

Affordable Housing Funding Notice



Oregon Housing and Community Services

MULTIPLE AWARD OPPORTUNITY

NOTICE OF FUNDING AVAILABILITY (NOFA) #2020-4

Affordable Rental Housing Projects with 9% Low Income Housing Tax Credits and HOME

NOFA Issued Date: **February 13, 2020**
Pre-Application Due By: **March 6, 2020**
Application Due Date: **April 24, 2020**

Application Due Time: **4:00 PM PST**

Version 1.0



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1.0 INTRODUCTION

1.1 Purpose

The Oregon Housing and Community Services Department (“OHCS”), is seeking applications (“Applications”) in this Notice of Funding Availability (“NOFA”) for the new construction, or acquisition rehabilitation of proposed multifamily residential rental housing developments (“Projects”) that will use 9% Low Income Housing Tax Credits (“LIHTC”) or OHCS-issued HOME Investment Partnerships Program (“HOME”) funding in order to serve qualified low income households. OHCS will prioritize Projects according to priorities identified in its’ 2019 Qualified Allocation Plan (“QAP”) and this NOFA.

1.2 Funding Sources

The Allocation of Funds for this NOFA may derive from federal, state, or other funds or tax credits, which may include some or all of the following:

- 9% Low Income Housing Tax Credits (LIHTC)
- HOME Investment Partnership Program (HOME) funds
- Gap Funds (General Housing Account Program (GHAP), Housing Development Grant Program (HDGP))
- Oregon Affordable Housing Tax Credits (OAHTC)

To participate in this NOFA, the Applicant must use either the 9% LIHTC or HOME funds; it is the responsibility of the Applicant to have read the manual and requirements for each funding source for which they apply.

This NOFA is guided by, and the 9% LIHTC Program abides by, the information laid out in the State’s 2019 Qualified Allocation Plan and the Internal Revenue Code of 1986, as amended (the “Code” or “IRC”).

1.3 Definitions

For purposes of this NOFA, the following terms shall have the following meanings:

Agreement Documents: means the funding documents, the final form of which are **satisfactory to OHCS, in consultation with the Oregon Department of Justice and executed in connection with the Project.**

Allocation: includes any funding allocated under this NOFA.

Applicants: means persons or entities submitting an Application responsive to this NOFA.

Communities of Color: identity-based communities that hold a primary racial identity that describes shared racial characteristics among community members. The term aims to define a characteristic of the community that its members share (such as being African American) that supports self-definition by community members, and that typically denotes a shared history and current/historic experiences of racism. An older term for Communities of Color is that of "minority communities" which is increasingly inaccurate given that people of

color are majority identities on a global level. That term has also been rejected for its potential to infer any inferior characteristics. The community may or may not also be a geographic community. Given that race is a socially-defined construct, the definitions of these communities are dynamic and evolve across time. At present the Coalition of Communities of Color defines Communities of Color to include Native Americans, Latinos, Asian and Pacific Islanders (further disaggregated according to local preferences), African Americans, African Immigrants and Refugees, Middle Eastern, and Slavic communities.¹

Culturally Responsive Organization: A Culturally Responsive Organization comprehensively addresses power relationships throughout the organization, from the types of services it provides and how it maximizes language accessibility to its human resources practices—who it hires, how they are skilled, prepared and held accountable, to its cultural norms, its governance structures and policies, and its track record in addressing conflicts and dynamics of inclusion and exclusion, to its relationships with racial groups in the region, including its responsiveness to expectations. Furthermore, a Culturally Responsive Organization is one that is dynamic, on a committed path to improvement and one that is hardwired to be responsive to the interests of Communities of Color, service users of color and staff of color.²

Culturally Responsive Services: Services that have been adapted to maximize the respect of and relevance to the beliefs, practices, culture and linguistic needs of diverse consumer/client populations and communities. Cultural responsiveness describes the capacity to respond to the issues of diverse communities. It thus requires knowledge and capacity at different levels of intervention: systemic, organizational, professional, and individual.³

Preservation: means any Project with at least twenty-five percent (25%) of the units having existing federal Project-Based Rental Assistance Contract; and

- a) the **HUD Section 8 Project-Based Rental Assistance Contract** is expiring within seven (7) years of the date of the OHCS NOFA application; or
- b) the **USDA Rural Development direct mortgage** is maturing within seven (7) years of the date of the OHCS NOFA application; or
- c) the **USDA Rural Development project** has a pending prepayment request; or
(Note, USDA Rural Development projects with a maturing mortgage within 3 years of the date of the OHCS NOFA application, or where the Owner's prepayment request has been approved, will be prioritized.)
- d) the **USDA Rural Development project's** restrictive use covenants have expired; or
- e) **Projects with Public Housing Units** undergoing a preservation transaction involving a comprehensive recapitalization, including those converting to HUD Section 8 projects under the HUD Rental Assistance Demonstration or projects under the HUD Section 18 Demolition and Disposition Programs.

For preservation portfolio transactions involving scattered site Projects with multiple locations, the twenty-five percent (25%) minimum is calculated based on the total of all units in the transaction, and at least one (1) of the properties in the portfolio transaction must have a HUD Project-Based Rental

¹ Curry-Stevens, Ann, Marie-Elena Reyes & Coalition of Communities of Color (2014). *Protocol for Culturally Responsive Organizations*

² Curry-Stevens, Ann, Marie-Elena Reyes & Coalition of Communities of Color (2014). *Protocol for Culturally Responsive Organizations*

³ Curry-Stevens, Ann, Marie-Elena Reyes & Coalition of Communities of Color (2014). *Protocol for Culturally Responsive Organizations*

Assistance Contract that is expiring within seven (7) years of the date of the NOFA application, or a USDA Rural Development direct mortgage that is maturing within seven (7) years of the date of the NOFA application.

Procore™ Workcenter: is a secure portal technology solution developed by ProLink Solutions™ to help facilitate a more robust collaboration and communication model for all applicants and future housing partners. The Procore™ Workcenter provides a series of functionality to help facilitate this by including a repository for electronic document submission, a task management and tracking tool, an events calendar and communication features.

Qualified Nonprofit Organizations: means a nonprofit organization described in Section 501(a) and Sections 501(c)(3) or 501(c)(4) of the Code, have as one (1) of its exempt purposes the “fostering of low-income housing”. Further, the organization must materially participate (meaning, as described in IRC Section 469(h), it must be involved on a regular, continuous, and substantial basis) in both the development and operation of the Project throughout the Project Compliance Period. The organization must not be affiliated with or controlled by a for-profit organization, entity, or individual but may be part of a partnership.

1.4 Application Parameters

- A. Applicants must be applying for the use of 9% LIHTC and/or HOME resources. Applicants may only request funding offered in this NOFA.
- B. Applications with multiple Project sites in different counties that cross Geographic Regions will be evaluated in the Geographic Region with the greatest number of units in the Project, however, scoring will incorporate information from all sites and, in addition to fund allocation, will be based on a weighted unit distribution average.
- C. No Applicant or ultimate Project owner (“Sponsor”) may receive more than twenty percent (20%) of any annual State 9% LIHTC allocation. If Applications for additional Projects have been submitted by an Applicant and score such that they are eligible for funding and the combined total of the Projects are in excess of 20% of the total LIHTC available, the lower scoring Project(s) will not be funded so as not to exceed the 20% limitation.
- D. No Applicant may receive more than an average of fifteen percent (15%) of annual LIHTCs over any two (2) sequential year’s allocations. For example, if an Applicant receives twenty percent (20%) of the State’s total annual LIHTC in year one, the Applicant would only be eligible for ten percent (10%) of the State’s LIHTC in year two. Another example is if an Applicant receives fifteen percent (15%) of the State’s total annual LIHTC in year one, the Applicant would only be eligible for fifteen percent (15%) of the State’s LIHTC in year two. If Applications for additional Projects have been submitted and score such that they are eligible for LIHTC allocation and are in excess of the percentage of the LIHTCs available, the lower scoring Project(s) will not be funded so as not to exceed the funding limitation.
- E. Projects that have been funded with 9% LIHTC in 2016 or thereafter, are not eligible to apply for additional 4% LIHTC or 9% LIHTC within 20 years of the date the Project is placed in service. Exceptions may be granted at the sole discretion of OHCS in cases where it determines there is a risk of physical, affordability, or other loss.

1.5 9% LIHTC Set-Aside Categories and Allocations

Section 42(h)(5) of the Code requires the State to set aside at least ten percent (10%) of the total 9% LIHTCs to Projects sponsored by Qualified Nonprofit Organizations. Percentages of the available 9% LIHTC will further be set aside for each of the following Set-Aside Categories described below.

- A. **Regional Pool Set-Aside: sixty-five percent (65%) of the 9% LIHTC are allocated to regions.** OHCS established **Geographic Regions** (“Regions”) based on areas with similar ability to leverage federal HOME funds as well as having the greatest Project comparability.

9% LIHTCs are allocated to each of the below Regions based on the number of renter Communities of Color headed households in each Region earning sixty percent (60%) or less of the county’s median family income AND the number of severe rent-burdened (defined as spending fifty percent or more of the household income on gross rent expenses) Communities of Color headed households in each Region. OHCS will allocate no less than \$1 million in 9% LIHTC per Region. If either the Balance of State Urban or Balance of State Non-Urban/Rural Regions are under-subscribed, the remaining available Regional LIHTC set-aside will first move to the other Balance of State Region before going to the overall Regional Pool.

