EXHIBIT C-2

ARKANSAS DEVELOPMENT FINANCE AUTHORITY

SUBJECT: Housing Credit Program Qualified Allocation Plan

DESCRIPTION: The following changes are proposed:

1. Removed language that is already covered in other ADFA guidelines and moved applicable parts to application guidelines.

2. Added on II., page 3, a new section:

II. Multi-Family Housing Application (MFHA). The ADFA MFHA shall set forth all other requirements, instructions, clarifications, and definitions for the year in which the application for LIHTC is submitted. The MFHA and all other documents necessary for a complete application are available at ADFA's website (www.arkansas.gov/adfa). The terms and conditions of the MFHA will be used at final cost certification to ensure continued compliance with all requirements for the development.

3. Added on I.A., Pages 1-2, a new requirement of an Adobe copy of application and all attachments on disk. This will save ADFA staff from having to scan in all applications and transition to a paperless application in the future.

4. Added on I.A., Page 2, 2014 dates and response period.

5. 1.B.17, page 13, per unit cost cap is total development cost divided by total number of units.
   Assisted Living - $164,000
   Historic Rehabilitation - $164,000\
   Single family – New construction - $146,000
   All other new multi-family - $137,000
   Acquisition/Rehabilitation - $120,000

6. Removed on II.A.3., page 24, rehab only points.

7. II.A.4., page 25, working with RD to restructure points due to elimination of programs.

8. Removed on II.A.9., page 26 , the architect certification for energy points.

9. Removed on II.A., CHDO points.

10. II.A.16, pages 29-30, negative points for non-compliance change from life threatening to all non-compliance with new point deduction category from 0-20 points.

11. III.A. "Infrastructure" is all site utilities (water, sewer, storm, gas, electrical, phone and cable services, curbs, gutters), roads, cut, fill, compaction, and stabilization that is not specific to a particular unit or building.

12. I.B.4, page 4 The utility allowance documentation must be dated within 6 months prior to the application deadline, unless the application is for acquisition rehabilitation of a HUD or USDA development, then the current executed HUD or USDA forms are acceptable.

PUBLIC COMMENT: A public hearing was held August 28, 2013. The public comment period expired August 28, 2013. The Authority received the following comments:

Jeff Van Patten

COMMENT: Mr. Van Patten asks that a one week cure period for tax credit applications be reinstated. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Reinstatement of points for project based rental assistance for 30% or less AMI households. **RESPONSE:** ADFA already incentivizes lowest income developments and rental assistance provision.

Ron Hughes

COMMENT: Award applicants extra points for HOME or Tax Credits where HVAC crews or contractors hold certificates in Best Building Practice, Building Performance Institute or have completed an energy-related improvement course at technical college. **RESPONSE:** ADFA already considers energy-related improvements in the underwriting of applications.

COMMENT: Recommends that BPI certified contractors can test their own duct work as they build. **RESPONSE:** ADFA agrees.

Jim Petty

COMMENT: Costs Caps need distinction between bedroom sizes, per square foot or other way to acknowledge difference between big and small projects. Other states use HUD 221(d)(3) limits. Historic cost cap is way too low. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: Requests reinstatement of 1 week cure period for tax credit applications. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Requests ADFA focus on issue of single family rental new construction being too expensive compared to multi-family. Single family construction promotes lower density, pride of ownership and lower turnover. But cost issues push builders to favor multi-family. However, per person / bodies, the cost of single family offers a better return on ADFA's dollars. **RESPONSE:** ADFA disagrees with per person cost offering a better return. Multi-Family developments can and do offer a wide range of unit mix.

COMMENT: Notes that all surrounding states prioritize single family over multi-family. IRS Section 42 requirements mandates that selection criteria gives preference to developments serving tenant populations with children (a/k/a larger units) and projects intended for eventual tenant ownership. He supports raising the points by 5 points for single family. **RESPONSE:** ADFA follows the requirements of Section 42. Points are available for single parent/guardian with children 1 point, Housing intended for eventual tenant ownership 1 point and up to 13 points for housing for large families (3 bedrooms or larger).

COMMENT: Regarding remarks by ADFA that eventual ownership has not been brought into fruition: the preference for eventual ownership was inserted into Section 42 in 2003 and has not had time to come about. **RESPONSE:** Applicants are eligible for 1 point for eventual tenant ownership.

COMMENT: Requests re-instatement of cure period, **particularly for threshold items.** **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements. In order to process applications in a timely manner, ADFA does not score applications failing threshold.

COMMENT: Request that costs caps be looked at based on **category, housing type** – i.e., single family, multi-family, senior, etc. Also that costs should be looked at based on the **number of bedrooms** as well. **RESPONSE:** The development community has submitted or completed applications at or below the recommended cost caps. For example, the HUD 221(d) (3) limit for a 3 bedroom unit in Arkansas of $212,345 is too high in ADFA's opinion. Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: Requests a **deeper analysis of acquisition costs vs. rehab costs.** For example, a development acquired for $90,000 per unit with minimum rehab required by ADFA for a total development costs of $120,000 is not necessarily a better product long-term than a development that costs $60,000 per unit and does a full rehab for the $60,000 per unit. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: Requests raising the Historic Development cost cap of $164,000 significantly, due to uniqueness of the development. Also, most developments have commercial space/costs that are "backed-out" of the eligible basis calculation but would be included in the overall total development costs. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

<u>**Carr Hagan**</u>
COMMENT: Carr Hagan asks that a one week cure period for tax credit applications be reinstated. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Reinstatement of points for project based rental assistance for 30% or less AMI households. **RESPONSE:** ADFA already incentivizes lowest income developments and rental assistance provision.

Doris Wright
COMMENT: Deduction of location points in Pulaski County has resulted in fewer applications to ADFA. Based on a population of 26,000 in her ward, with 13% in the low-income category, she wants projects approved in this area. **RESPONSE:** ADFA is successful in distribution of LIHTC resources fairly throughout Arkansas.

