North Carolina 2016 Draft QAP Comments

The comment concerns the General Threshold Requirements for Rehabilitation Projects, specifically H(1)(a) and H(1)(b):

H. CRITERIA FOR SELECTION OF REHABILITATION PROJECTS

1.   GENERAL THROUGESHOLD REQUIREMENTS

To be eligible for an allocation under Section II(A) a project must:

(a) have either (i) received a tax credit allocation and be in the extend use period or (ii) federal project-based rental assistance for at least thirty (30%) of the total units;
(b) have been placed in service on or before December 31, 1999;

The intent of the language appears to be to ensure that any property that previously received an allocation of tax-credits is *OUT* the compliance period at the time the project is submitted for additional/new tax credits.

Section H(1)(a)(i) clearly states that to be eligible a project needs to have received an allocation and be in the extended use period. By definition, this means that the project cannot be in the compliance period of the first allocation when the application is submitted.

The issue is with the Section H(1)(b) requirement of the placed in service date of on or before December 31, 1999.

The following definitions are from the Novagradac website:

Placed-In-Service Date: The placed-in-service date generally marks the beginning of the credit period. It is defined as the date the property is ready for occupancy.

Credit Period: The credit period is the 10-year period over which the LIHC is claimed. This period generally begins on the date a property is placed in service, but a taxpayer may elect to start the credit period as of the beginning of the year following the year the LIHC property is placed in service.

Compliance Period: The compliance period is the 15 year period over which a project must continue to satisfy the various LIHC requirements in order to avoid tax credit recapture. The compliance period begins with the first taxable year of the credit period.

As stated, the Compliance Period begins with the first taxable year of the credit period. The credit period can start as of the beginning of the year following the year the property was placed in service. Therefore if a property was placed in service in 1999, the credit period can start on the placed-in-service date or as of the beginning of the year 2000. If the later, then this would make 2000 the first year of the credit period and the 1st year of the compliance period, 2001 the 2nd year and so on and make 2014 the 15th year. Therefore the end of the compliance period would be **December 31, 2014.**

Since Section H(1)(b) states that the project have a placed in service date before December 31, *1999*, this means that projects placed in service in 2000 will be at end the compliance period by December 31, 2015 (and in the extend use period in 2016) but still not meet the threshold criteria for Section H(1)(b) and therefore not eligible to apply for credits in 2016 cycle. Therefore, we feel the date should be changed to December 31, **2000** to be consistent with the intent of the Section and the language of Section H(1)(a)(i).