

# 2024 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.

## Application/Award Process and Fees

**Summary of Comments:** KHRC should clarify that the five-award limit is for Kansas developments only.

**KHRC Response:** *KHRC updated the language to specify the five award limits is for Kansas developments only.*

**Summary of Comments:** Will the unused bond capacity in round be made available in round two?

**KHRC Response:** *Our intent is to award half of the bond capacity in each round.*

**Summary of Comments:** KHRC should extend the construction closing deadline for 4% new construction developments to 270 days.

**KHRC Response:** *KHRC updated the construction closing deadline to 270 days.*

**Summary of Comments:** KHRC should release the preliminary scores of all applicants during the invitation to the full application round.

**KHRC Response:** *KHRC releases a range of the scores in the applicant's set-aside as well as the basic information of each application at the invitation to the full application round. Applicants may use that information to research the applied sites if they choose.*

**Summary of Comments:** Additional points should be given to applicants utilizing a Community Housing Development Organization (CHDO) so that CHDOs will not lose resources as KHRC allows non-CHDOs to receive HOME funds.

**KHRC Response:** *KHRC did not add additional points for applicants utilizing CHDOs. When reviewing the application scores of CHDO applicants versus non-CHDO applicants, CHDO applicants have been as competitive as non-CHDO applicants. The top scoring 2024 9% applicants all had CHDO involvement. Therefore, QAP scoring as it stands allows for a competitive CHDO application.*

**Summary of Comments:** Zero-interest, forgivable HOME loans are not allowed within the LIHTC and HUD programs.

**KHRC Response:** *KHRC has updated the HOME loans to be low-interest, deferred loans.*

**Summary of Comments:** Nonprofit fees should apply to nonprofits with a for-profit partner.

**KHRC Response:** *The definition of a qualifying nonprofit for the reduced fees was previously stated in past QAPs and is how KHRC currently interprets a qualifying nonprofit and therefore it needed to be stated in the QAP. The reduced fee is intended for active nonprofit CHDOs only.*

**Summary of Comments:** The predictability in compliance fees and any repayment loans are important to the structure of the development and should be clearly defined.

**KHRC Response:** KHRC updated the language regarding additional compliance fees to reference the KHRC Compliance Policy and Procedures Manual and will define the structure of the repayment loans in the Notice of Funding Availability.

## 9% LIHTC Limits and Set-Asides

**Summary of Comments:** KHRC should provide clarification on how the award limitations and role type applies to joint applications.

**KHRC Response:** Joint application scoring is defined in the selection criteria. The limit of total awards applies to any Principal as defined in the QAP Section V(A)(2). KHRC may waive the award for a joint applicant on a case-by-case basis. The roles of the joint applicant should not change and may cause an award to be revoked if a change in role alters how the scoring was evaluated. KHRC will consider the roles of the joint applicant on a case-by-case basis. For consultants, KHRC will consider the scope of their involvement if a waiver is requested.

**Summary of Comments:** KHRC should create a more streamlined approach for distinguishing true rural communities from larger rural & metropolitan communities.

**KHRC Response:** KHRC has a history of being able to award developments in small communities as currently evaluated.

**Summary of Comments:** KHRC should allow the total LIHTC funding to be more evenly spread across the different community sizes.

**KHRC Response:** KHRC receives a limited amount of Federal and State low income housing tax credits and needs the ability to award the best applications, regardless of the rural & metro set-asides. The Unique Opportunity set-aside is included in the percentage and rural and metro awards.

**Summary of Comments:** KHRC should consider a set-aside for developments that include early childhood care.

**KHRC Response:** A development that includes early childhood care may apply under the Unique Opportunity set-aside due to extraordinary market conditions.

**Summary of Comments:** KHRC should allow an extra Unique Opportunity project if the cumulative total of LIHTC is small enough so that special needs housing is prioritized.

**KHRC Response:** The 2024 QAP increases the allowed Unique Opportunity awards from three applications to five. Additionally, supportive housing is a stated eligible reason for an applicant to apply under the Unique Opportunity set-aside.