The Regions are:

- **Metro Oregon** (Clackamas, Multnomah, and Washington Counties);
 - **Non-Metro HUD HOME Participating Jurisdictions** (cities of Eugene, Springfield, Salem, Keizer, and Corvallis);
 - **Balance of State Urban** (cities of Albany, Ashland, Bend, Central Point, Dallas, McMinnville, Medford, Newberg, Redmond, and Woodburn); and
 - **Balance of State Non-Urban/Rural** (the balance of the State not included in the above regions, including: Baker, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lincoln, Linn, Malheur, Morrow, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler, and Yamhill Counties as well as the balance of Benton, Lane, and Marion counties).
- B. **Preservation Project Set-Aside: twenty-five percent (25%) of the 9% LIHTC are set-aside for Preservation,** as defined above.
- C. **Tribal Lands Set-Aside; ten percent (10%) of the 9% LIHTC are set-aside for Tribal Projects.** Defined as being an Application sponsored by tribal governments, tribally-designated housing entities, or tribal corporate entities on tribal trust land. If this set-aside is not fully utilized, the balance of Tribal Lands Set-Aside will move to the Preservation Project Set-Aside.

If no Projects meet the minimum requirements of Administrative Review (described in Section 3.1 below) and Minimum Threshold Requirements (described in Section 3.2 below), or if the remaining gap funds are not enough to fund the next high scoring Project, the funds will be returned to the Regional Pool and the next highest scoring Project will be funded.

OHCS has set aside the following funding amounts for this NOFA, and reserves the right to add resources to fully fund Projects:

Programs	Metro/Non-metro/Balance of State	Preservation	Tribal Lands	Totals
9% LIHTC*	Total: \$6,500,000 65% <u>Regions</u> Metro: \$3,055,556 Non-Metro PJ: \$1,038,889 Balance Urban: \$1,000,000 Balance Rural: \$1,405,556	\$2,500,000 25%	\$1,000,000 10%	\$10,000,000
HOME**				\$7,000,000
Gap (GHAP/HDGP)***				\$6,000,000
OAHTC****				\$10,000,000

- * In 2020, ten percent (10%) of the State’s total 9% LIHTC annual allocation is determined to be: \$1,000,000; twenty percent (20%) is determined to be: \$2,000,000.
- No Applicant may receive more than twenty percent (20%) of the total 9% LIHTC annual allocation in any one year, or more than thirty percent (30%) in any two (2) sequential years.
 - Applicants may request more than ten percent (10%) of the total 9% LIHTC annual allocation, however if more than 10% is requested the Applicant must also submit a 4% LIHTC/tax-exempt bond pro forma to evaluate potential feasibility for that funding source. Failure to submit a 4% LIHTC/tax-exempt bond pro forma will result in failure to meet the Minimum Threshold Requirements.

** There is a **minimum \$500,000 HOME request** per Project for this NOFA. HOME funds may be requested alone through the HOME only NOFA, or in combination with 9% LIHTCs in this NOFA. The HOME resources are used in both the LIHTC NOFA as well as the HOME NOFA.

HOME funds can only be utilized within the designated HOME Regions of the State’s HOME Program (Balance of State Regions). (The areas within the Metro Region and the Non-Metro Participating Jurisdiction Region maintain their own HOME Programs and Projects within those areas are not eligible for HOME funding from the State’s HOME Program.)

In accordance with Federal Regulations, fifteen percent (15%) of HOME funding must be awarded to state-certified **Community Housing Development Organizations (CHDOs)** that meet specific requirements for development capacity.

The minimum investment of HOME funds is \$1,000 per unit. The maximum amount of HOME funds is limited by:

- The total per unit development costs: HOME funds cannot exceed the actual per unit development costs for the HOME-assisted units in the Project;
- The financial needs of the Project: Projects receiving HOME funds may not receive more subsidy than is required to produce financially feasible Projects;
- The number of HOME-assisted units in the Project: The HOME assistance cannot exceed the maximum subsidy allowed per HOME unit. The final number of HOME assisted units in a Project will be determined by OHCS, based on HUD regulation for eligible cost allocation.

The HOME maximum per unit subsidies, adjusted by bedroom size, as follows:

Zero Bedroom	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom
\$141,088	\$161,738	\$196,672	\$254,431	\$279,285

*** Gap financing will be awarded from one or more sources including: GHAP, HDGP. There is a cap of \$400,000 in gap funding if not using OHCS HOME resources; if using OHCS HOME resources there is a cap of \$200,000 in additional gap funding.

**** There is a cap of \$3,000,000 per Project for OAHTC funding in this NOFA.

1.6 Reservation Process

A. Application Ranking Process: LIHTC and HOME are reserved by OHCS through a Reservation process on a competitive basis to Projects of qualifying Applications that:

1. Pass the Administrative Review (described in Section 3.1 below);
2. Meet the Minimum Threshold Requirements (described below in Section 3.2); and
3. Receive the highest scoring rank.

OHCS, at its sole discretion, may choose not to award all available resources.

Applications are first ranked within each Set-Aside Category. Applications that have the highest score within each set-aside category will be recommended for funding as allocated resources allow. If Applications within a set aside do not score well enough to be funded, or if there are no Projects to fund within a set-aside category, the set-aside category funds will be put back into the statewide Regional Pool, with the exception of the Tribal Set Aside, which will first be allocated to the Preservation Set-Aside before returning to statewide availability.

Once remaining resources are pooled, Applications will be ranked statewide by overall score and additional reservations may be issued until the balance of available LIHTCs or other OHCS funding sources are not adequate to support any other Applications. If LIHTCs and/or other OHCS funding sources remain after all reservation processes are complete, OHCS may choose whether to award any of the remaining LIHTCs and/or other OHCS funding sources.

In the event of a tie in the regional or pooled ranking processes, and assuming sufficient LIHTCs for either of the tied Applications, OHCS will apply the tie breaking rules in Section 1.6.B in making LIHTC allocation awards.

B. Tie Breaking Rule: If the total evaluation scores of two (2) or more Applications result in a tie and LIHTC allocation availability is insufficient to fund all tied Applications, the following scores, in order of priority, will break the tie:

1. If the tied Projects are in *different* Set-Aside Categories or Regions and more than fifty percent (50%) of the remaining funds comes from one of those Set-Aside Categories; that Project will be funded.
2. If the tied Projects are in the *same* Set-Aside Category or Region, or from a Set-Aside Category or Region whose allocation contributes less than fifty percent (50%) of the remaining funds, the Project serving households with the lowest Average Median Family Income served will be funded.
3. If the Average Median Family Income is tied, the Project with the least LIHTC per bedroom will be funded.

2.0 APPLICATION REQUIREMENTS

2.1 Pre-Application and Application Access

New to the NOFA application process, is a two-step NOFA process that requires submission of a very brief pre-application along with a Site Review Checklist in order to access the full application:

Process:

1. Download the pre-application and Site Review Checklist from the OHCS website, here: <https://www.oregon.gov/ohcs/Pages/multifamily-housing-funding-opportunities.aspx>
2. Submit the completed pre-application and Site Visit Checklist to MFNOFA@oregon.gov. This action will alert OHCS staff to generate Procorem access credentials for your project. This step must be completed no later than close of business on **March 6, 2020**.
3. Once credentials are received, within three business days of pre-application submission, go to the Procorem login page: <https://app.procorem.com/login> to access the LIHTC Rental application.

Please note: applications can only be submitted electronically through Procorem. Hard copies, faxes, and electronic copies not submitted through Procorem will be automatically rejected and will not be reviewed or considered for funding.

2.2 Application Submission

Applications and associated charges must be received by OHCS no later than:
April 24, 2020 at 4:00 PM PST

1. **Applications:** Applications along with all required materials and documentation must be uploaded to the Procorem portal by the Application due date and time: April 24, 2020 at 4:00 PM PST.
 - Applications in response to this NOFA can only be submitted through Procorem.
2. **Charges:**
 - All Applicants must submit application charges via mail. OHCS cannot accept any electronic payments for Application charges.
 - Applicants must submit the Application charges to the address below along with the transmittal form provided as part of the application materials in Procorem. All Application charges must be received by OHCS no later than **April 24, 2020 at 4:00 PM PST**. If the Application charge is not received by the Application Deadline, the Application is considered incomplete. It will be automatically rejected and is ineligible for funding.

Send Application Charges to:
Oregon Housing and Community Services
Attn: Affordable Rental Housing
725 Summer St. NE, Suite B
Salem, OR 97301

Applications determined by OHCS to be incomplete, to not meet all submission requirements of this NOFA, or otherwise fail to satisfy Preliminary Review requirements will be deemed "non-responsive" and rejected without further review. Applications considered complete, meeting all submission requirements, and otherwise satisfying all Preliminary Review requirements by OHCS will be evaluated to determine if they comply with the Threshold Requirements. Applications determined by OHCS as failing to meet any of the Threshold Requirements will be deemed non-responsive and rejected without further review. Applications that meet the Threshold Requirements are considered responsive and qualify to be evaluated for ranking and award purposes by the Scoring Committee as described in this NOFA.

2.3 NOFA Questions

Inquiries relating to the NOFA process, its administration, or the substantive technical portions of the NOFA should be directed to: MFNOFA@oregon.gov

Please note "**LIHTC/HOME NOFA**" in the subject line. Frequently Asked Questions (FAQs) and answers will be posted on the OHCS website and NOFA Workcenters at regular intervals during the time that the NOFA response period is open. When appropriate, revisions, substitutions, or clarifications shall be issued as a Technical Advisory and considered a revision to this NOFA.

Changes or modifications to the NOFA requirements will ONLY be recognized if in the form of a written Technical Advisory (TA), issued by OHCS. OHCS shall post the TAs on the department fund offering page: <https://www.oregon.gov/ohcs/Pages/multifamily-housing-funding-opportunities.aspx>

3.0 EVALUATION PROCESS

If an Application passes Administrative Review, including for timeliness and completeness, the Application will be reviewed for satisfaction of all Minimum Threshold Requirements. If the Application fails to pass Administrative Review or meet all the Threshold Requirements listed below, the Application will be deemed non-responsive and will be rejected.

