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**Sent:** Wednesday, March 15, 2023 7:57 PM  
**To:** Marisa Button <[Marisa.Button@floridahousing.org](mailto:Marisa.Button@floridahousing.org)>  
**Subject:** Rule Development - Housing Credit Allocation

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Marisa,

Attached is my meager layman's attempt at clarifying the gap calculation for purposes of determining the Housing Credit Allocation.

Currently FHFC has rules that discuss the "sale" of Housing Credit Allocation and the that Housing Credits must be "sold" to an investor.

First, I think this is technically inaccurate. I think Housing Credits are allocated to Limited Partners in exchange for equity contributions based upon the Limited Partnership Agreement.

I think the intent of the FHFC rule is that the development receive the financial benefit of equity contribution at market rate pricing for 99.99 percent of the Housing Credit Allocation.

Attached is my weak attempt to revise the rule language in this regard.

Let me know if you need legal counsel review and comment on the proposed rule language attached.

Thanks,

### 67-21.026 HC Credit Underwriting Procedures.

...As part of the Credit Underwriting review, the Credit Underwriter will consider the applicable provisions of this rule chapter.

(18) For Housing Credit Applications, the Credit Underwriter shall use the following procedures during the credit underwriting evaluation:

(e) For a Non-Competitive Housing Credit Allocation, the recommendation will be the lesser of the qualified basis calculation result or the gap calculation result.

(f) As part of the process the Corporation uses to determine financial feasibility as set forth in Section 42(m)(2) of the IRC, the Corporation shall ~~utilize~~ assume the greater of:

~~1. The actual percentage of the Applicant's Housing Credit Allocation being sold to the Housing Credit Syndicator/direct investor(s), or~~

~~2. 99.99 percent of the Applicant's Housing Credit Allocation being allocated to Limited Partners. The actual percentage of the Applicant's Housing Credit Allocation being sold must be equal to or less than the percentage of ownership interest held by the limited partner (inclusive of any special limited partner) or member.~~

(g) When any Housing Credit Allocation is ~~being allocated to any Limited Partners syndicated or sold directly to an investor~~, the Corporation will ~~require~~ calculate that the net proceeds ~~received available from the equity contribution from~~ ~~on~~ the sale allocation of the Housing Credits be reflective of market rate pricing as depicted by the price per dollar of Housing Credit Allocation available to the Development. ~~All Non-Competitive Housing Credits not retained by the Applicant (up to an assumed maximum of 0.01 percent of the Housing Credit Allocation) must be sold directly or indirectly to an investor at market rate pricing. For purposes of determining the allowable amount of Housing Credit Allocation, the Corporation will assume that the Partnership is receiving the financial benefit of Limited Partner equity contribution at market rate pricing for 99.99 percent of the Housing Credit Allocation. For purposes of this calculation, t~~The amount of equity capital contributed by investors to an Applicant shall be assumed to be not be less than the amount generally contributed by investors to similar Developments as determined by using sales of comparable Housing Credit Developments and the Corporation's evaluation of market trends. As part of the Final Cost Certification Application Package set forth in subsection 67-21.027(6), F.A.C., the Applicant shall have documentation provided to the Corporation by the Housing Credit Syndicator (for Housing Credits that are syndicated) or by the Applicant (for any Housing Credits that are not syndicated) that details, for each Housing Credit investor (providing the name of the actual investor is optional), the following information:

1. The net dollar amount of funding provided to the Housing Credit Syndicator or the Applicant, as applicable, that will be passed along to the Applicant as Housing Credit equity; and,
2. The annual dollar amount of Housing Credit allocation sold to each investor in exchange for the funding provided.

The Corporation will base all calculations of the minimum net syndication/investor proceeds available to the Development on the assumption that a minimum of 99.99 percent of the Housing Credit Allocation is being sold to raise equity capital. The Corporation will use the greater of:

- a. The actual equity capital contributed to the Development, or
- b. The required minimum equity capital contributed to the Development based on the criteria provided herein.