



**BRIAN SANDOVAL**  
*Governor*

## **STATE OF NEVADA**

### **DEPARTMENT OF BUSINESS & INDUSTRY HOUSING DIVISION**

7220 Bermuda Road, Suite B Las Vegas, Nevada 89119  
1535 Old Hot Springs Road, Suite 50 Carson City, Nevada 89706  
Phone: (702) 486-7220, (775) 687-2040, (800) 227-4960  
Fax: (775) 687-4040, TDD: (800) 326-6868

[www.housing.nv.gov](http://www.housing.nv.gov)

**BRUCE BRESLOW**  
*Director*

**CJ MANTHE**  
*Administrator*

September 21, 2015

## **Small Business Impact Statement LCB FILE R115-14**

The Nevada Housing Division of the Department of Business & Industry has proposed changes to the Nevada Administrative Code (NAC) Chapter 319 Assistance to Finance Housing, 319.951 through 319.999, inclusive, regarding the Division's Tax Credit Program (Program). The purpose of the proposed changes to the regulations is to:

1. Improve the effectiveness and efficiency of the Program,
2. Allow the Program to operate more efficiently with the governing Department of Treasury Internal Revenue Code § 42 and all other associated governing federal regulations, and
3. Align the Program more with the regulating structures of its reference states, those states with similar populations and character (urban and rural).

The Division made a concerted effort to determine whether the regulation is likely to "[i]mpose a direct and significant economic burden upon a small business" or "[d]irectly restrict the formation, operation or expansion of a small business." NRS 233B.0608(1). The agency concluded the regulation would not cause these negative impacts or effects, after consultation with the IRS, similarly situated states, potentially affected parties, internal staff and the Division's Deputy Attorney General. While the Division determined that no Small Business Impact Statement was required, the Division is submitting the following information to reflect how it might respond if a SBIS were determined required.

**RE: NRS 233B.0609 Proposed permanent or temporary regulation: Contents of small business impact statement; person responsible for agency to sign impact statement.**

1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Public comment was solicited by public notice and by email when the Division submitted the proposed changes to the development community to survey their thoughts regarding the proposed revisions. The Division then received comments and consulted with owners and their officers regarding their comments. The Division also noticed and conducted a public workshop and then noticed and conducted a public hearing on this matter.

The public response was, in summary, that any impact to their operations should be favorable or neutral since the proposed changes would mean they could focus more on one set of regulations, the Internal Revenue Code § 42 and its requirements for the Program and not have to reconcile between two sets of regulations, i.e., the Federal (IRC and Department of Treasury) and the State NAC 319 regulations.

More specifically, the comments primarily centered on allowing the applications to remain available to the public and on confirming that relevant redundant sections to be removed from the NAC were indeed in the Qualified Allocation Plan (QAP). Developers also wanted to make sure the Division allowed all applicants ultimately to know the competitive tax credit application scores of their competitors.

Interested persons may review a copy of the summary of the public response by contacting Mike Dang, Chief of Federal and State programs, at the Nevada Housing Division, [mdang@housing.nv.gov](mailto:mdang@housing.nv.gov) or at 702.486.7220 x224.

## 2. The manner in which the analysis was conducted.

The analysis was conducted by reviewing and discussing the comments of various stakeholders potentially affected by the proposed changes with staff, Division leadership, and the Division's attorney. Since primary stakeholders knew of some of the inconsistencies and conflicts between the NRS regulations and the QAP required by the IRS, they have supported trying to eliminate the inconsistencies by letting the IRS directed QAP be the controlling document.

## 3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

### (1) Both adverse and beneficial effects; and

With respect to adverse economic effects, the proposed permanent regulations present no estimated adverse effects to low income housing tax credit production.

The beneficial economic effects of these regulations will be the ability of the industry, along with the Department, to more efficiently and effectively conduct this Program, thereby saving financial and labor costs.

### (2) Both direct and indirect effects.

The direct economic effects of these changes are reduced costs from removing conflicts between the IRS directed QAP and the NRS. These conflicts have arisen as the IRS directed QAP has been updated to reflect such things as current underwriting requirements by financial institutions along with changes in market demand.

The indirect economic effects are reduced administrative, staff and legal costs from working with developers and attorneys to reconcile inconsistencies between the IRS Program and the NRS.

## 4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

The methods the agency considered to reduce the impact of the proposed regulation on small businesses were via discussions with the IRS, similarly situated states, developers and staff to research whether there would be a negative impact on stakeholders. Those discussions confirmed these regulations should reduce existing impacts from two overlapping regulations, one federal and one state, regulating this program.



The agency did actually use this method to formulate this approach and to confirm its probable impact of reduced costs and reduced labor.

