



SFY 2025 4% LIHTC with Ohio LIHTC Second Draft Guidelines Public Comments, by Topic

July 8, 2024

1. General Comments

- The draft is not only an improvement in terms of policymaking, but they were directly responsive to comments from OHFA's industry partners. (Specifically, the Ohio LIHTC score tweaking, the rural definition, the rehab hard costs, and the elimination of service time were all improvements).
- Even the things you did not change came with a rationale that was clearly defensible. The presentation of the updates at today's Board Meeting was crisp, clear, and well organized.

2. Process

- Allow applicants to cure minor deficiencies to scoring items.

3. Experience and Capacity

- Allow project teams that OHFA has already approved in 2024 to bypass this requirement.
- Allow Developers and/or owners who have received an award of HDAP in Program Year 2022 or earlier and have not yet closed with OHFA's Legal Office as of the Proposal Application deadline to participate or at a minimum allow for developers to submit an exception request for known extenuating circumstances outside of the Developer's control.
- Form 8609 as Evidence of Experience. In the Developer Experience section in Appendix C, this draft added a phrase that OHFA "may require the developer submit organizational contracts, development agreements, or other evidence to document serving as the lead developer." OHFA should not give itself such broad authority to require documents from a developer that are not pertinent to its experience, when a Form 8609 is adequate for this purpose.
- If "To Be Determined," "To Be Formed," or anything indicating that the development team is not completed" applies to the development team only, a position with which we agree. Please clarify if this prohibition applies to the single purpose ownership entity.
- Raising a concern with what looks to be an absolute prohibition on anyone who received but has not yet closed an HDAP award in Program Year 2022 or earlier from participating in the Ohio LIHTC program this year.
- Failure to close an award with OHFA's Legal Office should not be disqualifying in the same way that federal debarment, foreclosure, or being under felony indictment are. Recommend removing this prohibition, but if you are unwilling to do so, then recommend allowing for an exception request or that the presumption of disqualification be rebuttable.

4. Threshold Requirements (Appendix A Submission Requirements)

- Please note that OHFA has 3. Architectural Plans and Design & Construction Features Form (DCFF) listed as a final application submission. This contradicts the Design and Architectural Guidelines which have it as a Proposal Application requirement.
- Please note that OHFA is requesting FTI numbers with the development team experience and capacity spreadsheet with the proposal application. This contradicts #14 Federal Tax Identification Number which OHFA requires at Final Application.
- Request OHFA go back to the 2023 QAP definition of site control for scattered site developments and allow 35% of the sites to be under control at the time of proposal application.
- Re-submitting the comment provided to OHFA's first draft on Related Party Transactions. We understand the need to add language regarding Related-Party acquisitions to the Ohio LIHTC guidelines with the addition of OHTF funds. There was guidance in the 2024-2025 9% LIHTC QAP FAQ that clarified that, "No cash out to seller applies to projects where there is a related-party building acquisition (vacant or income generating) or a related-party income-generating land acquisition. If the related-party land acquisition is not generating income, then cash out to seller is allowed." Recommend adding this same language to the LIHTC guidelines or otherwise providing clarity on when Related-Party acquisitions applies for new construction projects, and when it does not.
- OHFA should revise their requirements for commitment letters based on prior QAP's.

5. Geographic Distribution and Funding Pools

- Recommend increasing county limits to three (3) projects for at least the three largest counties.
- Further clarification of county definitions. In the "Funding Pools" section, there are counties on the map in the guidelines that OHFA identifies as both Distressed and Metropolitan. Examples of these are Erie, Ottawa, Morrow and Allen Counties. The GIS link provided identifies Rural and Metropolitan but does not identify Distressed Counties. Encourage OHFA to supply a GIS map with the Distressed Counties in the next draft.

