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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 813
OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

FILED
03/04/2022 1:02 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Updates to the LIHTC applicable rules consistent with updates to the 2022 Qualified Allocation Plan.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/22/2022 4:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Filed By:
Jacqueline Ladewig
Rules Coordinator

NEED FOR THE RULE(S)

The rules need updates to the definitions so that they reflect the changes to the 4% LIHTC program and correctly reference the most current Qualified Allocation Plan.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

2022 QAP is available on the OHCS website. https://www.oregon.gov/ohcs/development/Pages/low-income-housing-tax-credits.aspx

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

OHCS held stakeholder engagement with partners representing Oregon's Tribal communities, rural and urban project sponsors, culturally specific developers and service providers, and local jurisdictions. All feedback offered by these organizations was thoughtfully considered and none demonstrated a negative impact to racial equity throughout the state. The updates to the Low Income Housing Tax Credit (LIHTC) program reflect a commitment to advance racial equity in LIHTC resource allocation.

FISCAL AND ECONOMIC IMPACT:

There is no negative fiscal or economic impact to these proposed rules changes.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There will be no cost of compliance associated with the proposed rules changes.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

There are no anticipated costs to comply for small businesses due to these proposed rule changes.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

OHCS held stakeholder engagement with partners representing Oregon's Tribal communities, rural and urban project sponsors, culturally specific developers and service providers, and local jurisdictions. The changes are minor alterations to existing rules with no direct impact to the public and how they will access resources. All comments received during the public engagement period did not include negative impacts to communities.

HOUSING IMPACT STATEMENT:

These rules do not affect the development of a 1200 square foot house on a 6000 square foot lot.

RULES PROPOSED:

813-090-0010, 813-090-0015

AMEND: 813-090-0010

RULE SUMMARY: Updating the definitions to take into account the updated QAP

CHANGES TO RULE:

813-090-0010
Definitions ¶

Terms used throughout OAR chapter 813, division 090 may be defined in 26 U.S.C. § 42, in Oregon Revised Statute (ORS), or in the OHCS General Definitions (OAR 813-005-0005). Terms used within this division observe those definitions except as defined below. All words and terms used in OAR chapter 813, division 90 are as provided in 813-005-0005 and herein. As used in these rules:¶
(1) "Applicable fraction" means the portion of a building that is treated as low-income use and generally eligible for the low-income housing tax credits.¶
(2) "Applicable percentage" means the IRS published or Congress set credit rat~~e~~ing used in calculating the low-income housing tax credit. The applicable percentage includes the applicable federal rate (AFR) for the 9% annual credit~~, or competitive credit,~~ which applies to eligible construction and substantial rehabilitation costs, and the 4% annual credit~~, or non-competitive credit,~~ which applies to the acquisition cost of existing buildings to be rehabilitated.¶
(3) "Applicant" means a person or entity that applies for an allocation of LIHTCs from OHCS by completing an application provided by OHCS. Once OHCS accepts the applicant's application and an allocation is made, the applicant becomes a project owner.¶
(4) "Carryover allocation" means an allocation of LIHTCs that is made with respect to a project pursuant to IRC Section 42(h)(1)(E) and/or IRC Section 42(h)(1)(F), and in conformity with IRS Notice 89-1 and Treasury Regulations Section 1.42-6. OHCS issues a carryover allocation when a project will not be placed in service by close of the calendar year of the allocation but has incurred more than 10% of its anticipated costs within the calendar year in which the allocation was received or six (6) months after the date of the carryover.¶
(5) "Credit authority" means the dollar amount of low-income housing tax credits available for allocation by OHCS for any calendar year and can include estimates of future amounts.¶
(6) "Declaration of Land Use Restrictive Covenants" means a recorded document against a property that evidences the original intent and limitations of the LIHTC affordability (and other program) restrictions.¶
(7) "Financial feasibility" means the viability of a project after taking into consideration its total costs and projected revenues.¶
(8) An "IRS Form 8609" or "Form 8609" means the Internal Revenue Code (IRS) Form 8609, Low-Income Housing Credit Allocation and Certification that is issued to a Project Owner when a carryover allocation is approved. Owners of qualified low-income building(s) are allowed a low-income housing credit for each qualified building over a 10-year credit period. A separate Form 8609 must be issued for each qualified low-income building in a multiple building project.¶
(9) "Housing credit agency" means the designated state agency that administers IRC Section 42 and allocates

LIHTCs on behalf of the Internal Revenue Service.¶
(10) "Low-income housing tax credit" or "LIHTCs" means the low-income housing tax credits available on a project pursuant to IRC Section 42. The amount of low-income housing tax credits available for allocation to a project is the amount that OHCS determines is necessary to make the project financially feasible but in no instance can it be greater than the applicable percentage of the qualified basis of each qualified low-income building.¶
(11) "Notice of Funding Availability" or "NOFA" means the method OHCS informs interested parties about how to apply for low-income housing tax credits and other financial resources.¶
(12) "Placed in service" means a project is completed and occupied by qualifying residents. In the case of multiple-building projects, each building has its own placed-in-service date.¶
(13) "Program requirements" means these administrative rules, all funding agreement terms and conditions, OHCS directives, applicable OHCS handbooks and manuals (including but not limited to OHCS' LIHTC Manual defined herein and the General Policy and Guideline Manual described in OAR 813-005-0020, IRC Section 42 of 1986, as amended, and corresponding regulations, and other applicable laws, including federal, state, and local laws, codes, ordinances, and orders, all of which as may be amended from time to time.¶
(14) "Project" means a "qualified low-income housing project" as defined in IRC Section 42(g).¶
(15) "Project owner" means a person or entity whose application for LIHTCs has been accepted by OHCS and who is the owner also known as the borrower of a Project.¶
(16) "Qualified Allocation Plan" or "QAP" means the 20~~19~~22 State of Oregon Qualified Allocation Plan for Low Income Housing Tax Credits, dated ~~November 7~~January 31, 20~~19~~22, as described in 813-090-0037 and IRC Section 42(m)(B). The QAP may be accessed online at OHCS' website.¶
(17) "Qualified basis" means the amount of eligible basis that will be used to generate low-income housing tax credits and is based upon the proportion of the property that will be used for affordable housing. The qualified basis is equal to the eligible basis, multiplied by the applicable fraction.¶
(18) "Reservation and extended use agreement" or "REUA" is a contract between OHCS and the project owner whereby the project owner agrees, among other things, to provide and maintain the project and to guarantee its compliance with the requirements of IRC Section 42 and OHCS by executing and recording a Declaration of Land Use Restrictive Covenants on the project property in return for an allocation of LIHTCs in accordance with IRC Section 42(h)(6). It will also include, by reference, a carryover allocation agreement.
Statutory/Other Authority: ORS 183, 456.515 - 456.720
Statutes/Other Implemented: ORS 456.559(1)(f), 26 U.S.C. § 42

AMEND: 813-090-0015

RULE SUMMARY: Updating rule to indicate updated Qualified Allocation Plan

CHANGES TO RULE:

813-090-0015
Qualified Allocation Plan; Allocation of Credit Authority ¶

(1) The 20~~19~~22 Qualified Allocation Plan (referred to hereafter as QAP) with the requirements and standards therein, dated November ~~7~~January 31, 20~~19~~22, is incorporated into and adopted as part of this division of administrative rules, by reference.¶
(2) The 20~~19~~22 QAP may be accessed online at OHCS' website.¶
(3) OHCS, as the authorized state housing credit agency, develops and maintains a Qualified Allocation Plan for the allocation of both~~ non-competitive, or 4%, and competitive~~, or 4%, and, or 9%, LIHTC~~s~~.¶
(4) OHCS may, to the extent of its credit authority, allocate LIHTCs pursuant to the current QAP approved by executive order and then in effect.¶
(5) OHCS will allocate the LIHTCs in compliance with the program requirements. Applications will be solicited during specified periods within OHCS' Notice of Funding Availability. OHCS can also select from a pool of qualified applicants, or such other process as OHCS deems appropriate.¶
(6) OHCS shall maintain a record of allocations and the balance of credit authority remaining for each calendar year.
Statutory/Other Authority: ORS 456.515-456.720
Statutes/Other Implemented: ORS 456.508, 456.510, 456.513, 456.559, 456.605, 456.626, 456.722, 26 U.S.C. § 42

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

State of Oregon

Qualified Allocation Plan

For Low Income Housing Tax Credits

REVISED
January 31, 2022

OREGON HOUSING and COMMUNITY SERVICES

Approval of the State of Oregon
2022 Updated Qualified Allocation Plan
Low income Housing Tax Credit Program

I, Kate Brown, Governor of the State of Oregon, do hereby approve for implementation the 2022 Updated Qualified Allocation Plan that governs the federal Low Income Housing Tax Credit Program, as presented to me by the Oregon Housing and Community Services Department under the provisions of IRC Section 42, Executive Order EO-87-06 and OAR Chapter 813, Division 90.

Kate Brown ______________________ January 31, 2022
The Honorable Kate Brown, Governor of Oregon | Date

EQUAL HOUSING OPPORTUNITY

Oregon Housing and Community Services does not discriminate on the basis of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability, familial status, gender identity, or sexual orientation in the provision of services.

An equal opportunity employer.

Information will be made available in alternative format upon request.

Table of Contents

Introduction

The Tax Reform Act of 1986 created the Low Income Housing Tax Credit (LIHTC) under Section 42 of the Internal Revenue Code (Code or IRC).

The LIHTC Program (or Program) is jointly administered by the United States Treasury Department Internal Revenue Service (IRS) and authorized state tax credit allocation agencies. Under Executive Order EO-87-06, the Governor of Oregon designated the Oregon Housing and Community Services Department (OHCS) as the administrator of the LIHTC Program.

OHCS administers the LIHTC Program in accordance with Oregon Administrative Rule (OAR) Chapter 813, Division 90. This Qualified Allocation Plan (QAP or Plan) is intended to comply with the requirements of Section 42(m)(1)(B) of the Code, which requires that a Qualified Allocation Plan set forth:

- (i) the selection criteria OHCS will use to determine its housing priorities,
- (ii) the preferences of OHCS in allocating housing credit dollar amounts among selected projects (Projects), including:
  - (I) Projects serving the lowest income tenants;
  - (II) Projects obligated to serve qualified tenants for the longest periods;
  - (III) Projects that are located in qualified census tracts and the development of which contributes to a concerted community revitalization plan; and
  - (IV) the procedures that OHCS will follow in monitoring for Program noncompliance and in notifying the IRS of such noncompliance and in monitoring for noncompliance with Project habitability standards through regular site visits.

Section 42(m)(1)(C) of the Code provides the selection criteria that must be used. The selection criteria set forth in a QAP must include:

- (i) Project location;
- (ii) housing needs characteristics;
- (iii) Project characteristics, including whether the Project includes the use of existing housing as part of a community revitalization plan;
- (iv) sponsor characteristics;
- (v) tenant populations with special housing needs;
- (vi) public housing waiting lists;
- (vii) tenant populations of individuals with children;

(viii) Projects intended for eventual tenant ownership;
(ix) the energy efficiency of the Project; and
(x) the historic nature of the Project.

If any provision of this Plan (and documents included herein by reference) is inconsistent with the provisions of amended IRC Section 42, including any future amendments thereto, or any existing or new Oregon Administrative Rules governing the LIHTC Program, the provisions of IRC Section 42 and/or the Oregon Administrative Rules take precedence and the plan will be amended accordingly.

The Plan has been revised for 2022. OHCS reserves the option to issue temporary public notices, rules, or other guidance through which, procedurally, OHCS will continue to efficiently administer the LIHTC Program, in a manner consistent with this Plan, and with OHCS's goals. Additionally, OHCS reserves the right to amend, modify, or withdraw provisions contained in this Plan that are inconsistent or in conflict with state or federal laws or regulations. In the event of a major natural disaster, pandemic / epidemic, disruption in the financial markets, or reduction in subsidy resources available, including tax credits, the Agency may disregard any section of the Plan, including point scoring and evaluation criteria, that interferes with an appropriate response.

The Oregon Housing Stability Council recommended the amended 2022 Plan on November 5, 2021. A public hearing was be held concerning the Plan on December 3, 2021 after appropriate notice was provided in accordance with IRS Section 42(m)(1)(A)(ii). Comments and agency responses can be found in appendix two of this document.

Credit Overview

4% Low Income Housing Tax Credits

The State of Oregon (State) is provided with access to tax credits that are only available to Projects that are financed using tax-exempt bond proceeds that are associated with Oregon's Private Activity Bond Authority. The tax-exempt bonds are subject to the volume cap limitations in Section 146 of the Code as further detailed in Section 42(h)(4)(A)and(B) of the Code.

The 4% LIHTC commitments will be made competitively. Projects requesting to be financed with 4% LIHTC will be allocated Private Activity Bonds subject to availability and the following prioritization schedule outlined by OHCS:

1. Pairing 4% LIHTCs with competitive fund offerings in Notices of Funding Availability (NOFAs)
2. Rental Assistance Demonstration, HUD Section 18, and significant funding commitment from local jurisdictions such as the Portland/Metro Bond fund applications
3. 4% LIHTC applications will be prioritized based on key factors supporting alignment with the Statewide Housing Plan. Additional details will be included in a future update to the Qualified Allocation Plan as needed.

All applicants for 4% LIHTCs must meet Section 42 statutory preferences, including those required for allocation and pursuant to IRS Code Section 42 (m)(1)(D), and must meet the threshold requirements described below.

(i) Standards of financial feasibility and viability;
(ii) Project monitoring procedures;
(iii) Program specific requirements of OHCS with a demonstrable comitment to complete the following work with OHCS's Equity and Racial Justice goal in mind:
   a. Diversity Equity and Inclusion Agreement (see page 18 for additional details);
   b. Minority, Women, and Emerging Small Business regional targets (see page 18 for additional details);
   c. Completion of the Management Agent Packet (MAP), which includes the Resident Services Plan (RSP).

9% Low Income Housing Tax Credits

OHCS allocates the State's 9% LIHTCs on a competitive basis, based on the selection criteria, preferences, and policies laid out in this QAP.The set-aside categories, their respective requirements, and the amount of the annual 9% LIHTC allocated to each are described below.

