



Board of Directors

December 30, 2024

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RE: Comments on Draft 2025–2026 Qualified Allocation Plan

Treasurer

Kenan Bigby

Dear Undersecretary Racer,

Clerk

Rachana Crowley

On behalf of Citizens' Housing and Planning Association (CHAPA), thank you for the opportunity to submit comments on the Draft 2025–2026 Qualified Allocation Plan (QAP).

Andrea Aldana

Symone Crawford

Kelley Cronin

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Karen Frederick

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Olivia Richard

Amarillys Rodriguez

Timothy Sullivan

CHAPA appreciates the Healey-Driscoll Administration making affordable housing production and preservation a top priority for the Commonwealth. With the historic investments authorized under the Affordable Homes Act, increased levels of funding for our state rental assistance programs, and new laws to make it easier to approve smart growth zoning and build new homes near transit, we have the strongest opportunity in a generation to create and preserve affordable homes across Massachusetts.

Chief Executive Officer

Rachel Heller

We are thankful for the dedicated staff at the Executive Office of Housing and Livable Communities (EOHLC) and their commitment to our shared priority of helping everyone in the Commonwealth have a safe, healthy, and affordable home in the community of their choice. As residents continue to face housing instability as housing costs rise, EOHLC's resources for affordable housing are critical to the continued production and preservation of affordable housing as we continue to experience high construction costs and interest rates, an unpredictable supply chain, and increases in every aspect of housing development and operations.

As you finalize the 2025–2026 QAP, we hope you will consider CHAPA's recommendations, which focus on affordability for

households with extremely low incomes, fair housing, supportive housing, accessibility, and racial equity.

Extremely Low Income (ELI) Households

CHAPA commends EOHLC for increasing the minimum threshold for ELI housing from 13% to 16%, a significant advancement in addressing the acute housing needs of households earning no more than 30% of the area median income. With the Affordable Homes Act (AHA) delivering critical investments to expand and sustain housing production and preservation statewide, the threshold increase ensures that households with the lowest incomes can benefit from the outcomes of these initiatives.

To build on this progress, continued investments in public housing, supportive housing, and mixed-income developments are essential. Expanding funding for production and preservation, alongside increased rental assistance, will ensure that deeply affordable homes remain accessible to extremely low-income households. The Affordable Homes Act's Supportive Housing Pool Fund provides a valuable tool to meet these goals and should be implemented effectively, with tools such as out-of-round funding and close collaboration with developers and service providers to maximize its impact. Future QAPs should also rely on data-driven policies to prioritize developments that address the most pressing housing needs.

Racial Equity

CHAPA appreciates EOHLC's commitment to promoting diversity in the affordable housing industry through the draft 2025-2026 QAP by continuing to prioritize Minority and Women-owned Business Enterprise (M/WBE) participation.

While participation of Minority and Women-owned Business Enterprises are strongly encouraged in the 2025-2026 QAP, the new Responsible Contractor Guidance will counter the goals EOHLC has for increasing diversity of development teams. The administrative requirements included in the Guidance establish new barriers for M/WBEs. In addition, increased liability for General Contractors will encourage them to work with subcontractors they have relationships with rather than expanding the number of companies they contract with. Additional details are included under CHAPA's feedback on the Responsible Contractor Guidance.

Additionally, federal pandemic relief funds were wisely invested in homeownership production and homebuyer assistance tools in addition to rental housing development. These programs were incredibly successful, particularly in assisting homebuyers of color. With the passage of the Affordable Homes Act, the Commonwealth Builder program, new downpayment assistance, and the new Homeownership Production Tax Credit, Massachusetts has new resources to increase homeownership rates and narrow the racial homeownership gap. While the QAP directs how the Low Income Housing Tax Credit will be used for rental

housing, our state bond programs support LIHTC development and homeownership programs. Both are critical for meeting the Commonwealth's housing needs and it is important to ensure bond programs are used to support homeownership and rental developments. CHAPA looks forward to working with EOHLC on increasing both rental and homeownership production.

Accessibility

Disability advocacy organizations have long emphasized the need for accessible and affordable housing. We applaud recent updates to the Alternative Housing Voucher Program (AHVP), including the ability to project-base vouchers, which enhances opportunities for creating deeply affordable and accessible homes.

These changes align with updates in the 2025-26 Qualified Allocation Plan (QAP), which incentivizes higher accessibility standards by increasing points for accessibility features from 6 to 10. Updates include simplifying design requirements, enhancing safety and usability through thoughtful lighting and exit adjustments, and refining unit layouts to better accommodate a variety of needs. Collectively, these changes demonstrate a stronger commitment to creating housing that is inclusive and adaptable for individuals with disabilities.