3.1 Administrative Review

Each Application will be reviewed for timeliness and completeness of the NOFA requirements. OHCS reserves to the right to pursue clarification from any Application that is deemed substantially complete. The following are Pass/Fail criteria, all of which must be met in order to move on in the Application's review:

- NOFA Cover Sheet, submitted by due date and time,
- Application and Charge Transmittal Form and Payment of Application Charges,
- Owner/Board of Directors' Authorization and Acceptance Form,
- Applicant's Organizational Documents,
- Complete NOFA Application with Required Exhibits, and
- Certification of Pre-Application submission.

3.2 Minimum Threshold Requirements

After passing Administrative Review, an Application must satisfy all Threshold Requirements at the time of application. For complete LIHTC Program Requirements, please see the current OHCS Qualified Allocation Plan (QAP) and OHCS LIHTC Compliance Manual. The following are Pass/Fail criteria, all of which must be met in order to move on in the Application's review:

A. Diversity, Equity and Inclusion (DEI) Agreement

All Applicants are required to enter into an agreement to commit their organizations to doing work and reflection to enhance diversity, equity and inclusion practices through the signing of an OHCS Diversity, Equity and Inclusion (DEI) Agreement.

This form is included in the NOFA application

B. Relocation Plan

If any relocation or displacement of existing tenants might occur as a result of an Allocation, the Application must contain a relocation plan satisfactory to OHCS, including all of the following:

1. A complete survey of existing tenants using the format provided by OHCS. This survey must be augmented to include third party income verification and be completed and approved by OHCS prior to the Project's Equity Closing.
2. Type of displacement that will occur (permanent or temporary).
3. Proposed relocation/displacement process. Indicate compensation and advance notice provided to those subject to displacement.
4. Availability of comparable units in the community.
5. Describe the local jurisdiction displacement/relocation policies, if applicable, and compliance therewith.
6. Describe how tenants with disabilities will be assisted regarding relocation or displacement.
7. Provide regular updates on each tenant to be relocated or displaced.
8. For Projects receiving federal funds, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA") will apply and govern. URA requirements, if inconsistent with any other requirements above, will supersede any of the above.

This form will be an attachment to the NOFA and available through the Workcenter

C. Ownership Integrity

OHCS may reject an Application where the Applicant, or any member, officer, or principal within the Project ownership, management, or development team (1) is currently under investigation by a public body for, has a pending claim, indictment, suit, action, or other proceeding against them for, or has been convicted of or been determined by an administrative or judicial (whether criminal or civil) order or judgment to have committed fraud, misrepresentation, theft, embezzlement, or any other act of moral turpitude (including, but not limited to any felony or malicious behavior) within the previous ten (10) years; (2) has been involved in a bankruptcy proceeding within the previous five (5) years; or (3) has been debarred or otherwise sanctioned by OHCS.

This form is included in the NOFA application

D. 4% Pro Forma for Funding Request above 10%

Any Project applying for more than ten percent (10%) of the State’s total annual LIHTC allocation made available in this NOFA, is required to submit a 4%LIHTC/tax-exempt bond pro forma to evaluate potential feasibility for that funding source. Failure to submit a 4% LIHTC/tax-exempt bond pro forma will result in failure of the Threshold Review.

This will require the applicant to submit the Application Pro Forma twice, under a revised “4% ProForma” document name.

E. Resident Services

The Applicant is required to provide a Resident Services Description at the time of Application in accordance with the goals and guidelines in the OHCS Management Agency Package:

<https://www.oregon.gov/ohcs/APMD/PCS/pdf/Management-Agent-Packet-2017.pdf>

Please note that the information provided in the Applicant’s Resident Services Plan should reflect the priorities of competitive scoring, including affirmative fair housing marketing, as well as be substantially in line with the Project’s final Project Management Agreement and Resident Services Plan.

This form will be an attachment to the NOFA and available through the Workcenter

F. Minority, Women, and/or Emerging Small Business (MWESB) Engagement

Minority, Women, and / or Emerging Small Businesses (MWESB) contractors are those registered with the State. (<http://www.oregon4biz.com/How-We-Can-Help/OMWESB/>)

All Applicants will be required to identify ways and/or targets that they will utilize to contract with MWESB contractors/subcontractors in the construction and operation of the Project. Awardees will be required to submit a report to OHCS demonstrating outcomes of their efforts to contract with MWESB contractors/subcontractors, using state registry, in their final application prior to the issuance of the Internal Revenue Service (“IRS”) Form 8609, *Low-Income Housing Credit Allocation and Certification*.

This form will be an attachment to the NOFA and available through the Workcenter

G. Readiness to Proceed

An Application must demonstrate the Project’s readiness to proceed based on the following information:

1. Zoning and Site Control

Zoning

The Project must be properly zoned for the type of intended Project. The Applicant must provide the Certification of Zoning executed by the appropriate zoning authority to verify this. **Projects that must complete a zoning change to develop the Project will not be funded.**

This form will be an attachment to the NOFA and available through the Workcenter

Site Control

Applicant must have control of the land necessary for the Project by the Application deadline as evidenced by one (1) of the following:

- a. a recorded deed or conveyance showing the Applicant is the owner of the site,
- b. a valid purchase and sale agreement,
- c. a valid option to purchase,
- d. a valid option for a long-term lease, satisfactory to OHCS , and
- e. other evidence satisfactory to OHCS.

The Applicant must be sure the name on the evidence of site control and the Application is **exactly** the same. The site control document should also identify the exact same area as the Project site listed in the Application and the exact same cost for the land and/or existing buildings for the Project referenced in the development budget provided with the Application. If the site description in the Application and the site control document are not exactly the same, the Applicant must provide a narrative description and supporting documentation to clarify how the area and cost for the Project were established.

OHCS will only accept one (1) Application for a specific site or for any part of the same site, regardless of whether Applications are submitted by the same Applicant or by multiple Applicants. **If there is more than one (1) Application received for the same site, or any part of the same site, OHCS may disqualify one (1) or all of the Applications.** The *non-refundable* Application charge for each Applicant will be retained by OHCS.

This form will be an attachment to the NOFA and available through the Workcenter

2. Additional Federal Project Resources Status

The Applicant must be able to provide satisfactory documentation of its progress on its applications for federal resources.

If the Applicant has identified additional federal resources (such as rental or capital assistance from HUD, RD, or VA) as part of the funding structure, the Applicant must provide evidence satisfactory to OHCS that an application for these resources has been submitted and remains active. For RD, this would mean a pre-Application Consultation Letter that includes a summary of the contact and understanding established to-date as well as expectations about the next steps in the process.

This information should be provided in the notes on the Budget Sources Application worksheet; any evidence should be included in Threshold submission folder and named "Federal Resources Evidence"

3. Adequacy of Development Schedule

Within the development schedule provided by Applicant, the Applicant must be able to meet the required deadlines for each applicable LIHTC, HOME, Gap, and OAHTC.

The Applicant's development schedule must clearly demonstrate that funds will be invested and the Project will be constructed, leased, and stabilized within all required Program timeframes. These deadlines are published in the appropriate OHCS Program Manuals and available on OHCS' website.

Development Schedule is included in the Project Detail tab of the NOFA application

4. Adequacy of the Project Site Checklist

Applicants must have identified if there is any adverse environmental or site information indicated on the Project Site Checklist submitted at the time of Pre-Application.

OHCS' Project Site Checklist contains questions regarding:

- a. the suitability of the site,
- b. the distances to services,
- c. transportation and schools,
- d. the nature of existing structures,
- e. soil suitability,
- f. environmental hazards,
- g. safety concerns,
- h. noise problems,
- i. air quality issues,
- j. historic preservation,
- k. flood plain and wetlands issues,
- l. solid waste, wastewater and storm water concerns, and
- m. Federally Listed Species and/or Designated Critical Habitat.

Depending on the impact to the Project, the Applicant must provide a satisfactory mitigation plan for any materially adverse information revealed in the Project Site Checklist or subsequently identified.

This information is submitted with pre-application; the form can be found on the OHCS website here: <https://www.oregon.gov/ohcs/Pages/multifamily-housing-funding-opportunities.aspx>

H. Core-Development Documents (CDD) previously known as Architectural Documents

Applicants must submit the Core-Development Documents ("CDDs"), defined in Part 3 of the Core Development Manual (CDM) (previously known as Project Development Manual (PDM)) with their Applications. **The CDM Version 3.1 must be used with this NOFA -**

<https://www.oregon.gov/ohcs/HD/MFH/Core-Development-Manual/CDM-Version-3-1.pdf>

These should be provided should be included in CDD submission folder in Procorem.

I. Development Team Capacity

1. Construction Experience:

- a. Does the Applicant have a successful history of leading construction development Projects of similar (or larger) size and scope, such as, mid-rise versus high-rise, wood frame versus steel, and new construction versus rehabilitative construction?
- b. If Applicant's history is limited, will the Applicant partner with an appropriate party to mitigate this concern?

2. Financing Experience:

- a. Does the Applicant have a successful history of closing the requested combination of financing, such as tax credit, mortgage financing, HOME funds, and other grant or government loan programs?
- b. If Applicant's history is limited, will the Applicant partner with an appropriate party to mitigate this concern?

3. Development Team Experience:

- a. Has the Applicant managed similarly comprised development teams?
- b. Explain the development team experience with Projects of this type, size, and scope.
- c. If an Applicant has applied for multiple Project reservations, does the development team have the capacity to administratively and financially support all Projects simultaneously?