6. Community Impact Strategic Initiative Set Aside

- OHFA should remove the requirement of an 80% minimum score from this Set Aside.
- Open the scoring to developments that score 20 or more.
- In favor of lowering the threshold to 50%, to allow more projects to compete with an emphasis on community impact rather than geographic location.
- In the "Community Impact Strategic Initiative" set-aside on page 15 of the guidelines OHFA states that "preference will be given to localities not having received an OHFA tax credit award in the last five years" (Emphasis added). Recommend defining localities as cities, townships, or villages, not counties.
- OHFA should change locality to county which would be in line with the first tiebreaker – raw number of new affordability LIHTC units generated in the county over the past 10 years. Also recommend that OHFA further clarify tax credit award and specify that it be new affordability 9% or 4% tax credit awards.
- In favor of lowering the threshold to 50%, to allow more projects to compete with an emphasis on community impact rather than geographic location.

- Pleased to see this included in the second draft and believe this is an appropriate way to ensure that all areas of the state have an opportunity to participate in this program. Requesting clarification on two items:
 - One interpretation of the phrase “including support from their County Commissioners and the local jurisdictions” is that these are requirements to demonstrate support at the local level. An alternative reading is that these are only examples of ways in which a developer can demonstrate local support. Recommend clarification on this in the final guidelines along with the definition of “local jurisdictions”.
 - The word “localities” as OHFA uses it in “...preference will be given to localities not having received an OHFA tax credit award in the last five years.” Recommend further defining this term: does it mean a census tract, zip code, city, or county.
- Please clarify the word “localities” as OHFA uses it in the third sentence: “...preference will be given to localities not having received an OHFA tax credit award in the last five years.” If this is going to be a criterion that OHFA is going to use to determine which applications they will select in this set aside, then we would appreciate clarification about what this term means as it will have an impact on how developers determine which projects to submit in this application cycle.

7. Transformative Economic Development

- Recommend amending the radius in the Ohio LIHTC draft guidelines to 15 miles.
- Request OHFA use the 20-mile distance requirement for the Transformative Economic Development Set-Aside as detailed in the 2024 9% QAP.

8. Other Set Aside Requests

- There should be a CHDO Set- Aside award in the State LIHTC round, like what OHFA has included in the 9% round.

9. Funding Pools Rural/Urban

- Will OHFA be adjusting more credits to the urban pool since it created the new Rural 2 pool, which appears to have reduced the total amount of credits to the urban pool (67% versus 75% in the last cycle)? This new pool is a mere expansion of a suburban pool.
 - Please clarify, is your suggestion to match the pool names with the set aside percentages in the guidelines?
 - More resources should remain in the Metropolitan County pool, and upwards of 75% of the total allocation should remain in the Metropolitan Pool. If this matches the pool names to the set-aside percentages, then I agree.
- Based on the maximum annual Ohio LHTC requests of \$1 million for Metropolitan Counties and \$1.25 million for Rural Counties, this equates to 7.5 deals for Metropolitan Counties and three deals for Rural Counties.
- Recommend OHFA move \$500,000 from the Metropolitan to the Rural pool. The new amounts would be as follows:
 - New Affordability Metropolitan County – \$70 million
 - New Affordability Rural County – \$42.5 million
- Welcomed OHFA increasing the OLIHTC cap from \$1 million to \$1.25 million for rural projects.

10. Competitive Scoring: Areas of Opportunity

- Lessen the emphasis on “Area of Opportunity” scoring. The scoring emphasis on areas of opportunity in the Ohio LIHTC draft guidelines closely resembles that of the 9% and 4% BGF guidelines.
- The scoring emphasis on area of opportunity in the Ohio LIHTC draft guidelines closely resembles that of the 9% and 4% BGF guidelines.
- Lessening the emphasis on areas of opportunity in the State guidelines would give projects in more economic disadvantaged areas a more balanced opportunity to receive funding.
- To further balance the scoring, OHFA should remove five points from Areas of Opportunity and add them to the annual Ohio LIHTC per LIHTC Unit criteria.

11. Competitive Scoring: Discount to Market Rent

- OHFA should award a CHDO the maximum score of 20 points.
- Eliminating the discount to market rent criteria as a scoring criteria. Instead, have market rents indicated in agency required market studies. Set a limit for threshold purposes regarding the discount to market rent. This achieves the same goal.
- Establish a point category that compares the LIHTC maximum rents to the project’s proposed rents.