Allocation Set-Asides

Percent of 9% LIHTC	**Set-Aside Category**
10% of total annual allocation as required by IRC §42(h) (5) – across all categories set-aside.	**Qualified Non-Profit** A qualified nonprofit (QNP) organization is an organization described in Section 501(c)(3) or Section 501(c)(4) of the Code and has as one of its exempt purposes the "fostering of low-income housing."
10% of total annual allocation – across all categories set-aside.	**Qualified Culturally Specific Organizations/Developers** Defined as being a project sponsored by,an organization that is designed to serve historically underserved communities representing "least likely to apply" for housing occupancy and that: A) is representative of a community or significant segments of a community and provides affordable housing to low- and very low-income households; and B) can demonstrate primary target populations served to be "least likely to apply," meaning there is an identifiable presence of a specific demographic group in the housing market area, but members of that group are not "likely to apply" for the housing without targeted outreach, including marketing materials in other languages for limited English proficient individuals, and alternative formats for persons with disabilities. Reasons for not applying may include, but are not limited to: insufficient information about housing opportunities, language barriers, or transportation impediments.

25% Set-Aside	**Preservation Projects Set-Aside** Defined as either: A. Projects for which (i)at least twenty-five percent (25%*) of the residential units have federal Project-based rent subsidies B. AND (ii) one of the following is applicable: • the HUD Section 8 contract is expiringor • the USDA Rural Development (RD) loan is maturing within seven years; or • RD restrictive use covenants have expired and the Project is eligible to prepay its RD direct mortgage; OR B. Projects with public housing units undergoing a preservation transaction involving a comprehensive recapitalization. (*For scattered site Projects with multiple locations, the 25% is calculated based on all units in all Project locations)
10% Set-Aside	**Tribal Lands Set-Aside** Defined as an application sponsored or co-sponsored and of financial benefit to a tribal government, tribally designated housing entities or tribal corporate entities on tribal trust land. If this set-aside is not fully utilized, the balance of resources will revert to the Preservation Projects Set-Aside.
65% Set-Aside	**Regional Pool Set-Aside;** Allocated to the following Set-Aside Regions based on 5-year American Community Survey Data on severe rent-burdened households and renter households with a head of household of color: • Portland Metro Counties (HUD HOME Participating Jurisdictions of Clackamas County, Multnomah County, and Washington County)

	• Non Metro HUD HOME Participating Jurisdictions (the cities of Eugene / Springfield, Salem / Keizer) • Balance of State Urban (cities of Albany, Ashland, Bend, Central Point, Dallas, McMinnville, Medford, Newberg, Redmond, and Woodburn) • Balance of State Non-Urban/Rural (Balance of State) No region to be allocated less than $1 million in 9% LIHTC. If Balance of State Urban or Balance of State Non-Urban/Rural are under-subscribed, the remaining resources should first be moved to the other Balance of State region before reverting to the overall Regional Pool Set-Aside.

Determination of Credit Amount

The owner of a low-income housing property must certify to OHCS that the Project meets the minimum requirements of:

(i) 20 – 50 test under Section 42(g)(1)(A) of the Code,
(ii) 40 – 60 test under Section 42(g)(1)(B) of the Code, or
(iii) Income Averaging test under Section 42(g)(1)(C).

OHCS will make the financial feasibility and viability determination required under Section 42(m)(2)(A) for all 4% and 9% LIHTC allocations. The Code requires OHCS to allocate only what is necessary for financial feasibility throughout the extended use period. OHCS will evaluate each proposed Project taking into account relevant factors, including but not limited to the following items:

(i) Project cost, including the reasonableness of cost per unit, developer fees and overhead, consultant fees, builder profit and overhead, and syndication costs;
(ii) Sources and uses of funds and the total financing planned for the Project, including the ability of the Project to service debt;
(iii) The proceeds or receipts expected to be generated by reason of tax benefits;
(iv) The use of federal funds and other assistance; and
(v) Other factors that may be relevant to the economic feasibility of the Project, such as the area economy or the housing market.

Based on this evaluation, OHCS will estimate the amount of tax credits to be reserved for the Project. This determination is made at the sole discretion of OHCS and is in no way a representation as to the actual feasibility of the Project. Rather, it will serve as the basis for making reservations of tax credits for Projects competing for credit from the federal housing credit ceiling, or it will serve as an initial determination of credit amount with respect to a Project financed by private activity bonds. The amount of tax credits may change during the allocation process due to variations in cost, mortgage amount, tax credit percentage, syndication proceeds, etc. The final tax credit determination is made at the sole discretion of OHCS at the time of final application and prior to the issuance of IRS Form 8609, (Low-Income Housing Credit Allocation and Certification) as detailed in the LIHTC Requirements and Processes Section of this QAP*,* **Placed-In-Service Allocation Requirements**.

If there is a material increase in LIHTC pricing subsequent to a reservation of tax credits, OHCS reserves the right to adjust the amount of a tax credit award or any other OHCS funding source. OHCS may use the following guidelines for avoiding Project over-subsidization. Subject to the approval of OHCS, the increase may be used:

- (i) To decrease rents.
- (ii) To reduce the permanent loan, sponsor loans, tax credit allocation or other OHCS funding sources as determined by OHCS in consultation with the Project ownership.
- (iii) For necessary and justifiable cost increases or to reduce deferred developer fees, as allowable under the Code.

Pursuant to Section 42(m)(1)(A)(iii) of the Code, a comprehensive market study of the housing needs of low-income individuals in the area to be served by the Project must be conducted by a disinterested third party approved by OHCS before the credit allocation is made and at the developer's expense.

Applying for Credits

Project Charges

When applying for or receiving any Program funds, the Applicant must pay applicable charges, as adopted by the Oregon Housing Stability Council. These charges include, but are not limited to, application charges, recipient charges, reservation fees, and compliance charges. The charges adopted by the Housing Stability Council will be posted on the Funding Opportunities webpage of the OHCS: https://www.oregon.gov/ohcs/development/Pages/notice-of-funds-availability.aspx

4% LIHTCs/Conduit Bond Application Timing/ Process

When accepting applications for the 4% LIHTCs / Conduit Bonds, a two-part process has been established to clarify and expedite the processing of those applications.

- (i) A preliminary assessment application is required to accomplish the following:
  - a. Identify any potential deficiencies within the application early
  - b. Set an Intent Resolution (if using OHCS bonds)
  - c. Determine a specified due diligence needs list to submit along with required materials for the part two application
  - d. Set a due date for the part two submission application materials
- (ii) A complete 4% LIHTC application, along with the specified due diligence needs list items identified at the preliminary assessment stage, must be submitted to OHCS prior to approval of the funding request.
  - a. The Project must close on the construction financing within 180 days of the 4% LIHTC application acceptance letter issuance date.

OHCS reserves the right to waive, change or alter any timelines, processing and other QAP requirements, at its sole discretion, to encourage and/or facilitate the financing of tax-exempt and 4% financed projects including, but not limited to: implementing application pauses and blackout dates.

9% LIHTCs/ Notice of Funding Availability (NOFA) timing/ process

9% LIHTCs are offered on a competitive basis structured as a Notice of Funding Availability (NOFA) and are generally made available once each year, most often in the first quarter of the year. The NOFAs reflect the threshold and competitive criteria laid out in this QAP.

- (i) Any NOFA will include a pre-application that:
  - a. Determines eligibility for 9% LIHTC basis boost, and
  - b. Provides Applicants early insight on some portion of established competitive scoring criteria.

Failure to submit a pre-application by the deadline established in the NOFA will remove a Project from consideration.

a. Each Application will be reviewed for timeliness and completeness of the NOFA requirements. The following are pass/fail criteria; meaning if the requirement is not met the Project will be disqualified and not considered for funding reservation:

   i. Application and Charge Transmittal form and payment of application charges.
   ii. Owner/Board of Directors' Authorization and Acceptance form;
   iii. Organizational documents;
   iv. Diversity, Equity, and Inclusion (DEI) agreement;
   v. Complete NOFA application with required exhibits; and
   vi. Certification of pre-application submission.

   If OHCS determines an application is substantially complete but a minor item is missing, incorrect, or needs clarification, the Applicant will have five (5) business days from receipt of written notice from OHCS to submit the required information. At the discretion of OHCS, additional time may be permitted to submit the required information. The written notice will be sent to the address of the contact person identified in the Application. If the Applicant fails to submit the required information within the required time period (including extensions), OHCS may disqualify the Application.

   NOFA applications that pass administrative review will be reviewed for threshold and then competitive scoring elements. They will be ranked within the set-aside groups and prioritized for funding recommendation.

9% LIHTCs/Notice of Funding Availability (NOFA) Ranks and Tie Breaking

(i) Applications are first ranked within each set-aside category (Set-Aside Category). Applications that have the highest score within each Set-Aside Category will be recommended for funding as allocated resources allow. If an Application within a Set-Aside Category does not receive a high enough score to be funded (as prescribed in the applicable NOFA), 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 pool, with the exception of the Tribal Set-Aside which will first be directed 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 at its sole discretion, whether or not to award any or part of the remaining LIHTCs/resources.

(ii) If the total evaluation scores of two (2) or more Applications result in a tie and LIHTC allocation availability are insufficient to fund all tied Applications, the following criteria will be used to break the tie:

a. If the tied Projects are in different Set-Aside Categories or Regions and more than fifty percent (50%) of the remaining funds come from one of those Set-Aside Categories or Regions, the Project in that Set-Aside Category or Region will be funded.

b. If the tied Projects are in the same Set-Aside Category or Region, or from Set-Aside Categories or Regions 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.

c. If the Average Median Family Income of households served is the same for both Projects, the Project with the lowest LIHTC per bedroom will be funded.

Returned and Unused LIHTC Allocation Authority

(i) **Reissuing Returned Awards**: If an application being considered for a LIHTC Reservation or Allocation is withdrawn or cancelled; or available credits were not originally allocated during the funding cycle or can't make its carryover requirements, or National Pool as prescribed at IRS section 42(h)(3)(D)(iii) is awarded above current allocations, OHCS, may do any of the following:

a. Fund the next highest ranking Application from the current funding cycle that matches, or is closest to, the amount of LIHTCs and other OHCS funding sources available. The Applicant will be given thirty (30) days to reevaluate the financial feasibility and determine whether or not the proposed Project can move forward. Once OHCS has published the Application rankings, they will be used to allocate LIHTCs during the annual funding cycle until October 1. At that time, funding order will be relinquished until re-established in a subsequent NOFA. Any credits returned after September 30 of any year will be treated as if received in the following year, and will be allocated as part of the next allocation year.

b. Issue a Request For Proposals (RFP), or special application process for Projects to compete for the unused LIHTCs.

c. Add the returned amount to the total available for the following calendar year's application-award cycle.

OHCS may take such steps as it deems appropriate to maintain the desired funding split between Set-Aside Categories. Applications will remain eligible for the funding cycle under which the Application was made for LIHTCs, only if the Applicant has not applied for 4% LIHTCs).

(ii) **Re-evaluation of Reservation**: The following events will result in a re-evaluation of a previously issued Reservation:

a. Failure to close within two hundred forty (240 days of the Reservation ("Reservation Period").
b. A material change so that the Project or Applicant no longer meets the Minimum Threshold Requirements (set forth below in "Minimum Thresholds for Application – 4% and 9% LIHTC") or any of the competitively scored criteria.
c. The proposed Project will not be placed in service by the date mutually agreed upon.
d. Other material causes at OHCS's reasonable discretion.

(iii) **Agency authority to use discretion**: In the event of a re-evaluation of a Reservation, OHCS, at its reasonable discretion, may do one of the following:

a. Revoke the Reservation.

b. Approve requested changes to the original Reservation or Application as proposed.Leave the Reservation in place with no changes .

Minimum Thresholds for Application– 4% and 9% LIHTC

OHCS has the following Minimum Threshold Requirements (Thresholds) for evaluating Applications. The Applicant must demonstrate in the Application compliance with all applicable Thresholds. Failure to pass any of the Thresholds may disqualify the Application from scoring and therefore from receiving any funding. Additionally, the Applicant must submit a complete, legible, and executed Application satisfactory to OHCS. The Applicant must submit all required attachments and the appropriate Application charge by the deadlines established by OHCS and must use OHCS's Application forms.

(ii) **Long Term Affordability**: All competitively awarded 9% LIHTC housing tax credit Projects must remain affordable for 60 years and 4% LIHTC housing tax credit Projects must remain affordable for 30 years.

(iii) **Violence Against Women Act**: In conformity with the Violence Against Women Act (VAWA) of 2013, an Applicant for or tenant of housing assisted under the LIHTC Program may not be denied admission to, denied assistance under, terminated from participation in or evicted from the housing on the basis that the Applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the Applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. An incident of domestic violence, dating violence, sexual assault or stalking shall not be considered a lease violation by the victim, nor shall it be considered good cause for an eviction. If a tenant who is a victim requests an early lease termination, lease bifurcation from the abuser, or transfer to another unit because she/he is in danger, a LIHTC owner, manager, or agent thereof shall make every effort to comply with the request and shall not penalize the tenant.

(iv) **Waiver of Qualified Contract**: By submitting an application for LIHTCs, all LIHTC Applicants waive the right to request a qualified contract under Section 42(h)(6)(E)(i) of the Code. Thus, any OHCS-required extended use commitment shall not terminate at the end of the compliance period but will instead have a minimum duration of 60 years for 9% LIHTCs and 30 years for 4% LIHTCs transactions.

(v) **Diversity, Equity, and Inclusion (DEI) Agreement**: **All Applicants and members of their development teams, including, but not limited to developers, consultants, management agents and service providers** are required to enter into an agreement to commit their organizations toon going efforts to enhance diversity, equity, and inclusion practices throughout their organizations. The signing of an OHCS Diversity, Equity, and Inclusion (DEI) Agreement includes registering with the OHCS Equity, Diversity, and Inclusion Office and an informal discussion to discuss the approaches to this work.

(vi) **Minority, Women, and/or Emerging Small Business (MWESB) Engagement:** All Applicants will be required to identify strategies and targets for contracting with MWESB contractors/subcontractors in the construction and operation of the proposed Project, as well as previous experience contracting with MWESB contractors/subcontractors.

The OHCS MWESB Manual can be located at: https://www.oregon.gov/ohcs/development/Pages/mwesb-sdvbe-rental-housing.aspx

Below are required OHCS MWESB Equity reports that must be submitted for all OHCS funded projects:

Reporting:
- Initial MWESB Equity report (4% LIHTC projects tier two requirement)
- Housing Stability Council Report
- MWESB Equity quarterly report
- Final MWESB Equity Report (Final application)

Awardees are required to submit a report to OHCS demonstrating outcomes of their efforts to contract with MWESB contractors/subcontractors in their final application prior to the issuance of the Form 8609.