**Summary of Comments:** Outside of the Unique Opportunity set-aside, priority should be given to ensure that a percentage of LIHTCs are made available for projects that provide housing for special needs populations.

**KHRC Response:** KHRC receives a limited number of Federal and State low income housing tax credits and therefore needs the ability to award the highest quality applications. Supportive housing applications can compete under the Unique Opportunity set-aside.

## 4% LIHTC Awards

**Summary of Comments:** KHRC should remove the “readiness to proceed” evaluation criteria due to the exorbitant investment of resources that would be required prior to application to meet this priority.

**KHRC Response:** KHRC will keep the “readiness to proceed” criteria because it is only one of six considerations KHRC uses to evaluate applications and is not a threshold requirement.

## Threshold Eligibility

**Summary of Comments:** We suggest addressing Principals and their experience under Applicant, Developer, Consultant Experience since the name of the entity may differ by state, application, etc.

**KHRC Response:** This suggestion is currently addressed in the statement, “The involvement of the Applicant, Developer or Consultant may be through a single purpose LLC or limited partnership.”

**Summary of Comments:** KHRC should allow exceptions to the one award limit on Applicants, Developers, and/or Consultants who are new to the state of Kansas. Suggested exceptions include using language from Oklahoma’s QAP, allow support letters from other state agencies, allow awards prior to January 1, 2024, to fall under the in-state developer award limits, or allow a joint partnership with an in-state developer.

**KHRC Response:** KHRC acknowledges the concerns of new out-of-state developers and has updated the limit so that new out-of-state developers are only limited to one award until that development has closed and then the developer may receive a second project. A third project will not be awarded until a complete cost certification has been submitted for the first project.

**Summary of Comments:** The LIHTC Management Experience puts Indigenous Nations at a distinct disadvantage even though they may have decades of low-income property management experience through other federally funded housing programs.

**KHRC Response:** An applicant can partner with a management consultant to meet the requirement. To the best of our ability, KHRC tries to ensure the long-term success of the property and the management entity is a key part of that success.

**Summary of Comments:** What would be the criteria for KHRC to request a third-party review of proposed or actual costs and what metrics would be used?

**KHRC Response:** KHRC may request a third-party review if significant changes in the costs are inconsistent with what KHRC is seeing in other projects. KHRC does not have stated criteria.

**Summary of Comments:** The requirements regarding advertising an accessible unit are burdensome to the management company.

**KHRC Response:** KHRC believes that it is generally considered good practice to provide clear and accurate information about accessible units to make housing opportunities more accessible and inclusive. The

*inclusion of accessibility features in advertisements for accessible units ensures that potential residents with disabilities have accurate information that may aid them in making a decision on whether to pursue tenancy at the particular LIHTC development. This requirement also aligns with the spirit of various fair housing policies which look to, inter alia, promote fair housing choice, eliminate disparities in housing-related opportunities, and foster inclusive communities that are free from discrimination.*

**Summary of Comments:** KHRC should clarify the documentation required for Design Requirements.

**KHRC Response:** *KHRC states the required documentation in the applicable application checklist.*

**Summary of Comments:** We recommend lowering the \$40,000 per unit rehabilitation minimum to the greater of \$30,000 per unit or the scope of work specified in the PNA.

**KHRC Response:** *KHRC did not change the rehab per unit minimum. Critical needs are a priority in our rehabilitation criteria. If a project is unable to meet the minimum per unit, it most likely does not have critical needs.*

**Summary of Comments:** KHRC should provide more guidance on factors that would create an environmental justice concern.

**KHRC Response:** *KHRC updated the language so that an environmental justice concern is defined.*

**Summary of Comments:** KHRC should remove the requirement that “the capacity of all such utilities is adequate to support the addition of the proposed development”.

**KHRC Response:** *KHRC only requires a letter of confirmation from the utility company that the utility will be available at the site. We do not require any type of testing at the state level.*

**Summary of Comments:** The requirement that 30% of the LIHTC units be designated for households at 50% AMI or below should be included in the 40/60 requirement.

