

2023 Kansas QAP Summary of Comments

KHRC has reviewed and considered all submitted comments, and the final changes made throughout the QAP are an attempt to continue to represent our core values and best serve the affordable housings needs across Kansas. The following is a summary of the comments received and KHRC’s decision and rationale related to the comments. The headings correspond to QAP section headings.

Introduction

Summary of Comments: KHRC should use a multi-year QAP.

KHRC Decision and Rationale: We are beginning the third year of implementation of the new QAP format. The QAP remains an evolving document, and KHRC is still receiving substantive comments on its details. KHRC’s goal is to eventually have a document and process that will not change significantly from year-to-year and can be better used for long-term project planning. It should be noted that during this period of QAP development, we have also navigated a difficult economic and social landscape, including a global pandemic, supply-chain challenges, and historic volatility in construction costs, that would have made a multi-year QAP challenging, if not impossible.

Application/Award Process and Fees

Summary of Comments: KHRC should clearly state when points are awarded for all criteria and release a list of required documentation. KHRC should receive 4% applications on rolling basis or later in the year. KHRC should allow for twinning 9% and 4% credits. KHRC should extend the 90 days construction closing deadline. KHRC should release a more detailed preliminary application evaluation for applicants. KHRC should prioritize CHDOs. KHRC should specify LIHTC type for fees, keep fee percentages the same as previous years and allow compliance fees to be paid upfront.

KHRC Decision and Rationale:

- We understand that clarity of our expectations is critical. We will publish document checklists for each phase of the LIHTC application, and revise the folders in Procorem workcenters in an attempt to make them more intuitive.
- We anticipate a significant increase in 4% LIHTC applications in 2023. To better manage staff time and evaluate applications, we believe that accepting 4% applications three times per year will allow us to meet those goals. We will continue to evaluate whether this plan will best utilize the 4% LIHTC and Private Activity Bonds.
- We extended the closing construction deadline from 90 days to 180 days. KHRC may also grant an extension based on the progress of the Applicant Team.
- We see value in the pre-application process and believe this process assists developers in submitting the best application they can. In the 2023 QAP there is an adjustment in the preliminary scoring pieces with a larger emphasis on factors such as site quality.
- KHRC agrees that rental housing development by Kansas CHDOs should be encouraged. However, we are also charged with making the best use of the resources at our disposal to create the best affordable housing developments across the state. Thus, KHRC tries to balance supporting our strong and active CHDOs with the needs of communities across the state. CHDOs

in Kansas have unique access to HOME Program rental development funds statewide. Note that beginning in 2022, HOME funds are also available in underserved rural communities that do not have active CHDOs). Additionally, most of the Kansas CHDOs that have the capacity to carry out LIHTC developments have submitted successful applications in recent rounds.

- We clarified that LIHTC fees are calculated using the Federal LIHTC award, and added directions to the checklists referenced above. In order to account for the increased staff work that will come with the State LIHTC, and rather than adding a 'State LIHTC fee', KHRC has chosen to implement a modest increase in the federal LIHTC fee. The payment of compliance fees should be discussed with the Compliance Division.

9% LIHTC Limits and Set-Asides

Summary of Comments: KHRC should increase the LIHTC award cap to \$1 million. KHRC should limit the State LIHTC timeline to 5 years. KHRC received comments on principal application & developments underway limits. KHRC should address disadvantages towards rural & CHDO applications.

KHRC Decision and Rationale:

- With the passage of the state tax credit, KHRC will be doing a 100% match of state credits with the federal allocation. We are hopeful that this additional resource will ease the difficulty of putting together a proposal with an \$850,000 maximum. Additionally, larger projects can still be evaluated as Unique Opportunities.
- The structure of the state LIHTC is set by statute. KHRC does not have the authority to change the acceleration, match requirements, or transferability.
- We revised the Principal restriction to be 2 projects per round and having no more than 4 projects in progress at any time. We intend to consider waivers for Principals that are partnering with less experienced Principals so that they may gain experience and capacity in affordable housing development. We also may not allow the maximum number of developments if KHRC is concerned with the progress of current developments.
- KHRC understands that there are challenges with developing new construction projects in rural areas. By committing at least 25% of the 9% LIHTC to rural counties, changing the definition of underserved rural areas from counties to zip codes, and increasing the maximum LIHTC available to a project, we hope to enhance the viability of rural developments. The State of Kansas is fortunate to have strong CHDOs across the state who build quality affordable housing. By making HOME CHDO funds available to those agencies in the areas they serve, we are continuing to prioritize the work CHDOs are doing in their communities.

