**[DRAFT] Subsidy Layering Review Guidance and Checklist**

Virginia Housing, in its capacity as the Housing Credit Agency for the Commonwealth of Virginia, has been granted authority by HUD to conduct Subsidy Layering Reviews (SLR) for Low Income Housing Tax Credit (LIHTC) new construction and rehab properties receiving Project Based Voucher (PBV) awards from a Virginia Public Housing Authority (PHA).

A Virginia Housing SLR is conducted pursuant to the HUD SLR Guidelines (FR Notice, Vol. 85, No. 40, February 28, 2020). Virginia housing will only complete the SLR for properties receiving a LIHTC award. For PBV awards in properties that will not receive LIHTC, PHA’s must submit the request for SLR directly to the HUD field office in Richmond.

**Submission Guidelines**

All request for a Virginia Housing SLR must be made by the PHA providing the PBV award and executing the Housing Assistance Payments (HAP) contract. To request an SLR the PHA must submit to Virginia Housing a cover letter on PHA letterhead to TaxCreditApps@VirginiaHousing.com. The request must include the following information:

1. PHA Number
2. PHA Contact Person and Email
3. Owner Contact Person and Email
4. Project Name
5. Project Address

Once Virginia housing receives a request for the SLR the PHA will be provided with access to a Procorem folder to submit the required documentation.

Upon completion of the SLR, a one-time fee of $15,000 will be invoiced and must be paid prior to the issuance of the SLR Certification Letter. This certification is only applicable to the necessary SLR, and the development still must comply with any other HUD and/or local requirements prior to execution of their HAP contract.

**Required Documents for Subsidy Layering Review**

Property Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The PHA is responsible for collecting and submitting all documents listed below. All documents are required by HUD SLR Guidelines and must be submitted before the SLR can be completed.

[ ]  Narrative Description of the Project

* Narrative must identify project ownership, type of activity (supportive housing, elderly, etc.), the project location, total units in the project by bedroom size, and total number of PBVs awarded to the project
* If greater than 25% of units in the project are receiving PBVs, the narrative must specify the exception to the 25% per building cap that is being met under 24 CFR 983.56

[ ]  Statement of Sources and Uses of Funds

* Indicate type of each source (loan or grant) and terms. Only included permanent financing. Construction and interim financing should be included in ‘Description of of Funding Sources.’ Property may use the LIHTC application’s “Sources” tab, but must reflect any changes since the original reservation and/or allocation application.
* Identify detailed uses. Property may use the LIHTC application’s “Hard Costs” and “Owners Costs” tabs, but must reflect any changes since the original reservation and/or allocation application.

[ ]  Operating Pro Forma

* Must reflect each year of the HAP contract initial term, or 15 years, whichever is longer
* All assumptions for income, expenses, and debt coverage must be clearly identified

[ ]  Description of Funding Sources

* Short narrative describing the details for each funding source. Narrative should include the following information for each funding source: principal; interest rate; amortization; term; any accrual, deferral, balloon, or forgiveness provisions; reserve or escrow requirements for any debt; and any requirement to pay a portion of debt service as cashflow

[ ]  Commitments for all Funding Sources

* Commitment letter, grant agreements, or loan agreements for each funding source
* Commitment documentation should include all significant terms of the funding and should match the terms identified in previous checklist items
	+ Letters of Intent do not meet these requirements
	+ Commitments must not have conditions for approval, closing conditions are acceptable

[ ]  HOME Commitment Letter (When applicable)

* Signed document identifying requirements of the HOME units and intended rent

[ ]  Supportive Service Commitment

* A signed Memorandum of Understanding that describes the type o fservices to be provided, frequency, terms of service and resident eligibility

[ ]  Appraisal

* Appraisal establishing the “as is” value of the property before construction and without implications of tax credits

[ ]  Low-Income Housing Tax Credit Allocation Letter

[ ]  Historic Tax Credit Letter (When applicable)

* Submit award letter identifying the tax credit award amount

[ ]  Equity Investor Contribution Commitment and Schedule

[ ]  Bridge Loan

* If the property includes a bridge loan submit financing details. Details should mirror the requirements in “Description of Funding Sources” above

[ ]  Form HUD-2880, completed by owner

[ ]  PBV Award Letter

* Letter must be on PHA letter head and include the number of units and bedroom sizes

[ ]  PHA Rent Certification Letter

* Letter must be on PHA letter head and include the following: proposed initial contract rents; utility allowances; gross rental amounts for assisted units; rent reasonableness documentation or comparability analysis as evidence of rent determination

[ ]  Environmental Clearance

* Evidence that a Part 58 review is submitted to the responsible entity or a Part 50 review is submitted to the Field Office

[ ]  Checklist and Safe Harbor Standards Analysis (this document, completed)

**Safe Harbor Standards Analysis**

Prior to certifying the completion of the Subsidy Layering Review, the below chart must be complete and demonstrate that the development is in compliance with Federal Subsidy Layering Review Safe Harbor Standards. In the event that any listed metric falls outside of thresholds set by HUD, justification must be provided in a separate narrative document. All figures below must match data from the submitted Sources and Uses or Property Pro Forma. For any additional clarification please first refer to the HUD Guidelines (FR Notice, Vol. 85, No. 40, February 28, 2020).

|  |  |  |  |
| --- | --- | --- | --- |
| **Line Item** | **Dev Figure** | **Threshold** | **Outside of Safe Harbor?** |
| Development Standards |  |  |
| Total Hard Costs |  |  |  |
| General Contractor Fees |  |  |  |
| GC Fees as a % of Hard Costs |  | ≤ 6% |[ ]
| Contractor Overhead |  |  |  |
| Contractor Overhead as a % of Hard Costs |  | ≤ 2% |[ ]
| Builders Profit |  |  |  |
| Builders Profit as a % of Hard Costs |  | ≤ 6% |[ ]
| Total Costs |  |  |  |
| Developer Fee |  |  |  |
| Developer Fee as a % of Total Costs (Eligible Basis) |  | ≤ 15% |[ ]
| Operating Standards |  |  |
| Operating Expenses Trend Rate Years 1-5 |  | 1%-3% |[ ]
| Operating Expenses Trend Rate years 6-15 |  | 3% |[ ]
| Rent Increase Trend Rate Years 1-15 |  | 2%-3% |[ ]
| Vacancy Rate |  | ≤ 7% |[ ]
| DCR Low – Years 1-15 (include year) |  | ≥ 1.10 |[ ]
| DCR High – Years 1-15 (include year) |  | ≤ 1.45 |[ ]
| Cash Flow High as a % of Operating Expenses (include year) |  | ≤ 10% |[ ]