Jennifer Bartlett
COMMENT: Deduction of location points hinders CHDOS. **RESPONSE:** HOME CHDO funds have been reduced by almost 50% therefore incentivizing CHDO's application is counter-productive.

COMMENT: Removal of CHDO Points from the QAP will exclude some CHDO's, in certain cities and counties, from participation in the upcoming application cycle due to the significance of location points. **RESPONSE:** Not less than 10% of Housing Credits are set aside for non-profits. This gives all CHDOs an advantage over the majority of applications received by ADFA.

COMMENT: Continue to provide points for CHDO developments that meet the capacity requirements. Thus CHDO's can build financial capacity and sustainability. Following the HOME program rule regarding a CHDO as an owner, will eliminate multiple CHDO Set-aside applications. **RESPONSE:** HOME CHDO funds have been reduced by almost 50% therefore incentivizing CHDO's application is counter-productive.

COMMENT: Regarding cost caps, continue to exclude land and infrastructure costs from the per unit cost cap. Some of the MF units awarded in 2013 exceeded the cost cap when land and infrastructure scored high. A developer will provide as many units as possible for the viability and cash flow of the project. The max amount of LIHTC will still be awarded and the developer fee and other costs are based on the Total Development Costs so increasing the cost per unit allowance doesn't mean the developer would produce fewer units. To prevent fewer units, a minimum of the number of units that must be built/rehabbed would address that issue. **RESPONSE:** ADFA agrees.

COMMENT: Requests ADFA increase Special Needs Housing Cost Per Unit to be equivalent with Assisted Living Development Cost Per Unit. **RESPONSE:** ADFA disagrees. Assisted Living developments are required to have certain supportive services whereas Special Needs developments supportive services are optional.

COMMENT: Provide (Some) location points within Pulaski County for rehab and new construction for special needs or elderly populations. Pulaski County Location points could be tied into a community revitalization Plan. Or any area that is not located within a priority location area, could receive points if the site is located within an adopted community revitalization plan area. **RESPONSE:** ADFA considers community needs when underwriting applications. Point system is intended to make LIHTC reservations for the most qualified developments and to fairly distribute LIHTC resources around the State.

COMMENT: Requests additional points to projects that provide supportive services on site beyond the minimum requirement. For example, a developer can provide a minimum requirement (credit counseling **one** time) and get 5 points whereas an **ongoing** case management program provides after school care (above and beyond the minimum requirement) and gets only the same 5 points. **RESPONSE:** Points for supportive services are already awarded based on the type and frequency of support services.

COMMENT: Enforce the rule limiting number of applications. Identity of Interest should be disclosed for all companies and parties. Adding language regarding familial status of owners, general partners, developer, architect and contractor may clarify the rule. HOME, HUD and USDA policies are all good regarding Identity of Interest situations. **RESPONSE:** ADFA already enforces the current rule limiting the number of LIHTC awards to any one entity.

Julie Mills

COMMENT: Projects awarded should be no more than 2 per year, regardless of person's/entity's role. **RESPONSE:** ADFA's position is that a limit of 3 developments per applicant is sufficient.

COMMENT: Page 12 of the current QAP stating utility allowance documentation must be dated within 6 months prior to the application deadline needs addition of verbiage: "unless the utility letter clearly states what the cost will be for the year being applied for." **RESPONSE:** The utility allowance documentation must be dated within six (6) months prior to the Application Deadline, unless the application is for acquisition rehabilitation of a HUD or USDA development, then the current executed HUD or USDA forms are acceptable.

COMMENT: Staff changes made to applications should result in a call to the applicant with an explanation of the change. The applicant should be given a chance to respond. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements, and ADFA staff does not make changes to applications received without applicant approval.

COMMENT: Staff should not have discretion as to the market area. (pg. 14 of current QAP). **RESPONSE:** Market area discretion is crucial to project underwriting.

COMMENT: If Staff decides cost and overhead are not reasonable, they must contact the contractor. **RESPONSE:** This is a threshold item that ADFA considers important for cost containment. The applicant is able to submit in the application an explanation for high cost items in their budget.

COMMENT: Board should be able to be contacted via e-mail at any time. Up to each board member if they want to respond or not. **RESPONSE:** A majority of ADFA board members have expressed not to be contacted during the application review period.

Steve Craig

COMMENT: Applications not meeting threshold still need to be scored. Allows developer to explain deficiencies to owners. **RESPONSE:** In order to process applications in a timely manner, ADFA does not score applications failing threshold.

COMMENT: Infrastructure should include curbs and gutters. **RESPONSE:** ADFA agrees.

COMMENT: Need firm definition of what constitutes "Owner" in regards to the 2 or 3 project awards limitation. Clarify intent of this limitation. **RESPONSE:** Project awards should be limited to prevent work capacity overload.

COMMENT: Reduce amount of discretion allowable. **RESPONSE:** ADFA requires a certain degree of prudence to adequately administer the tax credit program.

Mitch Minnick

COMMENT: Reduce judgments left up to the discretion of the Staff. In the current QAP, "Discretion" is used 26 times. **RESPONSE:** ADFA requires a certain degree of prudence to adequately administer the tax credit program.

COMMENT: Omit thick paper application by submitting on electronically on a disk in PDF/Adobe format. **RESPONSE:** ADFA is moving towards a paperless application process at some point in the future.

COMMENT: Requests reinstatement of cure period. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Applicants failing threshold should be able to discuss, correct deficiencies and still be scored so applicants can provide feedback to owners. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements. In order to process applications in a timely manner, ADFA does not score applications failing threshold.

COMMENT: Lessen the number of threshold items, currently at 23. **RESPONSE:** ADFA will review.

