

U.S. Virgin Islands
2023 Qualified Allocation Plan
Public Comment Process
Comments Received/ VIHFA Responses

VIHFA 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 address the affordable housing needs across the Virgin Islands. The following is a summary of the comments received and VIHFA's decision and rationale related to the comments. The headings correspond to the QAP section headings.

Section IV. Primary Allocation priorities

Summary of Comments: VIHFA should add replacement of housing destroyed or significantly affected by natural disasters to the list of primary allocation priorities.

VIHFA Decision and Rationale

Given the urgent need to replace housing destroyed or significantly impacted or damaged by natural disasters, VIHFA will add the item to the list of priorities enumerated in Section IV of the QAP.

Summary of Comments: Readiness to Proceed is averse to projects that are using FEMA or CDBG-DR Funds. These funding mechanisms typically take longer to implement, and they have a disadvantage when competing against typical LIHTC projects.

VIHFA Decision and Rationale

- VIHFA understands the complicated nature of projects using FEMA or CDBG-DR funds, nonetheless, given the severe shortage of safe, decent, and affordable housing, we believe that readiness to proceed is an appropriate criterion to use in determining priority for the allocation of LIHTC.
- It is important that VIHFA selects projects that have the best chance of meeting the statutory placed in-service deadline to avoid the loss of credits.
- When contemplating the submission of an application, applicants should review the Project Phase Requirements outlined in Appendix A of the QAP to help determine project readiness.

Summary of Comments: VIHFA should explain how cost containment will be measured in the current environment.

VIHFA Decision and Rationale

- VIHFA acknowledges that construction cost in the Virgin Islands is higher than in the mainland United States for a myriad of reasons and thus cost containment is key to the development of affordable housing.
- It is essential that VIHFA's review includes consideration of the applicant's implementation of cost containment measures as a factor when awarding scarce LIHTC resources.
- VIHFA will use the amount of LIHTC requested per unit as one of the measures of cost reasonableness. Emphasis on cost reasonableness is recognized as a cost containment strategy.
- VIHFA will also compare the per square foot total project cost and per unit total project cost of projects of similar type (that is - new construction, substantial rehabilitation, or minor rehabilitation) and on the same island against each other as another means of measuring cost containment.
- In addition to assessing cost reasonableness as a way to help contain cost, VIHFA expects developers to control cost by managing labor, material, and overhead costs to ensure the project is completed within budget.

Section VI. Key Program Policies

Summary of Comments: VIHFA should allow applicants to submit two or more applications if the additional proposed project has a commitment of FEMA funds.

VIHFA Decision and Rationale

Given that FEMA funds are an essential component of addressing the Territory's critical housing needs via the substantial rehabilitation or replacement of storm-damaged properties, FEMA funds will be added to the list of funding sources for which a project sponsor will be granted an exception to the one project rule outlined in Section VI.A.

Summary of Comments: VIHFA should explain how cost reasonableness will be evaluated in today's environment. There should be a fair criterion. Determination of reasonableness should be restricted to on-island cost comparisons only. Costs of alternative energy costs should be considered and not penalized.

VIHFA Decision and Rationale

VIHFA will use, among other things, the following factors to help determine cost reasonableness:

- Reviewing cost for reasonableness will help VIHA avoid providing too much or too little LIHTC. VIHFA will obtain a cost breakdown of all project cost and will review each element making up the project for cost reasonableness.

- VIHFA will compare the cost elements with a third-party, fair market price quotation, or conduct its own analysis using cost estimating manuals appropriately adjusted for local conditions or services.
- VIHFA will take into consideration unique factors such as extraordinary site costs, extraordinary green energy efficient construction, the size and complexity of the project, and the risk and location of the project when assessing a project's cost reasonableness.
- VIHFA will pay particular attention to any cost element that will be carried through a non-arm's length transaction.

Section VII. Application process

Summary of Comments: Sponsors in good standing should be allowed to submit a second application if it is determined that a second application round will be conducted.

VIHFA Decision and Rationale

An applicant may submit a second application, but, pursuant to Section VI.A of the QAP, no applicant may receive more than one 9% project reservation in a single year unless the project qualifies for one of the two exemptions outlined in this Section.

Summary of Comments: VIHFA should state the application fee (\$2,000) for submission of the 4% application in the QAP document.

VIHFA Decision and Rationale

VIHFA will include the application fee for submitting a 4% application at Section VII. C of the QAP.

Section IX. Scoring

Summary of Comments: Property management experience - Maximum points should be awarded to applications that include experienced LIHTC management companies and who partner with a local USVI management firm to increase the local management capacity in the Territory.

VIHFA Decision and Rationale

Given VIHFA's commitment to increasing the capacity of locally-based companies whose principal office is in the Virgin Islands, the scoring for management experience will give preference to management agents based on experience, performance, satisfaction of LIHTC training/certification requirements, and who partner with a local management firm that is acceptable to VIHFA (duly licensed, in good standing, experienced in management of multifamily properties and whose principal office is in the Virgin Islands).

Summary of Comments: Energy Efficiency - Bonus points should be added to reward projects with alternate energy systems that allow the development to provide less expensive power, relieve stress on the Territorial grid, and provide energy independence.

VIHFA Decision and Rationale

VIHFA recognizes the importance of energy efficiency and green technology, and thus, 10 points will be awarded to projects that promote energy efficiency/green building technologies.

Summary of Comments: Energy-independent project should be favored in the tie breaker.

