

## Amendment to Georgia Housing and Finance Authority's 2020 Qualified Allocation Plan

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Updated June 11, 2020 to reflect final Board-approved Compliance Performance amendment.

Updated June 17, 2020 to reflect COVID-19 Interim Policies.

The Georgia Housing and Finance Authority (GHFA) and the Department of Community Affairs (DCA) have released amendments to the 2020 Qualified Allocation Plan (QAP). The amendment details are posted to the [DCA website here](#).

### QAP Approval and Amendment Process

DCA approved the 2020 QAP after extensive public consultation including three public hearings, one through an online webinar as well as in-person hearings in Atlanta and Dublin, and a thirty-day public comment period. The 2020 QAP was approved by the Georgia Housing and Finance Authority (GHFA) Board of Directors on November 13, 2019 in Moultrie, Georgia and by the Governor of the State of Georgia on December 17, 2019. In the spring of 2020, DCA staff determined the need to update one selection criterion.

*Core Plan, Section 21* in the 2020 QAP details the process by which DCA may amend the QAP:

*“The Governor recognizes and acknowledges that DCA will encounter situations which have not been foreseen or provided for in the Plan and expressly delegates to DCA the right to amend the Plan, after the public has had the opportunity to comment through the public hearing process...”*

*Section 21* further details the approval process for amendments that are administrative in nature:

*“The Commissioner of DCA, acting as Executive Director of GHFA, is also granted the authority to make minor modifications to the Plan to clarify provisions and correct inconsistencies. Such modifications include but are not limited to changes in Application Submission date or any other deadline listed in this document.”*

### Administrative Amendments: COVID-19 Interim Policies

In response to delays caused by the COVID-19 pandemic, DCA adjusted deadlines for the 2020 9% Housing Tax Credit competitive round. Prior to the formal administrative amendment process, changes pertaining to the initial application submission deadline were communicated to the public by email and through the COVID-19 Interim Policies posted to the DCA website ([click here](#)). For certain deadlines in the months following the initial application submission deadline, the DCA Commissioner approved additional extensions. These pertain to non-DCA

financing notifications, evidence of progress for HUD’s floodplain management “8-step process,” and DCA underwriting. All amendments are reflected in the QAP excerpts at the end of this document.

## Compliance Performance Amendment

In *Appendix II Scoring*, the 2020 QAP as signed by the Governor stated that Project Teams and Principals directly or indirectly involved in the General Partnership and/or Development entity of non-performing projects would receive point deductions. The provision’s intention was to deduct points from only those applicants who were materially involved in the development and/or ownership of non-performing projects. Recognizing that the terms “Project Team” and “directly or indirectly involved” are both vague and broad, DCA proposed to clarify this language to better match the provision’s intent.

### Public Input

DCA announced the amendment proposal on April 13, 2020 and received written comments through April 20. DCA held a public hearing on April 20. To comply with Georgia Department of Public Health guidelines related to large gatherings during the State of Emergency, this DCA public hearing was held virtually.

### Impact on 2020 9% Housing Tax Credit Competitive Round

The amendment does not impact how applicants should prepare their 2020 9% Housing Tax Credit submissions.

The amendment will impact how DCA conducts its application review. *XIX. Compliance Performance*, under the 2020 QAP as signed by the Governor, draws on applicant information collected under *Threshold, XIX. Experience, Capacity, and Performance Requirements for General Partner and Developer Entities*. Recognizing that these *Threshold* forms as available during the Pre-Application process did not reflect the amended language, DCA will request the relevant information as needed through the clarification process described in *Core, 18. Evaluation of Competitive Applications*.

## Amended Pages from QAP

The 2020 QAP posted to the DCA website has been updated to reflect all amendments described above. The pages that follow are only those pages that differ between the QAP as signed by the Governor and the QAP as amended. All amendments are reflected as redlined text.