5. The estimated cost to the agency for enforcement of the proposed regulation.

The estimated costs to the agency for enforcement of the proposed regulation are a net cost savings. These cost savings are estimated to come from cost and time savings from not having to continually reconcile conflicts between the IRS mandated QAP and the NRS as tax credit applicants often select and then assert the most beneficial regulation for their purposes.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

No new fee or increase in an existing fee is being requested with these changes.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

The proposed regulations do not overlap or duplicate any regulation of other state or local governmental entities. They are designed to reduce overlap and duplication. The Division is not aware of any proposed provisions which are more stringent than a federal regulation regulating the same activity.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses are the result of communications with those most likely to be affected by the changes as well as others which have expertise in the matter. The Division has communicated and researched this matter with the IRS, similarly situated states, with developers, with the Division attorney, and with staff. There is strong accord among these stakeholders that letting the IRS § 42, Federal Department of Treasury Regulations § 1.42 and other IRS and Treasury mandates govern this area will reduce the negative consequences which have arisen from the inconsistencies between the NRS and these federal regulations regarding this Program. The proposed regulations enable this IRS program to more effectively and efficiently achieve its mission.

As the Administrator who is responsible for the agency I certify that, to the best of my knowledge or belief, the information contained in the statement was prepared properly and is accurate.

Sincerely,  
NEVADA HOUSING DIVISION



CJ Manthe  
Administrator  
Nevada Housing Division  
Department of Business & Industry  
1535 Old Hot Springs Road, Suite 50  
Carson City, NV 89706



BRIAN SANDOVAL  
*Governor*

## STATE OF NEVADA

### DEPARTMENT OF BUSINESS & INDUSTRY HOUSING DIVISION

7220 Bermuda Road, Suite B, Las Vegas, Nevada 89119  
1535 Old Hot Springs Road, Suite 50, Carson City, Nevada 89706  
Phone: (702) 486-7220, (775) 687-2040, (800) 227-4960  
Fax: (775) 687-4040, TDD: (800) 326-6868  
[www.housing.nv.gov](http://www.housing.nv.gov)

BRUCE BRESLOW  
*Director*

CJ MANTHE  
*Administrator*

August 11, 2015

## Methods and Reasons Statement LCB File No. R115-14

### ADMINISTRATIVE SUMMARY

The Nevada Housing Division of the Department of Business & Industry has proposed changes to the Nevada Administrative Code (NAC) Chapter 319 Assistance to Finance Housing, NAC 319.951 to 319.999, inclusive, regarding the Division's Tax Credit program to:

1. Improve the effectiveness and efficiency of the program,
2. Allow it to operate more efficiently with the governing Department of Treasury Internal Revenue Code § 42 and all other associated governing federal regulations, and
3. Align the program more with the regulating structures of its reference states, those states with similar populations and character (urban and rural).

These proposed changes affect the development of affordable housing in Nevada. "Small businesses" that are affected are predominantly low income multi-family housing developers and the non-profit organizations that participate in developing affordable housing.

This document constitutes "a statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business and the reasons for the conclusions of the agency." NRS 233B.0608.3

### METHODS USED IN DETERMINING THE IMPACT TO SMALL BUSINESSES

The methods used by the agency in determining the impact of a proposed regulation on a small business consisted of the following:

1. The Division spoke with the Internal Revenue Service to determine what regulations states similar in population to Nevada had on their books which regulated their IRC § 42 Federal Income Tax Credit programs. Staff were informed that states similar in size to Nevada either had no state regulations regarding the IRS program or minimal references to the IRS program and most deferred program details to the IRC § 42 mandated Qualified Allocation Plan (QAP).
2. The Division then began confirming this with states similar in population to Nevada and other neighboring states. These included Idaho, Utah, Arizona, New Mexico. These states confirmed what the IRS had said that the IRC § 42 and the QAP were essentially their sole controlling document.
3. The Division consulted with the Deputy Attorney General in its discussions and also updated them on the IRS position.

4. Proposed changes were then developed internally with staff and leadership and externally with the development community. Discussions covered affected NAC sections and language in relation to IRC § 42 and Department of Treasury § 1.42. The result was newly edited sections of the NAC 319 regulations prepared so the development community could see the specific changes proposed.
5. Next the Division submitted the proposed changes to the development community to survey their thoughts regarding the proposed revisions. The Division then received comments and further consulted with low income multi-family housing developers and the non-profit organizations that participate in developing affordable housing.
6. The result was a finding of no "direct and significant economic burden" on Small Businesses.

#### **REASONS FOR THE AGENCY'S CONCLUSIONS**

Based upon these methods of research the Division determined that it did not need to do a small business impact statement. The agency spoke with those who would be directly affected by these changes, researched and weighed the impact of the regulation on small businesses and determined there would not be "a direct and significant economic burden" which would require it to "conduct an analysis of the likely impact."

After conversations with the small affected development community, there were no negative reasons identified of a direct and significant economic burden upon small businesses that would directly restrict the formation, operation or expansion of a business.

As the Administrator who is responsible for the agency I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Sincerely,  
NEVADA HOUSING DIVISION



CJ Manthe  
Administrator  
Nevada Housing Division  
Department of Business & Industry  
1535 Old Hot Springs Road, Suite 50  
Carson City, NV 89706