Building on these advancements, we encourage further steps to ensure accessible housing is prioritized and widely available. Strengthening accessibility requirements across developments and increasing the overlap between affordable and accessible homes will better serve individuals with disabilities. Additionally, incentivizing the development of adaptable 2, 3, and 4-bedroom apartments will address the specific needs of families requiring accessible housing. Allocating AHVP vouchers specifically for project-basing will further support these efforts, ensuring meaningful and lasting impact.

Fair Housing

CHAPA thanks EOHLC for continuing to emphasize affirmatively furthering fair housing in every community in the Commonwealth. Recognizing opportunity in every community, investing in communities across Massachusetts, and expanding meaningful choice for people to live in the communities they choose is paramount to realizing the goals of the Fair Housing Act and ensuring that the Commonwealth is a place where everyone can thrive. We look forward to working with EOHLC on the implementation of the Office of Fair Housing that was established in the Affordable Homes Act. The new Office will play a key role in supporting EOHLC and state agencies to expand opportunities for people to live in safe, healthy, and affordable homes in the communities they choose.

Evidence of Local Support

CHAPA thanks EOHLC for including changes to the threshold criteria related to the evidence of local support if that local support or contributions have been unreasonably withheld despite reasonable efforts by the sponsor to obtain support. While it is important for projects to enjoy local support in the community, some communities may refuse to offer support for affordable

housing even if residents in this community may be most in need of these resources.

Expanding Participation with Housing Navigator

CHAPA thanks EOHLC for adding in the 2025-2026 QAP that sponsors and owners seeking LIHTC and/or subsidy funds from EOHLC must update “data on units in existing projects”. CHAPA supports both the previous changes to the QAP and the new rules encouraging sponsors to actively participate in and keep their listings up to date in the Housing Navigator. By regularly updating information for both new and existing units, the Navigator remains a reliable, real-time resource for people to find affordable housing across the state. There is also an emphasis on listing units during the marketing phase to improve transparency and outreach. CHAPA appreciates EOHLC’s commitment to the HousingNavigator and ensuring that people have access to information on all affordable rental opportunities created throughout the state.

CHAPA requests that reference to CHAPA’s Massachusetts Accessible Housing Registry be removed from the QAP since listing openings with Housing Navigator fulfills the statutory requirement to list on the Massachusetts Accessible Housing Registry.

Green, Sustainable, and Climate Resilient Designs

CHAPA applauds EOHLC for prioritizing new housing and renovation projects with developers committed to creating sustainable, green, and climate-resilient designs. The updates to the 2025-2026 QAP strengthen this focus by requiring Enterprise Green Communities (EGC) certification and meeting the Massachusetts Stretch Energy Code, with extra incentives for projects meeting stricter energy standards. The updates also promote the use of renewable energy, electrification, and low-carbon materials like low-carbon concrete and wood fiberboard insulation, ensuring projects reduce emissions and improve residents' health and quality of life.

These updates also provide an opportunity to align sustainable housing development with new multifamily zoning in MBTA Communities, supporting transit-oriented and climate-resilient housing near public transit hubs. By connecting residents to jobs and essential services while reducing reliance on cars, these efforts position Massachusetts to advance fair and sustainable housing solutions.

Small Properties Acquisition Fund

We thank EOHLC for dedicating funding for the Small Properties Acquisition Fund and we are thrilled that CEDAC announced a funding round for the authorization provided by the Legislature in 2021. With new funding authorization included in the Affordable Homes Act, it is important to provide resources for community land trusts and affordable housing developers to acquire naturally occurring affordable housing to grow our affordable housing stock and help preserve the ability of people to stay in their neighborhoods.

Updated Cost Limits

With volatile construction prices that have risen sharply in the past few years and the need to incorporate green, sustainable, and climate-resilient design, CHAPA recognizes EOHLIC's decision to temporarily remove cost limits. This approach avoids locking in inflated post-pandemic costs, allowing for the collection of more accurate data to reflect current challenges. Rising costs are not limited to construction alone; soaring property insurance rates have also become a significant driver of higher development and operating expenses. CHAPA looks forward to working with HLC to gather the necessary data, address these rising costs holistically, and adjust cost limits thoughtfully to ensure future policies support both affordability and sustainability in housing development.

Rural Development Points

CHAPA supports the inclusion of rural development points in the 2025-26 Qualified Allocation Plan (QAP), which offers up to four points for LIHTC projects in Massachusetts communities with fewer than 500 people per square mile. This change acknowledges the unique challenges of building housing in rural areas, such as limited infrastructure and funding, while addressing the need for more homes in these regions.

