To: Submission Response to Public Comments

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Date: October 22nd, 2020 [Continued Response Updates through October 15th deadline for Public Comments]

Re: 2022 – 2023 Qualified Allocation Plan Public Comments

In developing the Qualified Allocation Plan (QAP), VHFA has opened up multiple rounds of opportunities for formal public comments. VHFA first considered public comments before undertaking draft changes for the QAP in the spring. As the draft QAP became available and Staff held outreach sessions, VHFA staff continued to receive and factor in public comment throughout the drafting process. The QAP has essentially been in draft form since May 2020.

Below are VHFA staff responses to the most recent rounds of public comment. You will see on our website we divided public comments between “Spring Public Comments,” which were received during the initial drafting stages, and “Fall Public Comments” that address continued feedback received in the later draft versions of the QAP. The responses below will focus on the comments related to the later drafts of the QAP and have to been updated to include public comments received through October 15th, 2020 including an additional comment received after the deadline.

Deep Affordability Targeting

During our initial open comment period for updating the Qualified Allocation Plan, several comments included requests that VHFA include deep affordability targeting in the comparative analysis. VHFA staff agreed with this recommendation, and sought to structure a criteria that provided multiple options for accumulating checkmarks through either 50% or 30% AMI units.

The stated goal of the Agency is to create a transparent process for acknowledging the value of units produced that serve households below the maximum Tax Credit rents. Public recommendations included requests to examine the extent to which rents are set below the maximum tax credit rents. This approach was considered, but did not provide the same level of assurance, adherence, or clarity around compliance monitoring relative to the specific election of unit maximum rents at 30-50% AMI.

Staff also received comments recommending a change from previously proposed tiering of the number of units at different AMI restrictions to 30% of the units at 50% AMI. Staff proposed the new structure including the 30% at 50%, further modified since gathering feedback from the October public outreach session, reflecting existing requirements from other funders instead of a totally new affordability target.

Impact of Project Based Rental Assistance

VHFA staff have also proposed removing consideration of Project Based Rental Assistance (PBRA) commitments or existing contracts from the evaluation criteria. While PBRA may be an important tool for a project to achieve deep affordability targeting, the QAP has prioritized focusing on deeper affordability as the intended outcome versus the method of achieving it. Therefore, the QAP no longer explicitly calls for a firm commitment of those resources.

Project proposals that include PBRA as a means of reaching affordability and/or Permanent Supportive Housing (PSH) goals will be analyzed for the feasibility of their request for PBRA, known availability of PBRA, and ability of the sponsor to obtain and implement such an award.

Staff also endorse this approach to acknowledge that projects may be able to reach deeper affordability or PSH goals through resources other than PBRA.

Permanent Debt

Multiple comments presented the idea that encouraging increased debt utilization as a portion of overall project funding stacks is in opposition to reaching other goals in the QAP like housing the formerly homeless. Staff believes the opposite outcome can be achieved. By encouraging projects to focus on different criteria areas, more diverse project paths are possible. Projects that are awarded checkmarks for achieving deep affordability may be less able to earn checkmarks for permanent debt as well. However, that helps ensure we are not incentivizing one model for a preferred funding stack. Projects that demonstrate highly efficient use of scarce resources but cannot achieve the same depth of affordability as a result, can still be competitive with this evaluation criteria option.

Further, Staff based our target debt percentages on historic debt data from the last 5 award cycles. We used the 60th percentile of debt found in projects, taking into account the difference in debt capacity between Chittenden County and other areas of the state. Many projects have been successful in housing the homeless, reaching deep affordability, and utilizing the debt goals we have laid forth in the proposed QAP. A second option for achieving a single checkmark was added under this criteria at lower percentages of debt.

State Rental Credits

Staff considered the public comments, and adjusted some proposed language as a result. VHFA staff sought to make the prioritization of projects receiving State Rental Credits more transparent and formalized through the introduction of clear priorities for this limited resource. By creating four options for prioritization, it will be easier for sponsors to follow project analysis and staff recommendations to the VHFA Board.

VHFA staff acknowledges that two of the priorities support creating net new units and will benefit projects that add new affordable housing units. However, there are two priorities that are equally achievable by preservation and rehabilitation projects. Further, specific to the comments regarding housing formerly homeless households, there are cases where existing projects have taken on new Permanently Supportive Housing units during their re-development. Additionally, sponsors can meet this requirement within their portfolio, making that specific preference all the more achievable by preservation and rehabilitation transactions.

Site Location and Designations

VHFA staff took feedback that the spread in checkmarks between the different designations was disparate. Several community development designations were not appropriately valued in the previous QAP. VHFA staff worked to expand consideration of the various designations while maintaining a commitment to historic settlement patterns and continuing to value dense infill development. The proposed checkmarks are based on those factors, including a gradient approach to various designations based on state statutes prioritizations. After our initial proposal, Staff concurred with a portion of the comments and adjusted the maximum Site Location checkmarks to four, combining into three tiers (instead of four) and keeping the minimum at two checkmarks. Each of the three tiers of designation site locations is within one checkmark of the other – making the gradient scale between preferred site locations less drastic.

Staff maintains that Downtowns and Village Centers will remain the highest priority core designations and receive the highest number of checkmarks available (4), as they support the state's Historic Development Patterns to the highest degree. Meanwhile, New Town Centers and Growth Centers will receive only one checkmark less (3). Dense Infill sites remain eligible to obtain checkmarks (2). The Agency does not recommend any additional metrics to prioritize the specific characteristics of particular dense infill sites at this time.

Staff did consider analyzing population and growth patterns to identify communities that are areas of high housing need but lack a defined community development designation. At this time, Staff were not confident that measurable and defined metrics were available to identify this subset of communities or particular infill sites. We do plan to continue working on this issue. As a moderated step, we have included a loosely defined "growing communities" definition in the State Rental Credit priorities to test different characteristics over the next two years.