## **SECTION 15. SUBMISSION REQUIREMENTS AND AWARD LIMITATIONS**

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### **A. Pre-Determinations**

1. **DCA HOME Consent:** Applicants that will utilize DCA HOME funds as a funding source in a 2020 competitive Application must obtain DCA's consent during the pre-application process. Applicants must submit all required documentation for DCA review and approval (see Exhibit A for DCA Pre-Application Deadlines and Fee Schedule).

#### **2. Pre-determinations and Waivers:**

- a) Architectural Standards waiver (See exception below)
- b) Operating expense waiver
- c) State basis boost – extraordinary circumstances only
- d) Project Team Qualification Determination
- e) CHDO Qualification and Capacity review

All of the above-listed waivers must be submitted at the pre-application stage. For Project Team qualification review timelines, see XIX. Experience, Capacity, and Performance Requirements for General Partner and Developer Entities in Appendix I. Threshold.

### **B. Application Submission Requirements.**

#### **1. Date and Time of Application Submission:**

- a) 9% Applications. DCA will conduct one Competitive Application cycle for 9% Credit and HOME Loan funding resources during 2020. Only Electronic Applications will be accepted. To mitigate unnecessary exposure to coronavirus, 9% applications must be received via FedEx, USPS, or UPS by the applicable Phase 1 and Phase 2 deadlines below. No in-person submission will be accepted. After this date, the Application Submission process will be closed, and irrespective of any extenuating circumstances, no Applications will be accepted, and Applications must be delivered by the deadline to:

Georgia Department of Community Affairs  
Housing Finance and Development Division  
60 Executive Park South, N.E.  
Atlanta, Georgia 30329-2231

The 2020 competitive round will be conducted in two phases.

- The complete Phase 1 electronic submission Application must be received on or before June 18, 2020. This submission comprises all Application documents except those identified for the Phase 2 submission below. is due at DCA by 4:00 PM on May 21<sup>st</sup>, 2020. DCA will not accept any Applications after this date and time. At 4:00 PM, the Application Submission process will be closed, and irrespective of any extenuating circumstances, no Applications or portions thereof will be accepted.
- The Phase 2 electronic submission comprises certain Application documents related to local government approval. Documents approved for the Phase 2 submission are indicated on the April 29, 2020 update to the Application Tabs checklist posted to the DCA website. These documents must be received on or before July 31, 2020.

If FedEx, USPS, or UPS does not meet the delivery deadlines above as paid for and DCA receives the delivery subsequent to either of the above deadlines, the Applicant must be prepared to show that the

package was mailed no later than the day prior to the applicable phase's deadline and that the Applicant paid for overnight and/or one-day delivery.

The use of a third party or common carrier to deliver the Application does not relieve the Applicant of its responsibility for meeting the Application Submission deadline. Consequently, there will be no exceptions to this deadline.

- b) ***4% Applications.*** 4% Tax Credit Applications for Bond Financed Projects can be submitted throughout the year subsequent to Bond Allocation, but no later than seventy-five (75) days prior to bond closing date, and are subject to applicable criteria set out in the Core Plan, Threshold Criteria, Core Application Instructions, Core Application, and Application Manuals. All waiver requests and Project Team qualification determinations must be submitted as part of the pre-application submittal.

- 2. Application Submission Package:** A complete Application package must include all required documentation and all applicable Application fees.

Applicants must submit complete Applications according to the directions and format prescribed in the 2020 Core Application Instructions and the 2020 Application Manuals. No additional documentation will be accepted after the Application Submission deadline described in this Section unless specifically requested by DCA as part of the clarification review.

Applicants for 9% Credits and/or HOME funding will be required to self-score their Applications and fully explain their rationale in support of the scoring decision for each criterion. Applicants' self-scores must be done in strict accordance with the provisions of the Plan and the Application Manuals.