COMMENT: Fair Housing Training is a good requirement, but requests that it NOT be a threshold item. All relevant parties should be required complete the training prior to the project closing and beginning construction. **RESPONSE:** ADFA is committed to Fair Housing training in Arkansas and the training of the development community. Development team members must be knowledgeable in Fair Housing for the development to be successful. ADFA's position is the required biennial training must be a threshold item.

COMMENT: Want ability to submit a pre-application due to expense of an application. **RESPONSE:** ADFA's 3 member Multi-Family staff lacks sufficient personnel to review both the pre-apps AND the final applications.

COMMENT: Single Family cost cap of $146,000 is inadequate for total development costs. Current numbers support $160,000 range for total development costs. Consider use of HUD 221(d)(3) limits used by other states. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs. Single Family new construction per unit cost cap has been raised to $148,000.

COMMENT: Based on multiple professional opinions and economic trends, request ADFA to follow lead of OK, MO, TX & KY by using the HUD 221 (d)(3) cost caps as defined by bedroom size across all development types OR review the submitted applications from prior years and obtain an accurate representation for the purchase and infrastructure cost multiplier to set the single-family new construction cost cap OR set the single-family new construction cost cap at $1465,000, provide a definition of infrastructure costs, and keep the existing per unit cost cap calculation (Total development cost less acquisition and infrastructure costs divided by total number of units). **RESPONSE:** The development community has submitted or completed applications at or below the recommended cost caps. The HUD 221(d)(3) limits for a 3 bedroom unit in Arkansas of $212,345 is high in ADFA's opinion. ADFA has defined infrastructure. Total development cost divided by total units is ADFA staff recommendation.

COMMENT: Requests Language should be amended/added that if ADFA uses its discretion to "determine reasonableness of all costs" that the applicant will be notified and given the opportunity to justify the reasonableness of the costs in question. **RESPONSE:** The applicant is able to submit in the application an explanation for high cost items in their budget.

COMMENT: Infrastructure should include curb and gutter. **RESPONSE:** ADFA agrees.

COMMENT: Reduce guttering & downspouts to entry points only for Multi Family and Single Family. **RESPONSE:** Recommend that minimum design standards shall suffice.

COMMENT: requests **clarification** of verbiage in Building Design Criteria B. Minimum Design Standards, 2. Exterior Building Standards: items "E" (gutters and downspouts) and "H" (primary entries). **RESPONSE:** MDS B.2.3-gutters and downspouts. The Gutters and downspouts requirement originates from Energy Star and EPA guidance for water management to protect the building foundation and soil erosion. MDS B.2.h-all primary entries. The 5X5 cover entry originates from Arkansas Usability Standards in Housing.

COMMENT: Requests to submit a draft cost certifications prior to final cost certifications. **RESPONSE:** Developers are responsible for reviewing final cost certifications for correctness, thus draft cost certifications are not necessary.

COMMENT: Minimum Design standards: Requests allowance of 2 bedroom units in larger single family developments. Fort Smith area has waiting list of 100 for 2 BR units. **RESPONSE:** ADFA will consider.

COMMENT: Requests allowance of 2 bedroom, 1.5 bath single-family detached units as part of a single-family and/or duplex subdivision development. **RESPONSE:** ADFA will consider.

COMMENT: Requests ability to contact the Board members during the "blackout" period. **RESPONSE:** A majority of ADFA board members have expressed not to be contacted during the application review period.

COMMENT: ADFA considers this practice to be unsafe. **RESPONSE:** ADFA considers this practice to be unsafe.

COMMENT: Requests to know ADFA's reasoning and rationale for relocating much of what was previously located in the QAP governing document to the Guidelines document. **RESPONSE:** To provide information to applicants on the application itself.

COMMENT: Regarding Independent Market Study: If ADFA reserves the right to substitute its own internal market analysis in place of an independent market study, why require applicants to go through the process and expense of obtaining the independent market study? **RESPONSE:** The Independent Market Study defines the market area, ADFA reviews the submitted study and verifies the information provided.

COMMENT: Regarding Appraisal: Existing wording is "The purchase price must be equal to or less than the appraised value of the land and buildings." But in practice, the acquisition costs of property for future-development often exceed to appraised value of the property. Requests allowing the purchase price to exceed the appraised value by no more than 10% in order to provide the developer flexibility in the negotiation process. **RESPONSE:** ADFA believes current policy on allowable purchase price is prudent and aids cost containment of ADFA-financed developments.

Michael Jackson
COMMENT: Requests cost caps be raised in light of rising construction costs. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: Consider needs of community vs. giving more points to counties that have had no projects awarded in past 3 years. Points system is too political. **RESPONSE:** ADFA considers community needs when underwriting applications. Point system is intended to make LIHTC reservations for the most qualified developments and to fairly distribute LIHTC resources around the State.

COMMENT: Address needs of rural areas and small cities by allowing Multi-Jurisdictional Development in adjacent counties and nearby small towns. (i.e., across county lines). **RESPONSE:** ADFA already allows for multi-jurisdictional applications under owner occupied rehab, not multifamily due to project management obstacles.

COMMENT: Request support of Arkansas Housing Trust Fund as supported by ACHANGE. Make sure funds are used for intended use. Admin costs must be kept to a minimum. **RESPONSE:** ADFA already provides extensive support to AHTF. ADFA agrees.

COMMENT: Request support of USDA programs: 502 homebuyer loans, 515 multifamily loans, 521 rental assistance and 523 Self-Help housing. **RESPONSE:** ADFA strongly supports RD programs.

Ken Pyle
COMMENT: Reduce numerous areas of QAP left to "Discretion" of ADFA staff. The word "Discretion" is used 26 times in QAP. **RESPONSE:** ADFA requires a certain degree of prudence to adequately administer the tax credit program.

Tom Embach
COMMENT: Requests RD set aside. There is no reason anymore to incentivize use of HOME funds. **RESPONSE:** ADFA believes there is a good balance between incentives for new construction and rehab developments.