Additionally, as this relates to site location and designations, Staff received some comments that some consideration should be given for projects not in downtowns or village centers. The reason for these projects being more on the outskirts of town being that not all families with children want to be in the downtowns or village centers. Again, Staff maintains that core designations are the priority and do not recommend moving away from this established process that keeps with the State goals.

Finally, Staff received public comment for a new evaluation criteria to provide two additional checkmarks for projects in underserved areas, defined as communities with incomes above the state average and very little affordable housing. Similar to the proposed analysis of growing communities references above, Staff will continue to evaluate this proposal as a part of ongoing site location research but have not included a new metric for consideration in this QAP update.

Supportive Housing for the Homeless or At Risk of Homelessness

We agree that over the past number of years, the affordable housing community has responded strongly to the executive order, which requires that 15% of the publicly funded housing portfolio be set aside for individuals or households experiencing homelessness. We also acknowledge that some housing providers have portfolios that exceed this goal. We agree that part of the driver of that response was the criteria to set aside 25% of Housing Credit units as Permanent Supportive Housing.

While we appreciate that there are third party influences on the ability to provide permanent supportive housing, we have not considered reducing the number of checkmarks awarded for this criteria at this time. According to Vermont's most recent Statewide Housing Needs Assessment, housing for the homeless and permanent supportive housing remains a need. We continue to assess how the weight of this criteria impacts the overall number of checkmarks projects receive relative to the available checkmarks for all criteria.

Permanent Supportive Housing Limits

Staff conducted a legal, literature, and best practices review of using housing credits for Permanent Supportive Housing. From a legal perspective, the Agency is aware of the U.S. Supreme Court’s decision in Olmstead v. L.C., where the decision dictates that individuals with disabilities or specialized service needs have an opportunity to live and receive services in an integrated community. There are states that have developed high concentrations of PSH units within properties and geographic areas that have resulted in challenges to their development patterns.

Further, a literature review and best practices implemented in other states range from 20% to 25% as a maximum of PSH units in any given project. Staff initially proposed a 25% maximum on PSH units in 2019, but increased the limit to 30% following concerns raised in the 2020-2021 QAP approval process. The Agency maintains that the Board retains the authority to waive this threshold in some instances for compelling projects. However, Staff continues to believe 30% is a best practice we should strive for in our broader Affordable Housing stock, aside from Transitional Housing developments.

Non-profit Affordable Housing

The non-profit affordable housing network has created safe, decent, affordable housing for Vermonters for many years. This work is admirable and appreciated. Over the past ten “credit years”, 63 affordable housing projects have been funded by the tax credit program. Of those, four were developed by a for-profit developer. Of the $32.5 million of housing credits, just under $2.4 million was awarded to a for-profit developer. That represents 7.3% of the housing credit awards in the past ten years, which is even less than the minimum required by Section 42 to be set aside for non-profits. Based on this history in Vermont, we do not think it is necessary to award additional checkmarks for non-profit project sponsors.

Building Design Standards and Energy Efficiency

The VHCB/VHFA Building Design Standards are meant to replace the old Green Building and Design Standards. VHFA and VHCB worked with a small group of developers, a local architect, and Efficiency Vermont to create a more applicable and attainable standard for projects.

One public comment raised concern with the Building Design Standards language around Global Warming Potential (GWP) Materials and Practices. The language in these standards guides builders to “strive to avoid high GWP products and practices”, which provides some flexibility in the language used. Staff hopes this reply to comment better clarifies and address concerns regarding the cost/benefit relationship of using GWP materials.

Outside of those standards, the QAP still provides a single checkmark to projects which strive for one of two energy goals – Passive House or Net-Zero. While we appreciate the concern that a certification comes with additional process and cost, the Agency is setting a higher bar for obtaining an additional check-mark while using a tangible standard that has clear requirements and guidelines.

Public comments also suggested considering an alternative to Passive House or Net-Zero. The commenter proposes the inclusion of all-electric buildings that come online as being net-zero ready as one such alternative. In a similar vein, Staff took feedback that Net-Zero should receive two checkmarks and be certified by a third party. These proposals have appeal, and our research has begun exploring these requests further. However, time limitations ahead of the QAP's drafting mean this research is still in mid-process.

Universal Design

Staff received feedback that the change in the QAP language relating to the Universal Design Policy is not reasonable. The current QAP notes projects shall attempt to provide as many elements as possible, whereas the proposed QAP under consideration has language stating that all projects and units are required to meet the Universal Design Policy. Of note, the Universal Design Policy itself states that "all projects shall attempt to provide as many elements of Universal Design as possible", meaning that while the language of the QAP is proposed to change, the application of the policy remains the same based on the language of the Universal Design Policy.

Underwriting

Staff received feedback from one sponsor concerning the consistency of underwriting by the Agency. They expressed concern that projects are not evaluated using uniform criteria. They cited the following examples: different projects might be allowed to use different trending rates; some projects have all of the cash flow going to the owner; others have restrictions on cash flow and reinvest most of the cash flow back into the project. Staff tries to provide uniform underwriting by following VHFA's underwriting guidelines. There are times that sponsors can vary from these if their investor or the lender recommends it.

VHFA's policies do not regulate where excess cashflow is used. So long as a project has sufficient access to reserves to address operating deficits and capital projects our requirements have been met. It should be noted that VHFA's underwriting guidelines are in the process of being updated.

Age-specific Housing

Staff received one comment requesting that the QAP be changed to eliminate new age-specific housing developments. While staff appreciates this comment, staff continues to support the development of some age-specific housing to address the needs of the population, and to address the desire of some older households to live in age-specific housing projects.