Minority, Women, and / or Emerging Small Businesses (MWESB) contractors are those registered with the State.

(http://www.oregon4biz.com/How-We-Can-Help/OMWESB/)

(vii) **Asset Management Compliance and Project Monitoring**: As the authorized allocating agency for the State, OHCS is responsible for monitoring Projects for compliance with Section 42 of the Code, corresponding Treasury regulations, and any other applicable IRS guidance (rulings, procedures, decisions, notices, and any other applicable IRS guidance), the Fair Housing Act, State laws, local codes, OHCS loan or regulatory documentation, and any other legal requirements as determined to apply by OHCS in its sole discretion. OHCS may, at any time, adopt and revise standards, policies, procedures, and other requirements in administering the LIHTC Program. Project owners (Owners) must comply with all such requirements if implemented after this QAP is approved.

OHCS is responsible for establishing monitoring procedures to verify compliance and is required by law to report noncompliance to the IRS. Monitoring each Project is an ongoing activity that extends throughout the affordability period and through the extended use period (a minimum of 30 years). Projects with funding sources obtained from OHCS in addition to the tax credits, will be monitored for the most restrictive requirements of all combined OHCS Programs. Owners must be aware of the differences in Program regulations. OHCS's LIHTC Compliance Manual is incorporated by reference and may be found at
http://www.oregon.gov/ohcs/Pages/compliance-monitoring-manual-lihtc.aspx

OHCS may perform an on-site review of any building in the Project, interview residents, review residents' applications and financial information, and review an Owner's books and records relating to the Project consistent with law as it determines to be appropriate. Ownership must provide OHCS reasonable access to the Project and its books and records, and reasonably cooperate in all such compliance monitoring. In connection with these obligations, an Owner must take all reasonably necessary action to allow OHCS to inspect housing units occupied by residents.

(viii) **Program Compliance:** All OHCS Projects must satisfy the Program requirements (Program Requirements) for each applicable OHCS funding source requested. Each OHCS funding source has separate requirements, which can be found in supplemental Program manuals.

(ix) **Relocation Plan**: If any relocation or displacement of existing tenants might occur because of an Allocation, the Application must contain a relocation plan satisfactory to OHCS and include, among other things, a complete survey of existing tenants. OHCS's LIHTC Compliance Manual is incorporated by reference and may be found at http://www.oregon.gov/ohcs/Pages/compliance-monitoring-manual-lihtc.aspx This survey must use the format provided by OHCS, be augmented to include third party income verification, and be completed and approved by OHCS prior to the equity closing for the Project (Equity Closing).

(x) **Ownership Integrity**: OHCS may reject an Application where the Applicant or any member, officer, or principal within the Project ownership, management, or development team:

i. Is currently under investigation by a public body, has a pending claim, indictment, suit, action, or other proceeding against them;
ii. 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;
iii. Has been involved in a bankruptcy proceeding within the previous five (5) years; or
iv. Has been debarred or otherwise sanctioned by OHCS.

(xi) **Single-Asset Ownership**: OHCS requires that each Project be owned by a single-asset entity duly organized under the laws of the State of Oregon, or if allowed by OHCS, duly authorized to conduct business in the State of Oregon.

(xii) **Extended Use Agreement (REUA)**: Applicants that receive OHCS Allocations must enter into a Reservation and Extended Use Agreement (REUA), satisfactory to OHCS, which includes executing and recording, at the Applicant's expense, a follow-on declaration of restrictive covenants and executing and recording other documents about the Project satisfactory to OHCS. The provisions of the REUA, including the declaration of restrictive covenants, will apply throughout the applicable "Affordability Period," which includes the initial fifteen (15) year compliance period, and an additional “extended low-income use period” as referenced in the Project’s restrictive use agreements.

(xii) **Right of First Refusal (ROFR):** OHCS hereby reserves the right to require any and/or all the following with respect to applications:

(i) provisions to be included in the Applicant’s organizational documents limiting transfers of partnership or member interests or other actions detrimental to the continued provision of affordable housing.

(ii) a letter of intent from a tax credit investor that clearly grants to a qualified not-for-profit organization a right of first refusal to purchase the project for a below-market purchase price (the “ROFR Purchase Price”), following the expiration of the tax credit compliance period, in accordance with Section 42(i)(7) of the Code (the “ROFR”)

(iii) terms in the extended use agreement requiring notice and approval by OHCS of transfers of partnership or member interests.

(iv) debarment from the program of Project sponsors, investors, syndicators, or lenders having demonstrated a history of conduct detrimental to long-term compliance with extended use agreements, whether in Oregon or another state, and the provision of affordable tax credit units; and

(v) provisions to implement any amendment to the IRC or any future federal or state legislation, regulations, or administrative guidance.

The decision whether to institute, and the terms of, any such requirements shall be made by OHCS as reasonably determined to be necessary or appropriate to achieve the goals stated in this paragraph and to be in the best interest of the Plan.

(xiii) **Placed-In-Service Allocation Requirements:** All LIHTC Applicants are required to complete a Final Application containing required documentation. Any changes from the Equity Closing are subject to OHCS review and approval prior to the issuance of IRS Form 8609. Projects with excess funds must return those funds to one or more of the public funders upon Project completion. OHCS funding resources will have a priority for return upon the determination of excess funds for the Project.

OHCS will accept and process Final Application documents and issue IRS Form 8609(s) throughout the year. Commercial costs should be separated from the cost certification in an individual column or deducted from the total residential costs. In either circumstance, the budget uses pages should identify both components of cost separately. However, a Project Owner must submit a complete application with all Placed-In-Service documentation, including the independent Certified Public Accountants Report (Cost Certification) and the certificates of occupancy for each building in the Project at least sixty (60) days prior to when the Owner expects to receive the IRS Form 8609.

Upon completion of the Project, for 4% LIHTC Projects, the Borrower will provide to OHCS an analysis of the breakdown of the bond-funded costs for the Project, to meet the federal tax requirements described in the Project's Tax Certificate and Agreement (or other similar document) in a form certified by an authorized representative of the Borrower (commonly referred to as a "Good Costs Certificate"), together with more detailed backup information as requested by OHCS and/or Bond Counsel for the State.

(xiv) **Project Changes**: An Applicant must notify OHCS in writing of, and obtain its written consent to, any material changes in a Project. An Applicant must notify OHCS when a material change is first identified. OHCS will endeavor to respond within thirty (30) days after receiving the notice of a material change and request for consent. OHCS may give or withhold its consent, or condition its consent, subject to its reasonable discretion. A "material change" includes, but is not limited to, a change in:

- The number of buildings or units.
- The Project contact person.
- The Identity of Interest disclosure.
- The Development Team.
- The Total Project Costs.
- A financing source (whether debt or equity).
- Operating revenue or expenses for the Project of more than ten percent (10%).

- Anything that would result in a change in the standards OHCS uses to competitively rank Projects.

OHCS will determine whether a change in a Project is material. OHCS's materiality determination is final.

The written request for approval of a material change in a Project must include a narrative description and other supporting documentation, plus the applicable revised pages of the Application. If OHCS grants the request, including as modified or conditioned by OHCS, it may adjust the amount of the funding allocation to ensure the pro forma "sources and uses" of the Project remain in balance.

(xv) **Cost Savings Clause**: Construction contracts that include any provision for cost savings that are to be retained by the general contractor or split with the Project Applicant are not permitted.

(xvi) **Project Transfer or Assignment Requiring OHCS Consent**: A Project transfer or assignment requiring OHCS consent includes any direct or indirect sale, contribution, assignment, lease, exchange, transfer, or other change in:

- An interest in the land, the Project, or any building.
- An ownership interest in the entity that is the Applicant or Project Owner.
- The rights, title, or interest of the Applicant or Project Owner in any agreement to which OHCS and the Applicant or Project Owner are parties.

The following transfers or assignments do not require the prior written consent of OHCS:

- The grant of a security interest or lien junior to the interest of OHCS; or
- The issuance, redemption, or transfer of stock or shares of a corporation that is not a closely held corporation.

(xvii) **Process and Requirements for Obtaining OHCS's Consent**: The first step in obtaining OHCS's written consent to a Project transfer or assignment is to advise OHCS in writing of the proposed transfer or assignment. At a minimum the Applicant should describe:

- The name of the Project;
- The names of the Applicant and/or the Owner, the proposed transferor and transferee, and all other relevant parties;
- A complete description of the proposed transfer or assignment, including the proposed effective date; and
- Any special circumstances related to the proposed transfer or assignment.

After OHCS's receipt of the written request, OHCS will advise the Applicant of OHCS's requirements and conditions that must be satisfied to obtain the consent, including payment of document preparation charges and applicable legal fees. If the Applicant made a commitment to participate under the set-aside category for Qualified Non-Profit, any transfer or assignment must be such that the Project continues to qualify for such set-aside category.

(xviii) **Construction Closing**: For 9% LIHTC transactions, the Applicant must give OHCS at least thirty (30) days' written notice of the scheduled Construction Closing. At least ten (10) days prior to the Construction Closing, but after the general contractor bids have been received, the Applicant must submit to OHCS the Project's final development budget, final sources of funds, and documentation to substantiate the final budget.

For 4% LIHTC transactions, the Applicant must give OHCS the Project's final development budget pro forma, final sources of funds, and documentation to substantiate the final budget items at least ten (10) days prior to submission to the OHCS Finance Committee for approval.

(xix) **Market Study**: Applicants must submit a complete market analysis prior to receiving a 9% LIHTC or 4% LIHTC allocation. The deadline for submission will be established within the reservation letter for projects selected for funding Applicants should read and refer to the LIHTC Market Analysis Guidelines for a full

description of OHCS policies and guidelines. Selected projects must use approved OHCS Market Analyst as required in code at IRC §42(m)(1)(A)(iii)
The Market Analysis Guidelines can be found at:
https://www.oregon.gov/ohcs/development/Documents/admin/market-analysis-guidelines.pdf

The Approved Market Analyst List can be found at:
https://www.oregon.gov/ohcs/development/Documents/LIHTC/Approved-Market-Analysts-List-12-01-21.pdf

(xx) **OHCS Sustainable Development Standards**: All Projects receiving funding via OHCS administered Programs must demonstrate a commitment to sustainable design and construction practices. In addition to the Baseline Project Requirements defined in Core Development Manual (CDM), OHCS requires funded Projects to comply with the three OHCS Sustainable Development Standards (SDS) listed below:

- Modules: SDS Module 1: OHCS Approved Sustainable Building Path.
- SDS Module 2: OHCS Solar-Ready Requirement.
- SDS Module 3: OHCS Electric Vehicle (EV)-Ready Requirement.
- Applicants should read and refer to the CDM for a full description of Department policies and guidelines.

The CDM can be found at:
https://www.oregon.gov/ohcs/development/Documents/Core-Development-Manual/CDM-Version-3-1.pdf

(xxi) **Identity of Interest**: Applicants must disclose and describe to OHCS all specific Identity of Interest. Identity of Interest is defined as a financial, familial, business, or similar relationship that permits less than arms' length transactions among the parties participating in the development or operation of the Project (i.e., whether an "Identity of Interest" exists). Such disclosures shall be made when Applications are submitted and at such other times during the development and operation of Projects and processing of tax credit allocation requests as requested by OHCS.

(xxii) **Misrepresentation and Fraud**: OHCS may disqualify an Applicant or Project, or cancel a funding, if the Applicant, a principal, or any representative of the Applicant or the Project makes a material misstatement, omission, or misrepresentation to OHCS, is under investigation, or has been convicted of or is currently indicted for fraud, theft, or other criminal activity involving the misappropriation of funds, false certifications, financial improprieties, or the like. OHCS, in its sole discretion, may also exercise any and all other remedies available under the Program Requirements, or otherwise available to it by law.

Next section on following page.

9% LIHTC – Criteria Elements

General Criteria

(i) **9% LIHTC Project Cap**: No Applicant may receive more than 20 percent of any annual tax credit allocation. If additional Projects have been submitted by the applicant and score such that they are eligible for funding and are in excess of 20 percent of the total LIHTC funds available, the lower scoring Project(s) will not be funded. No Applicant may receive more than an average of 15 percent of annual tax credit allocations over any two sequential years allocations.

For example, if an Applicant receives 20 percent of funds in year one, they would only be eligible for 10 percent in year two; OR, if an Applicant receives 15 percent of funds in year one, the Applicant would only be eligible for 15 percent in year two. If additional Projects have been submitted and score such that they are eligible for funding and are in excess of the percentage of the LIHTC available, the lower scoring Project(s) will not be funded.

(ii) **9% LIHTC Restriction**: Projects that have been funded with 9% LIHTC in 2019 or thereafter are not eligible to apply for additional 4% or 9% LIHTC within 20 years of the Project's Placed-In-Service date. 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.

(iii) **HUD 811**: All Applicants for 9% LIHTC may be required, at the discretion of OHCS, to implement a Housing and Urban Development (HUD) 811 Demonstration, including the use of HUD's Tenant Rental Assistance Certification System (TRACS) to submit tenant certifications and electronic vouchers for payment. More information can be found at the HUD 811 Demonstration website:
https://www.hud.gov/Program_offices/housing/mfh/progdesc/disab811.

(iv) **Housing and Economic Recovery Act of 2008 (HERA) Basis Boost**: Pursuant to HERA and subject to update should federal regulation permit, OHCS has the authority to increase the eligible basis for 9% LIHTC Projects from 100 percent eligible basis up to 130 percent of the eligible basis when OHCS determines that the financial feasibility of the building requires it. OHCS has determined that the financial feasibility of Project buildings meeting the criteria below may require a basis boost of up to 130 percent.

- Rural Projects defined as communities with populations of 15,000 or less, outside of the Portland Urban Growth Boundary, in counties within Metropolitan Statistical Areas (Benton, Clackamas, Columbia, Deschutes, Jackson, Marion, Multnomah, Polk, Washington, and Yamhill Counties) and in communities with populations of 40,000 or less in the balance of the State.
- Preservation Projects.
- Projects serving permanent supportive housing goals.
- Projects sited on tribal lands.
- Projects with at least twenty percent (20%) of the units restricted to LIHTC Extremely Low (30%) rents and income limits.
- Projects that are located in Transit Oriented Districts (TOD's) as designated by local governments
- Projects that result in the de-concentration of poverty by locating low-income housing in low poverty areas, which are Census Tracts where 10 percent or less of the population lives below the poverty level.