**KHRC Response:** *KHRC sees that the ability to offer an additional 30% of LIHTC units at 50% AMI or below is possible by developers and is an important opportunity for deeper income targeting. KHRC will continue to monitor the ability, or lack thereof, in future QAPs.*

## Selection Criteria: Rehabilitation

**Summary of Comments:** Please explain the 310 points criteria.

**KHRC Response:** *The 310 points is explained in Appendix A and incorporated in the Threshold Requirements so that all applicants are able to meet the criteria.*

**Summary of Comments:** KHRC should prioritize properties at-risk of converting to market rate housing, such as properties with an expiring federal HAP contract.

**KHRC Response:** *KHRC has not generally seen that these types of properties shift to market rate housing in Kansas. If that would be the case, the applicant may be able to apply as a Unique Opportunity.*

**Summary of Comments:** KHRC should include federally subsidized housing in the list of selection criteria. Additionally, KHRC should revert back to the 2023 QAP and prioritize project based rental assistance over LIHTC resyndications.

***KHRC Response:*** The priority of units with project-based rent assistance addresses projects with other federal funding sources. KHRC has 4,433 LIHTC units at risk of exiting the program in the next ten years, therefore KHRC is currently prioritizing resyndications ahead of other federal funding sources.

**Summary of Comments:** KHRC should prioritize LIHTC resyndications in year 20 of affordability and beyond.

***KHRC Response:*** A resyndication that is younger than 22 years could be funded, especially if it meets one of the higher priorities such as critical needs. KHRC is simply stating that we prioritize older resyndications first.

**Summary of Comments:** Resyndication projects should be allowed to utilize average income.

***KHRC Response:*** KHRC has received this comment and will continue to evaluate this proposed change until we have enough information to confidentially implement.

## Selection Criteria: New Construction

**Summary of Comments:** The threshold points required for 4% applicants should be lowered since there are fewer opportunities to score points for 4% applicants.

***KHRC Response:*** When establishing the threshold point requirement amount, KHRC researched the feasibility of achieving the 33 points for 4% applicants and found it to be an achievable amount. The threshold point requirement is one way KHRC can implement our goal of prioritizing quality sites for long-term affordable housing.

**Summary of Comments:** Past Performance and Successful Below Market Loans aren't marked "X" in the 4% column, however there is related scoring on both categories immediately listed below the chart, which doesn't exclude 4%.

***KHRC Response:*** The 2024 Selection Criteria chart states which criteria sections applies to 9% and 4% applications. Please use the chart to confirm whether a section is applicable to the LIHTC credit type being utilized.

**Summary of Comments:** We suggest adding language about Principals rather than entities because the entity may differ by state, application, etc.

***KHRC Response:*** KHRC intends to only give points to owners.

**Summary of Comments:** The Previous Experience section should include the developer and their experience.

***KHRC Response:*** KHRC was intentional in excluding the developer from this point category because we value long term ownership and want to offer recognition to those types of ownership structures.

**Summary of Comments:** Out-of-state experience points should be increased to five points, like the in-state category.

***KHRC Response:*** KHRC intends to offer a slight priority to developers with a history of working in Kansas.

**Summary of Comments:** Tribal government funds, the Indian Housing Block Grant funds, and Indian Community Development Block Grant funds should be added to the qualifying Successful Below Market Loans.

**KHRC Response:** *KHRC clarified in the language that tribal housing resources are an eligible type of loan.*

**Summary of Comments:** Nonprofit charitable contributions without a conflict of interest should qualify for Below Market Loans and Support.

**KHRC Response:** *KHRC acknowledges receipt of this comment, but we are not making a change to the QAP.*

**Summary of Comments:** Most Inflation Reduction Act rebates have not been released so the evidence should be “include a plan, qualified team member, and estimated value”.

**KHRC Response:** *KHRC is aware that most IRA rebates have not been released and is unsure how the IRA will be implemented, therefore KHRC is open to changing our evaluation of these types of rebates in future QAPs when we have more information.*

**Summary of Comments:** KHRC should clarify if the additional funding requests are due 90 days before closing or between the 90-day mark and closing. If it is between the 90-day mark and closing, underwriting will be difficult which may cause further delays in closing.

