LISC
LOCAL INITIATIVES
SUPPORT CORPORATION

September 18, 2024

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

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

Dear Deputy Assistant Secretary Handelman,

The Local Initiatives Support Corporation (LISC) thanks the U.S. Department of Housing and Urban Development (HUD) for the opportunity to provide feedback on the Qualified Contract Loophole in the Low-Income Housing Tax Credit Program Housing Notice posted on the Multifamily Housing Policy Drafting Table.

Established in 1979, LISC is a national nonprofit housing and community development organization and community development financial institution dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity. LISC mobilizes corporate, government, and philanthropic support to provide local community development organizations with loans, grants, and equity investments; as well as technical and management assistance. Our organization has a nationwide footprint, with local offices in 37 cities. In 2023, LISC and our affiliates invested approximately $2.8 billion in these communities. Our work covers a wide range of activities, including housing, economic development, building family wealth and incomes, education, and creating healthy communities.

I) General Comments

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

LISC and our housing partners have advocated for federal agencies to include requirements for their federal housing financial assistance programs, since while QC activity has slowed due to state action, recent data indicate that this abuse is resulting in the premature loss of approximately 6,000 - 10,000 low-income homes annually. As of the end of 2023, approximately 115,000 apartments nationwide have exited the Low-Income Housing Tax Credit program's rent and income constraints prematurely.

We applaud HUD for requiring QC waivers as a condition of FHA Multifamily and Risk Share transactions and encourage the Department to include this requirement broadly, including prohibiting the use of HUD funding such as the HOME Investment Partnership Program and similar programs to

Housing Credit properties, unless the owner has agreed to waive its QC rights.

We also recommend that HUD deny access to FHA Multifamily and Risk Share transactions to any properties that have gone through the QC process after December 31, 2024. Including this requirement will provide notice to owners that if they go through the Qualified Contract process and remove these properties from the Housing Credit program, they won't have access to FHA Multifamily and Risk Share financing. While the proposal currently under consideration in the Housing Notice would incentivize owners of future properties to forego the qualified contract provision, this recommendation would help mitigate losses of existing properties for which an owner currently has the option of requesting a QC.

We thank HUD for the opportunity to offer suggestions on this Notice. Please contact Mark Kudlowitz (mkudlowitz@lisc.org), LISC Senior Director of Policy, if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,

Matt Josephs
Senior Vice President for Policy