



BRIAN SANDOVAL  
*Governor*

## STATE OF NEVADA

### DEPARTMENT OF BUSINESS & INDUSTRY HOUSING DIVISION

7220 Bermuda Rd. Suite B Las Vegas, NV 89119  
1535 Old Hot Springs Road, Suite 50 Carson City, Nevada 89706

Phone: (775) 687-2040 or (800) 227-4960

Fax: (775) 687-4040

TDD Number (800)326-6868

[www.nvhousing.state.nv.us](http://www.nvhousing.state.nv.us)

BRUCE BRESLOW  
*Director*

BRUCE JOHNSON  
*Administrator*

## Questions & Answers 2014 QAP and Universal Funding Application

April 15, 2014

The following addresses questions presented to the division. These are provided to add clarity to content within the 2014 Qualified Allocation Plan (QAP). As in all cases, the IRC and clear language from the QAP would prevail on any issue regarding interpretations below.

### Accessing the Funding Application

Q: For the past few years NHD has released the password to the Funding Application because there are input cells too small for the input requested. Can the division release the password to help developers complete the auction?

A: NHD is releasing the password of the Word part of the application. Contact Mike Dang with any technical issues discovered when completing the funding application.

### Efficient Use of Credits (Superior Project Category)

Reference language:

SECTION 14.12 SUPERIOR PROJECT/APPLICATION POINTS

“A. Project is anticipated to most efficiently use tax credit resources as measured by multiplying 1.5 persons per bedroom x # of bedrooms divided by the amount of tax credits requested. One project selected to receive points per geographic/USDA set aside”

Q: What formula has NHD decided to use under Section 14.12 (A) (p 61) for studio units? Will this modification be posted to the Division's website in advance of the application due date?

A: Studios will be scored as 1.0 persons x # studios, or 1.0 person per studio.

Q: The resulting fraction is very small using the above approach. For example, for an exclusively one-bedroom project,  $100u \times 1br \times 1.5 \text{ pp/bd} / \$1,000,000 = 0.00015$ . Please confirm that we are calculating the formula properly.

A: That is the correct use of the formula.

### Market Study Criteria

Reference language:

“Appendix B, Market Study Guide provides more detail regarding Market Study content and analyst qualifications.” 2014 QAP, page 38, Section 13 Pre-Scoring Threshold Requirements

Q: The 2014 QAP references an Appendix B for the Market Study criteria. Will you be updating that for 2014?

A: The same Market Study criteria will be used for 2014 as was in place for 2013. The Market Study Appendix B document will be posted to the web with a MS Word part and the Excel part will be added to the existing 2014 LIHTC Application Excel Part on the QAP website.

### **Nevada Based Applicant**

Reference language:

B. Applicant/Co-Applicant maintains at least one full time employee at an in State office to ensure that a member of the general public may visit the office to substantively discuss matters relating to the project with one of the persons identified in (A.) above as well as the project representative identified within the application.” 2014 QAP, p 58

Q: The 2014 QAP now requires a full-time nonexecutive employee at an in State Nevada office. When does the applicant have to have such a person employed? At the time of the filing of the application, and the time of the award, at or near the time the apartments begin to be leased or some other time?

A: The applicant must have such a person at the time of the filing of the application.

### **Phase I Environmental**

Q: Would you allow [applicant] to use a March 2011 Phase I Environmental to meet the 2014 LIHTC Application Phase I Environmental requirement? Should [applicant] receive an allocation, a new Phase I Environmental, or at least an update, would be performed as an investor requirement prior to closing.

A: Yes, for application purposes, you may use that Phase I Environmental Site Assessment. Should [applicant] receive an initial allocation then a new Phase I ESA, or at least an update, will be required prior to any award or to closing per the Administrator’s discretion.

### **Projects for Individuals**

Reference language:

SECTION 11 ELIGIBLE PROJECT CATEGORIES, A. Projects for Individuals.

See, also, SECTION 14.13 PROJECT TYPE PRIORITIES, page 63

C. Projects for Individuals and Incomes at or below 45% AMI

These projects will be ranked based on the average residential per unit square footage included in the project. In the event that two or more projects within this project type category have the same square footage, the Division will break the tie by determining which proposal leverages the greatest level of non - Tax Credit funding. This will be determined by dividing the total amount of Tax Credits requested by the total project costs. The project with the lowest percentage of Tax Credits to total project cost will be the successful project.

Q: Is the category “A. Projects for Individuals” an active category? If so, how are points given?

A: This is an active category. It contemplates senior tenants 55 years of age and older. Section 14.13 describes how points will be given.

The application with the highest per unit square footage in the project will receive 10 points; the second highest scoring project will receive 5 points.

### **Reservation Fees for 4% Projects**

Q: For 4% tax credit projects are reservation fees due 14 days after the reservation letter?

A: No. Reservation fees are due at the time of cost certification.