4. Financial Capacity:

- a. As disclosed in the Application or other required information, does the Applicant's financial condition indicate any adverse conditions that might materially impair the Applicant's ability to perform the financial obligations as Sponsor during the construction or stabilization of the Project?
- b. As disclosed in the Real Estate Owned Schedule, is the Applicant's existing real estate portfolio stable and self-supporting? If there are any significant problem properties, is there a reasonable mitigation plan in place?

This form will be an attachment to the application on a form provided in the Workcenter; real estate holdings worksheet can be attached as a second document.

J. Program Compliance Review

These forms will be an attachment to the application using forms provided.

Applicants must satisfy the Program Requirements for all applicable OHCS funding sources requested. Each OHCS funding source has separate requirements, including supplemental forms and exhibits that must be submitted simultaneously with the Application.

Utility Allowance Requirements

A single utility allowance (such as that established by the local PHA) is no longer permitted for use in HOME Projects. This requirement was established by HUD because as more Projects are constructed or rehabilitated to higher energy-efficiency standards, the use of a standard utility allowance may not represent actual utility costs and is difficult to justify.

HOME recipients are now required by HUD to determine an individual utility allowance for each HOME-funded Project, either by:

1. Using the HUD Utility Schedule Model, located at: <http://huduser.org/portal/resources/utimodel.html>, OR
2. Otherwise determining the allowance based upon the specific utilities used at the Project.

Note: OHCS requires HOME recipients to utilize the Energy Consumption Model when not utilizing the HUD Utility Schedule Model.

Energy Consumption Model

HOME recipients may retain the services of a qualified professional or properly licensed engineer to calculate utility allowances based on an energy consumption model (also known as an energy and water/sewage consumption and analysis model). The energy consumption model must, at a minimum, take into account specific factors including but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location.

The use of the energy consumption model is limited to the building's consumption data for the 12-month period ending no earlier than sixty (60) days prior to the date the utility allowance will change. For newly constructed or rehabbed buildings with less than 12 months of consumption data, consumption data for the 12-month period for similarly sized and constructed units in the geographical area in which the building is located will be used. Utility rates must be the rates in place sixty (60) days prior to the date the allowance will change and must be provided by the utility company that will service the property.

Owners using this model must maintain and provide documentation providing the source and content of all factors considered when computing the utility allowance calculation. A list of approved qualified professionals and licensed engineers can be found on the OHCS website at http://www.oregon.gov/ohcs/APMD/PCS/pdf/Approved_UA_Calculator_Contacts.pdf

All qualified professionals must be approved by OHCS prior to the property implementing calculations. Licensed engineers do not need prior approval to calculate allowances if they are not requesting to be included on the OHCS approved and published list, however, the agency retains the authority to approve or disapprove an energy consumption modeling method or require more information before approving of any method or calculation calculated by a licensed engineer.

3.3 Competitive Scoring

A Scoring Committee will competitively score seven (7) sections of the Application by the Scoring Selection Criteria described below. These sections are:

- (A) State Priorities,
- (B) Need and Opportunity,
- (C) Partnerships,
- (D) Federal Preferences,
- (E) Funding Efficiency,
- (F) Project Readiness, and
- (G) Development Team Capacity.

OHCS is committed to investing public resources in a way that makes best use of the funds considering all benefits to the community as well as the viability of the Project. OHCS is also committed to ensuring resources are invested in a way that is geographically equitable and responsive to the diversity of low-income housing needs around the State.

A total of **88** maximum points is possible for **New Construction and Acquisition/Rehabilitation Projects**, weighted: nine (9) for State Priorities, seventeen (17) for Need and Opportunity, fourteen (14) for Partnerships, twelve (12) for Federal Preferences, eight (8) for Funding Efficiency, sixteen (16) for Project Readiness, and twelve (12) for Development Team Capacity.

A total of **98** maximum points is possible for **Preservation Projects**, weighted: twenty (20) for Risk of Expiration, twenty-one (21) for Tenant Impact, three (3) for Need & Opportunity, seven (7) for Partnerships, nine (9) for Federal Preferences, eight (8) for Funding Efficiency, sixteen (16) for Project Readiness, and fourteen (14) for Development Team Capacity.

3.3.1 Competitive Scoring – New Construction and Acquisition/Rehabilitation Projects (Total up to 88 Max)

(A) State Priorities – Up to 9 points

Applicants may receive points using the Permanent Supportive Housing (PSH) criteria OR the Family Sized Unit criteria (not both):

1. Permanent Supportive Housing (PSH) Units – Up to 5 points (note cannot get points for both PSH and Family Sized units)

Applicable Criteria:

- a. Up to Two (2) points: Greater than 25% of the Project's total affordable units dedicated to PSH (minimum five (5) such units to qualify); two (2) points if 25% of the units, or one (1) point if 24%-15% of the units.
- b. One (1) point: Agreeing to participate in OHCS-provided PSH training and technical assistance.
- c. One (1) point: Commitment of supportive tenancy service resources, funded outside of operational budget. *Provide MOU or other evidence of commitment, as PSH Scoring*

- d. One (1) point: Demonstrated experience in owning PSH affordable housing, managing PSH affordable housing, and/or providing services in PSH affordable housing. *Provide narrative, up to 1 page, with demonstrated experience; may reference Development Team Capacity threshold submission*

2. Family Sized Units – Up to 5 points (note cannot get points for both PSH and Family Sized units)

Applicable Criteria:

a. Up to Three (3) points: Greater than 15% of the Project’s total affordable units sized 3 Bedrooms or larger (minimum five (5) such units to qualify); three (3) points if 15% of the total units, two (2) points if 14%-10% of the total units, or one (1) point if 9%-5% of the total units.

b. Up to Two (2) points: Greater than 45% of the total affordable units sized 2 Bedroom or larger (minimum twelve (12) such units to qualify); two (2) points if 46%-55% of the units, or one (1) point if 45% of the units.

3. Special Needs Target – (Up to 4 points)

Applicable Criteria:

Up to Four (4) points: Percentage of units (10 -25% or more of the Project’s total affordable units) to serve households with children and other populations with special needs, including but not limited to: veterans, elderly, persons with disabilities, previously incarcerated, and/or survivors of domestic violence.

(B) Need and Opportunity – Up to 17 points

1. Location Need – Up to 7 points

Applicable Criteria:

- a. One (1) point: Severe Housing Cost Burden (spending 50% or more of household income on housing and utility costs); if Severe Housing Cost Burden of the city/jurisdiction is ⁴higher than the state/region.
- b. Up to Two (2) points: if market rent escalation of the city/jurisdiction higher than the state/region.
- c. Up to Two (2) points: for market vacancy rate of the city/jurisdiction lower than the state/region.
- d. Up to Two (2) points: for ratio of Affordable Housing Inventory to 60% AMI Households.

2. Location Efficiency – Up to 5 points

Applicable Criteria Urban Areas - Portland Metro Counties and Non Metro HUD HOME Participating Jurisdictions:

- a. Up to Two (2) points: Walk-ability; score from <https://www.walkscore.com/cities-and-neighborhoods/> ; two (2) points if 70+, one (1) point if 50-69.
- b. One (1) point: Employment Access; if employment opportunities or services connections are within ¼ mile.

⁴ The applicant can use the higher score from either of the City or Jurisdiction which is ever is most favorable when calculating your score.

- c. One (1) point: Education Access; if a K-12 school, educational service provider, library, or workforce training center are within ¼ mile.
 - d. One (1) point: Transit Oriented Development; if the Project’s property is any of the following: zoned by a city to foster transit-supportive development, or can be accessed by frequent bus or street car service (defined as within 15 minute intervals throughout the day available 7 days a week), or being within ¼ mile or being within of fixed transit stop.
- * If the Project is a scattered site, then Applicant must provide the values for all sites. The final score will be based on a weighted average of all sites.

Applicable Criteria Rural Areas - Balance of State Urban, non-Urban/Rural Jurisdictions:

- a. One (1) point: Food Access; if not in a USDA Food Desert
<https://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas.aspx>
 - b. One (1) point: Public Space Access; if public space or park are within 5 miles (for Balance of State Urban) or within 10 miles (for Balance of State Non Urban/Rural);
 - c. One (1) point: Employment Access; if employment opportunities or services connections are within 5 miles (for Balance of State Urban), or within 10 miles (for Balance of State Non Urban/Rural);
 - d. One (1) point: Education Access; if a K-12 school, educational service provider, library, or workforce training center are within 5 miles (for Balance of State Urban), or within 10 miles (for Balance of State non Urban/Rural).
 - e. One (1) point: Rural Areas’ Transit Access; if the Project can be serviced by transit options. (For example dial a ride.)
- * If the Project is a scattered site, then Applicant must provide the values for all sites. The final score will be based on a weighted average of all sites.

3. Location inefficiencies – Minus 2 points

Applicable Criteria:

Minus Two (-2) points: Location inefficiencies - Applicants may receive negative two (2) points for Projects that are located in inefficient areas, including any of the following:

1. Located within 300 feet of junkyards;
2. Located within 300 feet of active railroad tracks (excluding commuter or light rail, or if the community has adopted a Railroad Quiet Zone, or Projects with substantial remediation plans developed); or
3. Located adjacent to or within 1000 feet of land uses incompatible with residential occupancy, such as landfills and trash incinerator facilities.