### **C. Maximum Number of Applications**

DCA will assign sequential project numbers to all Applications in the order they are received and prior to any form of Application review. Applicants will be permitted to submit a maximum of four (4) Applications for funding resources under the Plan. This limitation applies to Ownership interests of all proposed Project Participants except for Syndicators. Ownership interests of all Project Participants in the proposed Applications will be reviewed. If it is determined that a Project Participant has proposed Ownership interest in more than four (4) Applications, DCA will only evaluate the first four (4) Applications submitted to DCA. Any other Applications which include the same Project Participant will be considered ineligible and will not be evaluated.

Subsection 15(C) does not apply to bond financed projects.

### **D. Award Limitations**

- 1. Project Limitations:** DCA will not award more than \$1,000,000 of Credits to any Flexible pool Application or more than \$900,000 of Credits to any Rural pool Application in the competitive round.
- 2. Maximum Ownership/Development Interests:** Applicants will be limited to direct or indirect Ownership/Development interest in a maximum of two (2) selected projects in which the combined total Federal Credit from the 2020 competitive funding round cannot exceed one million eight hundred thousand dollars (\$1,800,000) and/or total HOME funding cannot exceed twenty-five percent (25%) of the total HOME Loan resources available. This limitation applies to direct or indirect Ownership/Development interests of all proposed Project Participants, except Syndicators. Once an applicant has been awarded projects that meet the above limits, all of that Applicant's lower scoring projects will be deemed ineligible. For non-profit applicants, DCA will look at Executive Directors and common threads of effective control as well as whether different non-profit entities have met DCA Qualification requirements through the same individuals or entities.

**EXHIBIT A (continued)**

**DCA APPLICATION AND PRE-AWARD DEADLINES & FEE SCHEDULE**

**For Profit, Non-profit, and For Profit/Non-profit Joint Ventures**

|   | <b>Fees</b>  | <b>9%<br/>Deadline</b>   | <b>4% Deadline</b>  |
|---|--|--|---|
| 2020 Bond/4% Credit Letter of Determination   | \$5,000<br>(Resubmission fee of \$500 due for incomplete submissions)                        | N/A  | Application Submission no later than <b>75 days before bond closing</b> (fee not required at application if submitted with pre-application) |
| 2020 Credit Application Fee and Third Party Review Fees                             | \$6,500 For Profits<br>\$6,500 For Profits/Non- profits Joint Venture<br>\$5,500 Non-profits | Application Submission*<br><b>June 18</b><br><b>May 21,</b><br><b>2020</b> | N/A   |
| Payment & Performance Bond Waiver   | \$1,500 per project  | Application Submission<br><b>May 21</b><br><b>June 18,</b><br><b>2020</b>  | N/A   |
| Notification of delayed Financing Awards (AHP) or other competitive funding sources | NONE   | 7/ <b>31</b> 8/20  | N/A   |
| Alternate Financing Deadline, if Notification deadline has not or will not be met   | NONE   | 7/ <b>31</b> 22/20   | N/A   |
| Evidence of 8 step process completion   | NONE   | <b>108/15</b> 30/20  | N/A   |

*\*See Core, Section 15. Submission Requirements and Award limitations for additional 9% Application Submission Deadline information. - **4:00 PM on May 21, 2020***

documentation for USDA, FHLB-AHP, HUD alternative financing, and/or the National Historic designation as stated above may result in a Threshold failure.

