



**Housing Finance
Agency**

4% LIHTC Qualified Allocation Plan

Second Draft

Office of Multifamily Housing | January 6, 2025

Seeking to Provide Input?

OHFA will be accepting comments on these draft guidelines beginning January 6, 2025, through February 5, 2025. Comments may be submitted via e-mail to 4PercentComments@ohiohome.org.

Please do not combine comments related to these draft guidelines with other draft programmatic guidelines.

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A. 4% LIHTC QAP Overview

Purpose

Pursuant to [26 U.S.C. §42\(m\)](#), each state credit agency must craft a Qualified Allocation Plan (QAP) for the allocation of federal Low-Income Housing Tax Credits (LIHTCs). Although the LIHTC program is governed by the Internal Revenue Service (IRS), each state credit agency must design and administer a QAP setting forth the “selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions.” As the state credit agency for the state of Ohio, this document serves as the QAP for allocating 4% LIHTCs—previously known as 30% Present Value LIHTCs prior to passage of Section 201 of the [Consolidated Appropriations Act, 2021](#) (P.L. 116-260)—which are not subject to the annual state credit ceiling.

For the OHFA process of administering 9% LIHTCs—previously known as 70% Present Value LIHTCs prior to enactment of Section 131 of the [Consolidated Appropriations Act, 2016](#) (P.L. 114-113)—which are subject to the state credit ceiling under 26 U.S.C. §42(h)(3), please see the Agency’s most recent [9% LIHTC QAP](#).

4% LIHTCs

United State Code: [26 U.S.C. §42](#)

Code of Federal Regulations: [24 C.F.R. §§1.42-1 – 1.42-19T](#)

The LIHTC program was created through the Tax Reform Act of 1986 and serves as the federal government’s central mechanism for the development of affordable housing today. Although governed by the Internal Revenue Service (IRS), it is administered on a state-by-state basis through state housing credit agencies. As Ohio’s housing credit agency, OHFA retains responsibility for allocating federal LIHTCs by establishing housing priorities appropriate to local conditions through a Qualified Allocation Plan (QAP) referenced in [26 USC §42\(m\)](#).

Tax credits are dollar-for-dollar reductions in federal tax liability. Because affordable rental housing cannot be funded with LIHTCs directly, developers enter into an agreement with investors directly or through syndicators—organizations that act on behalf of investors—to pass the benefits of LIHTCs on to entities that can use them. In exchange, these direct investors or syndicators provide equity that, along with other resources, helps finance the development of affordable rental housing. Federal statute ensures that properties funded with LIHTC equity serve low-income tenants by requiring that LIHTC property owners execute an Extended Low-Income Housing Commitment per [26 U.S.C. §24\(h\)\(6\)\(b\)](#) which regulates operations for a minimum 30-year period.

The LIHTC program includes two distinct types of LIHTCs: 9% and 4%. The 9% LIHTC is a limited resource with an annual credit ceiling determined by multiplying the state’s population by a statutorily defined per capita multiplier. The 9% LIHTC value is calculated as 9% of a proposed project’s qualified basis over 10 years. 9% LIHTC policies can be found in the most recently-published [9% LIHTC QAP](#). Contrarily, the 4% LIHTC is not limited by the state’s annual credit ceiling; however, it’s value is only worth 4% of a project’s qualified basis over 10 years, or 2.25 times less, all else equal. Therefore, 4% LIHTC deals typically must secure funding from additional sources to achieve financial feasibility. Exhibit 1 below details how 9% and 4% LIHTCs are calculated.

Exhibit 1: Calculating LIHTC Equity, Example 9% vs. 4% LIHTC Project

Assume a hypothetical 60-unit new construction project is being proposed in which 100% of the units will be LIHTC-restricted and the site is located outside of a Qualified Census Tract (QCT)¹ or Difficult Development Area (DDA)².

LIHTC Calculation	4% LIHTC Project	9% LIHTC Project
Total Development Costs (TDC):	\$17,000,000	\$17,000,000
- Ineligible Costs ³	\$2,000,000	\$2,000,000
= Eligible Basis	\$15,000,000	\$15,000,000
+ QCT/DDA Basis Boost:	N/A	N/A
= Qualified Basis:	\$15,000,000	\$15,000,000
X Credit Rate	4%	9%
= Annual LIHTCs	\$600,000	\$1,350,000
X 10 Years (Total LIHTC):	\$6,000,000	\$13,500,000
X Equity Price:	\$0.91	\$0.91
= Total LIHTC Equity:	\$5,460,000	\$12,285,000
TDC Funded with LIHTC Equity:	32%	72%

Unlike the 9% LIHTC, to claim the full amount of 4% LIHTC, at least 50% of a project's aggregate basis⁴ must be funded with residential rental private activity bonds (PABs) per 26 U.S.C. §42(h)(4)(B). If a project is financed with less than 50%, the 4% LIHTC amount is pro-rated on the portion of aggregate basis that is financed with PABs, cutting the resulting LIHTC allocation by at least half. Therefore, PABs remain an essential piece of structuring 4% LIHTC projects.

Should PAB volume become limited, OHFA must prioritize the allocation of 4% LIHTCs by preferences outlined in 26 U.S.C. §42(m)(1)(B) and selection criteria referenced in 26 U.S.C. §42(m)(1)(C).

Residential Rental Private Activity Bonds

United State Code: [26 U.S.C. §142](#)

Code of Federal Regulations: [26 C.F.R. §§1.141-1.150-5](#)

Applicants of 4% LIHTC projects must fund at least 50% of a project's land and aggregate basis with [26 U.S.C. §142\(d\)](#) residential rental private activity bonds (PABs) to claim the full LIHTC amount. PABs are debt securities issued by state and local governments to finance activities that advance a public interest, of which residential rental projects is just one of 30 such federally-defined activities. PABs issued for qualified private activities benefit from federal tax exemption on interest payments made to bondholders. This tax exemption typically reduces PAB interest rates vis-à-vis debt that is not tax exempt.

¹ The term Qualified Census Tract (QCT) is defined in [26 U.S.C. §42\(d\)\(5\)\(B\)\(ii\)](#) as any census tract designated by HUD in which either (a) 50% or more of households have an income less than 60% of the area median income (AMI) or (b) has a poverty rate of at least 25%.

² The term Difficult Development Area (DDA) is defined in [26 U.S.C. §42\(d\)\(5\)\(B\)\(iii\)](#) as any area defined by HUD which has high construction, land, and utility costs relative to AMI.

³ Eligible basis is defined in the [Internal Revenue Code \(IRC\) §42 Audit Technique Guide](#) as the total allowable cost associated with the depreciable residential rental project. Chapter 8 identifies specific development costs that are ineligible and must be removed from eligible basis.

⁴ Aggregate basis is essentially depreciable basis. Unlike eligible basis, aggregate basis can include the cost of commercial space.

PABs are limited by an annual state volume cap ceiling. For 2023, the total state of Ohio volume cap for PABs is approximately \$1.41 billion⁵; however, this is across all private activities. Under Ohio Administrative Code [\(OAC\) Chapter 122-4](#), the Ohio Department of Development (Development) serves as the administrating agency on behalf of the state of Ohio for annual PAB volume cap. Volume cap is distributed among private activities in accordance with [OAC Chapter 122-4-02](#); the lesser of \$120 million or 15% of the state ceiling is set aside for residential rental projects. More information on PAB volume cap can be found on [Development's website](#).

Per 26 U.S.C. §142(k)(5)(B)(ii), any unused PAB volume cap in a calendar year can be carried forward for three calendar years following the year in which the volume cap was left unused. OHFA retains the ability under [OAC Chapter 122-4-05\(A\)\(6\)](#) to carry forward unused PAB volume cap for single-family mortgage revenue bonds and use such “carryforward” for any of its lawful purposes, including residential rental projects. When OHFA has available state PAB volume cap under the regulatory allocation described above or receives carryforward, OHFA itself can act as the PAB issuer; otherwise, applicants must seek residential rental PABs either directly from Development or a qualified local issuer.