Applicants must provide a vicinity map with scale identifying any of the above-mentioned location inefficiencies. *This should be affirmed in the pre-application Site Review Checklist; description will be required in the NOFA application.*

4. Location Preferences – Up to 5 points

Applicants may receive points using the Vulnerable Gentrification Area criteria OR the Opportunity Area criteria (not both):

i. Opportunity Areas

- a. One (1) point: High Income Comparable Census Tracts; if Average Median Household Income within the Census Tract is higher than the Project's Regional Pool Set-Aside.
- b. One (1) point: High Job Concentrated Center; if the ratio of low to median wage workers to population within the Census Tract is higher than the Project's Regional Pool Set-Aside.
- c. One (1) point: Labor market engagement; if the labor market engagement for the Project's Census Tract is higher than the Project's Regional Set-Aside.
- d. One (1) point: High performing elementary; score from <https://www.greatschools.org/> if school is rate 7 or above.
- e. One (1) point: High Owner-Occupied Census Tracts; if the rate for Owner-occupied units within the Census Tract is higher than the Project's Regional Pool Set-Aside.

ii. Vulnerable Gentrification Areas

- a. One (1) point: Opportunity Zone Census Tracts; if Project is located within an Opportunity Zone <https://www.oregon4biz.com/Opportunity-Zones/>
- c. One (1) point: Qualified Census Tract with a Concerted Revitalization Plan; if Project is located within a Qualified Census Tract with a concerted revitalization plan and demonstrated investment of public resources into capital improvements of residential, commercial, or infrastructure.
- d. One (1) point: Communities of Color residents; if the rate for Communities of Color households within the census tract is higher than the Project's Regional Set-Aside.
- e. One (1) point: People without high school degrees; if the rate for households without high school degrees within the census tract is higher than the Project's Regional Set-Aside.
- f. One (1) point: High Renter Concentrated Area; if in a census tract with a higher rate of renters than the overall average census tract for the Project's Regional Set-Aside.

If pursuing points as a Vulnerable Gentrification area, a revitalization plan should be a supplement to the application submission.

(C) Partnerships - Up to 14 points

1. Affirmative Fair Housing Marketing Plan (AFHMP) – Up to 7 points

Applicable Criteria Urban Areas - Portland Metro Counties; Non Metro HUD HOME Participating Jurisdictions; and Balance of State Urban Jurisdictions:

- a. One (1) point: Market Analysis; if AFHMP includes an analysis of underserved population demographics in determining outreach strategies.
- b. One (1) point: Local partnership; if AFHMP includes partnership with local service / referral agencies in reaching underserved populations and to build the Project wait list.
- c. Up to (2) points: Referral sources; two (2) points if AFHMP includes using two or more referral and advertising methods.
- d. Up to (2) points: Culturally responsive outreach; two (2) points if both the referral and outreach organization partners are Culturally Responsive Organizations.
- e. Up to (1) point: Low-barrier Tenant screening; one (1) point if AFHMP includes implementing low-barrier tenant screening.

Applicable Criteria Rural Areas - Balance of State –non-Urban/Rural Jurisdictions:

- a. Up to (2) points: Market Analysis; two (2) points if AFHMP includes an analysis of underserved population demographics in determining outreach strategies.
- b. One (1) point: Local partnership; if AFHMP includes partnership with local service / referral agencies in reaching underserved populations and to build the Project waitlist.
- c. Up to (2) points: Referral sources; two (2) points if AFHMP includes using two or more referral and advertising methods; one (1) if the AFHMP includes using only one referral and advertising methods.
- d. One (1) point: Culturally responsive outreach; one (1) points if either of the referral and outreach organization partners are culturally responsive.
- e. Up to (1) point: low-barrier Tenant screening; one (1) point if AFHMP includes implementing low-barrier tenant screening.

A draft or final Affirmative Fair Housing Marketing Plan, and / or MOU and commitments to execute strategies selected below.

2. Resident Services– Up to 7 points

Applicable Criteria Urban Areas - Portland Metro Counties; Non Metro HUD HOME Participating Jurisdictions; and Balance of State Urban:

- a. One (1) point: Need based service plan; if the Project’s resident services plan (“Resident Services Plan”) includes a comprehensive analysis of target population needs.
- b. One (1) point: Asset building; if Resident Services Plan incorporating asset building strategies into service delivery; including but not limited to IDA Program and financial planning where appropriate for target population or workforce training and eviction prevention where appropriate.
- c. One (1) point: Operating capital; if Resident Services Plan includes funding resident service staff or resources for referral agency.
- d. One (1) point: Data-centric approach; if Resident Services Plan includes performance tracking and reporting of data;
- e. Up to (3) points: Culturally responsive service provider; three (3) points if a resident services provider is culturally responsive.

Applicable Criteria Rural Areas – Balance of State non-Urban/Rural Jurisdictions:

- a. Up to (2) points: Need based service plan; two (2) points if Resident Services Plan includes a comprehensive analysis of target population needs.
- b. One (1) point: Asset building; if Resident Services Plan incorporating asset building strategies into service delivery; including but not limited to IDA Program and financial planning where appropriate for target population or workforce training and eviction prevention where appropriate.
- c. One (1) point: Operating capital; if Resident Services Plan includes funding resident service staff or resources for referral agency.
- d. One (1) point: Data-centric approach; if Resident Services Plan includes performance tracking and reporting of data;.
- e. Up to (2) points: Culturally responsive service provider; two (2) points if a resident service provider is the culturally responsive service provider.

Points must be justified by narrative provided for the Resident Services Threshold submission that is a threshold supplement to NOFA application.

(D) Federal Preferences – Up to 12 points

1. Serving Lowest Incomes – Up to 8 points

A. Lowest Average Rents serving the lowest AGMI – Up to 5 points

Applicable Criteria Urban Areas - Portland Metro Counties; Non Metro HUD HOME Participating Jurisdictions; and Balance of State Urban;

Up to (5) points: Average Gross Median Income Restrictions on qualified units; five (5) points if AGMI is 30% or less, four (4) points if 31-40%, three (3) points if 41-50%, two (2) points if 51-60% and one (1) point if 60%.

Applicable Criteria Rural Areas - Balance of State Urban non-Urban/Rural Jurisdictions:

Up to (5) points: Average Gross Median Income Restrictions on qualified units; five (5) points if AGMI is 30% or less; five (5) points if 31-40%; four (4) points if 41-50%; three (3) points if 51-60%; and two (2) points if 60%.

A. Project Based Subsidy – Up to 3 points

Applicable Criteria Urban Areas – Portland Metro Counties; Non Metro HUD HOME Participating Jurisdictions; and Balance of State Urban:

Up to (3) points: Rental Assistance such as Project Based Subsidy; three (3) points if project based assistance for more than 67% of the affordable units; two (2) points if project based assistance for 34%-66% of the affordable units; and one (1) point if project based assistance on 33% affordable units or voucher commitment.

Applicable Criteria Urban Areas - Balance of State Urban non-Urban/Rural Jurisdictions:

Up to (3) points: Rental Assistance such as Project Based Subsidy; three (3) points if project based assistance for more than 50% of the affordable units, two (2) points if project based assistance for 25%-49% of the affordable units; one (1) if project based assistance on 25% affordable units or voucher commitment.

Based on Proforma and financial information reported in NOFA Application

2. General Federal Preferences – Up to 4 points

- a. One (1) point: Intended for eventual tenant ownership.
- b. One (1) point: Projects that demonstrate comprehensive deployment of energy efficient beyond the element required by the Core-Project Development Manual (CPDM).
- c. One (1) point: Application for Projects that demonstrates evidence of historic value for the community, including Projects using the federal Historic Tax Credit (HTC) as part of the Project financing, and are listed, or have been determined eligible for listing, in the National Register of Historic Places administered by the U.S. Department of the Interior in accordance with the National

- Historic Preservation Act of 1996, or located in a registered historic district and certified by the Secretary of the U.S. Department of the Interior as being of historic significance to that district.
- d. One (1) point: A Project, with supporting documentation from a local Housing Authority, that establishes a commitment to market its units to its waitlists is in place at the time of the Application due date.

Provide documentation of each as an attachment to the NOFA application in Procorem

(E) Funding Efficiency – Up to 8 Points

1. HOME Leverage – Up to 2 points

Applicable Criteria Portland Metro Counties and Non Metro HUD HOME Participating Jurisdictions:

Two (2) points: HOME Leverage; if committed leverage of HOME and/or CDBG Funds; or Projects in Participating Jurisdictions that award Tax Increment Financing (or another OHCS approved place-based economic development funds) that are awarded by Participating Jurisdictions in lieu of HOME for gap funding sources;

Applicable Criteria Areas - Balance of State Urban, non-Urban/Rural Jurisdictions:

Two (2) points: HOME Leverage; if requesting OHCS HOME funds of \$500,000 or greater;

Supported by Proforma entries in the NOFA application

2. National Housing Trust Funds (HTF) Leverage – Up to 2 points

Up to Two (2) points: National Housing Trust Funds (HTF) Leverage; Two (2) points for use of National HTF to fund 30% AMI; or the addition of new federal rent assisted units.

NOTE: no HTF resources are being offered; these points will not apply to this 2020 NOFA offering

Validated through Proforma in NOFA application.

2. Cost Effectiveness – Up to 1 point

Applicable Criteria:

Up to One (1) point: Total Cost per bedroom; One (1) point if total development cost per bedroom (excluding acquisition) are in the lowest third of the applicants in the set-aside or regional pool; ½ point if total development cost per bedroom (excluding acquisition) are in the lowest half of the applicants in the set-aside or regional pool.

Projects competing in the same allocation round region will be grouped together based on building type to determine the average per bedroom total cost per unit basis and tax credit per bedroom (only counting bedrooms in Program assisted units).

Derived from Proforma in NOFA application

3. LIHTC Effectiveness – Up to 3 points

Applicable Criteria:

Up to Three (3) points: LIHTC subsidy per bedroom; full Three (3) points if LIHTC per bedroom request (excluding acquisition) is the lowest one-third of the Applicants in the set-aside or regional pool.

Projects competing in the same regional pool will be grouped together based on building type to determine the average per bedroom total cost per unit basis and tax credit per bedroom (only counting bedrooms in Program assisted units).