COMMENT: Incentivize RD rehabs by awarding points based on the amount of credits per unit requested. A typical rehab averages < $4,000 credits per unit while a new construction averages approx. $12,000 credits per unit or a 3-1 advantage for rehab. **RESPONSE:** ADFA prefers to reserve LIHTC according to scoring criteria already adopted, which promotes LIHTC reservation for the most qualified developments.

COMMENT: Reinstate rehab points to 10 points. Rehab of existing affordable housing should be reinstated as a point category, worth 10 points. **RESPONSE:** ADFA believes there is a good balance between incentives for new construction and rehab developments.

COMMENT: Priority for state housing tax credits is currently give to 1) consolidated plan counties; 2) Qualified Census Tracts; 3) Counties not having rec'd award in the past 3 years; last to developments based on highest score. Due to limited amount of tax credits, they are exhausted before reaching category three. However, to the extent that they are not, he requests replacement of category three with developments financed in part by RD. **RESPONSE:** ADFA believes category 3 (assigning points to locations that have not had a LIHTC award in the past 3 years) serves to assist in the fair geographic distribution of LIHTC resources.

COMMENT: Request encouragement of the use of Affordable Neighborhood Housing Tax Credits (ANHTCs) by allowing them to be requested independent of a Section 42 tax credit application. Lack of use of this credit makes it an easy target for elimination by legislature. Small developments run by non-profits could access for small scale rehabs. **RESPONSE:** ANHTCs are tax credits and should be used in conjunction with LIHTC.

COMMENT: Request changing the Utility Allowance Calculation from a threshold item to an "Additional Item Required for a Complete Application" with ability to submit post-application but with a point deduction. **RESPONSE:** It is crucial that the most current utility allowances are used in project underwriting.

COMMENT: Request elimination of requirement that operating reserve be replenished by end of year, but require principal of owner to execute an operating deficit guarantee. **RESPONSE:** ADFA believes replenishing operating reserve by year end is crucial to ongoing project stability.

COMMENT: Requests elimination of requirement for replacement reserve for RD projects, because a replacement reserve is well-established through meeting RD's reserve requirement. **RESPONSE:** ADFA disagrees.

COMMENT: Credit the RD reserve amount toward meeting the ADFA-required operating reserve amount. If the RD reserve amount is greater than the operating reserve amount required by ADFA, this means the development will have one reserve account rather than 3 – the RD capital outlay reserve. In a development without RD, there will be 2 reserves: 1) the ADFA operating reserve and 2) the ADFA replacement reserve. **RESPONSE:** ADFA believes its current operating replacement reserve requirements are adequate and should be maintained.

COMMENT: Requests clarification that an appraisal appropriately includes the value of below-market loans such as a HOME loan. Current QAP only recognizes a "federal rental subsidy" as enhancing the appraisal. **RESPONSE:** ADFA believes current policy is adequate.

COMMENT: Request reinstatement of the 20% tax credit set-aside for developments partially financed with RD funding. **RESPONSE:** ADFA believes current policy adequately addresses RD applications.

COMMENT: Requests reinstatement of the cure period. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Requests credit is given to the amount of capital outlay reserves required by RD to the total amount of reserves required by ADFA regardless of whether the amount required by RD is greater or less than that required by ADFA. Regardless of the situation, ADFA should give credit to the amount incurred for the RD reserve, but should approve all such expenditures. **RESPONSE:** ADFA believes its current operating and replacement reserve requirements are adequate and should be maintained.

COMMENT: The 30% basis boost for RD properties should be continued. **RESPONSE:** ADFA agrees.

COMMENT: Requests ADFA keep location points as is. Especially the points given to counties that had no tax credit award for the past 3 years. A very good incentive. (pg 31 current QAP, Item 1a, b, and c.) **RESPONSE:** ADFA agrees.

COMMENT: Requests ADFA keep Development of Special Needs Housing points as is. There is a good proven criteria for prioritizing overall needs. (pg. 31-32 of current QAP, Items 2a-f). **RESPONSE:** ADFA agrees.

COMMENT: Requests points **increase** from 7 to 10 points for acquisition/rehab of existing structures. (pg 32 of current QAP Item 3a). **RESPONSE:** ADFA believes there is a good balance between incentives for new construction and rehab developments. ADFA has increased this from 7 to 8 points.

COMMENT: Request **leaving** score at 5 points for rehab only (pg 32 of current QAP, Item 3b). **RESPONSE:** ADFA is eliminating this point category.

COMMENT: Requests **keeping** points for USDA transfer funds commitments at 1 point. (Pg. 33 of current QAP, Item 4-1 for USDA and HUD Housing). **RESPONSE:** Development has a rental assistance contract or a commitment for project rental assistance from USDA Rural Development or HUD. Points for the above are allocated based upon percentage of rental assisted units to total number of units. Points available 8.

COMMENT: Requests **deletion** of points for USDA construction or rehab funds commitment (Pg 33 of current QAP, Item 4-2 for USDA and HUD Housing). **RESPONSE:** Development has a rental assistance contract or a commitment for project rental assistance from USDA Rural Development or HUD. Points for the above are allocated based upon percentage of rental assisted units to total number of units. Points available 8.

COMMENT: Request increase of points from 1 to 5 points for USDA rental assistance contract (Pg 33 of current QAP, Item 4-3 for USDA and HUD Housing). **RESPONSE:** ADFA recommends 8 points for USDA PBRA.

COMMENT: Requests **deletion** of points for USDA loan guarantee with interest credit buy down. (Pg 33 of current QAP, Item 4-4 for USDA and HUD Housing). **RESPONSE:** Development has a rental assistance contract or a commitment for project rental assistance from USDA Rural Development or HUD. Points for the above are allocated based upon percentage of rental assisted units to total number of units. Points available 8.