B. Modification and Interpretation

OHFA's actions, determinations, decisions, or other rulings pursuant to this QAP are not a representation or warranty by OHFA as to a development's compliance with applicable legal requirements, the feasibility or viability of any development, or of any other matter whatsoever. The QAP is subject to modification pending developments in federal, state, and OHFA policy.

OHFA makes no representation that underwriting or funding decisions from a prior year will be determinative in future application rounds. Identical year-over-year submissions may receive differing treatment, with or without notice to an applicant, due to new insights gained during prior review periods, shifts in policy, the need for consistent in-year interpretation, increased applicant competition, or any other reason OHFA deems necessary. OHFA will clarify and issue responses to commonly posed questions regarding the QAP through a Frequently Asked Questions (FAQ) document that will be posted on the OHFA website. The FAQ, as well as the OHFA Multifamily Underwriting Guidelines, Design and Architectural Standards, and Affordable Housing Funding Application (AHFA) are specifically incorporated herein and binding on all applicants. Notwithstanding the foregoing, errors and omissions in the AHFA are not binding on OHFA and do not modify the QAP.

The allocation of LIHTCs is made at the sole discretion of OHFA. OHFA will resolve all conflicts, inconsistencies, or ambiguities, if any, in this QAP or which may arise in administering, operating, or managing the reservation and allocation of LIHTCs. This includes the interpretation of requirements and guidelines and the determination of a development meeting the intent of those requirements and guidelines. OHFA may modify or waive, on a case-by-case basis, any provision of this QAP that is not required by law. All such modifications or waivers are subject to written approval by the Executive Director, Senior Director of Housing Programs, or Director of Multifamily Housing.

⁵ Per [IRS Revenue Procedure 2022-38 Section 3.20](#), the State of Ohio's 2023 volume cap for PABs is \$120 multiplied by the state population of 11,756,058 [per IRS Bulletin 2023-12](#).

C. 4% LIHTC Only Program Calendar

4% LIHTC Only Applications (i.e. 4% LIHTC without competitive gap financing or state LIHTC) will be accepted on a first come, first served basis. ~~Applicants must contact OHFA 30 calendar days in advance of applying to submit a Pre-Application. Final Applications must be complete at the time of submission. Applications shall not be submitted until the most current program documents and forms are posted to the program webpage. and pass the Minimum Financial and Threshold Review before assigned to an OHFA Analyst for review.~~

<u>Application</u>	<u>Date</u>	<u>Programmatic Benchmark</u>
<u>Experience and Capacity Review</u>	<u>First Monday in February through last Friday of September</u>	<u>Open Submission</u>
<u>4% LIHTC only</u>	<u>First Monday in February through the Third last Friday in November October</u>	<u>Open Submission; must have Experience and Capacity approval</u>

If the 4% LIHTC QAP is currently in a comment period on the date above, the first date an application will be accepted is 10 business days following OHFA Board approval of QAP.

Experience and Capacity

Experience and Capacity of entities will be completed for a calendar year. Entities only need to submit once in the calendar year for OHFA staff approval. The Experience and Capacity must be submitted and approved prior the submission of an application. They will be reviewed on a first-come, first-served basis in the calendar above. The Experience and Capacity approval must then be submitted with the subsequent applications in the current calendar year. See Section E: Application Process - Experience and Capacity Review for more information. ~~OHFA staff will review entities for Experience and Capacity for 4% LIHTC applications during the below submission windows.~~ If an entity has already been approved in the current calendar year for Experience and Capacity (i.e. 9% LIHTC, 4% LIHTC with competitive gap financing or state LIHTC), the entity is not required to submit again for 4% LIHTC only.

Application Submission

Applications will be accepted on a first-come, first served basis during the application window detailed above. Applications must be complete at the time of submission. Once the above application window closes, should an applicant which submitted in the current calendar year, fail financial and threshold review and the cure period, they would need to resubmit in the following calendar year using the most recent guidelines and program calendar. Example: An applicant submitted on October 1 of the current calendar year, however, OHFA reviews the application in November. The applicant would be offered the cure period for financial and threshold review. However, if they failed to cure the deficiencies in the allowable cure period, the application would need be submitted in the following year when the applicant window opens again.

Experience and Capacity
Submission Deadline

Second Thursday in February
Second Thursday in May
Second Thursday in August

~~Applications shall not be submitted until the most current program documents and forms are posted to the program webpage. Application submissions will be reviewed and processed quarterly as demonstrated below. Complete applications submitted prior to the deadlines windows, will be processed in the respective review window. For example, an application submitted on the second Wednesday of March will be processed in the March batch review, however an application submitted on the third Friday in March would be processed with the June batch review.~~

Application Review*
Window Deadline by 5:00 p.m. EST
Second Thursday in March
Second Thursday in June
Second Thursday in September

~~*All entities in a project application must have Experience and Capacity approval as detailed in Section E: Application Process – Experience and Capacity Review.~~

~~Should an applicant which submits in the final round of the calendar year, fail minimum financial and threshold review and two-day cure period, they would need to resubmit in the following calendar year using the most recent guidelines and program calendar.~~

D. Fee Schedule

Non-refundable fees noted below must be submitted with the respective item. Fees may change without QAP amendment.

Fee Type	Fee Amount
Final Application Fee	\$3,500
Reservation Fee	6% of the reservation amount
Bond Issuance Fee	1/10 of 2% of the bond amount OR \$3,000, whichever is greater
HDL Application Fee (<i>at Final Application, if applicable</i>)	See the most current HDL Guidelines
Reservation Fee	6% of reservation amount
Compliance Monitoring Fee	\$2,400 per unit

Application fees must be paid using Automated Clearing House (ACH) with the ~~Final~~ Application. OHFA will not accept checks. Please note, OHFA does not have an online ACH payment portal. Payments should be submitted via your bank. ~~Following approval of the Pre-Application, Agency staff will send OHFA's account information to process the ACH payment. Instructions for submitting the fee are on the FTS.~~

E. Application Process

How to Submit

All submissions must be made via the Agency's [Multifamily Development File Transfer Site](#) (FTS). If an applicant does not already have access to the FTS, the individual must e-mail MultifamilyFTP@ohiohome.org prior to the deadline to secure user access. All application materials must be submitted in .ZIP format. Avoid using any special characters (e.g., "*", "&", or "@", among others) in naming conventions for projects. OHFA will not accept applications submitted via email, another online file sharing site (e.g., Dropbox, Google Drive), or flash drive. Projects must be individually uploaded to the FTS using the following process:

- Step 1. Upload one, singular .zip file for each individual application.
- Step 2. Insert project name and select funding round (4% LIHTC) and application type.
- Step 3. Click Validate File.
- After submitting your project(s), e-mail 4percentcomments@ohiohome.org ~~the 4% LIHTC Section Chief~~ indicating that the project(s) has been submitted. A confirmation e-mail will be automatically sent to the contact's email address.

Applicants may only upload an application once. OHFA staff must be notified in advance if submitting any subsequent documentation.

Additionally, at Application submission, a 11" X 17" hard copy 80% permit set of architectural plans are required to be submitted in accordance with the [most recently-published Design and Architectural Standards](#). Please submit architectural plans to the following address:

Ohio Housing Finance Agency
Attn: Office of Multifamily Housing
2600 Corporate Exchange, 3rd Floor

Application Submission Disclaimer

All Application materials submitted become the property of OHFA and shall be public information unless a statutory exception exists which would thereby determine that such information cannot be released to the public. If you have information in your Experience and Capacity Review or Application that you believe has a good faith legal basis for an exemption to the public records laws, you must identify each and every occurrence of the information in the proposal on a separate page titled "Exemptions to the Public Records Law" and clearly label the material as such. OHFA may publicly post materials received.