Derived from Proforma in NOFA application

(F) Project Readiness – Up to 16 points

1. Financial Viability – Up to 10 points

Applicable Criteria:

A. Development pro forma review – Up to 5 points

- a. Pro forma includes only realistic and available resources on the Sources of Funding. Capital fundraising campaigns are not considered realistic and available resources. Any inclusion of resources that are unrealistic or unavailable will result in a score of minus fifteen (-15) points in this category.
- b. Explanation of how the development budget will still be valid at the start of construction.
- c. Relocation Plan completed if warranted and aligns to development budget.
- d. Developer Fee is within the OHCS maximum allowable.
- e. If Uniform Relocation Act (URA), the budget line item accurately reflects the Project cost based on the sufficient Relocation Plan.
- f. If Commercial Real Estate is included in the Project, Sources and Uses are provided on a separate pro forma page.

B. Operating pro forma review – Up to 5 points

- a. Affordable rents at least ten percent (10%) below estimated market rents.
- b. Debt coverage ratio is a minimum of 1.15:1 for hard amortizing debt. When utilizing OAHTC funds, the minimum debt coverage ratio is required to be met after the OAHTC pass through is applied.
- c. Cash flow within OHCS guidelines or adequately explained (1.30 or below, unless adequately explained or declining cash flows require a higher debt coverage).
- d. Vacancy rate at seven percent (7%) or adequately explained if different.
- e. Submitted reserves for replacement analysis and included adequate amount for replacement items in pro forma.
- f. Income inflation factor is less than expenses inflation factor.
- g. In a mixed-use Project, no commercial income may be used to support the low-income residential Project.

Derived from Proforma in NOFA application

2. Readiness to Proceed – Up to 6 points

Applicable Criteria:

- a. Up to Two (2) points: For funding commitment for planned Project funds.
- b. One (1) point: If funding commitment is pending (aside from Rural Development); explanation of when other source of funds will be available to the Project if not already committed is reasonable.
- c. One (1) point: If demonstrated ability to begin construction within 12 months.
- d. One (1) point: If proposed Project schedule appears adequate and reasonable.
- e. One (1) point: If explanation of why Project must be funded now as opposed to future NOFAs is reasonable.

Derived from financial assumptions, site control, and other narratives in NOFA application and threshold submissions

(G) Development Team Capacity – Up to 12 points

1. MWESB Capacity – Up to 4 points

Applicable Criteria:

Up to Four (4) points: Minority Women Emerging Small Business (MWESB) engagement; All Applicants will be required to identify ways and/or targets that they will utilize to contract with MWESB contractors/subcontractors in the construction and operation of the Project. Awardees are required to submit a report to OHCS demonstrating outcomes of their efforts to contract with MWESB contractors/subcontractors in their final applications prior to the issuance of the IRS Form 8609.

Supported in MWESB threshold submission in NOFA application

2. Development Team Capacity – Up to 3 points

Applicable Criteria:

- a. Up to Two (2) points: General Partner (GP) or Development Consultant experience; if GP or Development Consultant with successful LIHTC Projects that have received IRS Forms 8609 within the last 10 years on 2 or more Projects;
- b. One (1) point; General Partner (GP); one (1) point (in addition to points available under part 2 a. Development Team Experience) if GP with successful LIHTC Projects that have received IRS Forms 8609 within the last 10 years on 3 or more Projects;
- c. Minus (1) point; General Partner removal; negative one (-1) point if GP that has been removed from a partnership or faced foreclosure proceedings.

Supported by responses to Development Team Capacity questionnaire submitted as Threshold attachment.

3. Performance – Up to 5 points

A. OHCS Portfolio Compliance Criteria – Up to 2 points

Applicants with Projects in the OHCS portfolio will be reviewed on the performance of all Projects in the portfolio, the average score of all Projects will be used; Applicants without Projects in the OHCS portfolio will be asked to submit a letter indicating their compliance status with any existing Projects. **If unreported noncompliance is discovered later, it may be grounds for rescinding awarded credits or negatively impact future applications for funding.**

Portfolio Project criteria will be calculated for each relevant Project and summed and apportioned based on portfolio size.

Applicable Criteria:

- a. Most recent Real Estate Assessment Center (REAC) score;
- b. Most recent Physical Review;
- c. Most recent File Review;
- d. Most recent Resident Services Review;
- e. Most recent Response Review;
- f. Certification of Continuing Program Compliance (CCPC) submission received for current year shows compliance;

B. OHCS Portfolio Viability Criteria – Up to 3 points

Applicable Criteria:

- a. Financial submission as requested;
- b. Most recent financial audit is closed;
- c. Most recent audited financials Debt Coverage Ratio;
- d. Asset management community evaluation completed satisfactorily;

4. Development History – Up to Minus 5 points

a. Prior poor development performance; negative points to development teams that have had documented material changes from the Project Application that received a funding reservation to when the Project is placed in service. This information will be tracked beginning in 2020 using the ProLink database; Applicants may determine their status for these points through inquiry to MFNOFA@oregon.gov.

If sponsor has projects in OHCS portfolio, no submission is necessary. If sponsor does not have a project in the OHCS portfolio, must include an "Owner Performance" letter indicating their compliance status with any existing Projects (if unreported noncompliance is discovered later, it may be grounds for rescinding awarded credits or negatively impact future applications for funding)

3.3.2 Competitive Scoring – Preservation Projects (Total up to 98 Max)

(A) Risk of Expiration – Up to 20 points

Applicable Criteria:

- a. Up to Twenty (20) points; Risk of Expiration; twenty (20) points if, within 36 months from the due date of Application, a Project preserves rental subsidies in rural and urban areas that is due to expire, or RD mortgages mature. Applicants must submit supporting documentation that clearly demonstrates the rent assistance loss within 36 months.
- b. Up to Ten (10) points; Risk of Expiration; ten (10) points if, within 60 months from the due date of the application, a Project preserves rental subsidies with expirations, or mortgage maturity. Applicants must submit supporting documentation that clearly demonstrates the rent assistance loss within 60 months.

Must provide evidence of expiration date; as a supplemental to the NOFA application

(B) Tenant Impact – Up to 21 points

Applicable Criteria:

- a. Up to Five (5) points; Vulnerable Tenant Displacement; five (5) points, if more than 60% of the Project units occupied by a vulnerable population (frail elderly, disabled, large families, special needs populations, service dependent) who would face hardships from relocation; three (3) points, if 40-60% of the Project units; one (1) point, if 20-40% of the Project units.

Enter this information in the Scoresheet; should be supported by population and unit mix

- b. Up to Five (5) points; Extremely Low Income; five (5) points, if Greater than 60% of the units at 30% of Area Median Family Income or below; three (3) points, 40-60% of the units at 30% of Area Median Family Income or below; one (1) point, 25- 40% of the units at 30% Area Median Family Income or below.

Supported through information submitted in NOFA application document.

- c. Up to Five (5) points; Percentage of Rent Assisted Units; five (5) points, if Greater than 75% of the units have new or existing Project Based assistance; three (3) points, 50-75% of the units; one (1) point, 30-50% of the units.

Supported through information submitted in NOFA application document.

Enter this information in the Scoresheet

- d. Up to Three (3) points; Tenant Protections if federal rent subsidy expires; three (3) points, if Change of use requires relocation. Enhanced Vouchers issued only for the residents under the Section 8 contract, no EVs for HUD maturing mortgages. Limited vouchers issued for RD prepayments.

Enter this information in the Scoresheet

- e. Up to Three (3) points; Voucher Utilization of the community's housing authority; three (3) points, if High voucher turn back, porting rate or likelihood of relocating more than 20 miles.

(C) Need and Opportunity – Up to 3 points

Applicable Criteria:

- a. Up to Two (2) points: if market rent escalation of the city/jurisdiction or county higher than the state.
- b. Up to One (1) point: if market vacancy rate of the city/jurisdiction or county lower than the state.

No submission necessary

(D) Partnerships – Up to 7 points

1. Resident Services – Up to 7 points

Applicable Criteria Urban Areas – Portland Metro Counties; Non Metro HUD HOME Participating Jurisdictions; and Balance of State Urban:

- a. One (1) point: Need based service plan; if Resident Services Plan includes a comprehensive analysis of target population needs;
- b. One (1) point: Asset building; if Resident Services Plan incorporating asset building strategies into service delivery; including but not limited to IDA Program and financial planning where appropriate for target population or workforce training and eviction prevention where appropriate;
- c. One (1) point: Operating capital; if Resident Services Plan includes funding resident service staff or resources for referral agency;
- d. One (1) point: Data-centric approach; if Resident Services Plan includes performance tracking and reporting of data;
- e. Up to Three (3) points: Culturally responsive service provider; three (3) points if a resident services provider is culturally responsive;

Applicable Criteria Rural Areas – Balance of State non-Urban/Rural Jurisdictions:

- a. Up to Two (2) points: Need based service plan; two (2) points if Resident Services Plan includes a comprehensive analysis of target population needs;
- b. One (1) point: Asset building; if Resident Services Plan incorporating asset building strategies into service delivery; including but not limited to IDA Program and financial planning where appropriate for target population or workforce training and eviction prevention where appropriate;
- c. One (1) point: Operating capital; if Resident Services Plan includes funding resident service staff or resources for referral agency;

- d. One (1) point: Data-centric approach; if Resident Services Plan includes performance tracking and reporting of data;
- e. Up to Two (2) points: Culturally responsive service provider; two (2) points if a resident service provider is the culturally responsive service provider;

Must be validated in Resident Services Plan threshold supplement to the NOFA application and Proforma assumptions

(E) Federal Preferences – Up to 9 points

1. Serving Lowest Incomes - Up to 5 points

Lowest Average Rents serving the lowest AMI – Up to 5 points

Applicable Criteria Portland Metro Counties and Non Metro HUD HOME Participating Jurisdictions;

Up to Five (5) points: Average Gross Median Income Restrictions of tenants; if AGMI is 45% or less, four (4) points if 46-50%, three (3) points if 51-59%, two (2) points if 60-69%, one (1) point if 70-79%.