**KHRC Response:** *Additional funding requests are required prior to 90 days before closing. More detail is provided in a project’s Reservation Agreement.*

**Summary of Comments:** Please state how underserved areas are determined.

**KHRC Response:** *KHRC has addressed this comment in the QAP, by stating that any zip code that has received an award in the past four years is excluded from the Underserved Areas point category.*

**Summary of Comments:** KHRC should use a market study to determine if any area is underserved as one project in a zip code does not always mean the need for housing has been addressed.

**KHRC Response:** *KHRC acknowledges receipt of this comment and will research other possible metrics for determining an underserved area in future QAPS.*

**Summary of Comments:** KHRC should revise the Subsequent Phase criteria so that earlier phases may demonstrate a waitlist representing 100% of what would be the proposed phases’ units or show need through the market study.

**KHRC Response:** *KHRC decreased the “less than 5% vacancy” requirement from 12 months to 6 months. KHRC views waitlists as subjective and would like to see a successful first phase to lower the risk of an unoccupied phase II property.*

**Summary of Comments:** KHRC should remove “KHRC may require documentation that land was paid for only once”.

**KHRC Response:** *KHRC acknowledges receipt of this comment and did not make a change to the QAP.*

**Summary of Comments:** KHRC should include either a new section or include Quality Site points that value rehabilitation of existing buildings that are slated for demolition.

**KHRC Response:** *An existing building may qualify for Quality Site points if the proposed project meets the criteria specified in the section.*

**Summary of Comments:** KHRC should measure the proximity of amenities calculation based on driving time rather than distance.

**KHRC Response:** *KHRC acknowledges receipt of this comment and will look into possible alternatives for future QAPs.*

**Summary of Comments:** KHRC should remove the requirement that a single establishment can only qualify for two of the three primary amenities because a tenant may have access to all primary amenities in one establishment.

**KHRC Response:** *KHRC understands the commenter's reasoning, however we want to incentivize developers to find a site in a vibrant community, not just a site with proximity to a large establishment.*

**Summary of Comments:** Tribal government funds, the Indian Housing Block Grant funds, and Indian Community Development Block Grant funds should be added to the qualifying Below Market Loans and should accept agreements to lease as eligible land donations.

**KHRC Response:** *KHRC clarified in the language that tribal housing resources are an eligible type of loan. KHRC acknowledges receipt of the comment regarding agreements to lease but does not find this type of structure to meet the criteria of land donation.*

**Summary of Comments:** KHRC should clarify that if all possible points will be awarded if the loan meets the criteria.

**KHRC Response:** *KHRC added clarifying language regarding how points will be awarded in this section.*

**Summary of Comments:** KHRC should allow 4% applications to receive points for Other Support.

**KHRC Response:** *Although KHRC agrees these types of support benefit the project, we are not making a change to the QAP.*

**Summary of Comments:** Donated land from a nonprofit that has had ownership of the land prior to the preliminary LIHTC application should qualify for this point category.

**KHRC Response:** *KHRC acknowledges receipt of this comment but finds the proposed change to be a conflict of interest.*

**Summary of Comments:** KHRC should clarify the process for sales tax to be exempted by resolution and if it is the local portion only, not the entirety of all Kansas sales tax.

**KHRC Response:** *KHRC added clarifying language regarding the sales tax exemption in the QAP.*

**Summary of Comments:** We request that governments who are also acting as the developer on the project be awarded points in the Community Revitalization Plans section.



***KHRC Response:*** KHRC acknowledges receipt of this comment but views the proposed change as a conflict of interest. KHRC is open to an alternative scoring category in future QAPs to be more inclusive of tribal land structures.

**Summary of Comments:** KHRC should allow senior housing applications to receive the same number of points as family housing applications.

KHRC should provide an exemption on the 3-bedroom point category for existing buildings or allow another point category for these projects.

***KHRC Response:*** KHRC acknowledges receipt of these comments. Projects awarded in 2023 would not have changed if the target populations received the same number of points as the 3-bedroom point category, therefore KHRC will continue to offer a slight priority to family developments since seniors can live in a family project but not vice versa.