Experience and Capacity

OHFA will require an Experience and Capacity package submitted via the FTS. Applicants will not be allowed to submit an Application unless Experience and Capacity has been approved by OHFA staff. The Experience and Capacity package will be available on the OHFA website, due by the date indicated in the Program Calendar and includes the following components:

Experience and Capacity review is completed for development entities and ownership entities. Ownership entities will be required to submit the Lien and Litigation reports. The development entities will be required to

Entity Experience and Capacity Review, including all of the following elements:

- ~~○ A Development Team Entity Identification spreadsheet which provides information on the lead developer, any co-developers (if applicable), the parent entity of each general partner or managing member, the development consultant (if applicable), management company, and general contractor.~~
- ~~○ A current real estate owned (REO) schedule for all existing LIHTC projects in which the applicant maintains an ownership interest indicating the debt coverage ratio and income to expense ratio, with an explanation for any project that is below 1.0.~~
- A Lien and Litigation report dated within 30 days of the Experience and Capacity submission for the county in which the project is located, the state of Ohio, and any federal courts. Note: If approval for Experience and Capacity is dated more than 90 days prior to the application, an updated Lien and Litigation must be submitted.
- A minimum qualifications spreadsheet
- New entities that have not completed LIHTC in Ohio, will be required to submit the following for the project they are claiming experience:
 - LPA or Operating Agreement to support the entity was the Lead Developer for the project for which the entity is claiming experience, or
 - A letter from the allocating agency indicating the entity was the lead developer on the project.
 - One 8609 form to support development experience for the project for which the entity is claiming experience
 - ~~▪ For out of state developers that have not completed a project through 8609, all of the following:~~
 - ~~○ LPA or Operating Agreement to support the entity was the Lead Developer for the project for which claiming experience,~~
 - ~~○ One 8609 form to support development experience for the project the entity is claiming experience,~~
 - ~~○ A letter from the allocating agency indicating the entity was the lead developer on the project~~
- ~~○ A list of projects in any stage of development from pre-development up to 8609~~
- An organizational chart detailing staff members of each the development entity

- Biographies for all relevant staff members

A Development entity that has been approved in a different round in the current calendar year, must submit its previous approval letter on OHFA letterhead. Applicants must disclose changes to any entity between the experience and capacity review and Application. OHFA may disqualify applications that do not maintain the core competency and experience necessary to successfully develop and manage a project.

Appendix B: Experience & Capacity Characteristics outlines the minimum eligibility and evaluation criteria. Consultants may not serve as a source of team experience.

Application Process

The Application process ~~involves four major steps~~ is a multi-step process:

~~(1) Minimum Financial and Threshold Review~~

~~Applications must be complete at the time of submission and meet a Minimum Financial and Threshold Review before being assigned to an OHFA Analyst for review. At a minimum, the application will be reviewed for the following minimum standards:~~

- ~~• Rental Subsidy (1) meets the minimum requirements of the Rental Subsidy threshold requirements referenced herein and found in the most recently published Multifamily Underwriting Guidelines and (2) is properly reflected in the rent breakdown~~
- ~~• Total development costs on a per unit and per gross square foot basis are within the Cost Containment Standards.~~
- ~~• An appraisal meets OHFA's requirements listed herein and in OHFA's most recently published Multifamily Underwriting Guidelines~~
- ~~• Conditional Financial Commitments (1) meet the requirements herein and those referenced in the most recently published Multifamily Underwriting Guidelines and (2) match information provided in the Affordable Housing Funding Application (AHFA), OHFA's template proforma.~~
- ~~• The debt service coverage ratio (DSCR) or Income to Expense Ratio (if the proposed financing will not include hard pay debt) are within the limits established by the most recently published Multifamily Underwriting Guidelines.~~
- ~~• Zoning documentation meets program guidelines.~~

~~Applications that do not meet all Minimum Financial and Threshold review criteria, will be provided a list of deficiencies. All deficiencies must be cured within two business days. If deficiencies cannot be cured, the application may be rejected. Applicants must resubmit within the window or will be required to submit the following year using the most recently approved guidelines.~~

~~(2)~~ (1) Full Threshold, Underwriting, and Architectural Review

Prior to this step all correspondence shall be sent only to 4percentcomments@ohiohome.org. ~~After a project meets Minimum Financial and Threshold Review, an OHFA analyst will be assigned to the project.~~ The analyst will complete a full Threshold and Underwriting Review. This review involves a comprehensive analysis of the project's compliance with the most recent Multifamily Underwriting Guidelines and threshold requirements outlined in these Guidelines and compliance with the most recent State of Ohio LIHTC and Housing Development Loan guidelines, if applicable. The assigned OHFA analyst will draft a review letter detailing any deficiencies. Applicants will have two weeks to cure any outlined deficiencies, and a subsequent two week follow-up for minor errors and omissions. Deficiencies must be cured; otherwise, the application may be rejected.

OHFA staff will perform an architectural review for compliance with the most recent Design and Architectural Standards (DAS). Without architectural Conditional Approval, the application will not secure a 42(m) Letter of Eligibility or seek OHFA Board approval, if required.

~~(3)~~ (2) OHFA Multifamily Committee and Board Approval

All deficiencies must be cured no later than the first business day of the month prior to the month of the requested OHFA Board meeting. For example, a project seeking OHFA Board approval in August, must be cured by July 1.

All projects seeking a reservation of Housing Development Loan (HDL) resources and/or an inducement resolution/final resolution for OHFA-issued residential rental private activity bonds must seek and secure OHFA Multifamily Committee recommendation and Board approval. The OHFA Multifamily Committee and Board monthly calendar can be found on the [OHFA Board Website](#). Once scheduled for a specific month, the assigned OHFA analyst will work with the applicant to complete an Executive Summary, which provides summary information about the project to the OHFA Multifamily Committee and Board. Once complete, the Executive Summary will be posted to [OHFA's BoardDocs Website](#). Applicants are encouraged to attend the Multifamily Committee and Board meeting either in person or virtually at which the project is to be presented.

(4)(3) _____ 42(m) Letter of Eligibility and Transitioning to Project Administration

Following underwriting, threshold, and architectural conditional approval, OHFA will execute a 42(m) Letter of Eligibility with the LIHTC ownership entity.

Once developments have a signed 42(m) Letter of Eligibility, the project will be transitioned to a Project Administration analyst. The assigned analyst will guide the development team through the construction, draw, 8609 and closeout process. Requirements are posted on the OHFA [Project Administration webpage](#).

F. Threshold Requirements

Rent and Income Restrictions

Minimum Set Asides

All LIHTC proposals must select one of three federally-mandated Minimum Set Asides as referenced in [26 U.S.C. §42\(g\)](#) and listed below:

- 1) 20-50 Set Aside: At least 20% of the residential units must be both rent restricted and occupied by households at or below 50% of the Area Median Income (AMI).
- 2) 40-60 Set Aside: At least 40% of the residential units must be both rent restricted and occupied by households at or below 60% AMI.
- 3) Average Income: At least 40% of the residential units must be both rent restricted and occupied by households that do not exceed the imputed income limitation of the respective unit so long as the average of the imputed income limitations does not exceed 60% AMI. Imputed income limits can range from 20% to 80% AMI in 10% increments. Please see OHFA's [Average Income Policy](#) for more details.

Re-syndications (projects still within the 30-year compliance period) must maintain the set asides in the existing Restrictive Covenant for the term of the existing Restrictive Covenant. At the end of the 30-year compliance period as described in the existing Restrictive Covenant, the Re-syndication will be subject to the new set asides as described in the new Restrictive Covenant. ~~Resyndications (projects still within the 30-year compliance period) must maintain their original set asides. No resident maybe displaced as a result of a re-syndications, set-aside change may only be implemented as units become vacant.~~

Broadband Infrastructure

All developments must install broadband infrastructure in compliance with [Federal Register 81 FR 31181 "Narrowing the Digital Divide through Installation of Broadband Infrastructure"](#). Installation must result in speeds in each unit (living or dining room and each bedroom) and all common areas meeting the Federal Communications Commission's [Fourteenth Broadband Deployment Report](#) or the speed required to qualify as Tier 2 broadband service under [Ohio Revised Code 122.40](#), whichever speed requirement is higher at the time of generating pre-construction estimates. Owners are not required to pay for tenants' service but must provide free access in all common areas (exclusive of circulation space) through the Extended Use Period (does not apply to developments in areas that lack adequate broadband service according to the most recent Federal Communications Commission maps).