(v) **Resident Services**: The Applicant is required to provide a Resident Services Description at the time of Application submission in accordance with the goals and guidelines in the OHCS LIHTC Compliance Manual: https://www.oregon.gov/ohcs/Pages/compliance-monitoring-manual-lihtc.aspx.

Readiness to Proceed

(i) **Zoning**: The Project location must be properly zoned for the intended Project type. The Applicant must provide the Certification of Zoning executed by the appropriate zoning authority to verify proper zoning.

(ii) **Site Control**: Applicant must have control of the land and other real property necessary for the Project by the Application deadline as evidenced by one (1) of the following:

a. Recorded deed or conveyance showing the Applicant has ownership,
b. Valid purchase and sale agreement,
c. Valid option to purchase,
d. Valid option for a long-term lease (lease must be approved by Oregon DOJ),
e. Any other evidence satisfactory to OHCS.

(iii) **Federal Resources Status**: If the Applicant has identified additional federal resources, such as rental or capital assistance from HUD, RD, or the Veteran's Administration (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: (i) summary of the contact and (ii) an understanding established to-date as well as (iii) expectations about the next steps in the process.

(iv) **Development Schedule**: Within the development schedule provided, the Applicant must be able to meet the required deadlines for applicable LIHTC, HOME Partnership Investment Program, General Housing Account Program and Oregon Affordable Housing Tax Credit Program or any other funding requested as a part of the application. 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 time frames. These deadlines are published in the appropriate OHCS Program manuals.

(v) **Environmental Site Checklist**: Applicants must have identified or disclosed any adverse environmental or site information indicated on the

Project Site Checklist completed following the OHCS representative visit to the site or otherwise. The deadline for scheduling the site visit will be announced, and the Project Site Checklist published at least 90 days in advance of the deadline for submission of the Application. If you did not contact an OHCS representative before the deadline for Application submission, the Application will be considered non-responsive and will fail Threshold review.

(vi) **Development Team Capacity**: In order to meet the threshold for development team capacity, the Applicants must demonstrate that the Applicant, the developer, the Project management consultant, the general contractor, the development consultant under contract and/or other persons or organizations materially involved in the Project have:

i. Successfully completed a multi-family housing project of a comparable number of housing units, of similar complexity, and for a similar target populaiton as the proposed Project.
ii. The necessary level of staffing and financial capacity to succesfully manage development and operations of its current Project portflolio including, but not limited to, all current and pending Projects and Applications.
iii. Successfully completed previous Projects for which a similar Program allocation was received in Oregon or other states.

9% LIHTC – Scoring Selection Criteria

This section applies to 9% LIHTC competitive applications only.

New Construction and Acquisition / Rehabilitation Scoring:

	Scoring topic	Scoring Criteria: New Construction / Acq/Rehab
State Priority	**Either** Permanent Supportive Housing (PSH)	Up to 2 points for including PSH units in the Project (minimum 5 units, incentive up to 25% of total affordable units)
		1 point for having participated in OHCS provided PSH training and technical assistance
		1 point for commitment of supportive tenancy service resources.
		1 point for demonstrated experience in owning PSH affordable housing; (i.e., managing PSH affordable housing; providing services in PSH affordable housing)
	PSH total	**5 points**
	OR Family Sized Units	Up to 3 points for the inclusion of units with 3 or more bedrooms (minimum 5 units, incentive up to 15% of total affordable units)
		Up to 2 points for the inclusion of units with 2 or more bedrooms (minimum 12 units, incentive up to 45% of total affordable units)
	Family Sized Units	**5 points**
	Special Needs Target Populations	Up to 4 points for including targeting of special needs populations (broadly defined) in 10-25% or more of the total affordable units
	Special Needs Target Populations	**4 points**
	Federally Declared Disaster Areas	In consultation with the Oregon Housing Stability Council, up to 5 points may be allocated to Projects located in Federally Declared Disaster Areas that have had a wide-ranging impact on housing supply.
	Federal Disaster Areas	**5 points**
State Priority Total		**14 points**

	Location Need Severity Data	1 point if Severe Rent Burden (spending more than 50% of income on rent) higher than State/region
		1 point if there is a higher percentage of low-income renters than available low-income housing stock available in geography compared to state/region.
		1 point for location in a Qualified Census Tract with a Concerted Revitalization Plan; demonstrated through investment of public resources into capital improvements of residential, commercial, or infrastructure.
		1 point for ratio of Affordable Housing Inventory to 60% Area Median Income Households.
	Location Need Severity	**4 points**
	Location Opportunity & Environmental Factors	
		1 point if Project is not in a USDA food desert
		1 point if Project has access to Parks & Public Space
		1 point if Project is in a census tract where 50% or more of households earned more than 100% of the area median income in the last three consecutive years for which data is available, **and** the poverty rate is less than or equal to 20% during the same period.
		1 point for access to School / Education / Library / Workforce Training
		1 point for Projects in Urban Areas if in a TOD or within half (1/2) mile of fixed transit stop.
		1 point for Projects is in Rural Areas and has access to transit options
		Max of negative two (-2) points for Projects sited in Balance of State – Urban and Rural that are in tracts with greater health risks due to environmental factors compared to the rest of the State, as defined by the Environmental Protection Agency's Environmental Justice Screening and Mapping Tool Max of negative three (-3) points for Projects sited in Metro and Non-Metro HOME PJs that are in tracts with greater health risks due to environmental factors compared to the rest of the State, as defined by the Environmental Protection Agency's Environmental Justice Screening and Mapping Tool

	Location Opportunity & Environmental Factors	**5 points**
	Vulnerable Gentrification Areas	This scoring will compile data considering various aspects of a neighborhood including its income profile, vulnerable people, precarious housing location, housing market activity, and neighborhood demographic change.
		Data Considered for Income: Low Income Households and Household Income
		Data Considered for Vulnerable People: Black, Indigenous, People of Color (BIPOC) / Non-White demographics, limited language proficiency figures, persons with disabilities, female-headed households, individuals 65 years of age and older.
		Data Considered for Precarious Housing: Multifamily Units, and Housing built before the 1970s,
		Data Considered for Housing Market Activity: Median Rent, Rent Change, Median Home Values, Home Value Change
		Data Considered for Neighborhood Demographic Change: Change in BIPOC, change in educational attainment, change in homeownership, change in household income
	Vulnerable Gentrification Area	**8 points**
	Location Related Total	**17 points**
	Affirmative Fair Housing Marketing	1 point in Urban Areas and up to 2 points in Rural Areas for including analysis of underserved population demographics in determining outreach strategies
		1 point for including partnership with local service / referral agencies in reaching underserved populations to build the Project wait list.
		Up to 2 points for using two or more referral and advertising methods.

		Up to 2 points in Urban Areas and 1 point in Rural Areas where referral and outreach organization partner is culturally responsive
		Up to 1 point for implementing low-barrier tenant screening
	Affirmative Fair Housing Marketing	**7 points**
	Resident Services	1 point in Urban Areas and up to 2 points in Rural Areas for comprehensive Resident Services Plan submitted; scaled to needs of the target population
		1 point for 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
		1 point for funding resident services staff or resources for referral agency
		1 point for including performance tracking and reporting of data
		Up to 3 points in Urban Areas and up to 2 points in Rural Areas where Service provider is culturally responsive
	Resident Services	**7 points**
Partnerships Total		**14 points**
	Rents: Serving Lowest Income - AGMI	Up to 5 points for Rents serving the lowest AMI; scaled
	Serving Lowest Income - AGMI	**5 points**
	Serving Lowest Income - RA	Up to 3 points for having Project based rental assistance; scaled
	Serving Lowest Income - RA	**3 points**
	General IRS Section 42 Requirements	1 point for: Projects intended for **eventual tenant ownership.**
		1 point for: Projects that demonstrate comprehensive deployment of **energy efficiency** beyond the requirements of the Core Development Manual (CDM).

		1 point 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.
		1 point for: Projects with supporting documentation from a local Housing Authority confirming that established **commitment to market the unit to their wait list** is in place at the time of the application due date.
	General Federal Preferences	**4 points**
Federal Preferences		**12 points**
	Federal Subsidy Leverage	Up to 2 points: Committed leverage of HOME and/or Community Development Block Grant Funds (CDBG); in Balance of State, Projects with the acceptance of HOME as a gap funding source included in their app with be awarded points. Projects in Participating Jurisdictions that also award Tax Increment Financing (or another OHCS approved place-based economic development fund) that is awarded by Participating Jurisdictions in lieu of HOME for gap funding sources will be eligible for points.
		Up to 2 points: Use of National Housing Trust Funds to fund 30% AMI
	Federal Subsidy Leverage	**4 points**

	Cost Effectiveness	Up to 1 point: Total Development Cost, excluding acquisition costs, per bedroom that 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 the application).
	Cost Effectiveness	**1 point**
	LIHTC Effectiveness	Up to 3 points: Total LIHTC requested per bedroom. Projects competing in the same allocation region or set-aside and building type will be grouped together to determine the average per bedroom total cost per unit basis and tax credit per bedroom (only counting bedrooms in Program assisted units); points will be attributed based on relative LIHTC subsidy per bedroom.
	LIHTC Effectiveness	**3 points**
Funding Efficiency Total		**8 points**
	Financial Viability	Up to 5 points: Development pro forma review a. Pro forma includes only realistic, balanced 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 negative five (-5) 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) is applicable, 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 of funding are provided on a separate pro forma page.

		Up to 5 points: Operating pro forma review: 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 or as adequately explained. 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 include 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.
	Financial Viability	**10 points**
	Readiness to Proceed	Up to 2 points: Funding commitment for planned Project funds.
		1 point: If funding commitment is pending (aside from Rural Development); provide explanation of when other sources of funds will be available to the Project if not already committed.
		1 point: Demonstrated ability to begin construction within 12 months.
		1 point: Proposed Project schedule appears adequate and reasonable.
		1 point: Explanation of why Project must be funded now as opposed to future NOFAs.
	Readiness to Proceed	**6 points**
Project Readiness Total		**16 points**

	MWESB Capacity	Up to 4 points: All Applicants will be required to identify strategies, targets, and previous experience utilizing Minority, Women-Owned, Emerging Small Business (MWESB) contractors /subcontractors in the construction and operation of the proposed 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 Form 8609.
	MWESB Capacity	**4 points**
	Development Team Experience	Up to 2 points: General Partner or Development Consultant with successful LIHTC Projects that have received 8609s within the last 10 years on at least 2 Projects.
		1 point: General Partner with successful LIHTC Projects that have received 8609s within the last 10 years on 3 or more Projects.
		Negative One (-1) point: General Partner that has been removed from a partnership or faced foreclosure proceedings.
	Development Team Experience	**3 points**
	Performance	Up to 2 points: OHCS Portfolio Compliance Criteria i. Most recent Real Estate Assessment Center (REAC) score. ii. Most recent Physical Review. iii. Most recent File Review. iv. Most recent Resident Services Review. v. Most recent Response Review. vi. Certification of Continuing Program Compliance (CCPC) submission received for current year shows compliance; vii. No ongoing compliance issues or remedied compliance issues.
		Up to 3 points: OHCS Portfolio Viability Criteria i. Financial submission as requested. ii. Most recent financial audit is closed. iii. Most recent audited financials Debt Coverage Ratio. iv. Asset management community evaluation completed satisfactorily.
	Performance	**5 points**

	Development History	Negative 5 points: Prior poor development performance, i.e., development teams that have had documented material changes from Project application that received a funding reservation prior to placed-in-service.
Development Team Capacity Total		**12 points**
Total Points Available	**93 points**	

Preservation Scoring:

This section applies to 9% LIHTC competitive applications only.

	Scoring topic	Scoring Criteria: Preservation
	Expiration date	Up to 20 points for Projects preserving rental subsidies in rural and urban areas due to expire, or have RD mortgages mature, within 36 months from the due date of Application. Applicants must submit supporting evidence that clearly demonstrates the rent assistance expiration within 36 months. Up to 10 points for Projects with expirations, or mortgage maturity, within 60 months.
Risk of Expiration Total		**20 points**
	Vulnerable Tenant Displacement	Up to 5 points, scaled scoring, for the percentage of the Project occupied by vulnerable population (frail elderly, disabled, large families, special needs populations, service dependent) who would face hardships from relocation
	Extremely Low Income	Up to 5 points, scaled scoring, for the percentage of the Project occupied by households earning 30% AMI or less
	Percentage of Rent Assisted Units	Up to 5 points, scaled scoring, for the percentage of the Project with Project based rent assistance
	Tenant Protections	Up to 3 points: If federal rent subsidy expires, change of use requires relocation. Enhanced Vouchers (EVs) issued only for the residents under the Section 8 contract - no EVs for HUD maturing mortgages. Limited vouchers issued for RD prepayments.
	Voucher Utilization	Up to 3 points: High voucher turn back, porting rate or likelihood of relocating more than 20 miles.
Tenant Impact Total		**21 points**
	Severe Rent Burden	Up to 2 points if percent of residents experiencing Severe Rent Burden (paying more than 50% of their income for rent) in a city/county is higher than that of the State.
	Mismatch Housing Stock	1 point if there is a higher percentage of low-income renters than available low-income housing stock in compared state/region.

	Federally Declared Disaster Areas	In consultation with the Oregon Housing Stability Council, up to 5 points may be allocated to Projects located in Federally Declared Disaster Areas that have had a wide-ranging impact on housing supply.
Location Need Severity		**8 points**
	Resident Services	Up to 1 point in Urban Areas and 2 points in Rural Areas: Comprehensive Resident Services Plan submitted, i.e., the plan is scaled to the needs of the target population
		1 point: Includes resident surveys for ongoing monitoring of needs
		1 point: Includes funded resident service staff or resources for referral agency
		1 point: Includes performance tracking and reporting of data
		Up to 3 points in Urban Areas and 2 points in Rural Areas: Service provider is culturally responsive
Partnerships		**7 points**
	Serving Lowest Income	Up to 5 points for Average Gross Median Income of tenants; scaled scoring
	General: Tenant Ownership	1 point: Intended for **eventual tenant ownership.**
	General: Energy Efficiency	1 point: Projects that demonstrate comprehensive deployment of **energy efficiency** beyond the elements required by the Core Development Manual (CDM).
	General: Historic Investments	1 point: Projects that demonstrate 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.