COMMENT: Requests giving 5 points to all categories of project based rental assistance regardless of years, i.e. Delete references to years: 11-20, 6-19 and 1-5. All project based rental assistance is renewed annually, subject to funding, regardless of term. (Pg 33 of current QAP, Item 4 – 1 to 4 for HUD). **RESPONSE:** ADFA recommends 8 points for PBRA.

COMMENT: Request 3 points assigned to proposed development involving rehab of structures on the Nat'l Register of Historic Places/or contribute to a Registered Historic District be kept same. (Pg 33 of Current QAP, Item 5). **RESPONSE:** ADFA agrees.

COMMENT: Requests **no change** to current policy that Developer Fee, including consultant fees, are 10% or less of net development costs. (Pg 33 of current QAP, Item 6). **RESPONSE:** ADFA agrees.

COMMENT: Request that we **decrease** the percentage from 20% to 10% as a minimum of the total residential units in the development that must be market rate units. Will demonstrate income diversity within a development. (Pg 33 of current QAP, Item 7). **RESPONSE:** ADFA believes a reduction in its percentage of market rate units will not result in production of more market rate units.

COMMENT: Request change to Advanced Energy Efficiency Features (Pg 34 of current QAP, Item 9) by adding 3 points for 3rd party inspection and energy rating sheet as set by a licensed energy rater and inspector. **RESPONSE:** ADFA believes the current policy is adequate.

COMMENT: Request elimination of giving 10 points for a CHDO (Pg 36 of current QAP, item 13). **RESPONSE:** ADFA agrees.

COMMENT: Agrees technical corrections regarding RD Operating Reserve could be handled at staff level. (pg 4 of his 7/1/13 letter) Kristi Norwick's elaboration states ADFA should credit the amount of RD's capital outlay reserve requirement to the total amount of ADFA required reserves regardless of whether RD requires more or less than ADFA. **RESPONSE:** ADFA believes its current operating and replacement reserve requirements are adequate and should be maintained.

COMMENT: Agrees 3 applications max as per current QAP regulations have been reasonable and fair. **RESPONSE:** ADFA agrees.

COMMENT: Blackout period of no contact to board or staff during processing period is a good and reasonable requirement. **RESPONSE:** ADFA agrees.

COMMENT: Staff is capable of using discretion in a proper manner. Some states have no scoring and projects are selected solely at the discretion of the Staff. **RESPONSE:** ADFA agrees.

COMMENT: Requests clarification on Cost Caps and Infrastructure. **RESPONSE:** ADFA will provide the requested clarification.

COMMENT: Based on dealings with other states regarding their LIHTC programs, ADFA is head and shoulders above most programs. The program is administered fairly by a well-trained, experienced, and hard-working staff. **RESPONSE:** ADFA appreciates.

Ken McDowell
COMMENT: Requests re-instatement of cure period. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Requests clarification on use of incentive funds for assisted living. In view of fact that DHS has almost doubled number of the Medicaid waivers, what market studies will be used…will they be long term care or privately produced market studies. **RESPONSE:** AL market study should be produced by an independent market study provider. ALIF moratorium may be lifted in 2014.

COMMENT: Requests an increase of the cost caps. Improvement of housing market will result in higher construction costs. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

Brent Lacefield
COMMENT: Requests priority be given to areas that haven't had funded projects in several years. (With a focus on new units, not just rehab.) **RESPONSE:** ADFA believes current policy is adequate.

COMMENT: Infrastructure should include curbs and gutters. **RESPONSE:** ADFA agrees.

COMMENT: Wants to be able to submit a draft cost certifications prior to final cost certifications. **RESPONSE:** Developers are responsible for reviewing final cost certifications for correctness, thus draft cost certifications are not necessary.

COMMENT: Recommends increase of cost caps. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: Proposed cost caps make multifamily more **favorable** to builders, but Arkansans would **benefit** more by single family. Requests ADFA adopt a system which "self-adjusts" annually such as using HUD's limits. **RESPONSE:** HUD 221(d)(3) limits are high in ADFA's opinion.

COMMENT: Requests QAP change every 2 years, not every year. Would save time and effort. **RESPONSE:** ADFA is required to review the QAP annually per IRS regulations.

COMMENT: **Above comment was modified per 8/27/13 e-mail: Requests QAP be **reviewed** every year, but **keep the points system the same for a 2 year period.** **RESPONSE:** ADFA receives public comments and suggestions annually and works to incorporate what is best for the program. ADFA hopes that the current proposed point system will not need changing, but must be able to adapt to meet the needs of housing in Arkansas.

COMMENT: Requests rehab priority should be given to ADFA's existing developments over RD developments, in light of decreased funding. **RESPONSE:** USDA Rural Development and ADFA's relationship in providing housing together go back to the beginning of the tax credit program and ADFA is committed to continuing our partnership with USDA in the future.

Danielle Nall

COMMENT: Omit thick paper application by submitting on electronically on a disk in PDF/Adobe format. **RESPONSE:** ADFA is moving towards a paperless application process at some point in the future.

COMMENT: Requests QAP change every 2 years, not every year. Would save time and effort. **RESPONSE:** ADFA is required to review the QAP annually per IRS regulations.

COMMENT: Requests cure period for tax credit applications be reinstated. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Clarify definition of Infrastructure. Would like to see it include curbs and gutters. **RESPONSE:** ADFA agrees.

Karen Phillips

COMMENT: Requests cure period be reinstated. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Requests open communications between Staff, Board and applicants. **RESPONSE:** ADFA agrees.

COMMENT: Request support of Arkansas Housing Trust Fund as supported by ACHANGE. Make sure funds are used for intended use. Admin costs must be kept to a minimum. **RESPONSE:** ADFA already provides extensive support to AHTF. ADFA agrees.

