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October 11, 2013

Jeanne Redondo
Arizona Department of Housing
1110 W. Washington Street, Suite 310
Phoenix, AZ 85007

RE: 2014 Arizona Qualified Allocation Plan First Draft Comments

Dear Ms. Redondo:

Travois appreciated the opportunity to voice its comments to the first QAP draft at the October 2nd focus group in Tucson. We have memorialized our comments into writing as an additional way to communicate them to the ADOH.

Section 2.6 – Tribal Set-Aside

Travois and its Indian Country clients fought hard and managed to keep the tribal set-aside at two applications for the 2012 round. Unfortunately, due to ADOH's forward allocation of half its credits in 2012, all set-asides, including the tribal set-aside, were reduced to one project in 2013. However, now that ADOH has its full $14 million allocation in 2014, it has still reduced the tribal set-aside to one project. Notably, ADOH did not reduce any other set-aside. And this tribal set-aside reduction comes at a time when ADOH has the ability to allocate credits to more projects than normal since the 9% fixed rate is scheduled to expire at the end of this year

To say that we are disappointed by the reduction is an understatement. Twenty-one federally recognized tribes, representing more than 10% of the country's total Native American population, reside within the state's boundaries; the state has the third highest number (and the sixth highest percentage) of Native Americans in the United States; five of the state's large cities (Phoenix, Tucson, Prescott, Flagstaff, and Yuma) border Native American reservations. Moreover, the repeatedly downtrodden Native Americans are those who are most in need of the valuable leveraging that the LIHTC program provides. Five hundred household waitlists are the norm for these tribes. They cannot secure traditional financing to build or rehabilitate homes, and NAHASDA only covers minor repairs to maintain existing units. If anything, ADOH should allocate credits to more than two tribal projects.

At least two tribal projects are especially appropriate because tribal projects simply cannot succeed in the general pool. For example, San Carlos Homes VI was the lowest scoring applicant in last year's round at 139 points, which is 50 points below the 179-point cutoff in the general pool. Even with ADOH's minor changes to the point structure in 2014, the project cannot score anywhere near the award cutoff, especially when other projects can earn 200 or more points in scoring areas not available to tribal applicants!

The need for at least two tribal projects is further evident in the fact that the set-aside has historically been fully subscribed or oversubscribed in past allocation rounds. Plus we know of several Arizona clients who simply don't apply at all because they know the tribal set-aside is full and cannot afford the upfront costs of applying (generally around $25,000) when they know they will not succeed.

Additionally, we ask the ADOH to extend the set-aside to projects sponsored by tribal entities whether on or off reservation, not just on-reservation projects. Some Arizona tribes have a limited amount of federally designated trust land, or have designated land that is simply not developable. These tribes have acquired land for development outside of reservation boundaries so that they can provide safe and affordable homes to their destitute tribal members. Still other tribes have a sizeable community of members that live on tribally owned land off the reservation, such as the Pascua Yaqui Tribe's population of tribal members in Guadalupe, a town that the Yaquis founded in the early 1900's. While the greatest need for safe and decent housing is generally within the reservation's boundaries, overcrowding and suboptimal housing conditions are prevalent in off-reservation tribal land too.

Moreover, as the Pascua Yaqui Tribe's project in Guadalupe is a prime example of, off-reservation projects have very little chance of being funded without the protection of the tribal set-aside. We assisted the tribe in applying for credits in the 2011and 2012 rounds, but the project was unsuccessful both times.

Furthermore, extending the set-aside to include off-reservation tribal land would coincide with the Federal Government's concept of "Indian Area" under the Native American Housing and Self-Determination Act (NAHASDA). Through NAHASDA, the Department of Housing and Urban Development (HUD) provides grants, loan guarantees, and technical assistance to Indian tribes for the development and operation of low-income housing in Indian areas. See 24 CFR §1000.1. NAHASDA defines "Indian Area" as the "area within which an Indian tribe operates affordable housing programs or the area in which a TDHE is authorized by one or more Indian tribes to operate affordable housing programs," which can certainly encompass tribally-operated lands off the reservations. See 24 CFR §1000.10(b).