	General: Marketing to Public Housing	1 point: Projects with supporting documentation from a local Housing Authority that establish a **commitment to market the unit to their wait list** is in place at the time of the Application due date.
Federal Preferences		**9 points**
	Federal Subsidy Leverage	Up to 2 points: Committed leverage of HOME and/or Community Development Block Grant (CDBG) Funds; in Balance of State, Projects with the acceptance of HOME as gap funding source included in application will qualify for point; this also includes Projects in Participating Jurisdictions that are awarded Tax Increment Financing (or another OHCS approved place-based economic development fund) by Participating Jurisdictions in lieu of HOME for gap funding sources.
	Federal Subsidy Leverage	Up to 2 points: Use of National Housing Trust Funds to fund 30% AMI; or the addition of new federal rent assisted units
	Cost Effectiveness	Up to 1 point: Total Development Cost, excluding acquisition costs, per bedroom that is in the lowest half of the Applicants in the set-aside or regional pool. Projects competing in the same allocation 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.).
	LIHTC Effectiveness	Up to 3 points: Total LIHTC requested per bedroom. Projects competing in the same allocation region or set-aside and building type will be grouped together to determine the average per bedroom total cost per unit basis and tax credit per bedroom (only counting bedrooms in Program assisted units); points will be attributed based on relative LIHTC subsidy per bedroom.
Funding Efficiency Total		**8 points**

		Up to 5 points: Development pro forma review: a. Pro forma includes only realistic, balanced, and available resources in 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 Negative five (-5) points for 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) is applicable, 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.
	Financial Viability	Up to 5 points: Operating pro forma review: 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, or as adequately explained. 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 portion of the

		residential portion of the Project.
	Readiness to Proceed	Up to 2 points: Funding commitment for planned Project funds.
		1 point: If funding commitment is pending (aside from Rural Development); explanation of when other sources of funds will be available to the Project if not already committed.
		1 point: Demonstrated ability to begin construction within 12 months.
		1 point: Proposed Project schedule appears adequate and reasonable.
		1 point: Explanation of why Project must be funded now as opposed to future NOFAs.
Project Readiness Total		**16 points**
	MWESB Capacity	Up to 4 points, scaled: Plans to engage MWESB. all Applicants will be required to identify strategies, targets, and previous experience utilizing MWESB contractors/subcontractors in the construction and operation of the proposed 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 Form 8609.
	Development Team Experience	Up to 3 points: General Partner or Development Consultant with successful LIHTC Projects that have received 8609s within the last 10 years on 1-2 Projects.
		Up to 2 additional points: General Partner with successful LIHTC Projects that have received 8609s within the last 10 years on 3 or more Projects.
		Negative 1 point: General Partner that has been removed from a partnership or faced foreclosure proceedings.

	Performance	Up to 2 points: OHCS Portfolio Compliance Criteria: i. Most recent Real Estate Assessment Center (REAC) score. ii. Most recent Physical Review. iii. Most recent File Review. iv. Most recent Resident Services Review. v. Most recent Response Review. vi. Certification of Continuing Program Compliance (CCPC) submission received for current year shows compliance. vii. Ongoing compliance issues.
		Up to 3 points: OHCS Portfolio Viability Criteria: i. Financial submission as requested. ii. Most recent financial audit is closed. iii. Most recent audited financials Debt Coverage Ratio. iv. Asset management community evaluation completed satisfactorily.
Development Team Capacity Total		**14 points**
	Development History	Negative 5 points: Prior poor development performance, i.e., development teams that have had documented material changes from Project application that received a funding reservation prior to placed-in-service.
Total Points Available		**103 points**

LIHTC Requirements and Processes

LIHTC Reservation

(i) **Requirements for Reservation**: Those Projects selected by OHCS as a Recipient of LIHTCs will be issued a LIHTC Reservation, Carryover Allocation, and Form 8609 only if they meet the requirements set out in OHCS's documentation. OHCS may disqualify the Project/Application and cancel the LIHTC Reservation and Carryover Allocation for any Project if these requirements are not met by the deadlines set by OHCS.

(ii) **Reservation Period**: If the Applicant does not satisfactorily complete the conditions of the LIHTC Reservation Letter and/or the Carryover Allocation Agreement, OHCS may rescind the LIHTC Reservation for the Project. OHCS may reallocate any 9% LIHTCs returned or recinded. OHCS will require each Applicant that has received a LIHTC Reservation to demonstrate the Project is making satisfactory progress towards completion through regular progress reports.

(iii) **No Representation or Warranty**: Issuance of an OHCS funding resource Reservation shall not constitute or be construed as a representation or warranty as to the feasibility or viability of the Project, or the Project's ongoing capacity for success, or any conclusions with respect to any matter of federal or State law. All OHCS resources are subject to various State and federal regulations governing the specific Program from which they are obtained, and Applicants are responsible for the determination of their Project's eligibility and compliance consistent with all Project requirements.

(iv) **Determination of LIHTC Allocation Authority Year**: When making a Reservation of LIHTC, OHCS reserves the right to make an allocation of a future year's credit ceiling (Forward Allocation). Such Allocation(s) may be full or partial for the Project(s). The applicable QAP will be the plan in place for the earliest funding cycle in which an award of funds is received.

Carryover Allocation Requirements

(i) **9% LIHTC Carryover Allocation Agreement**: 9% LIHTC Applicants, on or before November 1st of the LIHTC Allocation Authority Year, must submit either an Application for LIHTC Carryover Allocation (if the Project is still in the construction phase), or a Final Application indicating the Project has been placed-in-service. All LIHTC Carryover Allocations will be made on a per Project basis. The LIHTC amount that qualifies for a Reservation to any Project is the lump sum amount of available to each qualified building in the Project. The actual amount of LIHTCs available for any specific building will be apportioned from the lump sum Carryover Allocation of Credit and determined when that building satisfies the placed-in-service allocation requirements.

(ii) **Ten Percent (10%) Carryover Test for 9% LIHTC Projects**: Within twelve (12) months of the date of the Carryover Allocation Agreement, the 9% LIHTC Applicant must demonstrate to the satisfaction of OHCS that it has incurred more than ten percent (10%) of the reasonably expected basis of the Project by certifying to OHCS that it has fulfilled this requirement and by submitting a CPA's certification.

The CPA's certification should itemize all of the costs incurred to satisfy the ten percent (10%) requirement. If the Applicant is itemizing any portion of the developer fee or consultant fees for purposes of satisfying the ten percent (10%) requirement, the certification must contain a detailed breakdown of the services performed by the developer and each consultant and the amount of the fees apportioned to each service. The Applicant must also submit a copy of all developer and consultant contracts as well as an itemized statement apportioning the fees earned to each service provided.

OHCS may require the Applicant to submit additional documentation of the costs reflected in the certification and OHCS may limit or exclude certain costs if it cannot determine that they are reasonable and appropriate.

Exchange of 9% Credit Award for Subsequent Year's Credit Allocation

(i) **Request Process**: Once an Applicant has received a Reservation of LIHTCs, the Applicant has the responsibility to complete the Project by the timelines identified in IRC Section 42 and as outlined in the QAP. OHCS reserves the authority to exchange an Allocation of Credits from one (1) year for the same amount of Credits in a subsequent credit year. Applicants must demonstrate good cause to return their Reservation to OHCS, and as such the Applicant has a one (1) time option to return its allocation to OHCS, as follows:

No later than March 31 of the year following the Reservation of LIHTCs, an Applicant may request to return its allocation and exchange it for an award of the same amount of credits from the next credit year as the amount returned.

For example, a 2022 awarded Project that receives a forward reservation of 2023 tax credits can exchange those credits, if requested by March 31, 2023, to receive an allocation of 2024 credits. This is necessary if the Project will not be placed in service by December 31, 2023 but instead will be placed in service by the end of 2024.

After LIHTCs have been returned, an Applicant may apply for additional LIHTCs. Projects must comply with the requirements applicable in the initial year of award and all representations made in the initial Application (unless specifically and explicitly waived by OHCS). OHCS must have a Project to which it can award current-year LIHTCs.

Considerations

Reservation of Rights

(i) Project/Request Denial. OHCS, in its sole discretion, may reject an Application where the Applicant, Owner, Principal, or other Participant with respect to the proposed Project, previously has done any of the following:

a. Failed to complete a Project in accordance with requests or certified plans presented to OHCS or other public or private allocating agencies.

b. Failed to complete a Project within the time schedule required or budget indicated in the request.
c. Failed to effectively utilize previously allocated Program funds and was notified of such failure to meet appropriate utilization in advance of request or NOFA closing date.
d. Been found to be in non-compliance with Program rules as evidenced by OHCS or other public or private Allocating Agency Project monitoring and missed the cure time deadline given in writing.
e. Been debarred or otherwise sanctioned by OHCS or other state, federal or local governmental agency.
f. Been convicted within the last ten (10) years of criminal fraud, misrepresentation, misuse of funds, or moral turpitude or currently is under indictment for such an offense.
g. Been subject to a bankruptcy proceeding within the last five (5) years.
h. Otherwise displayed an unwillingness or inability to comply with OHCS requirements.

OHCS reserves the right to disapprove any Application if, in OHCS's judgment, the proposed Project is not consistent with the goals of providing decent, safe and sanitary housing for low-income persons. OHCS may impose additional conditions on Project Applicants for any Project as part of the Application, Reservation or Allocation processes.

Documentation of Discretion

OHCS may, at its sole discretion, award credits in a manner not in accordance with the requirements of the QAP. If any provision of this QAP (or documents incorporated herein by reference) is inconsistent with any provisions (current or as amended) of IRC Section 42, corresponding Treasury Regulations, and applicable IRS guidance, or any existing State Laws or State Administrative Rules governing the LIHTC Program, the provisions of IRC Section 42, corresponding Treasury Regulations, and applicable IRS guidance, State Laws or State Administrative Rules take precedence over the QAP.

Policy on Exceptions/Waiver Requests

All OHCS policies, other than those mandated by Section 42 of the Code, are considered as guidelines and may be waived by OHCS at its sole discretion. A written request for a waiver or exception, accompanied by justification, may be submitted to OHCS. QAP waivers will be documented for all Projects and regular periodic publications of waivers will identify the Applicant, the QAP provision waived, and the reason for waiver. In addition, the summary for Projects recommended for funding may identify and explain waivers granted for any Projects listed.

Applicants, lenders, or syndicators must submit any request for a waiver or exception to a policy in writing with a full justification at least 30 days prior to the construction/equity closing date for Applications. Furthermore, OHCS reserves the right to waive any provision or requirement of the QAP that is not stipulated in Section 42 of the Code in order to affirmatively further fair housing.

If OHCS acts contrary to or fails to take action in accordance with this Plan or any other Program Requirement, such act or omission does not constitute a waiver by OHCS of any obligation on the part of a Project, person or entity to comply with the provisions of this Plan or other Program Requirements, or establish a precedent for any other Project, person or entity. In any event, no waiver, modification, or change of a requirement set forth in an OHCS Program Manual, or of any other Program Requirement will be binding upon OHCS unless set forth in writing, signed by an authorized agent of OHCS, and consistent with law.

Partial Invalidity

If any provision of this QAP, or the application of this Plan to any person or Project, is found by a court to be invalid or unenforceable, the remainder of this Plan, or the application of that provision to persons or circumstances other than those with respect to which the provision was held invalid or unenforceable, shall not be affected. Each provision of the Plan shall be valid and enforceable to the fullest extent permitted under State or federal law.

Disclaimer

Issuance of a LIHTC reservation pursuant to a Reservation and Extended Use Agreement, a LIHTC Carryover Allocation (Carryover) or a placed in service allocation as indicated by OHCS or the IRS Form 8609, shall not constitute or be construed as a representation or warranty as to the feasibility or viability of the Project, or the Project's ongoing capacity for success, or any conclusion with respect to any matter of federal or state income tax law. All LIHTC allocations are subject to the Code and corresponding Treasury Regulations governing the LIHTC Program, and Applicants are responsible for the determination of a Project’s eligibility and compliance. If statements in this QAP are in conflict with Section 42 of the Code and corresponding Treasury Regulations, the Code and such regulations shall take precedence. While this QAP and the applicable NOFAs govern OHCS's process of allocating LIHTC, Applicants may not rely upon this OHCS's interpretations of Code requirements.

No executive, employee or agent of OHCS, or of any other agency of the State, or any official of the State, including the Governor, shall be personally liable concerning any matters arising out of, or in relation to, the allocation of the State's LIHTC allocation, or the approval or administration of this QAP.

Lenders and investors should consult with their own tax or investment counsel to determine whether a Project qualifies for LIHTCs, or whether an investor may use the LIHTCs, or whether any Project is commercially feasible.

Violations

OHCS may exercise any of the Remedies described below if:

- The Applicant fails to comply with any Program Requirement including, but not limited to, the timely payment of charges and fees and the execution and recording of documents satisfactory to OHCS;
- OHCS determines the Applicant or other Program participant made a material misrepresentation, affirmatively or by omission;
- OHCS determines the Applicant or other Program participant is debarred from accessing Program resources or otherwise is not a qualifying Applicant; or
- The Applicant, Owner, or other Program participant defaults with respect to any Program Requirement or obligation to OHCS.

OHCS will have no duty, obligation, or liability to the Applicant, the lender, the tax credit investor, or other related Program participant for exercising such remedies. Applicant and related Program participants, including lenders and tax credit equity investors, expressly waive any claims, causes of action or other remedies against OHCS with respect to a disqualification, cancellation, or modification as described above as a condition of Applicant's filing of its Application or their participation in the Program.

Remedies

In the event of any failure to adhere to the terms of this Plan or any Program Requirements, including as described above in the Violations section, OHCS may elect to pursue any and all remedies available to it under the Program Requirements, including executed documents, or otherwise available to it at law. These remedies include, but are not limited to:

(i) Cancellation of an Application.
(ii) Revocation or modification of an Allocation Credit or other award of OHCS resources.
(iii) Debarment of person or entity from accessing OHCS Programs.
(iv) Recoupment of allocated or disbursed resources.
(v) Specific enforcement.
(vi) Actions for direct, indirect, consequential or punitive damages.
(vii) Appointment of a Project receiver.
(viii) Foreclosure of secured interests or otherwise.

Furthermore, OHCS may, and specifically reserves the right to, modify, waive, or postpone any restrictive covenants or equitable servitudes with respect to the Project or any part thereof.