**Summary of Comments:** KHRC should provide clarification regarding on the mortgage payment amount requirements, whether rent payments are prohibited from including in the purchase price, and what systems would be considered outdated and in need of replacement for Conversion to Homeownership plans.

***KHRC Response:*** KHRC has updated the language regarding purchase price calculation. All other comments will need to be evaluated further. Repairs or replacement of major systems will be addressed on a case-by-case basis. KHRC intends to partner with the owners on Conversion to Homeownership projects in a manner that allows them to be successful in the long term.

## Underwriting Standards

**Summary of Comments:** Please define the non-CHDO HOME loan repayment terms.

***KHRC Response:*** KHRC will provide the loan repayment terms in the Notice of Funding Availability.

**Summary of Comments:** Please consider adding “2023 and 2024” to the DDA, QCT, & KHRC-Defined Boost section so that if a site is in a QCT/DDA in 2023 but not in 2024 it would still be eligible for the boost.

***KHRC Response:*** KHRC acknowledges receipt of the comment but must follow IRS and HUD guidelines on the timing of DDAs and QCTs.

**Summary of Comments:** KHRC should state all Tribal land is eligible for the basis boost.

***KHRC Response:*** Tribal lands can request a state-defined boost.

**Summary of Comments:** Regarding the maximum on developer fees, KHRC should increase the per unit maximums or use a percentage of eligible basis to set the maximum.

***KHRC Response:*** KHRC acknowledges receipt of these comments, but we will not make changes to the QAP.



## Post-Award and Compliance

**Summary of Comments:** KHRC should charge a fee for projects that exceed the 120-day deadline on cost certification submission.

**KHRC Response:** *KHRC currently addresses developments that exceed this deadline in the form of future application penalty points.*

## Appendix C: Design Requirements

**Summary of Comments:** KHRC should remove or reduce the 30% brick, natural, or manufactured stone requirement for new construction and rehabilitation projects.

**KHRC Response:** *For new construction, KHRC acknowledges receipt of these comments. If a city has a differing requirement, KHRC will address this requirement on a case-by-case basis so that all governmental parties meet their desired outcomes. For rehabilitation, KHRC acknowledges receipt of these comments and removed the requirement.*

**Summary of Comments:** KHRC should remove the requirement that range hoods and micro-hoods be vented to the exterior of the building as it is not a code requirement.

**KHRC Response:** *KHRC has removed this requirement.*

**Summary of Comments:** KHRC should address the energy burden and recent Evergy proposed electric rate increases and the building resilience and extremely hot weather conditions in 2023.

**KHRC Response:** *KHRC acknowledges receipt of this comment.*

**Summary of Comments:** The energy efficiency requirements are easier to achieve with new construction and would require the replacement of all HVAC systems regardless of their condition.

**KHRC Response:** *KHRC currently states that a rehabilitation project is only required to meet the energy efficiency requirements if an item is being replaced.*

**Summary of Comments:** KHRC should add points for projects that achieve a high-performance building certification, such as LEED.

KHRC should consider updating the 2018 IECC requirement to the 2021 IECC.

**KHRC Response:** *KHRC acknowledges receipt of these comments and will evaluate this further to determine if it would be an appropriate category under Previous Below Market Loans and Support in future QAPs.*

**Summary of Comments:** KHRC should address newer water resistive barrier technologies in the footing/slab insulation requirement.

**KHRC Response:** *KHRC updated the language to include other types of water resistive barrier technologies.*

## Commenters:

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

American Community  
Developers, Inc.

Belmont Development  
Company

BNIM

City of Lawrence

Cornerstone Housing Group

CPP Housing

Excel Development

Housing Opportunities, Inc.

JES Dev Co, Inc.

Kansas Housing Association

Lincoln Avenue Communities

Manske & Associates, LLC

Mennonite Housing

Merak Development

MG Real Estate Development

PROSOCO

Stark Wilson Duncan  
Architects, Inc.

The Commonwealth  
Companies

Travois

TWG

U.S. Green Building Council

Vintage Construction