Section 2.7(E) & 2.9(R)/Tab 18 – Transit Oriented Design

The intent of this scoring category is to encourage the development of projects near existing infrastructure that allows residents to get from one location to another easily without the need for their own vehicle, which is sometimes an unattainable luxury for many low-income families. By limiting these points to projects located within a predefined distance of a "Frequent Bus Transit System" or "High Capacity Transit System," ADOH is abandoning more rural areas — specifically tribal lands — that do not have the infrastructure, resources or need to develop and operate mass transit or light rail systems.

Travois recommends that points be awarded to projects that have access to on-demand transit available to residents, either offered at no charge or at significantly reduced fees. This request is specific to those projects located in rural areas that do not have access to a dedicated bus system or high capacity transit stations, but do have organized and well-developed on-demand transportation programs. Unlike a system organized by transit routes and regularly scheduled bus stops, on-call transportation caters more to the needs of rural and tribal communities and works extremely well by offering transportation whenever it is needed. For many tribes, children, adults, seniors and families all benefit from on-call transit programs. Residents can simply call the transit office, request to be picked up at their front door (or any other location) and be shuttled to local employment, healthcare appointments, recreational events, school, shopping or any other destination. This system offers better services to families in need of transportation than the more traditional bus stops on a corner of a city block.

Section 2.7(F) & 2.9(T)/Tab 20 – Occupancy Preferences

Travois supports ADOH's language expanding the eligible services from just "on-site" to "contiguous and accessible to the project." However, we ask that ADOH better define this additional language. Given the rural nature of our tribal projects, "contiguous and accessible" to our clients could mean within a half-mile of the project site, whereas in more urban areas it probably means within 100 feet or right next door. Please clarify ADOH's intent of this language.

Section 2.7(G) & 2.9(U)/Tab 21 – Enhanced Supportive Services

Travois also supports ADOH's clarification in this scoring category that the developer can contract with a qualified government entity to provide supportive services to the project. This will allow several of the well-established services offered by tribal governments to earn these valuable 10 points.

Section 2.7(I) & 2.9(W)/Tab 24 – Local Contribution

Travois supports ADOH's change in this scoring category to allow soft debt, cash-flow only transactions (like virtually all of the projects in Indian Country) to earn these points. However, while Section 2.7(I) encompasses the new language, Section 2.9(W) still reads that the only way to earn these points are for cash contributions to the project with no obligation for repayment. We request that the language be modified to award these points to "soft loans" that have payments to the extent of available cash-flow.

Section 2.7(L) – Rural Area Development

Travois recommends that ADOH revise its "Rural Area" definition. The current "outside of Maricopa or Pima County" definition precludes clearly rural areas from receiving the 10 points. As the aerial photos included below demonstrate, more than half of both counties are undeveloped areas far from cities of any notable size. And it is the rural areas of these counties that are encompassed within the boundaries of Indian Reservations, including the majority of the Tohono O'odham and Pascua Yaqui Indian Reservations.

Travois recommends that ADOH revert back to the language from its 2011 QAP that allowed projects located in a "rural area" as defined in 7 C.P.R. Section 3550.10 to be eligible for points as a Rural Area Development (even if they are located within Maricopa and Pima County). If a project is located in Maricopa and Pima County and it meets the definition of a rural community, then it should be awarded the points for rural development.

Section 2.7(P) – Community Revitalization

Travois recommends that ADOH revert back to the language from its 2011 QAP that allowed Priority Housing Areas to receive the five Community Revitalization points. Most of tribally-owned land is not located within a Federal Empowerment Zone, Federal Enterprise Community, or HUD Neighborhood Revitalization Strategy Area. This is evidenced by the fact that none of the five projects on tribal land that have applied since the change in 2012 were in such areas. Yet tribally-owned land is often most in dire need of community revitalization. Before the change in 2012, tribes were able to earn these points with their annual Indian Housing Plans, which set the tribe's priority housing areas and plans for revitalizing those areas. Now, even if they have the most sophisticated revitalization plan for their communities, tribes are ineligible for the points if another sovereign nation — the United States — determines that their land is not a target for revitalization. The intent of this category is to encourage strategic planning and tribal entities that have thoughtfully developed plans should be eligible for these points.