No Third-Party Liability: Nothing in the Program Requirements is intended, or shall be construed, to create a duty or obligation of OHCS to enforce any term or provision of the Program Requirements or exercise any remedy on behalf of, at the request of, or for the benefit of, any former, present, or prospective resident. OHCS assumes no direct or indirect obligation or liability to any former, present, or prospective resident for violations by the Applicant, Owner or any other Program participant.

Effective Date

This Qualified Allocation Plan shall be effective upon its approval and execution by the Governor.

Appendix

Appendix: Underwriting Criteria

Appendix 1 – Underwriting Standards

Program Limits:

OHCS has established the following Program Limits for evaluating Projects. The Applicant should demonstrate in the Application compliance with all of the Program Limits. In determining the amount of Program resources to allocate to a Project, OHCS may reduce the budget and funding amounts to reflect the Program Limits listed below. If the Applicant varies from the following Program Limits, mitigating factors must be provided by the Applicant, which factors will be subject to OHCS consideration in its sole discretion.

i. Maximum Construction Contingencies included in LIHTC Determination:

The maximum amount of LIHTCs reserved or allocated to a Project will be determined after limiting the rehabilitation contingency to ten percent (10%) of the rehabilitation costs and the new construction contingency to five percent (5%) of the new construction costs. Rehabilitation costs include rehabilitation hard costs, site work costs, general conditions, and contractor profit and overhead. New construction costs include new construction hard costs, site work costs, general conditions, and contractor profit and overhead.

ii. Maximum Developer Fees

OHCS will consider a Maximum Developer Fee, as specified in the table below; calculated as the Developer Fee plus Consultant Fees divided by the Total Project cost minus Acquisition, Developer Fee, Consultant Fees and Capitalized Reserves.

The table below sets forth the maximum Developer Fees allowed under the LIHTC Program Limits.

$$\frac{\text{Developer Fee } \textbf{PLUS} \text{ Consultant Fee}}{\text{Total Project Cost } \textbf{MINUS} \text{ Acquisition, Developer Fee, Consultant Fee, Capitalized Reserves}}$$

Project Size	9% LIHTC New Construction	9% LIHTC Acquisition/ Rehab	4% LIHTC New Construction	4% LIHTC Acquisition/ Rehab
<31 Units	18%	20% + $4,000/unit OR + $5,500/unit for Preservation	20%	22% + $4,000/unit OR + $5,500/unit for Preservation
31-75 Units	16%	18% + $4,000/unit OR + $5,500/unit for Preservation	18%	20% + $4,000/unit OR + $5,500/unit for Preservation
76-100 Units	14%	16% + $4,000/unit OR + $5,500/unit for Preservation	16%	18% + $4,000/unit OR + $5,500/unit for Preservation
100+ Units	12%	14% + $4,000/unit OR + $5,500/unit for Preservation	14%	16% + $4,000/unit OR + $5,500/unit for Preservation

For this purpose, Developer Fees shall be deemed to include all consultant fees (other than arm's length architectural, engineering, appraisal, market study and syndication costs), and all other fees paid in connection with the Project for services that would ordinarily be performed by a developer, as determined by OHCS.

The Developer Fee, as represented by a percentage calculated as described above, will be set at the time of the construction/equity closing based on the Project's final budget after construction bids have been accepted and final sources and uses have been balanced. If the developer fee will exceed the amount in the application, it must be due to justifiable increases in the scope of work and the developer fee must still be within OHCS's approved applicable maximum for the Project. The fee presented in the Placed-in-Service documentation may not exceed the total percentage (including deferred and cash payments) allowable in the chart above.

For any cost to be included in tax credit basis, the cost must be an eligible cost and in the case of deferred developer fees, the fees must be due and payable at a certain date (generally within a time period that does not exceed fifteen (15) years). Cash-flow projections must support the expectation of repayment. If repayments are not projected annually in the pro forma, the portion not projected to be repayable will be removed from eligible basis.

iii. Operating Expenses

Operating expenses will be reviewed for reasonableness within the budgets submitted. Applicant may be required to submit documentation (including for example three years of audited financials for rehabilitation Projects) to substantiate that any or all of the Project's revenue or costs are reasonable. OHCS will review this documentation against its portfolio and take into consideration input from lenders and investors.

iv. Maximum Contractor's Profit and Overhead

When the general contractor is a Principal, related party or otherwise has an Identity of Interest with the Applicant or Project Owner, OHCS will limit the general contractor's combined profit, general conditions and overhead to an amount not to exceed ten percent (10%) of total rehabilitation/construction costs plus site work costs. All others will be limited to a combined profit, general conditions and overhead amount of up to fourteen percent (14%) of total rehabilitation/construction costs plus site work costs.

Inappropriate Use of Resources

(i) Debt Reduction

Program resources may not be used to buy down or refinance existing debt.

(ii) Reimbursement for Prior Construction

Program resources may not be used to reimburse construction or rehabilitation work started or completed within six (6) months before a 9% Application or approved intent resolution for 4% LIHTC.

Financial Feasibility

i. Sources and Uses Statement:

The Applicant must submit the Sources and Uses statement with its Application or as otherwise required by OHCS**.** The Sources and Uses statement must describe all of the funds or sources to be used to pay for Project costs and the intended uses of such funds. The Sources and Uses statement must identify each separate source and use and the estimated timing of final approval for each. The sources and uses must balance fully and no source may be identified as unknown. If any sources or uses are identified as unknown at the time of review, the Application may be deemed incomplete and removed from further processing.

Below are the LIHTC program pro forma required financial assumptions:

Acquisition cost must be supported by an appraisal	
Construction Inflation Factor/Cost Escalator (Applies to separate line item above and beyond construction bid)	3 % of total construction cost
Contractor Profit, General Conditions and Overhead – non Identity of Interest (Does not include insurance)	14% of total construction cost or less
Contractor Profit, General Conditions and Overhead – Identity of Interest (Does not include insurance)	10% of total construction cost or less
Soft Costs	30% of Total Project Cost or less
Operating Reserve	Generally, six (6) months of operating expenses or lender / investor conditions

Lease Up Reserve	Submit cash flow analysis utilized to determine the amount
Reserve for Replacement (Capitalized)	Submit evidence of the partner lenders and/or investors to document their requirement. Minimum guideline of $350 per unit per year, $300 for Senior Projects

ii. Operating Pro Forma:

The Applicant must submit with its Application an operating pro forma for the Project, satisfactory to OHCS, demonstrating financial feasibility and viability of the Project for a typical twenty (20)-year permanent loan period. Different Programs may have different compliance periods and OHCS may require that the operating pro forma address relevant compliance periods. In addition, the Applicant must demonstrate that the Project will continue to be economically feasible and have adequate replacement reserves for an extended use period of an additional fifteen (15) years after the initial compliance periods. The operating pro forma must list each of the compliance periods and extended use periods separately and include assumptions, notes and explanations regarding the respective income and expense projections.

Absent a long-term commitment (in excess of ten (10) years), Projects with rental assistance must demonstrate financial feasibility, excluding the rent subsidy.

If the Project includes commercial and/or other non-residential space, the Applicant must submit the following information and supporting documentation in addition to the residential pro forma requested above:

a. A breakdown of the total residential and commercial Project costs;
b. A list of the financing sources for the commercial areas;
c. The owners and management agent of the commercial areas;
d. A twenty (20) year operating pro forma for both the residential and commercial areas; and
e. Such other information as OHCS may require.

The pro forma must contain the following data:

a. Growth assumptions that are typically estimated at two percent (2%) per year for income and three percent (3%) per year for expenses.
b. Estimates of income and expenses that are well documented by actual historical amounts, comparable income or expense studies, Applicant market assessment, a market study, or an appraisal.
c. Such other information as OHCS may require.

The pro forma also must address the following industry benchmarks:

a. A vacancy rate of not less than seven percent (7%); if a different rate is used, explanation must be provided in the Financial Description section of the Application.
b. An expense ratio and expenses per unit properly scaled to the size and scope of the improvements, the cost of local utilities and taxes and the makeup of the tenant population served.
c. Replacement reserves properly scaled to the size and scope of the improvements and the age and condition of the property. Minimum guideline of $350 per unit per year, $300 for Senior Projects; amounts in excess will be allowed if reasonably justified by Capital Needs Assessment and / or lender conditions.
d. Operating Reserves are generally six (6) months of operating expenses or lender / investor conditions.

While OHCS will use certain benchmarks and industry best practices to evaluate the information, each pro forma will be separately assessed based on its reasonable and well-documented projection of income and expenses to determine if it effectively demonstrates the Project’s financially feasibility and viability.

iii. Minimum Debt Coverage Ratio

The minimum Debt Coverage Ratio (DCR) will be 1.15:1 for all hard amortizing debt through the initial 20-year pro forma period. Projects with debt coverage ratio that exceed 1.30:1 may be eligible for less credit amount than calculated. Projects are underwritten on an individual basis in concert with the lenders to determine an appropriate DCR and perform subsidy layering.

iv. Debt Underwriting:

Many Projects require hard amortizing debt as one of the sources of funds. If there is hard amortizing debt, the proposed debt service coverage, and breakeven ratios must be in conformance with OHCS limits and industry norms noted previously. If there is no mortgage debt, then the pro forma must demonstrate a stable positive cash flow over 20 years.

Development Team Capacity

i. Previous Experience

The Applicant must demonstrate to the satisfaction of OHCS that the Applicant, the developer, the Project management consultant, the general contractor, the development consultant under contract and/or other persons or organizations materially involved in the acquisition, construction, rehabilitation, development, or improvement of the Project have:

a. Successfully completed a multi-family housing project of a comparable number of housing units, of similar complexity, and for a similar target population as the proposed Project.
b. The necessary level of staffing and financial capacity to successfully manage development and operations of the current Project portfolio, including, but not limited to, all current and pending Projects and Applications.
c. Successfully completed previous projects for which a similar Program allocation was received in Oregon or other states with no extensions or minimal carryovers.

If the Applicant is using a development consultant to show this capacity, the Applicant must also submit a copy of the executed contract detailing terms, conditions, and responsibilities between the Applicant and the development consultant at the time of Application submission.

Property Management Capacity

If the Applicant is going to employ a property manager with respect to the Project, the Applicant must provide a document detailing the experience level of the proposed property management firm and demonstrating that the firm has successfully managed:

a. a multi-family housing development of a comparable number of housing units and/or of a similar complexity as the proposed Project; and
b. a multi-family assisted or subsidized housing development with local, state, and/or federal operating requirements comparable to those of the requested Program.

OHCS will review the initial implementation of, and any changes of management agents, including Owners who are proposing to manage properties as Owner. OHCS policy requires 60 days' notice prior to any change. The owner must submit the proposed new agent plan and qualifications to the Asset Management & Compliance section of OHCS. OHCS will review the materials and approve, conditionally approve, or disapprove the proposed agent. Management agents and/or Owners responsible for LIHTC compliance must attend LIHTC training and receive a certification from a nationally recognized LIHTC compliance trainer. Any exceptions to this policy will be made solely at the discretion of OHCS.

Financial Capacity:

As disclosed in the Application or other required information, the Applicant's financial condition must not contain any adverse conditions that might materially impair the Applicant's ability to perform its financial obligations during the construction or stabilization of the Project.

OHCS Sole Discretion

OHCS reserves the right to determine at application, reservation and/or at any point during the underwriting process and at its sole discretion, whether the Third-Party Letters of Interest or Intent, Award Letters, or Commitment Letters are satisfactory, and whether a lender or investor possesses the financial or other capacity to make a specific loan or investment. A change in the Project's financing structure or financing terms after Reservation of OHCS funds must be brought to the attention of OHCS. OHCS may in its sole discretion re-underwrite the Project, which may result in all or a part of OHCS resources being recaptured or reduced by, or returned to, OHCS.

Project/Request Denial

OHCS may reject an Application where the Applicant, Owner, Principal, or other participant with respect to the proposed Project, previously has:

a. Failed to complete Projects in accordance with requests or certified plans presented to OHCS or other public or private allocating agencies.
b. Failed to complete a Project within the time schedule required or budget indicated in the request.
c. Failed to effectively utilize previously allocated Program funds and was notified of such failure to meet appropriate utilization in advance of the request or NOFA closing date.
d. Been found to be in non-compliance with Program rules as evidenced by OHCS or other public or private Allocating Agency Project monitoring and missed the cure time deadline given in writing.
e. Been debarred or otherwise sanctioned by OHCS or other state, federal or local governmental agency.
f. Been convicted within the last ten (10) years of criminal fraud, misrepresentation, misuse of funds, or moral turpitude or currently is indicted for such an offense.
g. Been subject to a bankruptcy proceeding within the last five (5) years.
h. Otherwise displayed an unwillingness or inability to comply with OHCS requirements.

OHCS reserves the right to disapprove any Application if, in OHCS's judgment, the proposed Project is not consistent with the goals of providing decent, safe and sanitary housing for low-income persons. OHCS may impose additional conditions on Applicants for any Project as part of the Application, Reservation or Allocation processes.

Financial Solvency

As part of the Application and at such other times as required by OHCS, the Applicant must provide a certification with respect to the financial solvency of the Applicant, the Project and certain Project participants in the form required by OHCS.

If the certification discloses any financial difficulties, risks, or similar matters that OHCS believes in its sole discretion might materially impair or harm the successful development and operation of the Project as intended, OHCS may:

i. Refuse to allow the Applicant or other participant to participate in the Tax Credit Program or other OHCS Programs.
ii. Reject or disqualify an Application and cancel any LIHTC Reservation or allocation.
iii. Demand additional assurances that the development, ownership, operation, or management of the Project will not be impaired or harmed (such as performance bonds, pledging unencumbered assets as security, or such other assurances as determined by OHCS).

Take such other action as it deems appropriate.

The Applicant must also immediately disclose if there is a material change in the matters addressed in the certification throughout the Application process and throughout the development and operation of the Project. Failure to do so may result in a loss of Reservation.

Appendix 2 – Public Comment

QAP Public Comment		
From	**Organization**	**Date**
Tracy Manning	Housing Development Center	12/20/2021
Jill Chen	Portland Housing Bureau	12/18/2021
Rob Prasch	Network for Oregon Affordable Housing	12/17/2021
Fletcher Ray	Wishcamper Development	12/17/2021
Michael Luzier	Home Innovation Research Labs	12/16/2021
Jonathan Trutt	Home Forward	12/14/2021
Nick Sauvie	Rose CDC	12/7/2021
David Brandt	Housing Works	12/3/2021

Housing Development Center

524 E Burnside Street, Ste 210
Portland, OR 97214
503-335-3668

HDC-NW.ORG

Thank you for the opportunity to comment on the Draft 2022 QAP. Housing Development Center is providing comment on two items.