Compliance with Other OHFA Policy Documents

Except as specifically waived or modified in these Guidelines, applications must comply with the following Agency Guidelines:

- Most recently published [Multifamily Underwriting Guidelines](#)
- Most recently published [Design and Architectural Standards](#)
- Most recently published [Housing Development Loan Program Guidelines](#), if seeking HDL

|

Cost Containment

At least once annually, OHFA will post the maximum total development cost (TDC) limitation for 4% LIHTC applications. Applicants will be required to meet the Cost Containment standards. Applicants must use the TDC/Unit and TDC/GSF caps that most closely aligns with their project type. OHFA will evaluate projects to ensure compliance at Application and at 8609 submission. Projects that do not demonstrate compliance with the caps will be removed from consideration. Applicants must submit an Underwriting Exception Request if Cost Containment standards are exceeded.

Developer Fee Limitation

Maximum Budgeted Developer Fee

The maximum budgeted developer fee for the 4% LIHTC program is 20% of the project's LIHTC eligible basis net of the Developer Fee calculation below:

Developer Fee is calculated as the sum of the following fees:

- Developer Fee
- Application/development consultant fees
- Construction management fees
- Guarantee fees
- Developer-charged financing fees
- Developer-charged asset management fees

Exception Requests

OHFA will accept Exception Requests as outlined in the most recently-published Underwriting Guidelines, most recently-published Design and Architectural Standards, and those outlined specifically in these Guidelines. Applicants must submit all Exception Requests with the Application. Each individual Exception Requests must be submitted on its own Exception Request Form.

Extended Use Agreement

In accordance with [26 U.S.C. §42\(h\)\(6\)](#), all LIHTC developments must record a minimum 30-year Extended Use Agreement in the form of a restrictive covenant. In accordance with the statutory preference outlined in [26 U.S.C. §42\(m\)\(1\)\(B\)\(II\)](#) to "...serve qualified tenants for the longest periods", applicants, OHFA requires all LIHTC development teams to waive the right of the owner to petition OHFA to have the extended use period terminated as described in [26 U.S.C. §42\(h\)\(6\)\(F\)](#).

Eligible Basis Boost

- 1) Codified Basis Boost: In accordance with [26 U.S.C. §42\(d\)\(5\)\(B\)](#), buildings located in Qualified Census Tracts (QCTs) or Difficult Development Areas (DDAs) are statutorily eligible for an increase in eligible basis of up to 130%. Such designations are typically determined by HUD in October of the prior year in which such buildings are eligible. To determine if a building is located in a QCT or DDA, visit HUD's Office of Policy Development and Research (PD&R) Web site [here](#).
- 2) Discretionary Basis Boost: In accordance with [26 U.S.C. §42\(d\)\(5\)\(B\)\(v\)](#), state housing credit agencies are federally prohibited from offering a discretionary basis boost for 4% LIHTC projects.

Fraud, Waste, and Abuse

Documented instances of fraud, waste, or abuse may result in any action listed in the Penalties section herein and/or any other action OHFA deems necessary.

Penalties

Violations of the QAP, missed deadlines, failure to honor commitments made in the application process, or other instances of noncompliance with OHFA requirements may result in any or all of the following actions:

- Reduction in the number of applications an entity may submit or awards an entity may receive in future funding cycles.
- Removal from application consideration (if during current application round).
- Cancellation or reduction of an award.
- Prohibition from participation in OHFA funding programs.
- Permanent or temporary prohibition from participation in one or more OHFA programs.
- Removal from a position of Good Standing for a period of one year or more, resulting in permanent or temporary prohibition from participation in all OHFA programs.
- Monetary fee in an amount determined by OHFA.
- Referral for independent cost audit (commissioned by OHFA but paid for by the owner/developer).
- Additional physical inspection/site visit at the applicant's cost.

Appendix A: Submission Requirements

(1) Affordable Housing Financing Application (AHFA)

Applicants must submit a completed AHFA, OHFA's proforma, designed specifically for the 4% LIHTC program for the round and year you are submitting, which will be posted with other application materials by the deadline indicated in the Program Calendar. Please note, OHFA will not accept applications that use the incorrect AHFA.

(2) Appraisal

Applications must include an as-is appraisal for all development site(s) which complies with all Appraisal Requirements in the most recently-published Underwriting Guidelines.

(3) Architectural Plans and Design & Construction Features Form (DCFF)

Applications must include architectural plans for all development site(s) in accordance with the most recently-published [OHFA Design & Architectural Standards](#) and a completed Design & Construction Features Form, including the Construction Certification. Architectural plans must be submitted both in 11" x 17" hard copy and electronically.

(4) Authorization to Release Tax Information

Applications must include a completed [Authorization to Release Tax Information Form](#) for the parent company of each member of the ownership entity and the parent company of the HDAP recipient. Instructions may be found on the website.

(5) Articles of Incorporation (Non-Profit Developers Only)

Applications submitted by non-profit developers and/or co-developers must include the organizational articles of incorporation evidencing 501(c)(3) or 501(c)(4) status.

(6) Audited Financial Statements for Existing Properties (Preserved Affordability Only)

Preserved Affordability applications must include the most recent two years of audited financial statements for the project.

(7) Conditional Financial Commitments

In addition to the requirements in the most recently approved underwriting guidelines, conditional financial commitments must be evidenced by a letter from the funding entity stating the following:

- loan or grant amount.
- loan term and amortization schedule/term (and/or payment requirements).
- interest rate.
- fees associated with the loan or grant.
- reserve requirements; and
- lien position of the loan.

Projects that have received an Inducement Resolution from the OHFA Board must include a copy of the executed Inducement Resolution.

The applicant must provide supporting documentation detailing the terms and conditions of any assumed or restructured debt including the current outstanding balance.

Commitment letters are required for Capital Contributions, Deferred Developer Fee, Equity and Seller Financing.

Projects including Federal Historic Tax Credits must submit the SHPO recommendation of approval from their Part 2 Application.

[No letter may indicate it is not a commitment, or it is a term sheet.](#)

[Competitive sources that have not been conditionally committed do not meet OHFA requirements. Applicants submitting a competitive source that is not conditionally committed will be considered to have a funding gap and the application will be rejected.](#)

(8) Condominimized Space Description

If any portion of the development will be condominimized, the application must include a draft of the governing agreement that details costs and maintenance of common space, parking availability, air rights, default remedies, commercial uses, and tenant selection.

(9) Development Team Consultant Statement

The application must include a statement regarding any development consultant(s) describing:

- their role in the project.
- scope of their authority to negotiate for and bind the development team; and
- a summary of all projects they are currently advising and the scope of those agreements.

For the purposes of this section, development consultants include any person or entity providing professional advice or assistance with the preparation of an application to the LIHTC program, but do not include syndicators.

Consultants may not serve as the primary point of contact for OHFA or as the Project Manager as listed on the Development Tab of the AHFA.

(10) Development Team Experience and Capacity Review

Evidence each member of the development team has been approved for Experience and Capacity.

(11) Evidence of Site Control

The application must comply with the following. Any updates to site control documents must be submitted with the application. All forms of site control may not expire within six months of the Application.

- a. Related Party: If a related party of the ownership entity currently owns the real estate, copies of the executed and recorded deed(s) and an executed purchase or ground lease contract
- b. Arm's-Length: If the current owner is not a related party of the ownership entity, then:
 - i. a purchase contract or option.
 - ii. a ground lease contract or option; or
 - iii. documentation from the local government/land bank regarding the transfer of property.
 1. If parcels will be acquired from a city land bank a copy of the final city council resolution, city council ordinance, letter from a board of control or designated official, or contingent purchase agreement approving the legal description and transfer of all applicable sites.
 2. If parcels will be acquired from a county land bank a letter from the board of control or a designated official approving the transfer of all applicable sites.
- c. Ground Lease: Any ground lease must be for a minimum term of 35 years. Evidence of site control may not expire until a reasonable period following the anticipated closing date.
- d. Scattered Site Developments: Scattered site developments must have 100% of the sites under control at the time of Application.

(12) Exception Requests

OHFA will consider exceptions only for those items specifically allowed under these Guidelines and represented in the Exception Request Form. Any response issued applies exclusively to the year in which the application was submitted and cannot be used for future applications. Programmatic Exception Requests are due with the Application.

(13) Federal Tax Identification Number

The application must include the ownership entity's Federal Tax Identification Number.

(14) Legal Description

The application must include a legal description, detailing all addresses and permanent parcel numbers in word format.