We encourage EOHLIC to continue working closely with stakeholders to ensure rural communities' specific needs are met. This collaboration should focus on overcoming challenges like access to transportation, jobs, and essential services, ensuring rural housing projects are both impactful and sustainable. By strengthening these efforts and partnerships, the state can help make housing development more equitable across Massachusetts.

Meeting Affordability Needs of Households with Low and Moderate Incomes

For households with incomes above 40% of the Area Median Income and below 80% of the Area Median Income, there is a large gap in affordability, making it extremely difficult for households with low and moderate incomes to find homes they can afford. Municipalities, service providers, and business owners compete for talent that cannot afford the cost of living. The Mixed Income Housing Program and the Momentum Fund can each help play a role in meeting the needs of households with incomes that fall within this income group. CHAPA looks forward to working with EOHLIC on the implementation of new programs established in the Affordable Homes Act as well as additional strategies to ensure that people with low and moderate incomes can find homes they can afford in communities they choose.

Responsible Contractor Guidelines

The proposed Guidance imposes new obligations on owners and contractors, adds new rules, tremendous administrative burdens, and additional liabilities for contractors, subcontractors, sub-sub-contractors and presumably any additional tiers of companies providing construction services. The stated purpose of the

Guidance is to enhance compliance with the state's wage laws, which are the strongest in the country. Affordable housing is already a heavily regulated industry. This additional level of compliance adds costs and time to projects, reducing the number of homes that can be created with state funds and increasing the amount of time it takes to complete construction of new homes that are urgently needed today.

Estimating the Costs Imposed by the New Requirements

We are not aware of any analysis performed by EOHLC of the cost consequences of the Guidance. Such an analysis, which would be required if this were a federal regulation, must be performed prior to the Guidance going into effect.

The proposed Guidance adds new administrative steps that increase costs and do not align with current processes. Collecting and scanning the safety certifications of every one of the hundreds of workers on a construction site and then submitting those scans to the owner will be a time-consuming task that will do little to improve the safety of construction sites. General contractors have different ways of tracking subcontractor efforts on different job sites. Requiring instead that all general contractors use daily sign-in sheets for the hundreds of individuals working on a site will slow down construction. Collecting and submitting certified payrolls is an added compliance step that is not currently required on all affordable housing developments. Adding regulatory burdens inevitably increases costs and decreases the firms willing to participate.

Some of these regulatory requirements may be typical on public infrastructure construction projects. The 2022 Labor Day Report on public construction projects issued by the Massachusetts Attorney General's Office states: "Updated training materials from the [Office of the Inspector General] will also remind awarding authorities to collect certified payroll reports, apprentice identification cards, and proof of OSHA-10 training certification." A vast majority of general contractors and subcontractors in the Commonwealth choose to avoid public construction projects because of the regulatory burdens. Applying public construction rules to affordable housing is a major policy change as affordable production and preservation projects have never been considered public construction.

Based upon discussions among CHAPA members, we have made a rough estimate of the annual cost of the Guidance. A typical EOHLC project has a general contractor and approximately twenty sub-contractors. 10 of the sub-contractors could use sub-subs. Thus, there are approximately thirty-one entities that bear costs associated with complying with the Guidance. We think that a reasonable estimate is that each sub-sub would bear a cost of no less than \$5,000 a year per project, that each sub would bear a cost of no less than \$7,500, and that the general contractor would bear a cost of \$50,000. Thus, the total cost per project per year would be approximately \$250,000. Typical EOHLC projects have an approximate two-year construction period, resulting in approximately \$500,000 in added construction costs for each EOHLC-supported project.

Because each unit of affordable housing costs approximately \$500,000 to construct, the cost of this Guidance will result in the loss of 1 unit of housing. Based upon the list of programs that would be covered, about 60 projects per year would be affected, potentially resulting in the loss of 60 affordable homes that would have otherwise been built. If, on average, EOHLC programs produce 3,000 affordable apartments per year, the result is a 2% overall reduction in production. Over a ten-year period, the total reduction would be 600 lost apartments.

The Guidance imposes on contractors the obligation to collect vast amounts of wage and hour data, but in no way changes existing laws or require the owner or contractor to take any enforcement actions. Furthermore, it applies only to affordable housing funded by EOHLC. While EOHLC-supported projects are currently accounting for around 25% of the Commonwealth's housing production, this percentage will narrow as the conventional marketplace regains its strength. Thus, this Guidance is being imposed on a small percentage of the construction in the Commonwealth.

Moreover, most affordable housing is financed by either MassHousing or the Massachusetts Housing Partnership. Both agencies are extremely well run and have significant compliance departments. As a result, the likelihood of non-compliance with existing law is significantly less in the affordable housing area.