<u>QAP Draft Page 9 (10) – 4% LIHTC commitments</u>

Proposed Language – "The 4% LIHTC commitments will be ...following prioritization schedule outlined by the department.

1. Pairing 4% LIHTCs with competitive fund offerings in Notice of Funding Availabilities (NOFAs).
2. Rental Assistance Demonstration, HUD Section 18, and significant funding commitment from local jurisdictions such as the Portland/Metro Bond fund applications.
3. 4% LIHTC applications will be prioritized based on key factors supporting alignment with the Statewide Housing Plan. Additional details will be included in a future update to the Qualified Allocation Plan as needed"

Comments – HDC is supportive of the Statewide Housing Plan, and particularly the efforts being made toward equity and PSH. There are projects that have strong equity and/or PSH components that, due to equity from local funding, do not require competitive NOFA resources. For instance, HDC's project with Bienestar, Nueva Esparanza, will have a strong equity component due to Bienestar's outstanding community engagement efforts. Fortunately, due to local funding commitments, the only competitive State resource it requires is 4%/Bond. However in future rounds, it appears that this project could be ranked #3 and not be realized based on the 2022 QAP as currently drafted.

<u>QAP Draft – Maximum Developer Fees</u>

This item was not proposed by staff as a change. However, based on a recent meeting with Tai Dunson-Strane and several members of his team, we understand there is inconsistent understanding and application of the maximum fee policy. The policy could be made more clear to alleviate this issue by making the following changes. Note that these changes remain consistent with the cash developer fee requirements in existence or currently being adopted by some local jurisdictions (City of Portland, Metro Bond jurisdictions).

Current Language, Page 56-57 "The Developer Fee will be set at the time of the construction/equity closing based on the Project's final budget after construction bids have been accepted and final sources and uses have been balanced, but will not exceed the amount in the application without approval which will be at the sole discretion of

OHCS and will not be unreasonably withheld for justifiable increases in the scope of work, as long as the developer fee does not exceed OHCS's approved maximum developer fee. The fee presented in the Placed in Service documentation may not exceed the amount finalized at closing."

Proposed Language, "The *percentage of total* Developer Fee will be set at the time of *final application as allowable per the Code.*** ~~the construction/equity closing~~ based on the Project's final budget after ~~construction bids have been accepted and~~ final sources and uses have been balanced, but will not exceed ~~the amount in the application without approval which will be at the sole discretion of OHCS and will not be unreasonably withheld for justifiable increases in the scope of work, as long as the developer fee does not exceed~~ OHCS's approved maximum developer fee. The fee presented in the Placed in Service documentation may not exceed the ~~amount~~ *total percentage (deferred and cash)* ~~finalized at closing~~ as allowable per code."

****This language mirrors the language on QAP page 13** *"If there is a material increase in LIHTC pricing subsequent to a reservation Tax Credits...(iii) A portion of the increase may be used for necessary justifiable cost increases or to reduce deferred developer fee, as allowable per the Code."*

Thank you again for the opportunity to maintain an open dialogue. If you have any questions at all, or want to follow-up, please don't hesitate to reach out. I'm at 503-380-4300, Traci@HDC-NW.org.

Very best,

Traci Manning
Executive Director

Portland Housing Bureau Comments on 2022 QAP

Issue	Page, Line	Comments & Feedback
Prioritization #1 of 4% LIHTC	p9, L13	Prioritization pairing 4% LIHTC with competitive NOFAS. If OHCS is referring to NOFAs under the Dept. only, it seems the most expeditious route to obtain 4% LIHTC is to apply for OHCS funding for the lowest funding possible even if funds are necessarily needed and check as many "boxes" under the QAP scoring ("game" the system). How will OHCS balance this process?
Prioritization #2 of 4% LIHTC	p9, L15	Rental Assistance Demonstration, HUD Section 18, and significant funding commitment from local jurisdictions are grouped together as Priority #2. How will OHCS distinguish between projects with these priorities given there is insufficient 4% LIHTC/PABs to address all projects that are already under this category? In addition, some forms of local funding, such as the Portland/Metro Bond funds, must be committed within a certain time. Will these funding sources be prioritized based on when these funds must be committed? Will those projects awarded significant local funding be required to go through a separate OHCS NOFA, in order to obtain 4% LIHTC/PABs? How will OHCS prioritize the numerous local funding awards with limited available 4% LIHTC/PABs?
Affordability Period	p7, L19 & p18, L1	Since 4% LIHTC/PAB is competitive, then increases in the affordability period should be reflected in the point system/scoring criteria so LIHTC's value is reflective in years of affordability where there currently is none and 4% LIHTC requires only 30 years affordability. Additional points could be granted on the selection criteria on a graduated basis (i.e. to 60 years are given 2-5 points and to 99 years are given additional 2-5 points).
Serving the lowest income residents	p7, L18 p34	Under Servicing Lowest Income – AGMI, points are given for serving the lowest AMI, but there is no consideration in the 9% LIHTC scoring if the project is serving these residents on an unsubsidized basis (i.e. no rental support). There could be a clear graduated scale based on % of units serving very low income 30% AMI residents without vouchers to increase the total numbers of available very low-income units since vouchers is also a scarce resource in many jurisdictions.
4% LIHTC Application & Timing	p13-14	Please explain the two-part process for accepting 4% LIHTC applications. Since 4% LIHTC is competitive, it will be hard of developers/local jurisdictions to move forward with predevelopment loans without knowing if a 4% LIHTC is secured and the approximate date for financial close (so project costs can be estimated).

		The requirement to close on the construction financing within 180 days of LIHTC application acceptance letter issuance date may not be possible given predevelopment usually takes longer than 180 days.
4% Tax Credits any set asides?	p10-11	As 4% LIHTC is competitive, will the 4% LIHTC be set aside in similar fashion as 9% LIHTC? Current 9% set aside for preservation at 25%, tribal at 10% and regional at 65% may not be appropriate given the demand for 4% LIHTC associated with the Metro Bond funding. Will any set asides of this resource mean Priority #2 projects will not be met?
Equity (MWESB)	p18, L34	Current QAP ask about "…identifying ways and/or targets … to contract …" but has no targets for contracting and does not reward for proven experience or outcomes. In addition, QAP info on p38 & p44 is vague on requirements.
Selection Criteria	p31 onwards	Which of the selection criteria for 9% LIHTC will apply to the 4% LIHTC? And will there be separate competitions or allocations for New Construction vs. Acquisition/Rehabs (and for Acqn/Rehab, will these be for already regulated vs. those that are converting from market to affordable)? Will there be separate allocations / evaluation to address Statewide Housing Plan, i.e. PSH, family focused, etc.? And how will OHCS evaluate those projects that are already gone through a local solicitation and are fully funded **except for** the availability of 4% LIHTC?
Underwriting Criteria – Contingencies	p55	Current maximum amount of LIHTCs reserved or allocated to a Project will be determined after limiting the rehabilitation contingency to 10% of the rehabilitation costs and the new construction contingency to 5% of the new construction costs. Given commodity hikes, shortages of labor and supplies, and increased inflation, will OHCS consider temporary increasing these to 15% and 10%.
Underwriting Criteria – Uses Sources Statement	p58	Construction Inflation Factor/Cost Escalator is 3%. Will OHCS allow an increase to 5% on a temporary basis due to same issues as above.
Underwriting Criteria – Developer Fees	p56-7	Given limitations on 4% LIHTC/PAB, will OHCS consider lowing the levels of acceptable developer fees? And given fact that Metro has published a maximum net cash developer fee, will OHCS consider capping net cash developer fees?

noah
Network for Oregon Affordable Housing

Memorandum

December 17, 2021

To: HCS.QAP@oregon.gov

CC: Angela Parada

From: Rob Prasch, NOAH

RE: Comments on draft 2022 Qualified Allocation Plan

Please accept these comments regarding the draft 2022 Qualified Allocation Plan.

Credit Overview, Set-Asides, 25% Set-Aside, Definition beginning on pages 9 - 10

Preservation Projects Set-Aside
Defined as Projects with at least twenty-five percent (25%) of the residential units have federal Project-based rent subsidies AND the HUD Section 8 contract is expiring or the USDA Rural Development (RD) loan is maturing within 7 years, or RD restrictive use covenants have expired.

After "RD restrictive use covenants have expired", I recommend adding "and the project is eligible to prepay its RD direct mortgage". A project with an expired restrictive use covenant cannot exit the program unless it also has the right to prepay.

I also suggest Rural Development projects having a maturing mortgage within 3 years of the date of application, or where the owner has a pending mortgage prepayment request, be prioritized for funding.

Minimum Thresholds for Application – 4% and 9% LIHTC, (i) Long Term Affordability, page 18

I recommend requiring a 60-year affordability period for both 9% and 4% LIHTC awards. With private activity bonds constrained for the foreseeable future, OHCS will soon begin rationing this critical resource. The Department has already announced a pause on new PAB-4% applications until a competitive process can be designed and implemented. Given the high demand, it's time for the Department to require 60-year affordability for bonds and 4% credits as it does for 9% LIHTC awards and for most other OHCS funding sources. Afterall, the state is buying affordability with these scarce resources.

1020 SW Taylor, Suite 585 | Portland, OR 97205 | P: 503.223.3211 | F: 503.223.0663 | info@noah-housing.org
www.noah-housing.org

(vi) Asset Management Compliance and Project Monitoring, pages 19 - 20

I strongly recommend extending OHCS's monitoring, compliance and enforcement responsibilities through the end of the LIHTC project 3-year safer harbor period which begins after expiration of the LIHTC Declaration of Land Use and Restrictive Covenants (Declaration). In the absence of OHCS monitoring and enforcement, residents impacted by an owner's noncompliance with the safe-harbor period which protects them against eviction and rent increases over the allowed LIHTC rents, must seek legal counsel in order to enforce these protections.

Minimum Thresholds for Application – 4% and 9% LIHTC (xi) on page 21. I strongly support the new proposed language designed to strengthen the non-profit Right of First Refusal, including the provision allowing OHCS to debar project sponsors, investors, syndicators, or lenders having demonstrated a history of conduct detrimental to long-term compliance with extended use agreements, whether in Oregon or another state.

9% LIHTC – Scoring Selection Criteria, Preservation Scoring, Tenant Protections: page 40. It's important to note there are no Enhanced Vouchers or RD Vouchers issued on maturity of RD direct loans under the 515 or 514 programs. RD project rent restrictions and project-based Rental Assistance are terminate upon maturity of the mortgage.

The lack of any protections for residents of maturing RD properties should provide these properties the highest priority for OHCS preservation resources.

Thank you for the opportunity to review and comment on the 2021 proposed QAP.

Respectfully submitted,

Rob Prasch, Preservation Director
Network for Oregon Affordable Housing

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www.noah-housing.org

PARADA Angela * HCS

From: Fletcher Ray <fray@wishcamperpartners.com>
Sent: Friday, December 17, 2021 1:52 PM
To: Hcs_QAP * HCS
Subject: 2022 proposed QAP comments - Wishcamper Development Partners

To Whom it May Concern:

Wishcamper Development Partners is currently engaged in the creation of 897-units, and the rehabilitation of 130-units, of affordable housing throughout Oregon (Tillamook, Beaverton, Roseburg, Bend, and Woodburn). Wishcamper is also currently in the early stages of four additional new construction affordable housing projects that we hope to close in 2022 or early 2023 (Sandy, Medford, Newberg, Bend).

We largely support the amendments to the 2022 QAP as drafted. Our only comment relates to the proposed change in the Right of First Refusal language beginning on Line 26 of Page 23. At the end of this section, we propose adding the following language: "The aforementioned nonprofit ROFR can be subordinate to a for-profit GP purchase option, so long as the GP agrees to extend the affordability of the project for at least an additional 15 years."

Thank you,
Fletcher Ray

Fletcher Ray
Co-Managing Member
Wishcamper Development Partners
cell: 503.819.3521
fray@wishcamperpartners.com
wishcamperpartners.com

Home Innovation RESEARCH LABS™

December 16, 2021

Oregon Housing and Community Services
Attn: Angela Parada, Senior Tax Credit Programs
725 Summer St NE, Suite B
Salem, OR 97301-1266

Submitted electronically: HCS.QAP@oregon.gov; Angela.Parada@oregon.gov

CC: Kevin Burgee, Department Architect (Kevin.Burgee@oregon.gov)

Dear Ms. Parada:

On behalf of Home Innovation Research Labs, I respectfully request that NGBS Green certification based on the **ICC-700 National Green Building Standard** (NGBS) be recognized as an approved Sustainable Building path within the Oregon Core-Development Manual (CDM) and that this change be executed prior to the 2022 QAP allocation round.

The NGBS is as rigorous-if not more rigorous-than the green building programs currently included within the CDM—Earth Advantage, Enterprise Green Communities, and LEED for Homes. The NGBS is also comprehensive, cost-effective, and well-suited for affordable housing development.

Recognition of NGBS compliance would provide consistency in the housing industry. HUD recognizes NGBS Green certification for many of their programs, including their mortgage insurance premium reduction for green certified properties. Fannie Mae and Freddie Mac also recognize NGBS Green certification for their financing incentives. Last, because so many state QAPs recognize the NGBS, recognition in the Oregon QAP provides consistency across LIHTC programs.

National Green Building Standard Overview

The NGBS was the first residential green building rating system to undergo the full consensus process and receive approval from the American National Standards Institute (ANSI). Since 2008, each version of the NGBS has been approved by the American National Standards Institute (ANSI). The 2008, 2012, and 2020 versions were developed with support from the National Association of Home Builders (NAHB) and the International Code Council (ICC). For the third edition of the standard, the 2015 version, the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) participated as a third co-sponsor. This partnership further cements the NGBS as the preeminent green standard for residential construction.

The NGBS is also the first solely residential green building standard to be included within the ICC suite of I-codes that form a complete set of comprehensive and coordinated building codes. As the industry standard for green residential development, it is embedded within the International Green Construction Code (IgCC) as an alternative compliance path for multifamily residential buildings and the residential portion of mixed-use buildings. Finally, the NGBS is also approved as an ASHRAE standard.

