

Wilbourne, Kim 6-9083

From: Robert M. Nettles [REDACTED]
Sent: Friday, August 26, 2022 12:05 PM
To: TaxCreditQuestions
Cc: Alexander, Eric [REDACTED]; Wilbourne, Kim [REDACTED]; Moore, Hank [REDACTED]; Samuel W. Howell; Alan Linkous
Subject: [External] 2023 QAP Comments

All,

I have a few comments to the 2023 draft QAP:

1. QAP Section III.G., page 7. The developer experience requirements need to recognize the months long delays in the bond program. The developers spent months and many thousands of dollars on the projects. Then to have the program suspended for so long and then disqualify developers because of the delay is adding insult to injury. Give them a chance to compete. I recommend the QAP language provide that developers who submitted bond or 42(m) applications prior to December 31, 2021 be grandfathered on 2023 applications so long as they met the 2021 QAP experience requirements.
2. QAP Section J.2, page 9. The appraiser must be able to use any professional methodology to appraise the property. Third party land owners are not innocents waiting with a price sign tacked to a tree. They know that their location scores high for tax credits and charge a premium. They know their sites have special value because of their exact location. To require appraisers to ignore the real world value creates an illusory value. To allow RD-funded developments to use a different method of appraisal reinforces the fallacy of requiring appraisers of non-RD funded being required to disregard the real world value. Both methods are illusory.

SC Housing must make it clear that the appraisal will not be revisited once the application is initially underwritten. The appraiser is a professional, licensed appraiser approved by SC Housing. If there is a valuation problem, the developer, at that time, has the ability to renegotiate the purchase price. To revisit the appraisal, even if an error (excepting fraud, etc.) is found creates unpredictability, undercuts the underwriting process by SC Housing, lenders, equity providers and developers, deprives the developer of the opportunity to fix the problem and can create a substantial financial burden on the developer.

3. QAP Section 10(c), page 14. There should be no need for a housing authority RAD or city-assisted project to be required to obtain a waiver as to this provision. RAD projects require multiple subsidies to be financially viable. HUD provides a 20-year rental assistance contract (not necessarily as high as Section 8). That is it. The housing authority must offer favorable subordinated financing for the project to work, including loans of existing capital funds and long term financing of the purchase of the buildings by the project entity from the housing authority. The indebtedness, in most cases, is low/no interest cash flow 18-20-year balloon and can run into the millions. Also, the City of Charleston has indirectly loaned \$10,000,000 in the last two years to tax credit projects. Housing authorities, cities and counties are willing to donate these funds to the project but to do so generates taxable income to the project owners in the amount of the grant, and since the grant is restricted to building the project, there is no money to pay the taxes. A \$3,000,000 grant generates about \$1,400,000 in taxes and no cash to pay them. So what could otherwise be grant funds are always structured as loans. Changing the sentence to read, "All non-governmental-sourced cash flow loans will be", should fix the problem.
4. QAP Appendix C2.III.flush, page 33. Housing Authority RAD projects should receive a 40% or larger adjustment to state resources. Why does SC Housing show such deference to USDA-RD Housing in the bond program? Virtually, the only rural housing that can use 4% HTC/bonds are USDA-RD rehabilitation pools and they are

financially viable without state tax credits. When the USDA 515 projects were originally built USDA-RD financed 95% of the project cost at 1% for 50 years. When the RD pool is rehabbed USDA-RD increases the long-term Section 8 rents (which can exceed the tax credit maximum rents and improve cash flow), subordinates its debt (75% of the original principle balance is still outstanding at year 15) to any new perm debt, reamortizes its 1% loan to the extended term of the new debt, reducing payments, subsidizes the financing (RD subsidy on its 1% debt is worth about \$40,000 per year (5% mkt rate versus 1% RD rate) for each \$1,000,000 of outstanding principle), and insures the additional perm debt. USDA projects work without state tax credits. Act 202 provides a set aside for 9% program rural projects. They are assured up to 18% in tax credits (state and federal), the special set aside \$4,000,000 in state credits equals at least \$100,000,000 in eligible basis (approximately \$110,000,000 in total development cost) (assuming developers are naive and will not select portfolio or new projects in QCT/DDA's and up the credits to 23.4%). That is \$110,000,000 each year every year. And the QAP gives rural 4% projects dibs on an additional \$12,000,000 in credits, or an additional \$330,000,000 in total development costs. Totals about \$440,000,000 in rural new construction/rehab each year, every year. Can South Carolina responsibly use these credits? Can such quantities of financially viable (and needed?) affordable housing be built? Act 202 mandates the rural set aside in the 9% program only. Do not exacerbate the large rural set aside through the 4% program.

The Housing Authority RAD projects require a 40% or larger adjustment. The HUD RAD program is the only source of funding for housing authorities to rehabilitate their properties. HUD has reduced capital funds previously provided to replace major components, roofs, HVAC, windows, etc. State and Federal housing tax credits/bonds financing are the only viable avenue for the housing authorities to rehabilitate their portfolios of projects. As mentioned above the only contribution HUD makes to the RAD conversion is a 20-year RAD-rent contract. HUD does not subordinate existing debt as does RD. There is none to subordinate. HUD does not provide an interest subsidy or reduce the payments. There is no debt to modify or subsidize. The housing authorities must use their limited funds or ability to assist, such as seller long term financing, as allowed by HUD to supplement the financing. HUD RAD projects need state tax credits. Act 202 requires the special allocation of \$4,000,000 in state tax credits to 9% rural deals. Act 202 does not require the special allocation to any 4% tax credits bond deals. The South Carolina Legislature wrote Act 202 and mandated state tax credits where it felt were needed: in the 9% program which meets the rural needs of smaller projects. The legislature specifically omitted any mandated tax credits for 4% rural projects. The QAP now gives the rural projects the statutorily mandated 9% program \$4,000,000 tax credits and a priority to another \$12,000,000 in state tax credits in the bond program. The legislature spoke. It intentionally was silent on mandating tax credits to rural bond projects. The proper interpretation of the statute would be to avoid any preference for rural 4% projects. The QAP overreaches in giving rural projects any priority to 4% projects. At the same time the QAP ignores the tremendous need of housing authorities to rehabilitate and/or replace existing affordable public housing. Housing Authority RAD projects require a 40% or larger adjustment.

5. QAP Appendix c-2. B. 5. Our firm has a viable financing plan to finance a 60-unit tax credit/bond deal. Please change the minimum size to 60.
6. QAP Appendix C-3, 1 B. 2. Page 34. An extra "only" in the sentence.
7. QAP Appendix E, III. B., III B Twelve (12) Months...after bond closing. Page E-2. At closing bond restrictive covenants required under the bond statutes are recorded. No tax credit restrictive covenants are recorded. At placed in service the bond restrictive covenants are amended to incorporate the tax credit requirements and the separately executed amendment is recorded.
It may be two years from bond closing until the project is placed in service and the tax credit restrictive covenants are in place (recorded). The QAP might be clearer on the required documents.

The SC Housing staff must be commended for the reorganization and revisions for the 2023 Qualified Allocation Plan. A lot of work went into updating the plan and incorporating the comprehensive changes required by the legislature and

JBRC. At the same time the QAP is will organized and presents the Low income Housing Tax Credit Program and its requirements as clearly as possible. A job well done.

Robert Nettles

Robert M. Nettles, Esq.
Howell Linkous & Nettles, LLC
Post Office Box 1768 (29402)
106 Broad Street
Charleston, South Carolina 29401

[REDACTED]
Facsimile: 843-266-3805
Telephone: 843-266-3800 (Main)
[REDACTED]

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