Workers absolutely must receive the full benefits of the Commonwealth's labor laws, which is the stated goal of the Guidance. However, it is unclear how the Guidance furthers this goal. Before issuing the Guidance, EOHLC should address the following questions. First, what is the incidence of the violation of wage and hour laws? Second, is there any evidence that the problem is getting worse or better? Third, since these laws already exist, why has the existing enforcement been inadequate? Fourth, what reduction in housing production and preservation could result from the implementation of the Guidance? Fifth, are there less detrimental ways to achieve the same results?

Impacts on the Workforce

In addition to the costs imposed by the Guidance, these regulatory requirements will reduce the size and diversity of our workforce and disproportionately impact small, emerging, and minority-owned businesses.

There are numerous barriers for small, emerging, and minority owned businesses. Removing these barriers is critical to closing the racial wealth gap and increasing the construction workforce that is needed to produce and preserve the Commonwealth's housing stock. The Commonwealth has demonstrated a commitment to growing these businesses through the Equitable Developers Fund run by MassHousing and Mass Housing Investment Corporation (MHIC). The proposed Guidance adds new procedures and compliance requirements that run counter to the state's efforts and will add new barriers for these businesses.

The new compliance requirements add liabilities for General Contractors, which will reduce the number of subcontractors they work with. To facilitate the development of small and minority owned businesses, General Contractors often encourage their subcontractors to subdivide the scope of their work and collaborate with small, emerging, and minority owned businesses. The General Contractors will need to certify information they do not have access to that is maintained by subcontractor companies. Because of compliance risks, General Contractors will likely work with subcontractors they have worked with in the past. This reduces opportunities for new companies to get contracts.

Recommendations for Implementation

Provide Technical Assistance

Small contractors often lack the back-office support needed to meet detailed compliance and reporting requirements already mandated by state and federal agencies. Adding new requirements, including requiring certificates of compliance from the Department of Unemployment Assistance and Department of Revenue, will increase barriers to entry and discourage many from bidding, limit their growth opportunities, and reduce workforce diversity. EOHLC should provide technical assistance to small, emerging, and minority owned businesses to provide the support that's needed to increase administrative capacity and meet an additional set of administrative requirements.

Align with Current Administrative Processes

The proposed additional requirements do not align with administrative processes already in place. Any required documents should follow the development process. An appropriate starting point is 30 days after closing when subcontractors are on board and a final certification at the end of the project when the final requisition is submitted to EOHLC for funding. Ongoing compliance should be a part of the monthly requisition packages submitted by the General Contractor to the owner. Furthermore, requiring "accurate" rather than "certified" documents ensures transparency and accountability without adding even more costs and complexities through new formal certification protocols.

Given the increased administrative burden, smaller projects of less than 50 units should be exempt from the proposed guidance. Applying these requirements to all projects of all sizes will drive up costs and timelines. This has a particularly detrimental impact on smaller projects.

Payroll and Classification of Employees

A construction project includes a mix of workers; some are W-2 full-time employees and others are 1099 contractors. General contractors can only certify compliance with all applicable wage laws for their own staff. They do not have access to the wage information of subcontractors or sub-sub-contractors. Furthermore, a certificate of compliance should be adequate for contractors to attest that workers were properly paid. A certificate of compliance form should

also be used to attest that all workers signed in and signed out each day they were on site.

In private construction, most construction workers are the employees of subcontracting businesses (plumbing companies, electrical subcontractors, landscaping businesses, etc.). Those subcontractors may send their employees to multiple construction sites during every pay period. The paychecks for those employees thus reflect work on multiple construction jobs. On affordable housing and preservation efforts that do not trigger federal or state prevailing wage regulations, a system does not exist for compiling payroll records – and such a system is not necessary.

Safety Standards

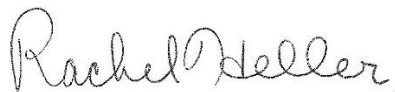
Requiring OSHA 10 cards establishes a new requirement for safety standards. EOHLC should accept other safety training curriculum in addition to OSHA 10. General Contractors sometimes provide alternative safety training programs, such as the Associated General Contractors of Massachusetts CARE Construction Safety Program. By requiring OSHA 10 cards, this will make the pool of General Contractors and subcontractors smaller as they implement new safety training.

Ability to Cure

EOHLC should add a cure period to give contractors time to resolve compliance issues before imposing penalties to ensure fairness and avoid delays. If contractors do not have a cure period, that can slow down construction on multiple projects. There are a small number of General Contractors and a large number of projects across the state. An error at one job site could have impacts on multiple job sites.

Thank you again for your consideration of these comments. As always, CHAPA looks forward to working with you to make sure that everyone in the Commonwealth has a safe, healthy, and affordable place to call home.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Heller".

Rachel Heller
Chief Executive Officer