(15) Lien and Litigation Report

If approval for Experience and Capacity is dated more than 90 days prior to the application, an updated Lien and Litigation must be submitted. A Lien and Litigation report dated within 30 days of the application for the county in which the project is located, the state of Ohio, and any federal courts.

(15)(16) LIHTC Lease Addendum

The application must include a written statement from the owner certifying use of the LIHTC Lease Addendum (other than units under a HUD model or USDA model lease).

~~(16) Limited Partnership Agreement~~

~~Applicants must submit a copy of the Limited Partnership Agreement or Operating Agreement for the ownership entity detailing the roles and responsibilities of each partner or entity at request for IRS Form 8609.~~

(17) Market Study

Applications must include a market study conducted by an OHFA-approved market study professional updated or approved within 12 months of the application submission date. Refer to the most recently-published [LIHTC Rental Underwriting Guidelines](#) for OHFA's market study requirements. The rent and income restriction breakdown must match those referenced in the submitted AHFA. If any changes occur between the rent and income restriction breakdown, the market study must be updated.

All multi-site developments must be within the boundaries of a single Primary Market Area (PMA) other than the following exceptions:

- The market analyst determined that an entire county constitutes a single PMA.
- Scattered site Service Enriched developments that span multiple submarket areas if the Primary or Secondary Priority Letter specifies how supportive services will be provided in a manner that is accessible to all residents despite being geographically dispersed.
- Applicants seeking to combine multiple existing developments into one project for financing purposes with an explanation of the Sponsor and Management Agent's capacity to continue operating these properties under a single financing structure (may include documentation from other government entities giving permission to combine projects).

(18) Multifamily Bond Financing Information

For OHFA issued bonds, the Application must include a letter from the bond underwriter (if publicly offered) or the bond purchaser (if privately placed) detailing the following:

- the bond financing structure,
- cost of bond issuance and terms,
- calendar outlining anticipated actions,
- responsible parties for closing the transaction, and

- the timeframe for approving OHFA-issued bonds (dates for inducement and final approval).

For non-OHFA issued bonds, an executed inducement resolution or final bond resolution must be submitted by the bond-issuing entity detailing the anticipated bond amount and the expiration date. Additionally, a letter from the bond underwriter (if publicly offered) or bond purchaser (if privately placed) must be provided detailing the following:

- the bond financing structure,
- cost of bond issuance and terms,
- calendar outlining anticipated actions,
- responsible parties for closing the transaction, and
- the timeframe for seeking a final bond resolution, if not already secured.

(19) Notification to Accessibility Groups (newly affordable units only)

Applicants proposing newly-affordable units must notify all accessibility groups in the county.

Applicants agree to accept referrals for prospective residents and consider design recommendations for the property. The application shall include copies of all correspondence between the applicant and accessibility groups.

If requested by an accessibility group, the applicant will provide the most current copy of the development's architectural plans prior to submitting the application.

(20) Organizational Chart

Applications must include an Organizational Chart for the project ownership entity.

(21) Phase I and II Environmental Site Assessments

Applications must include a Phase I Environmental Site Assessment (ESA) for all sites dated no later than six months prior to the Application deadline completed in accordance with the most current ASTM Standard and include an acknowledgement of the likelihood of the following non-scope considerations: Mold; Asbestos-containing building materials; Radon; Lead-based paint; Lead-in-drinking-water; and Wetlands. In addition, a Phase II ESA and/or additional testing must be submitted if recommended in the Phase I ESA. Applicants may submit a Phase I ESA dated between six months and one year prior to the application deadline but must submit an update prior to issuance of a 42(m) Letter of Eligibility.

OHFA must be identified as an intended user. OHFA may reject any sites indicated to have environmental problems or hazards.

(22) Physical Capital Needs Assessment (rehabilitation or adaptive reuse only)

Applications for the rehabilitation of existing housing units and adaptive reuse must include a Physical Capital Needs Assessment (PCNA). The PCNA must reflect current building conditions, conform to the standards in the most recently-published Multifamily Underwriting Guidelines and most recently-published Design and Architectural Standards. OHFA will use the PCNA and AHFA to determine if the project meets the threshold requirement of substantial rehabilitation.

(23) Prior OHFA Funding Documents

Projects previously funded with OHFA resources, including LIHTC, HDAP, and/or MLP must provide copies of all legal documents and amendments associated with OHFA funding, including, but not limited to, the following:

- LIHTC restrictive covenant(s)
- HDAP restrictive covenant(s)
- HDAP mortgage(s)
- HDAP note(s)
- HDAP Funding Agreement(s)
- HDAP loan agreement(s)
- MLP mortgage(s)
- MLP note(s)

In addition, if a project has additional rent restrictions associated with another funding source, such as local HOME funds, provide copies of all legal documents and amendments associated with that funding.

(24) Program Certification (.PDF format)

An executed OHFA Program Certification must be executed and individually submitted in .PDF format by each developer, general partner, and/or managing member participating in the project. An original signature is not required; electronic signatures and signature images will be accepted. Do not edit or alter this text; the page is unlocked singularly to permit uploading signature images.

(24)(25) Project Summary (.PDF format)

The Application must include a copy of the AHFA Project Summary tab. Please note, OHFA posts the Proposal Summary on its [Pending Applications and Funded Projects website](#) upon submission of an Application and may be shared with other interested parties, if requested.

(25)(26) Public Notification (All Projects)

In accordance with [26 U.S.C. §42\(m\)\(1\)\(A\)\(ii\)](#) and [O.R.C. §175.07](#), at Application, the applicant must include evidence of completing the public notification process using the [OHFA template letter](#), and the notification must include all information requested, be in writing, and be sent via certified mail, return receipt requested. Applicants must submit a copy of the stamped post office receipt, return receipt not required, for certified mail and copies of notification letters with the application. The name and address of the officials must be on the return receipts. Public notification must be submitted to the following individuals:

- The chief executive officer and the clerk of the legislative body of any municipal corporation in which the project is proposed to be constructed or that is within one-half mile of the project's boundaries.
- The clerk of any township in which the project is proposed to be constructed or that is within one-half mile of the project's boundaries; and

- The clerk of the board of county commissioners of any county in which the project is proposed to be constructed or that is within one-half mile of the project's boundaries.

Updated evidence of completing the public notification process must be provided if there are any changes to the information listed on the [OHFA template letter](#).

~~(26)~~(27) Related Party Transaction Questionnaire

Applications must include the [Related Party Transaction Questionnaire](#) for any transactions between related parties.

~~(27)~~(28) Relocation Plan (existing rental units only)

Any development involving rehabilitation of occupied units that will result in permanent displacement must submit a complete [Acquisition, Relocation, and Demolition Questionnaire](#) and [Relocation Assistance Plan](#). OHFA may prohibit, limit, or mitigate any permanent displacement.

If a development will result in resident relocation during the construction period, the application must include a narrative detailing the tenant relocation plan addressing the method(s) for relocating residents, provide a breakdown of any associated costs, and identify if tenants will be permanently displaced.

~~(28)~~(29) Rental Subsidy Contract

OHFA will only consider subsidy that is awarded to a specific project (project-based) by a third-party such as a public housing authority, the U.S. Department of Agriculture Rural Development (USDA) or other entity. If the public housing authority is part of the development team, the third-party requirement is waived. All rental subsidy contracts or commitments must include the number of units and bedroom types with rents matching those being assumed in the AHFA.

For existing Section 8 Housing Assistance Payment (HAP) contracts, the application must include the following:

- Original HAP contract
- The most recent renewal contract (if applicable)
- The current rent schedules
- For applications in which the development team is seeking an Option 1: Mark-Up-To-Market Renewal, the Application must include the rent comparability study (RCS) submitted to HUD with documentation evidencing that HUD has received such RCS for review.

For projects seeking to utilize the HUD Rental Assistance Demonstration (RAD) program under Components 1 or 2 must have a Commitment to Enter into a Housing Assistance Payments (CHAP).