- c) The preliminary commitments must disclose, at minimum, the following:
- i. The purpose of the loan and use of proceeds.
  - ii. The property address.
  - iii. The loan amount.
  - iv. The interest rate applicable to the construction period. If the construction period rate is floating, the rate index, spread, and the frequency of adjustment must be clearly identified. DCA will utilize the applicable rate effective as of ~~June~~May 1, 2020.
  - v. The interest rate applicable to the permanent period. If the interest rate is to be fixed at the time of funding, the rate index and credit spread must be clearly identified and the indicative rate as of the date of the preliminary commitment must be provided.
  - vi. All “add-ons” to the base interest rate, including but not limited to MIP, USDA annual guarantee fee, servicing fees, Ginnie Mae guarantee fees, trustee fees, and issuer fees, must be clearly identified in the commitment letter.
  - vii. The general and specific terms and conditions of the loan.
  - viii. The amortization period and term of the loan.
  - ix. Equity Commitment Letters are required to contain, at minimum, equity pricing, total capital contribution amount, an estimated pay-in schedule, and any reserve requirement.
  - x. All reserves required by the lender/syndicator, including but not limited to replacement reserves, operating deficit reserves, HUD-required program reserves, and USDA-required program reserves.
  - xi. A preliminary financing commitment must include the amount of the asset management fee and whether or not the asset management fee will be increased annually; if increased, the commitment must include the rate of increase and the priority of payment of the asset management fee.
  - xii. In the case of loans to be guaranteed under the USDA Section 538 Guaranteed Rural Rental Housing Program, the lender must specify if the annual USDA guarantee fee will be paid out of the lender’s principal and interest payments.
  - xiii. Applicants that propose financing structures with government program loans are responsible for correctly reflecting the terms of the loan and determining whether the funds were originally “federal funds.”

**Minimum Documentation:**

- Commitment letters meeting above requirements.
- If utilizing a construction loan, applicant must provide evidence for construction interest expense estimate (e.g., draw schedule, written justification).

**12. Assumption of Existing Debt**

Any existing debt that is not paid in full at closing must be disclosed as part of the Application. This includes existing debt which may be forgiven in part, or recycled back into the property as new debt. (Debt that is not paid in full will be considered in the appraised value of the property for purposes of determining whether the purchase price is reasonable.)

The following supporting documentation must be included for all existing debt that is in any part of the new financing structure:

- a) An approval letter signed by an officer of the lender whose debt is being assumed which certifies, no less than thirty days prior to Application Submission day:

documentation of a preliminary equity commitment.

(DCA encourages Applicants to see [www.GeorgiaSHPO.org](http://www.GeorgiaSHPO.org) for further guidance on the requirements and associated timeframes for the development of projects with historic tax credits. DCA also encourages Applicants to seek the advice of a qualified attorney and/or tax professional before proceeding with any project of this nature.)

## **XIX. COMPLIANCE PERFORMANCE**

**Up to 10 Points**

Each Application will receive a score under this Section that will be made part of the Applicant's DCA Final Score. To arrive at a score in this section, each Application will start with an award of ten (10) Performance Points.

DCA will deduct points for: DCA Administrative Noncompliance, Program Non-compliance, Adverse Circumstances (ACs), and for Significant Adverse Events (SAEs) for which the Applicant has obtained a DCA waiver (see Appendix I Threshold Section XIX. Experience, Capacity and Performance Requirement for General Partner and Developer Entities).

Applicants with Point Deduction Scores of less than ten (10) Performance Points will have the opportunity to claim Point Additions if they can demonstrate achievements in the five areas listed in Subsection B. Calculation of Point Additions.

### **Compliance Score: Determination and Applicability**

1. Compliance score deductions are based on the compliance and performance history of both the General Partnership entity and the Developer entity as well as each Principal of the General Partner and/or Developer entity. Even if DCA determines that an adverse condition is not sufficient to bar an Application from participation in the competitive round, that condition will be evaluated as a noncompliance point deduction.
2. Negative compliance history of an entity cannot be negated by the resignation or removal of a Principal or the selling of a noncompliant Property to a new entity.
3. ~~Point deductions will be made for each Project Team and Principal that were directly or indirectly involved in the General Partnership and/or Development entity of non-performing projects.~~ Point deductions will be made for each Project Team member for which both of the following apply:
  - has a 20% or more interest in the General Partner and/or Developer entities of the proposed development;
  - had effective control in the General Partner and/or Developer entities of the non-complying properties at the time of non-compliance.
    - Effective control is defined as having a majority interest in the General Partner and/or Developer or being a managing member of a limited partnership or single purpose entity, or limited liability company.
- 3-4. If a Principal withdraws from an entity with a negative compliance history, the negative compliance history must be claimed by the departing Principal for three (3) years following the date the Principal legally left the company.

### **A. Calculation of Point Deductions**