Applicable Criteria Rural Areas – Balance of State Urban, non-Urban/Rural Jurisdictions:

Up to Five (5) points: Average Gross Median Income Restrictions on qualified units; if AGMI is 50% or less, four (4) points if 51-59%, three (3) points if 60-69%, two (2) points if 70-79%.

Based on Proforma entries in the NOFA application

2. General Federal Preferences – Up to 4 points

- a. One (1) point: Intended for eventual tenant ownership.
- b. One (1) point: Projects that demonstrate comprehensive deployment of energy efficient beyond the element required by the Core-Project Development Manual (CPDM).
- c. One (1) point: Application for Projects that demonstrates evidence of historic value for the community, including Projects using the federal Historic Tax Credit (HTC) as part of the Project financing, and are; Listed, or have been determined eligible for listing, in the National Register of Historic Places administered by the U.S. Department of the Interior in accordance with the National Historic Preservation Act of 1996; or Located in a registered historic district and certified by the Secretary of the U.S. Department of the Interior as being of historic significance to that district.
- d. One (1) point: Projects with supporting documentation from a local Housing Authority that an establish commitment to market the unit to their wait list is in place at the time of the application due date.

Provide documentation of each as an attachment to the NOFA application in Procorem

(F) Funding Efficiency – Up to 8 points

1. HOME Leverage – Up to 2 points

Applicable Criteria Portland Metro Counties and Non Metro HUD HOME Participating Jurisdictions:

Two (2) points: HOME Leverage; if committed leverage of HOME and/or CDBG Funds; or Projects in Participating Jurisdictions that award Tax Increment Financing (or another OHCS approved place-based economic development funds) that are awarded by Participating Jurisdictions in lieu of HOME for gap funding sources;

Applicable Criteria Areas - Balance of State Urban, non-Urban/Rural Jurisdictions:

Two (2) points: HOME Leverage; if requesting OHCS HOME funds of \$500,000 or greater;

Supported by Proforma entries in the NOFA application

2. National Housing Trust Funds (HTF) Leverage – Up to 2 points

Up to Two (2) points: National Housing Trust Funds (HTF) Leverage; Two (2) points for use of National HTF to fund 30% AMI; or the addition of new federal rent assisted units.

NOTE: no HTF resources are being offered; these points will not apply to this 2020 NOFA offering

3. Cost Effectiveness – Up to 1 point

Applicable Criteria:

Up to One (1) point: Total Cost per bedroom; One (1) point if total development cost per bedroom (excluding acquisition) are in the lowest third of the applicants in the set-aside or regional pool; ½ point if total development cost per bedroom (excluding acquisition) are in the lowest half of the applicants in the set-aside or regional pool.

Projects competing in the same allocation round region will be grouped together based on building type to determine the average per bedroom total cost per unit basis and tax credit per bedroom (only counting bedrooms in Program assisted units according to following).

Based on Proforma entries in the NOFA application

4. LIHTC Effectiveness – Up to 3 points

Applicable Criteria:

Up to Three (3) points: LIHTC subsidy per bedroom; Three (3) points if LIHTC per bedroom request (excluding acquisition) is the lowest third of the applicants in the set-aside or regional pool.

Projects competing in the same allocation round region will be grouped together based on building type to determine the average per bedroom total cost per unit basis and tax credit per bedroom (only counting bedrooms in Program assisted units according to following).

Based on Proforma entries in the NOFA application

(G) Project Readiness – Up to 16 points

1. Financial Viability– Up to 10 points

A. Development pro forma review – Up to 5 points

Applicable Criteria:

- a. Pro forma includes only realistic and available resources on the Sources of Funding. Capital fundraising campaigns are not considered realistic and available resources. Any inclusion of resources that are unrealistic or unavailable will result in a score of minus fifteen (-15) points in this category.
- b. Explanation of how the development budget will still be valid at the start of construction.
- c. Relocation Plan completed if warranted and aligns to development budget.
- d. Developer Fee is within the OHCS maximum allowable.
- e. If Uniform Relocation Act (URA), the budget line item accurately reflects the Project cost based on the sufficient Relocation Plan.
- f. If Commercial Real Estate is included in the Project, Sources and Uses are provided on a separate pro forma page.

B. Operating pro forma review – Up to 5 points

Applicable Criteria:

- a. Affordable rents at least ten percent (10%) below estimated market rents.
- b. Debt coverage ratio is a minimum of 1.15:1 for hard amortizing debt. When utilizing OAHTC funds, the minimum debt coverage ratio is required to be met after the OAHTC pass through is applied.
- c. Cash flow within OHCS guidelines or adequately explained (1.30 or below, unless adequately explained or declining cash flows require a higher debt coverage).
- d. Vacancy rate at seven percent (7%) or adequately explained if different.
- e. Submitted reserves for replacement analysis and included adequate amount for replacement items in pro forma.
- f. Income inflation factor is less than expenses inflation factor.
- g. In a mixed-use project, no commercial income may be used to support the low-income residential project

Based on Proforma entries in the NOFA application

2. Readiness to Proceed– Up to 6 points

Applicable Criteria:

- a. Up to Two (2) points: For funding commitment for planned Project funds.
- b. One (1) point: If funding commitment is pending (aside from Rural Development); explanation of when other source of funds will be available to the Project if not already committed is reasonable.
- c. One (1) point: If demonstrated ability to begin construction within 12 months.
- d. One (1) point: If proposed Project schedule appears adequate and reasonable.
- e. One (1) point: If explanation of why Project must be funded now as opposed to future NOFAs is reasonable.

Derived from financial assumptions, site control, and other narratives in NOFA application and threshold submissions

(H) Development Team Capacity– Up to 14 points

1. MWESB Capacity – Up to 4 points

Applicable Criteria:

Up to Four (4) points: Minority Women Emerging Small Business (MWESB) engagement; All Applicants will be required to identify ways and/or targets that they will utilize to contract with MWESB contractors/subcontractors in the construction and operation of the Project. Awardees are required to submit a report to OHCS demonstrating outcomes of their efforts to contract with MWESB contractors/subcontractors in their final applications prior to the issuance of the IRS Form 8609.

Must be supported by MWESB threshold submission supplement to NOFA application.

2. Development Team Experience – Up to 5 points

Applicable Criteria:

- a. Up to Three (3) points: General Partner (GP) or Development Consultant experience; if GP or Development Consultant with successful LIHTC Projects that have received IRS Forms 8609 within the last 10 years on 2 or more Projects;
- b. Up to two (2) points; General Partner (GP); two (2) point (in addition to points available under part 2 a. Development Team Experience) if GP with successful LIHTC Projects that have received IRS Forms 8609 within the last 10 years on 3 or more Projects;
- c. Minus (1) point; General Partner removal; negative one (-1) point if GP that has been removed from a partnership or faced foreclosure proceedings.

Must be supported by Development Team Capacity threshold submission supplement to NOFA application.

3. Performance – Up to 5 points

A. OHCS Portfolio Compliance Criteria – Up to 2 points

Applicants with Projects in the OHCS portfolio will be reviewed on the performance of all Projects in the portfolio, the average score of all Projects will be used; Applicants without Projects in the OHCS portfolio will be asked to submit a letter indicating their compliance status with any existing Projects. If unreported noncompliance is discovered later, it may be grounds for rescinding awarded credits or negatively impact future applications for funding.

Portfolio Project criteria will be calculated for each relevant Project and summed and apportioned based on portfolio size.

Applicable Criteria:

- a. Most recent Real Estate Assessment Center (REAC) score;
- b. Most recent Physical Review;
- c. Most recent File Review;
- d. Most recent Resident Services Review;
- e. Most recent Response Review;
- f. Certification of Continuing Program Compliance (CCPC) submission received for current year shows compliance;

B. OHCS portfolio Viability Criteria – Up to 3 points

Applicable Criteria:

- a. Financial submission as requested;
- b. Most recent financial audit is closed;
- c. Most recent audited financials Debt Coverage Ratio;
- d. Asset management community evaluation completed satisfactorily;

If sponsor has projects in OHCS portfolio, no submission is necessary. If sponsor does not have a project in the OHCS portfolio, must include a letter indicating their compliance status with any existing Projects (if unreported noncompliance is discovered later, it may be grounds for rescinding awarded credits or negatively impact future applications for funding)

4. Development History – Up to Minus 5 points

Prior poor development performance; negative points to development teams that have had documented material changes from the Project Application that received a funding reservation to when the Project is placed in service. This information will be tracked beginning in 2020 using the ProLink database; Applicants may determine their status for these points through inquiry to MFNOFA@oregon.gov.

4.0 APPLICATION EVALUATIONS

4.1 Evaluation Process.

After Administrative Review (see Section 3.1) eligible Applications will be reviewed for Threshold Requirements (see Section 3.2). After the review of Threshold Requirements, eligible Applications will be reviewed and competitively scored by the Scoring Committee.

The final selection of Applications for Award, if any, will be from those Applications that best meet the competitive scoring requirements based on the recommendation from the Scoring Committee, as approved by the Director and the Housing Stability Council (Council), in accordance with available funding sources.