Section 2.9(I)(1)(c) Appraisal Requirements for Tribal Projects

ADOH's change of the straight-line deprecation from 27.5 years to 40 years still does not solve the problem inherent in requiring any method of straight-line depreciation on properties. Marshall & Swift, the leading issuer of appraisal standards in the industry and whose guidebook HUD's Directive 4150.2 references, has repeatedly cautioned that straight-line depreciation does not reflect reality since time is not the only factor affecting depreciation. While age is certainly a factor, the building's existing condition is a crucial consideration because normal maintenance, which Tribes and Housing Authorities perform regularly on their existing units, offsets or even eliminates depreciation. Stated another way, straight-line depreciation assumes that the house was built and never touched again, which is never the case in real life; our clients are constantly maintaining the existing structures.

Instead, Marshall & Swift prescribes the **extended life theory**, which factors in the structure's remaining life and effective age. Once the appraiser has calculated the remaining life and effective age, the appraiser consults Marshall & Swift's extended life depreciation tables (page e-17 of the handbook) for the corresponding depreciation percentage and uses that percentage in his or her calculations.

It is this extended life theory that we insist the ADOH accept for tribal projects, and only a minor revision of ADOH's existing QAP is needed to effectuate the change:

> Tribal Project: Projects on tribal land may submit cost-based appraisals utilizing the appraisal guidebook published by U.S. Department of Housing and Urban Development, *Valuation Analysis for Single Family One- to Four-Unit Dwellings*, Directive 4150.2, and the Marshall & Swift Residential Cost Handbook, including an estimate of depreciation on improvements using ~~a straight line method of computing depreciation with the actual age of the improvements depreciated over 27.5 40 years~~ an extended life theory of depreciation encompassing a remaining life and effective age approach.

Section 7.2 (A)(8) – Maximum Allowable Eligible Basis

Travois maintains that the $103.61 price per square foot for rural projects is too low, especially on tribal reservations where costs to construct are comparatively higher. For example, two of the most recent rural tribal projects (San Carlos Homes VI and WMAHA Homes VI) would have exceeded ADOH's maximum allowable eligible basis at $103.61 per square foot, whereas all three of the Pascua Yaqui Tribe's projects had on average a $2 million cushion at the $107.25 per square foot rate for suburban projects.

Moreover, HUD's 221(d)(3) TDC limits for tribal projects are higher than the limits for all other multifamily development. ADOH should follow HUD's lead of recognizing that it costs more to construct tribal reservations, regardless of whether the location is rural or not.

Additionally, we request ADOH to clarify whether the definition of "Total Project Square Footage" includes detached community service facilities/buildings included in the project.

Exhibit D – Mandatory Design Guidelines

Finally, Travois requests some clarifications or modifications to ADOH's Mandatory Design Guidelines;

- IV.A. Minimum bedroom size of 120 square feet.
    - We ask that ADOH exempt rehabilitation projects from this requirement where the existing building footprint results in bedroom(s) with fewer than 120 square feet.
- VI.B. Three bedroom units must have 1.75 baths.
    - We ask that ADOH exempt rehabilitation projects from this requirements where the exiting building footprint has fewer than 1.75 baths.
- X. Applicant shall provide a 10% unit sampling by a, Home Performance Contractor, participating in the Arizona Home Performance with Energy Star Program, to determine the scope of work.
    - Jason Betts, our environmental professional, has been in communication with you about this item. We understand that ADOH discussed this requirement with various architects and contractors and still wants to be able to quantitatively show that the rehab has improved the units' efficiency. However, we ask that ADOH not limit the energy auditors to Arizona Home Performance Contractors using the Energy Star Program, especially on projects in Indian Country where such programs aren't applicable.

Again, thank you for being receptive to our comments and recommendations. We look forward to the upcoming 2014 allocation round.

Sincerely,

Casey Cline