12. Competitive Scoring: Annual Ohio LIHTC per LIHTC Unit

- While the intent of this scoring criteria is noble, its introduction into the guidelines is both too late in the process and at the current levels has the effect of making deals less viable. To score the maximum 10 points, a project would need to be nearly 110 units.
- To receive 10 points, the annual Ohio LIHTC request per LIHTC Unit should be for \$15,000 per unit or less.
- To receive 10 points, the annual Ohio LIHTC request per LIHTC Unit should be for \$10,000 per unit or less.
- There is a significant concern that the current point thresholds may lead to developers submitting riskier projects.
- For metropolitan counties, either increase the maximum Ohio LIHTC request per unit across the board, revise the metric to an Ohio LIHTC per square foot metric, or include soft funding from non-OHFA sources in the per unit calculation.

13. Competitive Scoring: Service Time (Removed)

- Disappointed to find OHFA eliminating the service time scoring category. The unintended consequence of this is that OHFA has now made the top two Appalachian scoring categories are now in Athens County. Athens County has received six awards over the past five years. Strongly urge OHFA to reinstate this scoring just for New Affordability in a Rural County pool only so that other parts of the 32 County Appalachian Region have a chance to receive awards.
- Welcomed the removal of “Service Time” as a scoring item; given it was a county-wide measure, we believed it did not drill down far enough to truly incentivize areas of the state that have been underserved by OHFA’s resources.

14. Competitive Scoring: Additional Point Category Suggestions

- Include pet ownership as an amenity item for Ohio LIHTC. Previously, this amenity was eligible for points under the various QAPs. OHFA should restore this as an amenity that developers can include to obtain points for any application.
- Substitute criteria for Opportunity rating and Discount to Market Rent. As noted previously, these criteria have their place as part of the 9% program, but make less sense in the 4% program, where volume production of affordable housing should be a primary goal--there should be a different focus. Otherwise, Ohio LIHTC becomes primarily a second chance at the same deals submitted for 9% credits. Financial feasibility (except in those locations where large amounts of local gap financing may be available) almost requires location in a QCT, yet simultaneously incentivizing high opportunity locations. In urban settings, which occurs in downtown locations, but rarely elsewhere.
- Look at this from the perspective of low-income households who are looking for housing choice in diverse types of neighborhoods that are convenient. In a 40-point scoring system, suggest:
 - Areas of Opportunity: 10
 - Discount to Market Rent: 5
 - Credits per Unit: 15 (maximum score should potentially be as low as \$5,000 or \$6,000 per unit, above \$15,000 gets zero)
 - Proximity to Amenities: 10 (same scoring as the 9% program; developers understand how this works and tenants get convenient locations)
- OHFA should move away from scoring criteria that is primarily based on location rather than the merit of the project or policy goals individual projects create.

15. Tiebreakers

- Clarify the tiebreakers. It is not clear for each tiebreaker if you are looking for the fewest or greatest number of LIHTC units, or the smallest or greatest discount to market rent percentage.
- Currently, the tiebreakers are as follows:
 - Raw number of New Affordability LIHTC units generated in the county over the past 10 years (OHFA needs to clarify this as fewest).
 - Discount to Market Rent percentage (OHFA needs to clarify this as greatest).

The issue with the first tiebreaker is that the scoring is county based so any deal in the same county will still tie. The issue with the second tiebreaker is that it is based on zip code which tends to encompass large areas in the rural parts of the state, so deals are likely to still tie. OHFA needs to add a third tiebreaker to break a potential tie otherwise it will come down to discretion. Recommend:

- Developers that did not receive a 9% allocation in the most recent 9% round.
- Number of 4% developments awarded over the past 3 years.
- Use the number of units in the project as the first tiebreaker so that OHFA is encouraging developers to build a high number of units in each development.
- Use the number of units produced as the first tiebreaker so that, when all else is equal, we are building the largest number of units.

16. OHTF Requirements

- CHDO organizations should be able to access Gap Financing resources, regardless of their location, to close the financing gap.

17. Lease Purchase

- Appreciate OHFA's reconsideration of Lease Purchase as an eligible use of Ohio LIHTC resources to allow for the provision of desperately-needed homeownership opportunities for low-income families.