COMMENT: Address needs of rural areas and small cities by allowing Multi-Jurisdictional Development in adjacent counties and nearby small towns. (i.e., across county lines). **RESPONSE:** ADFA already allows for multi-jurisdictional applications under owner occupied rehab, not multifamily due to project management obstacles.

COMMENT: Requests 15% admin cost reimbursement to nonprofit developers of rental projects. **RESPONSE:** Non-profit rental developers must rely on developer fee to cover their admin costs.

COMMENT: Thanks to Board, Staff with many successes: 1) Murray's Single Family Home To Own operates smoothly 2) Default Counseling funds are a huge help 3) Joe's HOME program rehab team processes quickly. **RESPONSE:** ADFA appreciates.

COMMENT: Requests single family rental cost cap be raised to $160,000. Notes that there is an inaccurate assumption that apartments are cheaper for the government than single family homes. Arkansans strongly prefer single family homes. Proposed cost caps will shut out single family rental housing from the tax credit market. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs. Single family new construction per unit cost cap has been raised to $148,000.

Shannon Nuckolls
COMMENT: Single Family Home To Own with DPA and ADDI is well run and has shown vast improvements from a few years back. **RESPONSE:** ADFA appreciates.

Ed Wiles
COMMENT: Requests calculation of cost caps to not include infrastructure. Definition of infrastructure depends upon location of a project. **RESPONSE:** ADFA agrees.

COMMENT: After removing infrastructure from cost cap calculation, raise caps relative to each unit size. For example, a 1 bedroom unit could be capped at a cost of 5% above the current cap of $132,000 and set a new cap of $138,600. A 2 and 3 bedroom should be capped at higher rates of 10% and 15% respectively, which would amount to $145,200 and $151,800 respectively. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: Caps on assisted living and senior housing (one bedroom units) are currently sufficient. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: Costs cap of $132,000 for rehab of existing units is currently adequate but should be examined annually. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: Request increase current 7 points to 10 points for acquisition/rehab of existing **federally assisted** housing. Priority must be given to preservation of current supply of subsidized housing. **RESPONSE:** ADFA believes there is a good balance between incentives for new construction and rehab developments, although points for acquisition rehab have been raised to 8.

COMMENT: Supports the current scoring of 5 points for **rehab only. RESPONSE:** ADFA agrees.

COMMENT: Currently 3 points are given to HUD projects and 1 point for USDA-RD projects. Requests awarding of 5 points for the use of USDA-RD and HUD rental assistance contracts for acquisition/rehab projects. **RESPONSE:** ADFA recommends 8 points for USDA PBRA.

COMMENT: Request elimination of points for projects with USDA loan guarantee with interest buy downs, as it is not likely to be available in the future. **RESPONSE:** Development has a rental assistance contract or a commitment for project rental assistance from USDA Rural Development or HUD. Points for the above are allocated based upon percentage of rental assisted units to total number of units. Points available 8.

COMMENT: Requests awarding 5 points for advanced energy features **only if** they are properly supported by an independent (and ADFA approved) home energy rater and inspector instead of a project architect. **RESPONSE:** ADFA believes current energy point system is working.

COMMENT: Requests elimination of 10 points for an applicant that has a CHDO in the ownership makeup and is requesting HOME CHDO funds. CHDO's could still be given consideration in the LIHTC non-profit set-aside and for increased HOME funding on a project. **RESPONSE:** ADFA agrees.

COMMENT: Supports the current points (up to 15 points) for market need. **RESPONSE:** ADFA agrees.

COMMENT: If something other than the market study is used for the basis of scoring the points, the application should be given notice prior to the final scoring as to what other market information was considered and why the professional study was not accepted or utilized. **RESPONSE:** ADFA has market study guidelines posted at: http://www.arkansas.gov/adfa/New_Folder/authority_publications.htm
The guidelines clearly explain what is needed for a market study. During the review ADFA Staff uses the Market Study Guidelines, submitted market study and all other public information to confirm and score the market area.

John A. Williamson
COMMENT: Reinstate ADFA's cure period of one month for non-threshold and threshold items. Request Staff to provide clarification after initial scoring so that applications are not disqualified based on clerical errors or other minor deficiencies. **RESPONSE:** ADFA proposes 1 week response for non-threshold additional requirements.

COMMENT: Request that Project-based Section 8 projects be exempt from the requirement that utility allowance documentation be dated within 6 months of application. (since HUD pays the utilities). **RESPONSE:** ADFA agrees and proposes the following change to the utility allowance. The utility allowance documentation must be dated within six (6) months prior to the Application Deadline, unless the application is for acquisition rehabilitation of a HUD or USDA development, then the current executed HUD or USDA forms are acceptable.

COMMENT: Request that ADFA NOT remove requirements, procedures, regulations, and underwriting out of QAP into other documents. Since QAP is ultimately the governing document, this would increase misunderstandings and mistakes and slow the preparation of the application. **RESPONSE:** ADFA believes the new reorganization will benefit the applicant and eliminate confusion.

COMMENT: Supports continuation of the blackout period, with the exception of the cure period. The blackout period preserves the objectivity and consistency of the review process and increases ADFA's ability to efficiently review applications. **RESPONSE:** ADFA agrees.

Wally Nixon
COMMENT: Requests information how ADFA programs correlate with energy efficiency programs and state's investor-owned utilities under the Rules for Conservation and Energy Efficiency (C&EE Rules) adopted by the AR Public Service Commission. **RESPONSE:** ADFA has worked with Pulaski Technical College and encouraged the development community to participate in training on Energy Star and Building Science. ADFA has informed the development community of energy rebates available through Entergy.

COMMENT: Asks if recipients of LIHTC and HOME program benefits are encouraged or obliged by ADFA to pursue all available utility EE offerings and incentives? (e.g., audits, rebates, product buy-downs, etc.). **RESPONSE:** ADFA has informed the development community of energy rebates available through Entergy.