4% LIHTC Awards

Summary of Comments: KHRC received comments on the number of rounds, underwriting & scoring criteria, and bond allocation cap amount. KHRC should allow for phased developments within the 2-year period as well as define when the period begins. KHRC should clarify the 4% selection criteria.

KHRC Decision and Rationale: The new State LIHTC is expected to have a significant effect on our utilization of the 4% LIHTC and PABs. In an effort to encourage quality projects, best utilize our resources, and manage staff time, we believe that having set 4% rounds, limiting the PAB project approvals to approximately \$75 million each round, and having a 2-year period in which we will not

approve new construction projects within 1.5 miles will be a good start. We will continue to evaluate the QAP and adjust as necessary in future years. For the 2023 QAP, we did adjust to allow a subsequent phase within the 2-year period and clarified the order of priority when selecting which new construction proposals to award based on the comments we received.

Threshold Eligibility

Summary of Comments: KHRC received comments regarding applicant experience, identity of interest with a General Contractor, minimum per unit, incompatible uses, and income and rent targeting.

KHRC Decision and Rationale: KHRC continues to believe there is long-term value in supporting entities that act as both developer and owner of a project. We will continue to encourage those applicants. In response to a specific question, we clarified that the cost certification for General Contractors with an identity of interest with the developer will be due with the final cost certification packet. We received comments that increasing the average hard construction rehabilitation cost per unit to \$40,000 from \$25,000 should be reconsidered. The addition of the state LIHTC will make rehabilitation projects more financially viable than in years past. We have chosen to prioritize proposals with greater need for rehabilitation. We received multiple comments that increasing the rent targeting to 30% of units at 40% AMI in metropolitan counties and 50% AMI in rural counties and requiring the targeting for the 4% new construction deals will make projects more difficult to do. KHRC hears regularly that low-income tenants are unable to use their Housing Choice Vouchers because in many communities, fewer non-LIHTC owners will accept them. We also know that a lack of affordable units available to the lowest income households means that the very low income and extremely low-income households continue to be cost burdened. We expect that the new state LIHTC will allow developments to reduce the amount of permanent debt required, which should in turn allow room for lower income and rent targeting.

Selection Criteria: New Construction

Summary of Comments: KHRC received comments on different point categories including applicant's and principal's experience, underserved areas, quality site, proximity to amenities, below market loans and support, income targeting, senior housing with services, or families, and deeper affordability or homeownership.

KHRC Decision and Rationale: Throughout the New Construction Selection Criteria section, the QAP describes when each point category will be scored: either at Preliminary or Full Application. KHRC believes that entities that both develop and maintain an ownership interest in the property contribute to the long-term viability of that property. We will continue to encourage those applicants. KHRC received comments that the underserved point category in the rural set-aside is a hindrance to the development of much-needed housing. Balancing the housing needs of those communities with equitable distribution of a finite resource is a priority for KHRC. In response to this concern, the lists of underserved areas are now zip code based, rather than county based, for both metropolitan and rural areas. Although this scoring does provide an advantage to underserved areas, it is also true that the majority of recently approved applications have been in areas that are not identified as underserved.

We received multiple comments on the proximity to amenities sections. For this QAP, we have reduced the points available in the section where points are earned in comparison to the other applicants, and have increased the acceptable distance to amenities. Any sites that are .2 miles or less from an amenity

will be evaluated at the same distance. This recognizes that there is little practical difference between 0.2 miles and 0.1 miles. In response to the concern that small rural communities may not have the establishments larger communities possess, we added the ability to get half points for establishments that are between 3 and 15 miles away. We will continue to evaluate whether this change gives appropriate credit to areas where households want to live, while ensuring that they have access to the resources they need to do so.

KHRC encourages applicants to negotiate loans and financial support that benefit the project; however, to earn points, we believe that the requirements outlined in the QAP will help to maintain a level playing field and prioritize funding sources that have mutual interest in community development.