4.2 Awards.

Applicants, if any, that OHCS determines to provide a reservation of funding (“Reservation”) pursuant to this NOFA will be designated as Awardees in the conditional commitments issued by OHCS (“Reservation Letter”). All Reservations are conditional in nature, contingent upon the terms upon which they are made, approval by the Council, the continuing availability to OHCS of the described funds or tax credits, the continuing authority of OHCS to disburse or allocate such funds, and the successful negotiation, execution, and recording (as required) of the Agreement Documents.

4.3 Notice of Intent to Issue Reservation Letter.

Applicants will be notified in writing of OHCS’s notice of intent to issue a Reservation Letter, which also will be posted on OHCS’ website.

5.0 GENERAL TERMS AND CONDITIONS

- 5.1** Funding in this NOFA is subject to the continuing availability to OHCS of the described funds or tax credits (collectively or individually without distinction), the continuing authority of OHCS to disburse or allocate such funds, and the successful negotiation, execution, and recording (if required) of relevant documents in a manner satisfactory to OHCS.
- 5.2** OHCS may require additional information to determine whether or not an Application satisfies relevant criteria. Any necessary clarifications or modifications normally will be made before OHCS makes any Reservation and may become part of the Agreement Documents.
- 5.3** Submission of an Application by an Applicant or acceptance by OHCS of a submitted Application neither constitutes an agreement of any kind between OHCS and the Applicant nor does it secure or imply that the Applicant will be selected for receipt of a Reservation of funds.
- 5.4** To the extent that other funding sources have additional or other requirements, the most restrictive requirements will apply to the Project.
- 5.5** All costs associated with an Applicant’s submission of an Application are the sole responsibility of the Applicant and will not be borne to any degree by the State of Oregon.
- 5.6** Successful Applicants will be required to maintain appropriate levels of insurance and to comply with all applicable OHCS Program Manuals and all other OHCS policies, including execution of the Agreement Documents.
- 5.7** OHCS reserves the right and option to amend any Reservation Letter and other related documents that result from a Reservation made pursuant to this NOFA. All such amendments will be in writing and must be signed by relevant authorized parties. Applicants may only apply for funding of one (1) phase of a multi-phase Project under this NOFA.

5.8 OHCS assesses an Application charge. A check for the Application charge is required at Application submission and must be received by the Application due date.

5.9 Oregon Revised Statutes (“ORS”) 60.701 requires foreign corporations be registered by the State of Oregon, Office of the Secretary of State, before conducting business in the state. A foreign corporation (ORS 60.001) means a for-profit corporation incorporated under a law other than the law of the State of Oregon. If a foreign corporation is selected for the Agreement because of this NOFA, it must register to do business in Oregon.

5.10 OHCS reserves the right to:

1. Amend this NOFA prior to the closing date;
2. Amend the deadline for submitting Applications;
3. Determine whether an Application does or does not substantially comply with the requirements of this NOFA;
4. Waive any minor irregularity, informality, or nonconformance with the requirements of this NOFA;
5. to obtain from and/or provide to other public agencies, upon request, references, regarding the Applicant’s performance;
6. At any time prior to execution of the Agreement Documents (including after announcement of a Reservation), reject any Application that fails to comply with the requirements of this NOFA;
7. Reject all Applications received and cancel this NOFA upon a finding by OHCS that such cancellation would be in the best interest of the State;
8. Use adherence with components of the Applicant’s Application and this NOFA as scoring criteria in future multifamily funding solicitations;
9. Withdraw any funding source from this NOFA; and
10. Waive any term or condition of this NOFA for good cause as determined by OHCS.

5.11 This NOFA and one (1) copy of each original Application received, together with copies of all documents pertaining to a Reservation, will be kept by OHCS and made a part of a file or record, and be available for disclosure pursuant to the Oregon Public Records Law, unless otherwise exempt.

5.12 The Oregon Public Records Law exempts purported trade secrets from disclosure only so far as they qualify as bona fide trade secrets, and the exemption in ORS 192.345 from disclosure applies only “unless the public interest requires disclosure in the particular instance”. Therefore, non-disclosure of a document or any portion of a document submitted as part of an Application may depend upon official or judicial determination made pursuant to Oregon law.

5.13 The Applicant will be required to assume responsibility for performance required by the Agreement Documents, whether performed by the Applicant, a representative, assignee or subcontractor.

5.14 An Applicant or Potential Qualifying Applicant seeking to challenge any aspect of this NOFA is subject to and must comply with the provisions of Oregon Administrative Rule (OAR) 813-005-0025, which provide:

“813-005-0025

Solicitation Protests; Administrative and Judicial Review

(1)(a) With respect to any solicitation conducted by the department, an applicant or potential qualifying applicant may protest or otherwise challenge such solicitation process by first requesting administrative review as herein specified.

(b) With respect to any solicitation conducted by the department, an applicant may protest or otherwise challenge any department determination or order (collectively hereinafter, "determination") related to such solicitation by first requesting administrative review as herein specified.

(c) A timely, qualifying request for administrative review is necessary to satisfy the conditions of this section and a condition precedent to judicial review consistent with ORS 183.480.

(d) Failure to file a timely, qualifying request for administrative review with the department will constitute a failure to exhaust administrative remedies and terminate further rights to protest or otherwise challenge the solicitation process or any related department determination, including judicial review thereof.

(2)(a) An applicant under this section is a person or entity that makes an application (including delivery to the department under the terms of the solicitation) for a department funding award pursuant to a particular department solicitation.

(b) A potential qualifying applicant is a person or entity that qualifies to make an application for a department funding award under the terms of a solicitation with respect to the process of which it requests administrative review consistent with the terms of this section.

(3)(a) An applicant or potential qualifying applicant seeking to protest or otherwise challenge any aspect of a solicitation process (other than a department determination related thereto) must request review by the department within fourteen (14) days of the application due date of the solicitation.

(b) An applicant seeking to protest or otherwise challenge a determination by the department related to a solicitation must request review by the department of such determination within fourteen (14) days of the applicant receiving notice from the department of that determination.

(4) Any request for review under this section must be in writing, specifically identifying:

(a) The nature of the requestor's interest, including the facts showing how the requestor is adversely affected or aggrieved by the solicitation process or a department determination;

(b) The relief sought;

(c) Each of the grounds for review;

(d) An explanation for each of the grounds upon which relief should be granted; and

(e) Any supporting information the requestor desires to have considered by the department.

(5) The envelope containing the request for review MUST:

(a) Be marked PROTEST;

(b) Identify the solicitation number;

(c) Identify the closing time and date for acceptance of solicitation applications;

(d) Identify the department's contact person for the solicitation; and

(e) Be received by the department at its main Salem Office, Oregon Housing and Community Services 725 Summer Street NE, Suite B Salem, OR 97301, not later than 4:00 PM on the fourteenth (14th) day after the solicitation closing date or the applicant's receipt of notice from the department of the department determination from which review is requested, whichever due date is applicable under this section.

(6) The applicant will be deemed to have received notice of a department determination upon the sooner of:

(a) Three (3) days after the department's determination is mailed to the applicant;

(b) Two (2) days after such determination is posted to the department's website;

(c) Two (2) days after the list of successful solicitation applicants is posted to the department's website; or

(d) One (1) day after such determination is emailed to the applicant.

(7) The department may request additional information from the requestor with respect to its request and consider such other information as it deems appropriate.

(8) The department will endeavor to provide a written response to a timely, qualifying request for review within thirty (30) days.

(9) Judicial review of the department response to a timely, qualifying request for review shall be limited to those grounds the requestor raised with the department in its request for review.

(10) The filing of a request for review, or subsequent judicial review (if any), will not preclude the department from moving forward with the solicitation or the award of funding assistance thereunder. However, the department reserves the right to delay, terminate, modify, or take other action it determines to be appropriate with respect to a solicitation or any related award of funding assistance in response to a request for review or subsequent judicial review."

5.15 Reservations, Allocations, or Awards by OHCS (collectively, "Determinations") may be subject to Council review under ORS 456.561, and Determinations where additional OHCS funding supporting such Determinations are subject to Council review, are contingent upon Council approval of those Determinations or supporting funding. The Council may approve, reject, modify, or further condition funding awards submitted for its review, thereby directly or indirectly impacting OHCS' Determinations.

5.16 All Reservations made pursuant to this NOFA are subject to the successful negotiation, execution, and recording (if required) of any and all Agreement Documents. Projects that have only a leasehold interest in relevant real property must include, among relevant Agreement Documents, binding commitments executed and recorded by the landlord satisfactory to OHCS including, but not limited to, restrictive covenants with respect to the ongoing use and operation of the real property and leasehold interest for affordable housing acceptable to OHCS.

5.17 OHCS may charge, and the Applicant shall pay, legal and administrative costs reasonably anticipated or incurred by OHCS in negotiating and preparing Agreement Documents and other related documents. OHCS also may charge and Applicant shall pay any other fees allowed by OHCS administrative rules with respect to the Application, ensuing Reservation, Award or Allocation, and Project operation.

5.18 Provisions stated in the form of a question in this NOFA shall be construed as required action by Applicants.

- 5.19** OHCS reserves all other rights not specifically identified herein, including but not limited to rights, remedies, and requirements established in OHCS administrative rules or other law.
- 5.20** Projects that have only a leasehold interest in relevant real property must include documented commitments executed and recorded by the landlord satisfactory to OHCS including, but not limited to, restrictive covenants with respect to the ongoing use and operation of the real property and leasehold interest for affordable housing acceptable to OHCS.
- 5.21** OHCS may charge, and the Applicant shall pay, legal and administrative costs incurred by OHCS in negotiating and preparing Agreement Documents and other related documents. OHCS and DOJ charges may increase with the increasing complexity of organizational and financing structures.
- 5.22** Provisions stated in the form of a question in this NOFA shall be construed as required action by Applicants.
- 5.23** OHCS reserves all other rights not specifically identified herein.