COMMENT: Asks history of LIHTC recipients and HOME grantees taking advantage of these utility programs, which began in late 2007. Have the utilities reached out to ADFA and the grantees/tax credit applicants /recipients to describe and enlist participation in their EE programs? **RESPONSE:** ADFA has no information on past usage of available energy efficiency programs by ADFA's housing partners. ADFA has been contacted recently by ICF International regarding energy efficiency program availability.

COMMENT: Asks if ADFA is in a position to facilitate increased engagement between developers and the utilities on these matters? **RESPONSE:** ADFA can make its housing partners aware of available energy efficiency programs. ADFA will reach out to the utility providers and invite them to ADFA annual meetings with the development community.

Kristina Knight
COMMENT: Regarding DRAFT Application Guidelines, Item I 3.a: Construction Financing - Permanent Commitment letter should include the amount of loan, amortization period, annual loan payment and interest rate. But construction financing letter should only include amount of loan and interest rate.*(see below). **RESPONSE:** ADFA will clarify.

COMMENT: regarding DRAFT Application Guidelines, Item 16: Cost Certification should not be included as a general requirement item, because it is the responsibility of the partnership and is not included in the construction contract amount. **RESPONSE:** ADFA agrees and will remove the Cost Certification from the general requirements.

Arby Smith
COMMENT: Regarding DRAFT Application Guidelines, Item I 3.a: Construction Financing - Permanent Commitment letter should include the amount of loan, amortization period, annual loan payment and interest rate. But construction financing letter should only include amount of loan and interest rate. **RESPONSE:** ADFA will clarify.

COMMENT: regarding DRAFT Application Guidelines, Item 16: Cost Certification should not be included as a general requirement item, because it is the responsibility of the partnership and is not included in the construction contract amount. **RESPONSE:** ADFA agrees and will remove the Cost Certification from the general requirements.

COMMENT: Requests ADFA maintain 7 points for Acquisition Rehab. As evidenced in the 2013 LIHTC awards, the current point advantage provides a balance between rehab and new construction awards. **RESPONSE:** ADFA agrees the 2013 round was well balanced, but at the Public meeting on 8-14-2013 the ADFA Board recommended more emphasis on rehabilitation. Acquisition Rehabilitation points are now increased to 8.

COMMENT: Regarding USDA/HUD Public Housing, requests ADFA either maintain or remove current points. Funding from USDA and HUD has decreased not only for future developments, but also for developments currently receiving rental assistance, leading to project instability once reserves are depleted. **RESPONSE:** In ADFA's opinion USDA and HUD developments with project based rental assistance need point preference in order to maintain the development and the State not lose the much needed rental assistance.

COMMENT: Requests ADFA require 8823 historical info from developer's new to Arkansas as part of their application. Commends ADFA for holding Owner's accountable to compliance standards. **RESPONSE:** ADFA uses Attachment A criminal background and disclosure form for applicant to disclose issues with other state agencies.

COMMENT: Agrees with ADFA that threshold items should not be allowed to be corrected during the Cure Period. **RESPONSE:** ADFA agrees.

Nicole Barrett

COMMENT: Requests a tax credit set-aside for proposals involving the preservation and rehab of existing single family rental housing. **RESPONSE:** ADFA already incentivizes rehab of existing housing through the point system.

COMMENT: Requests ADFA maintain the points awarded to proposals involving preservation. **RESPONSE:** ADFA agrees.

COMMENT: requests ADFA maintain the green building incentives shown the in draft QAP. Revise design standards to provide enumerated scoring criteria for significant energy conservation improvements in rehabilitation. Consider using *Green Communities* (at www.greencommunities.org) criteria, which is a proven standard. **RESPONSE:** ADFA currently awards points for energy efficiency, and believes this system is working. Many of the criteria of www.GreenCommunities.org (Integrative Design, Location and Neighborhood Fabric, Site Improvements, Water Conservation, Energy Efficiency, Materials Beneficial to the Environment, Healthy Living Environment, Operations and Maintenance) are taken into account with our Universal Design, Minimum Design standards, and Compliance monitoring.

COMMENT: Requests ADFA consider partnering with local utilities to promote retrofits to existing affordable multi-family units. Energy efficiency upgrades, already used by many states, are a cost-effective approach to lower operating expenses and maintain affordability. **RESPONSE:** ADFA can make its housing partners aware of available energy efficiency programs. ADFA will reach out to the utility providers and invite them to ADFA annual meetings with the development community.

Belinda Snow

COMMENT: Requests ADFA define a PHA Redevelopment Project as an existing public housing development to be either rehabilitated or demolished and re-built on same site or multiple sites, provided it does not exceed one for one replacement. **RESPONSE:** ADFA does not believe there is a need to define a PHA Redevelopment Project.

COMMENT: Requests a scoring category of 10 points for a PHA Redevelopment Project to offset points lost under "Location" points for counties in which a tax credit award hasn't been made in the past 3 years. (allows a phased PHA redevelopment to remain competitive). **RESPONSE:** ADFA's location points system is to ensure reasonable distribution of LIHTC resources throughout the state, which has worked well for many years. By allowing 10 points for PHA Redevelopment, ADFA is of the opinion this would give an unbalanced advantage, and disrupt the balanced distribution in the state for locations without PHAs.

COMMENT: Requests a PHA Redevelopment Project as a part of Scoring Criteria 3, acquisition rehabilitation of existing structures. **RESPONSE:** ADFA believes this would give an unfair advantage to the PHA. Criteria 3 for rehabilitation helps existing developments compete with other point categories they cannot achieve. The proposed project is clearly not acquisition and rehabilitation but demolition and new construction.

COMMENT: Regarding Threshold Requirement 17, Per Unit Cost Cap; requests new category for PHA Redevelopment Project with a cost cap of $164,000 per unit (the same as Historic Rehab) due to higher development costs than Historic Rehab. For example, infrastructure replacement, asbestos & lead remediation, demolition, HUD approval requirement, higher capital needs assessments, legal fees and engineering costs. **RESPONSE:** Recommended cost caps have been adjusted and reflect usual and customary costs. ADFA is of the opinion that the $148,000 single family detached and $138,000 for all other new construction is sufficient.