KHRC received a comment that by not providing the additional points for extremely low income (ELI) households we are creating an additional barrier to affordable housing for those populations. We have done this to avoid having rural applicants propose unrealistic income targeting for the sake of getting those points. It is critical that new developments are sustainable long-term without creating future cash flow problems. If ELI housing is needed in a community, we encourage developers to request NHTF and commit to units at that level.

KHRC intentionally gave a small increase in points to general occupancy projects over senior properties. We have seen a disproportionate increase in projects set aside for households 55 and older, and recognize that family housing can bring a different set of operational and management challenges. We have determined that this QAP should provide some encouragement to development teams to consider projects for families.

We received a comment that we should allow conversions to homeownership of duplexes and multiple unit buildings. We will continue to consider this for future QAPs. However, at this time, we are not prepared to make that change.

Underwriting Standards

Summary of Comments: KHRC should allow flexibility in the proforma document, clarify the minimum operating expenses amount, add incentive(s) for CHDOs, create a more accessible basis boost. KHRC also received comments regarding the developer fee.

KHRC Decision and Rationale: For the comments related to the proforma and the operating expense expectations, we will update the Excel Application to address these comments. Applicants that need a state approved Basis Boost for 9% LIHTC projects may request one, and staff will review the request.

We received comments that we should allow larger developer fees on projects. We understand that by allowing a larger fee, it can generate a higher amount of LIHTC, which can be helpful for 4% LIHTC projects. We did update from previous years to allow 5% of the purchase cost of buildings on rehabilitation proposals, and we clarified how the sliding scale will work on new construction. We will continue to evaluate and reassess how these changes impact the feasibility of developments.

As noted above, CHDOs are unique in having statewide access to KHRC's HOME funds. There are a small number of CHDOs with the capacity to carry out LIHTC developments, and most of these CHDOs have submitted successful LIHTC/HOME applications in the past two years.

Post-Award and Compliance

Summary of Comments: KHRC should clarify expectations for the extended use period for resyndications.

KHRC Decision and Rationale: We did not make changes to the resyndication section of the QAP. However, Section VI. Selection Criteria: Rehabilitation details how allocations will be made to rehabilitation proposals. If it appears that rules regarding eligibility within Extended Use Periods are necessary, we will consider that in future QAPs.

Appendix C: Design Requirements

Summary of Comments: KHRC should specify the minimum accessibility requirement calculation, create more opportunities for energy efficiency, and address laundry hook-ups.

KHRC Decision and Rationale: To provide clarification on the minimum accessibility requirements, KHRC has chosen to apply the accessibility requirements of Section 504 to all LIHTC projects regardless of whether Federal funds are involved. Thus, a minimum of 5%, (rounded up) must meet UFAS requirements for physical accessibility, and 2% must have equipment for visually or hearing impaired. KHRC agrees that point incentives for green building certifications could benefit developments by making units more energy efficient and affordable to tenants. However, in a period where construction costs continue to be volatile and the availability of construction materials continue to be an issue, we did not add requirements. Nonetheless, KHRC is supportive of development teams who utilize design components that increase energy efficiency. We continue to take positive steps toward increasing energy efficiency and will evaluate, and consider refining, this requirement in future years.

A question was asked, “does an in-unit laundry hook-up meet the laundry requirement or will the washer and dryer need to be included as well?” As noted in Appendix C Section VII(C), if washers and dryers are not provided in the units, separate laundry facilities are required.

Commenters:

KHRC would like to thank all stakeholders who took the time to review and comment on the 2023 draft QAP:

Scott County Development
Committee Inc.

Kansas Housing
Association, Inc.

Housing Opportunities, Inc.

The Annex Group

TWG

Sugar Creek Capital

Advantage Capital

Post Investment Group

Skyline LLC

Vintage Construction LLC

Cohen Esrey

KDG LLC

Roanoke Construction, Inc.

Dominium

Prosoco

Grant Gaudreau

Greystone Affordable
Development

Belmont Development
Company, LLC

Lincoln Avenue Capital

Mesner Development Co.

Consolidated Housing
Solutions, LLC

U.S. Green Building Council

Lance Windel

Charlee Brown

