggest NCSHA consider a time period for initial review, at which point the agency can detect any deficiencies and allow the developer a similar cure period. We also offer up the accounting concept of a materiality threshold and encourage NCSHA and the states to adopt an industry standard.

We also believe there should be more emphasis on reliance upon professional reports and less duplicative reviews that delay the issuance of Form 8609s and echo the comments of our peers at the Affordable Housing Tax Credit Coalition.

RP19: Operating and Replacement Reserves. We believe these amounts should be determined by investors, lenders and syndicators who have the largest financial stake in these properties. Any state reserve requirements should be scaled to the amount of state resources in a property and include the waiver provisions found in RP14.

RP20: Operating Expense Projections. NH&RA and our members are excited about these changes.

RP22: Minimum Rehabilitation Threshold. NH&RA and our members are excited about these changes.

RP23: Capital Needs Assessment. We agree with the spirit of this change and encourage NCSHA and the Housing Agencies to ensure that CNA providers are equipped to include these types of risks in their assessment.

RP25: Extended Use Agreements. We question the value of providing notice to the local government. In some cases, notice to the local government could trigger increased taxes and prove counterproductive to the goal of continuing to provide affordable housing. This is especially true for properties that plan to operate at Naturally Occurring Affordable Housing.

RP26: Encouraging Preservation with the Credit. NH&RA and our members are excited about these changes. We further encourage Housing Agencies to inventory their entire portfolio and use data to help guide these decisions. We fear that “approaching the end of the affordability period at Year 30” is overly vague and encourage NCSHA and Housing Agencies to begin thinking about preservation in advance of an investor buy out at Year-15. That point represents a natural capital event at the property and could be a time when the agency infuses more resources in the deal to help it reach year 30 and beyond.

RP37: Utility Allowances. NH&RA and our members are excited about these changes.

NEW: Housing Credit Tenant Protections. We ask that the 90- and 120-day notice requirements be shortened. The primary driver for this is the release of income limits and the desire of many housing providers to implement the new limits as soon as possible. The notice periods serve to effectively deny the properties of federally approved increased cash-flow for 3 or 4 months at a time when expenses for housing providers are going up. We also request that these provisions be applied on a prospective basis for projects receiving an allocation of tax credits after such policies have been adopted and that adoption of such policies be made with ample time for public review and comment.

NCHMA. As noted earlier, NH&RA runs the National Council of Housing Market Analysts, which serves as an organizing body that develops standards, ethics and best practices for market study providers. Today, NCHMA is still the only professional body dedicated exclusively to enhancing the professionalism and standards surrounding residential market analysis. NCHMA certification is granted to members who adhere to our Code of Ethics and Standards of Professional Practice and maintain market analysis specific continuing education. NCHMA and NH&RA encourage the adoption of the NHCMA Model Content Standards. Furthermore, we request that NCHMA members be added to Housing Agencies' lists of approved market study providers and encourage Housing Agencies to consider limiting their lists to only NCHMA members.

Relocation Costs. States vary considerably in allowing relocation costs for rehabilitation projects to be included in eligible basis. While we await statutory changes, we believe it is prudent for NCSHA to consider adding a recommended practice that specifies instances in which relocation costs can be included in eligible basis.

Thank you for your consideration of this feedback. We welcome the opportunity to discuss any of these items with you further. I can be reached directly at 202-939-1787 or ksnyder@dworbell.com.

Sincerely,

Kaitlyn Snyder

Kaitlyn Snyder
Managing Director