Elizabeth Small

COMMENT: Requests **increase of cost caps** to keep up with continuously rising costs of materials, fees, insurance and fuel. Requests ADFA adopt 221(d)(3) non-elevator (or elevator) limits. **RESPONSE:** The HUD 221(d)(3) limits are high in ADFA's opinion.

COMMENT: Requests **elimination of infrastructure requirement** entirely in conjunction with adoption of the 221(d)(3) cost cap method. **RESPONSE:** ADFA does not agree with the HUD 221(d)(3) method.

COMMENT: Agrees **cost certification** should be submitted promptly following the completion of construction, realistically, however there may be items still in process: landscaping, punch lists items, weather delays or poor sub-contractor performance. Regardless of issuance of Certificate of Occupancy, the development may not be completed from an accounting standpoint. It may be best for all parties, to delay issuance of the cost certification pending rectification of these items. **RESPONSE:** ADFA agrees that Final Cost Certification should be submitted completely and accurately as soon as possible.

Steve Clark

COMMENT: The following items, should be **removed** from the Threshold Requirements of the initial application and be considered **post award requirements:** Financial Commitment Letters, Utility Allowance Calculation, Tenant Income Audit, Operating Deficit Reserve & Replacement Reserve Funds, Developer Fee Standard, Per Unit Cost Cap, Minimum Debt Coverage Ratio, Fair Housing Training, Additional Underwriting Criteria, Application Limit, Economic Interest Effect on Application Limit, and No Multiple Phase Developments. **RESPONSE:** ADFA disagrees as many of the Threshold Requirements listed are necessary for project underwriting.

COMMENT: ADFA should abandon its one-size-fits-all concept of cost cap per unit. Instead, use the 223(b)(3) mortgage limits for Arkansas as the cap. Economics, defined by rents allowed to be charged define cost of units. Developments can only carry a finite amount of debt in order to meet the demands of a 1.20 Debt Service Coverage ratio. **RESPONSE:** The development community has submitted or completed applications at or below the recommended cost caps. Recommended cost caps have been adjusted and reflect usual and customary costs.

COMMENT: ADFA should have one section entitled "Discretionary Items" listing those items, quoting the section with the code that provides that power. ADFA should coordinate with stakeholders to reduce the instances of use of discretionary power. **RESPONSE:** ADFA requires a certain degree of prudence to adequately administer the tax credit program.

COMMENT: Recommends that each sponsor be allocated up to 2 developments per year (considering the limited number of tax credits). Sponsor should be defined as an entity that has a 10% (or greater) ownership interest in the development, or is closely held by an entity that has 10% (or greater) interest in the development. This would include employees, relatives or known associates, acting in the best interest of or on behalf of the Sponsor Organization having an interest greater than 10%. **RESPONSE:** ADFA's position is that a limit of three (3) developments per applicant is sufficient.

Isaac Linam, an attorney with the Bureau of Legislative Research, asked the following questions:

QUESTION #1: In the Housing Credit Program Qualified Allocation Plan, section II. Multi-Family Housing Application ("MFHA"), the proposed rule states that "[a] $500.00 fee per change item submitted shall be submitted to ADFA with all change requests".

Under what authority does ADFA charge this fee, consistent with Ark. Code Ann. § 25-15-105? RESPONSE: Ark. Code Ann. § 15-5-207.

QUESTION #2: In Guidelines for Multi-Family Housing Application, section III. Miscellaneous, A. Definitions, from where is the new definition of "infrastructure" derived? **RESPONSE:** The Authority defined infrastructure. In the Multi-Family Housing Application section XXIV Development Cost Budget, there is a specific line item for infrastructure. There was confusion by our applicants on what cost needed to be in this line item, some were mistakenly placing all land preparation cost in the infrastructure line item, so it was necessary for the Authority to define what cost needed to be placed in infrastructure.

QUESTION #3: In Guidelines for Multi-Family Housing Application, section IV. ADFA FEES, under what authority are each of these fees assessed, consistent with Ark. Code Ann. § 25-15-105? **RESPONSE:** Ark. Code Ann. § 15-5-207.

QUESTION #4: You submitted a host of written comments with your filing with our office. These comments appear to have been received prior to the public comment period for this rule commencing. Under what circumstances did ADFA receive these comments? **RESPONSE:** As required by Federal law the Authority must review the Tax Credit QAP annually, as we start this process we request comments from the public and hold several public meetings that conclude in the fall with one final public meeting. In the future would you like the Authority to submit these comments and our final policies at the end of our review period in the fall for you to review? This will keep you from reviewing them twice.

The proposed effective date for the rule is Upon Review by the Legislative Council.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact to the agency nor to the applicants.

LEGAL AUTHORIZATION: Ark. Code Ann. §15-5-207 (b)(5) gives the Arkansas Development Finance Authority the authority "[t]o make and issue such rules and regulations as may be necessary or convenient to carry out the purposes of" the Arkansas Development Finance Authority Act.

Ark. Code Ann. § 26-51-1702(a) grants an "Arkansas low income housing tax credit" to "[a] taxpayer owning an interest in a qualified project". Section 26-51-1701 defines "qualified project" as "a qualified low income building as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, which is located in Arkansas". Section 26-51-1705 states that the Arkansas Development Finance Authority "shall promulgate rules and regulations necessary to administer the provisions of this subchapter".

Under federal law, 26 U.S.C. § 42(c)(2) grants a low-income housing credit to taxpayers meeting the requirements of that section. 26 U.S.C. § 42(m) requires state housing credit agencies to develop a "qualified allocation plan" to allocate low-income housing credits for selected projects.