VIHFA Decision and Rationale

- As stated above, VIHFA recognizes the importance of energy efficiency and green technology, and 10 points will be awarded to projects that promote energy efficiency/green building technologies. VIHFA maintains that the inclusion of energy efficiency/green building technologies in the scoring evaluation criteria is sufficient.
- The tiebreaker outlined in the Draft QAP is designed to ensure that VIHFA selects projects that are the most cost-effective.

Summary of Comments: VIHFA should clearly state what documentation will be acceptable for certification of Homeless status. Also, this is a population that requires more substantial supportive Services. There should be some consideration for these expenses in both the Development Budget and operating budget that does not negatively affect scoring.

VIHFA Decision and Rationale

- VIHFA will require property management to follow the Recordkeeping Requirements found in HUD's ESG Homeless Definition guidance (exhibit) when certifying homeless status of tenants. Any of the listed documentation will be accepted.
- Expenses associated with the provision of supportive services will be considered when assessing a project's cost reasonableness.

Summary of Comments: A hybrid development team that includes local and mainland partners should be able to score the maximum point in this category. These types of Partnership enhance the capacity of development firms on the island.

VIHFA Decision and Rationale

Given VIHFA's commitment to increasing the capacity of locally-based companies, the scoring for developer experience will give preference to development teams based on experience, performance, satisfaction of LIHTC training/certification requirements, and inclusion of a local developer (individual or firm whose principal office is in the Virgin Islands) that is duly licensed,

in good standing, and has some experience in the development of affordable housing in the Territory.

Summary of Comments: Tenant Homeownership should be eliminated. It will be nearly impossible for the tenants to prepare a unit for homeownership that is likely to be acceptable to mortgage providers.

The Developer also would not be required to expend resources to assist in this matter. This may also be a significant impediment for investors.

VIHFA Decision and Rationale

- VIHFA is committed to promoting homeownership for the citizenry of the Virgin Islands. Providing bonus points for developers who share this vision is a part of this effort.
- It is not unusual for Extended Use Agreements for LIHTC properties to include a provision requiring a homeownership option for residents at the end of the 15-year compliance period.
- VIHFA recognizes that creating a workable homeownership option for LIHTC developments is difficult, and that those that achieve success have some common features.
- Developers and housing finance agencies have sought guidance from the IRS so they could extend the affordability requirements in homeownership form at the end of the initial 15-year compliance period. The IRS responded this year with Private Letter Ruling 207703024, which acknowledges that the right of first refusal to purchase a unit granted to each tenant as part of the condominium plan satisfies the requirement of Section 42 of the IRC. This ruling must be looked at on a state-by-state basis, but it may provide an exit strategy for tenants, new homeowners, finance agencies, and developers.

Section X. Disqualifications

Summary of Comments: (d) 10 years seems like a long time.

VIHFA Decision and Rationale

- VIHFA will amend Section X (a) to state that it may disqualify any owner, principal, or management agent who has been debarred in the past three years by any federal or state agency from participating in any development program for five (5) years.
- VIHFA will amend Section X (a) to state that it may disqualify any owner, principal or management agent who has received a limited denial of participation within the past 12 months from participating in any development program for five (5) years.

Summary of Comments: (g) The reference to 2530's should be deleted as it does not apply.

VIHFA Decision and Rationale

- The VIHFA is intentional about ensuring that LIHTC are not awarded to project applicants that have been disqualified (suspended or debarred) from participation in federal housing programs due to previous unresolved noncompliance.
- Further, VIHFA understands that the Form 2530 is used by HUD to determine if a project applicant meets the standards established to ensure that all principal participants in HUD projects can be expected to honor their legal, financial and contractual obligations and are acceptable risks from the underwriting standpoint of an insurer, lender or governmental agency; therefore, VIHFA will review the HUD 2530 information (Previous Participation Certification) for applicants whose project includes HUD financing or who indicate previous participation in HUD or FmHA housing programs as part of its vetting process.

Section XIII. Projects financed by Tax Exempt Bonds

Summary of Comments: Inducements are not likely to be available to submit with the application.

VIHFA Decision and Rationale

An Inducement Resolution is not required to be submitted with an application for tax-exempt bond financing.

Appendix C – Final Allocation Requirements

Summary of Comments: An “As Built” Certification is usually provided by the Contractor.

VIHFA Decision and Rationale

- VIHFA recognizes that architects assume a substantial risk in preparing “as built” documents.
- VIHFA will amend the language at #5 to state “Drawings red-lined by Contractor/Builder outlining all changes and modifications made during the construction of the project. The drawings shall bear the contractor’s name & date and shall clearly identify the drawings as ‘red-line drawings for as-built preparation purposes’”. VIHFA will also add a new Item as follows: “5a. An as-built survey completed by a surveyor showing the actual location of the completed improvements on the property”.

Summary of Comments: VIHFA should clarify the requirements relative to Certification of Tax Credit management designation and training. Who is required to have the training, through what firm will the training come from, and what training is acceptable?

VIHFA Decision and Rationale

- LIHTC tax credit certification will be required for any staff who are engaged in determining if an applicant is eligible for LIHTC housing and if the property complies with the various rules of the LIHTC program as set forth by the IRS and HUD.
- VIHFA will accept certification from any number of nationally recognized LIHTC training providers including but not limited to, the National Center for Housing Management, Quadel, US Housing Consultants, Nan McKay, and Spectrum, provide tax credit certification.