

September 17, 2024

Mr. Ethan Handelman
Deputy Assistant Secretary, Office of Multifamily Housing Programs
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

RE: Qualified Contract Loophole in the Low-Income Housing Tax Credit Program

Dear Deputy Assistant Secretary Handelman,

We are writing to provide feedback on the recently posted Housing Notice posted on the Multifamily Housing Policy Drafting Table with regard to the Qualified Contract loophole in the Low-Income Housing Tax Credit (“Housing Credit”) program.

Our organizations have been working for several years to address this loophole in the law, which has caused the loss of tens of thousands of affordable housing units, injuring both the residents that live in these properties and the communities where the properties are located. We have advocated for action at the federal, state and local level and although we have not yet been able to get legislation enacted to prevent this loss of affordable housing, we have made strides at the state level. Pending congressional action, we feel strongly that federal housing agencies have an important role to address this issue.

We strongly support this new Housing Notice, which introduces new guidance requiring owners to waive their Qualified Contract (QC) rights as a condition of accessing Federal Housing Administration (FHA) Multifamily loan insurance programs and Risk Share transactions. We understand the new requirement would apply to new allocation of Housing Credit authority to rental projects for which a firm commitment has not been issued and to Risk Share transactions with Firm Approval Letters issued on or after December 31, 2024.

Our organizations also recommend that HUD prevent owners who exercise the qualified contract provision after December 31, 2024 from accessing FHA Multifamily insurance and participating in Risk Sharing for those properties. This is a variation of the recommendation we made in our September 2023 letter to you in which we urged HUD to make ineligible all properties that have gone through the QC process. Including this requirement will provide notice to owners that if they go through the Qualified Contract process and remove these properties from the Housing Credit program, they will not have access to FHA Multifamily and Risk Share financing in the future. We believe this additional restriction would further discourage the use of qualified contracts and protect tenants at risk of having to pay higher rents because of the conversion of the property out of the Housing Credit program. While the proposal currently under consideration in the Housing Notice would incentivize owners of future properties to forego the qualified contract provision, this recommendation would help

mitigate losses of existing properties for which an owner currently has the option of requesting a qualified contract.

Thank you for taking this proposed action and your willingness to entertain further suggestions to this Notice.

Council of Large Public Housing Authorities
Enterprise Community Partners
Housing Partnership Network
Local Initiatives Support Corporation/National Equity Fund
National Affordable Housing Management Association
National Association of Affordable Housing Lenders
National Association of Local Housing Finance Agencies
National Association of State and Local Equity Funds
National Council of State Housing Agencies
National Housing Conference
National Housing Law Project
National Housing Trust
National Low Income Housing Coalition
Stewards of Affordable Housing for the Future