For all other forms of project-based rental assistance, the following information is required

- The number of units per bedroom size that will receive rent subsidies;
- The amount of rent subsidy that will be provided for each unit;
- Utility allowances for each unit type;
- If the subsidy will increase as rents increase;
- The history of success in receiving the rent subsidies;

- Statement of understanding that there is a 30-year rent restriction associated with the LIHTC; and
- How long the subsidy will be provided

~~(29)~~(30) Scattered Site Development Map

Any application with 10 or more sites, 50% or fewer of which are contiguous, must provide a detailed map clearly identifying the location of all buildings and parcels considered for the application.

~~(30)~~(31) Scope of Work (Rehabilitation or Adaptive Reuse Only)

At Application, and 8609, applicants must submit a complete [Scope of Work Form](#) for rehabilitation and adaptive reuse projects.

~~(31)~~(32) Site Visit Documents

OHFA may conduct a site review at Application submission and may deem the site unsuitable. Applications must include:

- a detailed aerial map clearly depicting the physical location of the site, the nearest intersection, and all roads leading to the site; and
- photos of the site and surrounding properties.

~~(32)~~(33) Supportive Services Plan & Providers

For projects that propose providing supportive services (including Service-Enriched Housing applications), the applicant must provide a narrative detailing the specific services to be provided, the proposed service provider(s), its (their) history providing such services, and a budget.

~~(33)~~(34) Utility Allowance Information

Applications must include a utility allowance projection determined using any permissible or reliable calculation method consistent with [OHFA's Utility Allowance Request Procedure](#). Please note that OHFA does not approve utility allowances until a project has been placed in service.

~~(34)~~(35) Zoning

Applications must include either:

- a valid building permit
- a letter from the local municipality stating that either the current zoning will permit the proposed development ~~without condition(s)~~, or no zoning regulations are in effect.

Evidence must be dated within one year of the Application submission date.

See [OHFA's Website](#) for items required at 8609 Request.

Appendix B: Experience and Capacity Standards

OHFA will evaluate both the development team as a whole, as well as the individual members of that team to ensure compliance with program requirements.

Definition

For the purposes of this review, the Development Team is defined as:

Lead Developer/Developer: The primary entity whose responsibilities include but are not limited to working with the General Partners/Members to:

- identifying the site(s),
- securing financing,
- selecting and collaborating with third party contractors including but not limited to co-developers, general contractor, architect, market study professional, etc.
- overseeing the construction process, and
- delivering the credits upon construction completion and stabilized occupancy.

Co-Developer(s): An additional entity whose responsibilities include but are not limited to:

- Assisting the Lead Developer/Developer

General Partners/Members: Entities participating in the project whose primary responsibilities include but not limited to:

- Selecting an experienced developer/co-developer
- Overseeing the developer and the development process
- Selecting a qualified Management Entity
- Ensuring the project meets all requirements for the funding sources

Minimum Requirements

These are the minimum requirements to participate in any LIHTC program administered by OHFA. However, each funding round may include additional requirements specific to the round and the funding sources available.

The lead developer or co-developer as represented in the Affordable Housing Funding Application (AHFA) must have successful experience with the LIHTC program to participate as demonstrated by one of the following minimum standards:

- The lead developer or co-developer has successfully placed at least one LIHTC project in service, within Ohio within the last 10 years; or
- The lead developer or co-developer has successfully placed in service at least one LIHTC project in service in a state other than Ohio.
 - For entity(ies) with only out-of-state experience, they must provide documentation evidencing the project received the Form(s) 8609 for the project used to meet this requirement and the documentation evidencing the developer on the project (such as LP Agreement, Development Agreement, Operating Agreement, Letter from State HFA). Documentation shall tie the entity to Form 8609.

The entity meeting this requirement must demonstrate they are serving as a developer or co-developer on the proposed project and are actively participating in the primary responsibilities of that role. For entities with experience in Ohio, OHFA will evaluate their involvement in prior applications to determine if they were acting as the lead developer or co-developer.

During any stage of the review process (pre-application to final application), OHFA reserves the right to evaluate the participation of each entity to determine their role and level of involvement in the development process. As determined by OHFA's staff, a material and substantive effort related to the success of the project must be demonstrated by the entity. If OHFA determines the entity listed on the application to meet the minimum requirements is not acting as a developer or co-developer in the development process, the application may be removed from consideration.

Exception Requests

For Experience and Capacity, all exception requests, as detailed below, must be submitted to **4percentcomments@ohiohome.org** and **QAP@ohiohome.org**. The Housing Tax Credit Section Chiefs will review all exception requests for experience and capacity and present a recommendation to the Director of Multifamily Housing. If approved by the Director of Multifamily Housing, the entity may proceed with submitting an application. If denied by the Director of Multifamily Housing, the entity will have the ability to appeal to the OHFA Board.

Application and Reservation Limitations

Entities with a Form 8609 issued on LIHTC (9% and/or 4%) reservations in Ohio in the last 10 years do not have an application and reservation limitations for 4% LIHTC only; however, the following are limitations on the number of 4% LIHTC only applications and reservations from entities with no Form 8609 issued in Ohio in the last 10 years. Competitive rounds (9% LIHTC, 4% LIHTC with Ohio LIHTC, or 4% LIHTC with Bond Gap Financing) may further limit applications and/or reservation in their respective guidelines.

New to Ohio Entities with 8609s in Other States

These application and reservations limitations are applicable to new to Ohio entities regardless if they partner with another entity. Entities are reviewed independently of a project Development Team.

- (1) Entities who have successfully placed in service **up to three LIHTC projects in the last 10 years in a state other than Ohio are limited to one application and reservation of LIHTC. A second application for a reservation of LIHTC may not be submitted until the first Ohio reservation has successfully received Form 8609. No exception requests will be considered.**

- (2) Entities who have successfully placed in service **four to 19 LIHTC projects in the last 10 years in a state other than Ohio are limited to two applications** for a LIHTC reservation and may submit an exception request to submit more than two applications in Ohio. The exception request may not be submitted until the first application has successfully moved through the approval process for all funding sources, received a Letter of Eligibility for Housing Credits, and paid all fees, including the Housing Credit Reservation Fee. When evaluating this exception request, OHFA will consider the developers demonstrated knowledge of OHFA's policies and program requirements including but not limited to the following:

- Was the entity the primary contact with OHFA Staff.
- Did the entity cure all underwriting and threshold deficiencies within the cure period.
- Did the entity, working with the architect, submit architectural documents (plans, scope of work, etc.) that demonstrate compliance with OHFA's Design and Architectural Standards, and address deficiencies within established timeframes.

If the exception request is approved, the entity will be permitted to submit one additional LIHTC application for reservation, until the original project receives Form 8609 in Ohio. Subsequent exception requests will not be considered until the second application has successfully completed the review and approval process for all OHFA funding sources.

- (3) Entities who have successfully placed in service **20 or more LIHTC projects in the last 10 years in a state other than Ohio** may submit up to **five LIHTC applications** for a reservation before receiving a Form 8609 in Ohio. The five project applications must be submitted one at a time; thus, the next application may not be submitted until the current application has successfully moved through the approval process for all funding sources and received a Letters of Eligibility for Housing Credits and paid all fees, including the Housing Credit Reservation Fee.

Entities may submit an exception request to submit more than five applications in Ohio. This request may not be submitted until each of the five applications have successfully moved through the approval process for all funding sources and received a Letters of Eligibility for Housing Credits and paid all fees, including the Housing Credit Reservation Fee. When evaluating this exception request to submit more than five applications in Ohio, OHFA will consider the developers demonstrated knowledge of OHFA's policies and program requirements and entities' responsiveness.

New Entities without 8609s

Entities who have not successfully completed a LIHTC project in any state will be required to partner with an experienced entity in Ohio. OHFA has established a higher minimum requirement for an Ohio experienced entities serving in this capacity, which includes:

- The experienced partner has successfully completed a minimum of three LIHTC projects in Ohio in past three years, evidenced by Form(s) 8609 ;
- The experienced partner entity must have been the sole or lead developer on each of the three projects. OHFA will confirm this by reviewing all written communications, including letters and emails;
- At least two of the projects must be consistent with the LIHTC Round in which the project is participating (9% LIHTC or 4% LIHTC); and,
- If competing for HDAP sources, at least two of the projects must have included HDAP resources. The projects must have been completed without extensions to the HDAP Agreement(s).
 - Exceptions will be considered if no more than one of the projects experienced delays due to circumstances outside of the control of the developer.