## **The 10% Test**

Reference language:

### **Section 5 Acquisition/Rehabilitation/Conversion of Existing Buildings**

#### **Sub-Section A Acquisition Information**

Provide the information listed below concerning the acquisition of building(s) for the project.

Building(s) acquired or to be acquired from  Related Party  Unrelated Party

**(All must pass 10% test)**

Q: Please describe the 10% test referred to in the following excerpt from the Word part of the Funding application:

A: The 10% test statement was adjusted upwards to 50% in 2008/2009. See the HERA footnote on page 11 of the 2014 QAP. It states “Public Law 110-289 adopted July 30, 2008 also known as the Housing and Economic Recovery Act of 2008 (HERA) Sec. 3003 (e) provided for a simplification of the related party rule and allowed a prior owner (or owners) to own up to 50% of the ownership interest in the property.”

Whether the building’s cost may be included among eligible costs under an acquisition scenario requires a more lengthy analysis than will be addressed here. Applicants seeking credits for the acquisition costs of an existing building should carefully review IRC §42, including §42 (d)(2) Existing Buildings as well as 26 U.S. Code § 267(b) Relationships.

## **Upgrading Equipment or Appliances**

Q: In the 2012 LIHTC round, a developer received one point for “Energy Star qualifying ...gas condensing hot water heaters...” as described in Section 27 F of the 2012 QAP. After further review by their energy expert they requested permission from NHD to upgrade their approach above the 2012 requirement by substituting a commercial water heater with a thermal efficiency of 94% or higher, which was in fact added as an option to the 2013 QAP. Does this upgrade satisfy NHD requirements?

A: NHD will approve this type of upgrading change if the Nevada State selected energy consultant (Barbara Collins as of this writing) confirms in writing (preferably in a letter to the NHD) that the water heater meet the underlying purpose of the point given in the QAP.

## **USDA-RD Set-aside**

Q: Does using a USDA 538 loan as the principal source of financing for a rural tax credit application qualify for the USDA-RD set-aside as defined in the Nevada QAP?

A: An applicant can qualify for the USDA-RD set-aside pursuant to the terms set forth in the Nevada QAP regarding the USDA-RD set-aside. Using a USDA 538 loan as the principal source of financing is an acceptable method.

## **Veterans**

Q: Our attorney is concerned with the language in the QAP regarding the veterans preference and the risk of it being considered a set aside. Can the Division confirm that the language in the QAP regarding the veterans preference is indeed a preference and not a set aside?

A: The language in the QAP regarding the veterans preference is indeed a preference and not a set aside. The division developed the veterans language in the QAP intending it to be construed as preference language. However, as the language in Section 14.13 F. Housing for Veterans reads “Projects setting aside the highest percentage of units” it has caused some confusion. Consequently, NHD will treat commitments in this area as preference commitments and not set aside commitments.

NHD will also not require this to be a preference for any specific, identified units, such as units numbered 100-109 out of a 100 unit property. The preference will be analyzed as a percentage of the overall total restricted and unrestricted units.

Q: How will NHD determine and allocate points in this category?

A: NHD will look at the Veterans percentage preference level being committed to by the applicant. NHD will also review marketing plans to determine the reasonableness of the plan and planned effort to attract the percentage of veterans the Developer commits to. Developers may well seek to draw a higher proportion of veterans within as well as outside their primary market area. The Developer's marketing plan should reasonably support their veterans' preference commitment level.

1. *The objective of this request is to enable NHD to better distinguish between competing applications committing to the same percentage level.*
2. *By marketing plan NHD contemplates a simple marketing explanation of how the applicant envisions achieving or approximating achieving their preference commitment level. This could be a few sentences to a paragraph or more.*
3. *For those who've sent in their applications feel free to send in a separate sheet with this marketing explanation which we can add to your application.*

Q: Are Veterans preference points planned to be awarded statewide for only one project potentially receiving 7 points, one receiving 5 points and one receiving 3 points?

A: Awards of 7, of 5 and of 3 points are contemplated to be awarded in each QAP geographic territory as shown on page 11 of the 2014 QAP and in each project type within each such geographic territory. If there is competition within the discretionary accounts, then points will be awarded within each discretionary account.

Q: What will the compliance scheme look like for this category?

A: Developers will be required to provide evidence of how they marketed, promoted and effectuated their preference commitment for veterans.

NHD compliance audit investigators will review Developers' marketing plans and all documentation showing their attempts to reach the preferred population. This should include advertisements in local newspapers, brochures and/or flyers to local organizations that provide services to the preferred population, civic groups that the preferred population would be likely to participate in, local Health and Human Services Offices and the local Veterans Administration Office and Hospital if that is the preferred population.

Although there is no specific time limit for holding units open Developers must continue their targeted marketing during the entire affordability period to remain in good standing with the division and to protect the preference points they received at time of application.

For example, suppose a developer commits to a 10% preference to qualified and interested veteran applicants. If an apartment is available, but no qualified and interested veteran has applied, then the owner or manager is under no obligation to set aside the unit until a qualified and interested veteran does apply.