OHFA will require a meeting with both the new development entity and the experienced partner entity. At a minimum, the following will also be required:

- The new development entity must participate in all meetings and be included in all written communications.
- A formal agreement must be in place detailing the terms and conditions of the partnership.

Once the project has successfully moved through the review process and received the Letter of Eligibility for Housing Credits and paid all fees, the new entity may be eligible to participate in a second application as a lead developer with an experienced co-developer. The following conditions apply:

- Both the new entity and the experienced co-developer must meet with OHFA prior to submitting the new application. If the application is competitive and not selected to advance, a subsequent meeting will not be required before an additional application may be submitted.
- OHFA encourages the new entity to partner with same experienced entity, however if not, the experienced entity must have successfully placed in service more than four LIHTC projects in the last 10 years in other state.
- There can be no significant changes with the staffing of the new entity.
- The new entity must be the primary contact with OHFA, with the experienced partner participating in all meetings and written communications.
- If the application is successful and advanced through the full review process, both developers must contact OHFA to see if subsequent meeting is necessary to discuss the application process and areas of concern.

Once both projects have been completed and Forms 8609 have been issued, OHFA may request to meet with the new development entity for a post-process informational meeting.

OHFA will consider an exception to some of these requirements if the principals of the new entity without an Form 8609 have vast experience. This will require a meeting with OHFA prior to submission of an experience and capacity submission.

Developer Experience

~~The lead developer or co-developer as represented in the Affordable Housing Funding Application (AHFA) must have successful experience with the LIHTC program as demonstrated by one of the following minimum standards:~~

- ~~The lead developer or co-developer has successfully placed at least one LIHTC project in service in Ohio within the last 10 years; or~~
- ~~The lead developer or co-developer has successfully placed in service at least one LIHTC project in service in a state other than Ohio. Documentation must be submitted demonstrating that the project was placed into service within the past 10 years.~~

New Developers and/or Co-Developers

~~Developers and/or Co-Developers that have not previously worked with OHFA will be limited to one reservation of LIHTC. Such developers and/or Co-Developers will not be able to apply for additional awards of LIHTC until the first project has been successfully completed and received its 8609 forms.~~

~~Developers and/or Co-Developers that have not previously worked with OHFA but have significant experience with 4% LIHTC in other states as demonstrated by successfully securing an IRS Form 8609 on at least five 4% LIHTC properties in other states, may submit a Programmatic Exception Request to participate in more than one LIHTC project. OHFA retains the discretion to limit such developers to participating to one award.~~

Disqualifying Developer and Owner Characteristics

Any member of the development team or ownership that has (1) failed to pay any fee or expense due to OHFA, (2) been in default or in major non-compliance with any OHFA program, (3) been debarred or suspended from any OHFA, HUD, or Rural Housing programs, (4) is currently in foreclosure or been foreclosed, or (5) is under felony investigation, indicted or been convicted of a felony, may not participate in the program until the event or events are corrected or resolved. OHFA may contact other local, state,

and/or federal housing agencies to solicit feedback related to a specific developer or development team member.

Any member of the development team or ownership that is federally debarred may not participate in the program. OHFA will confirm through the [System for Award Management \(SAM\) website](#) that no member of the development team has been debarred or suspended from doing business with the federal government. OHFA may pull business credit reports on any or all members of the development team to determine if outstanding liens or judgements exist, depending on the results provided in the Lien and Litigation Reports.

Financial Capacity

Financial Capacity will be demonstrated by the Development Teams ability to secure construction and permanent financing, and tax credit equity.

Appendix C: Good Standing Policy

Program participants will be considered to be in Good Standing unless one or more of the following apply to a project in which a member of the Development Team has:

- (1) Outstanding uncorrected IRS Form 8823.
- (2) Default on any OHFA loan.
- (3) Failure to submit an AOC.
- (4) Before the issuance of IRS Form 8609, the project has non-compliance issues that would be reported to the IRS if Form 8609 had been issued.
- (5) Failure to request Form 8609 in a timely manner.
- (6) Failure to abide by the regulations of the Housing Development Assistance Program (HDAP).
- (7) Violating the terms of a HDAP funding agreement.
- (8) Failure to pay applicable program fees.
- (9) Failure to maintain good standing with an Ohio Department of Development program.
- (10) Deviating from an approved project plan without OHFA approval.
- (11) Providing false, misleading, or incomplete information on an application or other document required by the OHFA.
- (12) Failure to respond in a reasonable period to requests for information or documentation.
- (13) Changing a management company or other approved project participant without OHFA approval.
- (14) Other determinations made by OHFA based on a pattern of mismanagement or noncompliance as evidenced by monitoring reviews or other information. Determinations may be directly appealed to the OHFA Multifamily Committee as described below.

A designation of not in good standing will result in the entity or individual so designated being unable to participate in any OHFA programs until the violations resulting in such designation are resolved. Parties deemed to be not in good standing under any of the above items may, upon submission of additional information, request that OHFA remove such designation. In the event OHFA denies a request, the applicant may appeal to the Multifamily Committee of the OHFA Board. The Multifamily Committee will make a recommendation to the OHFA Board. Designations of not in good standing resulting from Item 14 (above) may be appealed directly to the Multifamily Committee. The Multifamily Committee will make a recommendation to the OHFA Board. The decision of the OHFA Board is final.

Projects may request that the OHFA waive violations of the good standing policy as described in Items 1-13 above. Examples of circumstances where a waiver may be issued include when a management company or owner "inherits" uncorrected Forms 8823, or in the event of a casualty loss. The OHFA Staff will make a recommendation to the OHFA Board who may waive violations.

Appendix D: Construction Completion and Project Operations

Compliance Next Steps Meeting

Completion of the Compliance Next Steps (CNS) meeting is required for all properties as they transition from the Agency's Development office to the Office of Program Compliance. If not completed, the issuance of Form 8609 may be delayed. The [Compliance Next Steps Process webpage](#) contains the most current information on the CNS meeting, including scheduling information and required forms and documents.

Ongoing Program Compliance

In accordance with [26 U.S.C. §42\(m\)\(1\)\(B\)\(iii\)](#), OHFA provides monitoring procedures for identifying and notifying the IRS of non-compliance with the LIHTC program, including non-compliance with habitability standards through regular site visits. These requirements can be found on the [Compliance Policies](#) page of the OHFA website. A summary of such requirements is provided below:

- [Compliance Training](#)

A representative of the owner and/or management company is required to attend a LIHTC training at least once every two years. The owner is required to certify attendance through the submission of the Annual Owner Certification indicating that this requirement has been met. OHFA will accept LIHTC training offered by nationally-recognized trainers or consultants (e.g. US Housing Consultants, E&A Team, Costello, Zeffert & Associates, Quadel). The training must incorporate such items as LIHTC fundamentals, qualifying tenants, assets and income and IRS regulations.

- [Compliance Monitoring](#)

Owners receiving a LIHTC allocation are responsible for compliance with all requirements of the Internal Revenue Code including such rules, regulations, administrative revenue proclamations and revenue rulings as may be issued from time to time.

OHFA will monitor each development for compliance during the term of the Restrictive Covenant. Monitoring requirements and the protocol for compliance monitoring may be adjusted as deemed necessary or appropriate by OHFA which includes compliance with [24 C.F.R. §1.42-5](#) and [IRS Section 42 Audit Guide](#), which may be amended from time to time by the IRS.

The initial audit for new properties must be conducted by the end of the second year after the last building is placed in service. The IRS permits agencies to monitor the lesser of 20% of the units on a project or the number provided in the minimum unit sample size delineated in [26 C.F.R. §1.42-5\(c\)\(2\)\(iii\)\(B\)](#).

LIHTC owners must request access to a property in the Agency's on-line reporting system prior to qualifying residents. Once owners gain access, they must approve access for other users of the online reporting system. Owners must ensure property managers and the appropriate on-site staff register and have access to necessary projects in the system.

- [Notice of Noncompliance](#)

Should OHFA discover that a development is not in compliance with 26 U.S.C. §42, or that credit has been claimed or will be claimed for units that are ineligible, OHFA will notify the owner promptly. The owner shall have a minimum of 30 days from the date of notification to cure the noncompliance. In extraordinary circumstances, and only if OHFA determines that there is good cause, an extension of up to six months may be granted to complete a cure for noncompliance. OHFA will notify the Internal Revenue Service, utilizing Form 8823, no later than 45 days after the end of the correction period, and no earlier than the end of the correction period, of the nature of the noncompliance and will indicate to the IRS whether or not the owner has made appropriate corrections.

While OHFA will notify the owner of compliance issues, neither a finding of non-compliance nor a determination that non-compliance has been cured is binding on the Internal Revenue Service. Owners who have received a notification from OHFA that a project is in compliance may still be subject to an IRS audit and the possibility of loss or recapture of LIHTCs. Refer to the Internal Revenue Code for additional information about federal compliance regulations.

- Annual Reporting

Owners must annually submit certifications and reports to remain in compliance with program requirements. The owner will be required to prepare and submit to OHFA an Annual Owner Certification (AOC) which certifies that for the preceding 12-month period the project met the requirements of [26 U.S.C. §42](#), [26 C.F.R. §1.42-5\(c\)\(1\)](#) lists the annual certification requirements. Owners are required to submit the AOC and Tenant Data to OHFA electronically. Owner reports are due March 1 of each year unless amended by OHFA. Refer to [OHFA's Compliance Policies webpage](#) in the Annual Reporting section for current information and requirements.

- Fair Housing Requirements

The owner shall comply with all requirements of the federal Fair Housing Act as codified in [42 U.S.C. Chapter 45, Ohio Revised Code Section 4112](#), and local fair housing requirements, as each may be amended. The owner shall ensure the project does not discriminate, as defined by [42 U.S.C. §3604](#), against any person because of sexual orientation or gender identity or expression. Also see [24 C.F.R. Part 100 Subpart H](#) for the Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices under the Fair Housing Act. Additionally, OHFA directly and affirmatively seeks to promote the Olmstead and ADA integration principles through its policies and funded developments.

- Tenant Selection Plans

Owners will adopt Tenant Selection Plans (TSPs) allowing individuals with a criminal record to access LIHTC housing while ensuring the safety of all residents.

- The TSP must explicitly prohibit the denial of admission, termination of assistance or eviction on the basis of arrest records alone, not accompanied by additional conditions that ultimately diminish or negate the effect of the prohibition. The TSP may create reasonable look-back periods for review of crimes but must not have blanket prohibitions on any person with any conviction record. The housing provider should have a policy that considers the nature, severity, and recency of criminal conduct.
- The TSP must include an individual assessment of each tenant applicant's history and provide the tenant applicant an opportunity to provide mitigating information before denying housing based on upon the result of criminal screening. This item requires the consideration of additional information before denying housing based on an individual's criminal record. The TSP must reflect that the housing provider will request mitigating information from the applicant before denying housing based on the applicant's criminal history without the tenant applicant needing to request an individualized assessment or submitting an appeal. In all cases, this should occur before a denial/decision has been made.

- The TSP is also required to be submitted and reviewed by OHFA as part of the Compliance Next Steps process for the project. When developing their TSPs, Owners should refer to HUD’s Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (HUD Guidance) and this model criminal background screening policy.
- Domestic Violence Protection and Prevention

In conformity with the Violence Against Women’s Act (VAWA) Reauthorization of 2023 as codified in [34 U.S.C. Chapter 121 Subpart III](#), an applicant for or tenant of housing assisted under the LIHTC program, or any affiliated individual thereof, may not be denied admission, denied assistance, terminated or evicted from the housing on the basis that they are a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant, tenant, or affiliated individual otherwise qualifies for admission, assistance, participation, or occupancy. Every tenant and applicant must be provided a Notice of Occupancy Rights when admitted as a tenant, denied admission, denied assistance, or being terminated/evicted.

An incident of domestic violence, dating violence, sexual assault, or stalking shall not be considered a lease violation by the victim, nor shall it be considered good cause for an eviction of the victim. If a tenant or affiliated individual who is a victim requests an early lease termination, lease bifurcation from the abuser, or transfer to another unit because she/he is in danger, the owner/manager shall make every effort to comply with the request and shall not penalize the tenant.

Each owner/manager shall have an emergency transfer plan for victims seeking safety, which incorporates reasonable confidentiality measures to ensure that the owner or manager does not disclose the location of the dwelling unit of a tenant to a person that commits an act of violence or stalking against the tenant. Be advised that an emergency transfer plan incorporates many features in addition to a transfer plan, since an emergency transfer often may not be possible.

An owner/manager may request documentation from a victim before these protections are triggered. If the owner/manager requests documentation, the applicant, tenant, or affiliated individual may provide any one of the following documents and owner/manager shall accept it as adequate documentation: a letter or form signed by the victim, including HUD’s Self Certification Form 5382; a letter signed by a domestic violence service provider, attorney, or medical/mental health professional who assisted the victim; a police report; or a court or administrative record. This submission shall be confidential as defined in [81 FR 80724](#) and [24 C.F.R. §5.2007\(c\)](#). Owners/managers shall also comply with all court orders.

Guidance related to complying with VAWA at OHFA-funded projects can be found on the OHFA Compliance Policies webpage.

- Violence Against Women Act (VAWA) Ongoing Compliance

Adherence to the requirements of VAWA is required for all projects receiving funding through one or more of OHFA’s Multifamily Housing programs. Properties that receive HOME, OHTF, and/or NHTF funding are required to follow the HUD 2013 VAWA Final Rule. Although the IRS has not provided guidance on how to comply with the VAWA, OHFA requires properties with LIHTC funding follow the HUD 2013 VAWA Final Rule when implementing VAWA Rule protections for their tenants. For more information on ongoing compliance with VAWA, visit OHFA’s Compliance Policies webpage.

- Evictions

Owners will neither advertise “no evictions” screening policies nor deny an application for tenancy based on the following:

- Credit information or report, tenant screening report, or any other consumer report demonstrating a failure to pay rent or utility bills during the COVID-19 emergency period.
 - An eviction proceeding that sealed, did not result in a judgment in favor of the plaintiff was brought during the COVID-19 emergency period for nonpayment, or was filed against tenants subsequent to a foreclosure of the rental property. 3. An eviction judgment by agreement or a judgement that has been either vacated or marked satisfied.
 - Cases in which the tenant
 - prevailed on any significant defense or setoff claim, even if possession was awarded to the landlord; or
 - was named but at the time of the eviction suit was either a minor or not residing in the premises.
 - Cases filed based on lease violations from household members who will not be included in the proposed future household.
 - Any eviction case filed, or eviction judgment entered, four or more years before the application to rent was submitted.
- Affirmative Fair Housing Marketing Plans

Affirmative Fair Housing Marketing Plans (AFHMP) and affirmative marketing procedures are required for all projects receiving funding through one or more of OHFA's Multifamily Housing programs, including but not limited to LIHTC, HOME, OHTF, and/or NHTF funds and any recipients of federal funds such as Section 8, 202, 236, BMIR projects or USDA/Rural Development Section 515. Projects receiving any of these funding sources are required to have Affirmative Fair Housing Marketing Plans. Federal regulations for Affirmative Fair Marketing are in [24 C.F.R. Part 200, Subpart M](#).

Information and guidance related to completing the AFHMPs can be found on OHFA's Compliance Policies webpage under “Affirmative Fair Housing Marketing”. The project's AFHMP must be submitted to OHFA's Compliance Office for approval. For developments allocated OHFA funding on or after 2021, the AFHMP must be approved by OHFA prior to issuance of Form 8609.

Asset Management

All LIHTC projects must submit annual, independently prepared audited financial statements throughout the 15-year Compliance Period. During the Extended Use Period, projects with 50 or more units will continue to submit independently prepared audited financial statements; projects with less than 50 units will submit independently prepared reviewed financial statements. OHFA may request additional information.

Changes in owner and/or management companies or sale of the project that occur after a project has placed-in-service must be submitted to OHFA's Division of Asset Management.

For more information, visit OHFA's Asset Management website [here](#).