As one of the I-Codes, the NGBS is written in code language to make it easy for industry professionals and contractors to understand. I believe this is one reason the NGBS has been successful even in areas where it is not part of the building code and is used as an above-code program. For a residential building to be in compliance, the building must contain all mandatory practices in the NGBS. The building must also contain enough practices from each of the six categories of green building practices to meet the required threshold points.[1] The six categories of green practices are:

- Lot & Site Development
- Resource Efficiency
- Energy Efficiency
- Water Efficiency
- Indoor Environmental Quality
- Homeowner Education

Under the NGBS, homes and multifamily buildings can attain one of four potential certification levels: Bronze, Silver, Gold, or Emerald. The NGBS was specifically designed so that no one category of green practices is weighted as more important than another. Peerless among other green rating systems, the NGBS requires that all projects must achieve a minimum point threshold in <u>every category</u> of green building practice to be certified. A project certified to the NGBS can't merely obtain all or most of its points in a few categories, as other rating systems allow. This requirement makes the NGBS the most rigorous green building rating systems available.

The NGBS's mandatory provisions must be met for certification at any level. There are no exemptions. However, unlike other green building rating systems, the NGBS contains an expansive array of green building practices aimed at all phases of the development process: design, construction, verification, and operation. This provides the flexibility builders and developers need to ensure their green projects reflect their geographic location, climatic region, cost constraints, and the type of project they are constructing.

[1] See page 12 in ICC 700-2020 NGBS.

Certification Program

Home Innovation Research Labs serves as Adopting Entity and provides certification services to the NGBS. Home Innovation Labs is a 57-year-old, internationally-recognized, accredited product testing and certification laboratory located in Upper Marlboro, Maryland. Our work is solely focused on the residential construction industry and our mission is to improve the affordability, performance, and durability of housing by helping overcome barriers to innovation. Our core competency is as an independent, third-party product testing and certification lab, making us uniquely suited to administer a green certification program for residential buildings. Our staff is made up of mechanical, structural, and electrical engineers; planners; economists; architects; former builders, remodelers, and contractors; lab and technicians. Combined, they possess an unparalleled depth of knowledge and experience in all facets of market analysis and building science research and testing. Why is that important? Because behind every building seeking NGBS compliance stands a team of experts on a mission to help them succeed. Participation in NGBS Green brings our building science expertise to each project team at no additional cost.

Independent, Third-Party Verification

The NGBS requires that a qualified, independent third-party inspect the project and verify that all green design or construction practices claimed by the builder toward green certification are incorporated correctly into the project. Most projects require at least two inspections. The verifier must perform a rough inspection before the drywall is installed to observe the wall cavities, and a final inspection once the project is complete. The required verification offers imbues an elevated level of rigor and quality assurance to the projects that are certified. An affordable housing organization can be assured that construction practices for higher building performance and healthier residences are successfully achieved.

Verifiers record the results of their rough and final inspections on a Verification Report, which is submitted to Home Innovation Research Labs. Home Innovation reviews every rough and final inspection to ensure national consistency and accuracy in the verification reports. After the Verification Reports are reviewed and approved, our team issues green certification to the project.
Home Innovation Research Labs qualifies, trains, tests, and accredits the NGBS Green Verifiers and maintains a current list at www.HomeInnovation.com/FindNGBSVerifier. Verifiers must possess experience in residential construction and green building. Many verifiers are Home Energy Rating System (HERS) raters. Potential verifiers are trained on how to verify every NGBS practice. After completing the training, verifiers must pass an exam and carry sufficient insurance to earn accreditation. Verifiers renew their accreditation annually and retrain and retest with every NGBS version.

Home Innovation maintains strict rules to ensure verifiers remain independent and free of conflict-of-interest on the projects for which they provide verification services. Verifiers serve as our field agents to confirm buildings are NGBS compliant. Further, we regularly audit our verifiers and their verifications as part of our internal quality assurance program.

Legislative and Regulatory Parity

The NGBS is consistently deemed as on par or more stringent than LEED and Green Communities as a green building rating system for residential projects. Below is a sampling of where the NGBS is recognized.

- On the federal level, HUD recognizes the NGBS by name specifically as on par with LEED and Green Communities.[2] In funding notices for jurisdictions affected by natural disasters, the agency cites the NGBS as an acceptable green standard for reconstruction efforts.
- HUD's April 2016 Mortgage Insurance Premium reduction program recognizes NGBS Green as one of the accepted green certification programs.
- The U.S. Department of Army recognizes NGBS as a LEED equivalent for military housing nationwide.
- Fannie Mae and Freddie Mac recognize NGBS Green for financing incentives in the same tier, or higher, than LEED.
- 29 states recognize NGBS certification through their Qualified Allocation Plan for the federal Low-Income Housing Tax Credit program.

To date, not a single jurisdiction has refused to recognize the NGBS as an alternative compliance path for any regulatory or incentive program where we have asked them to make an equivalency decision. For a more complete listing of where NGBS has been recognized, visit our summary of incentives[3].

QAP Recognition of the NGBS

The National Green Standard is currently recognized in 29 state Qualified Allocation Plans (QAPs), and an increasing number of State Housing Finance Agencies have been adding NGBS green certification to their QAPs to help promote green affordable housing. In these plans, NGBS is recognized as on-par with comparable programs, such as LEED and Enterprise Green Communities, and other regional programs, such as Earth Advantage. Multifamily builders who utilize NGBS for low-income housing tax credits typically receive the same number of points for NGBS as they would for an alternative program. The straight-forward and low-cost nature of the NGBS certification program make it ideally suited for affordable housing development, and this is evident by the number of Habitat for Humanity organizations and other LIHTC providers who select NGBS as their program of choice.

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[2] U.S. Department of Housing and Urban Development memo from Kathryn Saylor, Assistant Inspector General for Evaluation to Clifford Taffet, General Deputy Assistant Secretary, dated November 20, 2015, citing National Green Building Standard specifically as one of the HUD adopted energy building rating systems.

[3] www.homeinnovation.com/ngbsgreenincentives

Program Statistics to Date

Home Innovation has certified 9,978 multifamily buildings, representing 332,114 dwelling units. Currently, there are 4,325 multifamily buildings in progress, representing an additional 171301 dwelling units. I believe that these statistics show that we have been successful in designing a green certification program that is affordable and flexible, while remaining rigorous.

Summary

The goal of the NGBS and the Home Innovation NGBS Green Certification Program is to recognize projects that reach exceptional levels of sustainable design. We have worked hard to develop a program that removes as many barriers as possible to high-performance green buildings without eliminating any of the rigor or verification necessary to ensure compliance. To this end, we have kept our certification fees low, minimize the time needed for interpretations and project review, and significantly reduced the costs required to incorporate green practices.

Again, we respectfully request that NGBS Green be recognized alongside Earth Advantage, Enterprise Green Communities, and LEED for Homes as an acceptable Sustainable Building path in the Oregon Core-Development Manual. Our hope is that OHCS staff will engage in a productive discussion as to why we believe the NGBS should be recognized.

We look forward to discussing it further with you or your staff if you require a more detailed overview of the NGBS or our certification program. I will also gladly send you any supplemental information that you might require. Please don't hesitate to contact Michelle Foster (mfoster@HomeInnovation.com, 301.430.6205), our Vice President, Sustainability, directly if she can be of further assistance.

I look forward to working with OHCS to promote green certified housing built to the ***National Green Building Standard***.

Best,

Michael Luzier
President and CEO

homeforward
hope. access. potential.

December 14, 2021

Oregon Housing and Community Services
Attn: Angela Parada
725 Summer Street NE, Suite B
Salem, OR 97301-1266

Re: Comments on 2022 Draft QAP

Dear Ms. Parada:

Thank you for the opportunity to comment on the 2021 QAP. Home Forward appreciates the time and effort OHCS has made to continually streamline the QAP and incorporate stakeholder feedback. Our comments below are offered in that spirit.

p. 9 – 10 Competitive Process for 4% LIHTC Projects
This will be a seismic change in Oregon's 4% LIHTC pipeline. To ameliorate the inevitable uncertainty and additional work that will stem from a competitive 4% LIHTC process, Home Forward recommends that

- If approved by Congress, OHCS move to implement a "25% test" immediately. By immediately, we mean that all 4% projects closing after March 31, 2022 should be compelled to finance only 25% of eligible costs via tax exempt Private Activity Bonds (PABs). For 4% LIHTC projects closing in the first quarter of 2022, OHCS should require developers to finance only 25% of eligible costs via tax exempt Private Activity Bonds (PABs) unless the developer can prove substantial adverse consequences (e.g. significant increased costs and/or schedule delays) stemming from the imposition of a 25% test.
- OHCS should make a competitive 4% application as simple as possible. The current "open window" approach to 4% LIHTCs saves developers and OHCS staff significant time and effort in applying for funding and scoring NOFA responses. If 4% LIHTCs become a competitive resource, the department should not "import" all elements of the 9% LIHTC NOFA into competitive funding rounds. Rather, OHCS should engage stakeholders—as it did this past fall—to jointly determine how to competitively allocate 4% LIHTCs in the simplest fashion possible. OHCS should offer at least two opportunities per year to apply for 4% LIHTC and PABs.

p. 10 Set-aside for Culturally Specific Organizations
OHCS should define "financial benefit" broadly and look at the value of what culturally specific organization receives, not just whether a culturally specific organization serves as a general partner in the LIHTC ownership structure and receives a portion of the LIHTC developer fee.

For example, Home Forward is building and donating 4,200 square feet of commercial space to the Native American Youth and Family Center (NAYA) in conjunction with our PCC-Killingsworth project. The commercial space will be in a separate condominium from the LIHTC housing, meaning that NAYA has no role in the LIHTC development above. Home Forward is investing its own development reserves to ensure that the only cost borne by NAYA is the cost of its tenant improvements in the donated space. Arrangements such as these should qualify for the set-aside.

p.19 MWESB Engagement

MWESB quarterly reporting is too frequent. COBID percentages often do not change much on a quarterly basis. Twice per year, rather than quarterly, is a more appropriate reporting schedule. These biannual reports would still provide the department with the kind of window into progress it seeks with mid-project reporting requirements.

p.28 HERA Basis Boost

Please apply similar opportunities for increasing basis boost to 4% LIHTC projects.

p.32 Location Need and Severity Data

- Should 4% LIHTCs become competitive, OHCS should not apply these criteria to preservation projects seeking 4%s. The reason is that preservation projects simply are where they are.
- What is OHCS's goal here? Is the goal to fund projects in gentrifying areas? How does that work if a community is advocating for housing in a location that is not gentrifying but there is local need and support? On the other hand, there are studies that show that people with low incomes who live in higher income neighborhoods benefit from those opportunities. There is need everywhere and multiple, equally legitimate reasons to build in diverse locations. So, absent some basic prohibitions—e.g. "Do not build in a food desert; do not build immediately adjacent to a major air pollution source"--why limit where affordable housing is built?

p. 32 Location Opportunity and Environmental Factors

- Should 4% LIHTCs become competitive, OHCS should not apply these criteria to preservation projects seeking 4%s. The reason is that preservation projects simply are where they are.
- Is a project either in an area that fits under Location and Need and Severity or Location Opportunity? Or can it be both? This is confusing and requires a lot of data to be submitted and verified to prove each point, even though we know there is need everywhere.

p. 33 Vulnerable Gentrification Areas

- Should 4% LIHTCs become competitive, OHCS should not apply these criteria to preservation projects seeking 4%s. The reason is that preservation projects simply are where they are.
- Eight points can make or break an application, especially if (as implied here) they are assigned in an all-or-nothing fashion. The number of points available should be four at most.
- Absent clearly defined and stable geographical definitions of areas fitting the description of "gentrification vulnerable", which developers can rely on for years at a time, the introduction of this criterion will introduce significant uncertainty into the development process. Developers will not know which sites to pursue or avoid. If OHCS cannot assure that "gentrification vulnerable" neighborhoods will remain stable across multiple years, it should eliminate this scoring factor.

p. 35 Cost and LIHTC Effectiveness

For both categories, it is insufficient to look simply at building type. The same three or four story stick-built building may trigger no prevailing wages, Davis-Bacon Residential Wages (due to Project-Based Section 8) or BOLI wages (if it includes commercial space.) These different wage determination should be compared against each other to achieve meaningful distinctions.

Similarly, if projects are competing against each other in the Portland area, a PHB-Portland project may cost more per unit by dint of Portland's Green Building policy (which requires more than the CDM) than projects from neighboring jurisdictions that do not have City-specific green building requirements that apply to affordable housing.

Omitting these factors oversimplifies the analysis and prevents like-for-like comparisons.

p.40 Severe Rent Burden and Mismatch Housing Stock

Both of these factors introduce a sense of capriciousness to the scoring process. As stated earlier, preservation opportunities are where they are. Imagine a project that is just 1% point below both of these metrics. In a scoring environment where every point counts, losing the resulting three points could mean the project is not funded. For the neighborhood, jurisdiction and residents involved, that outcome would feel arbitrary. Better that these points should be reassigned based on factors like cost efficiency, developer capacity, partnerships and equity outcomes instead.

p. 42 Cost Effectiveness

Same comment as above for the Cost Effectiveness section on page 35.

Thank you for this opportunity to comment on the draft QAP. I am available at 503-577-6620 should have any questions about these comments.

Jonathan Trutt Digitally signed by Jonathan Trutt
Date: 2021.12.14 15:59:36 -08'00'

Jonathan Trutt
Director, Development and Community Revitalization

PARADA Angela * HCS

From: Nick Sauvie <nick@ROSECDC.org>
Sent: Tuesday, December 7, 2021 4:22 PM
To: Hcs_QAP * HCS
Subject: QAP Recommendations

Thank you for the opportunity to comment on the proposed QAP updates. For the most part, the update is solid and I appreciate particularly the focus on racial equity, opportunity contracting, and workforce development. My comments are based on more than 30 years' experience working in outer southeast Portland, which suffers from disinvestment, lack of infrastructure, and rapid displacement of low-income people and communities of color.

Location factor scoring
While I understand OHCS's reasoning about not locating projects in areas experiencing environmental structural racism – for example polluted areas and urban heat islands – I am concerned that the proposed QAP will disadvantage projects in low-income neighborhoods such as outer southeast or inner northeast Portland. The fact is that most low-income and BIPOC households live in these neighborhoods now. These neighborhoods need all kinds of investment, especially investment that will improves access to quality affordable housing. The proposed basis boost for projects in low poverty neighborhoods similarly disadvantages projects in disinvested communities. Finally, providing bonus points for proximity to fixed transit stops disadvantages communities that rely on bus service.

Development team capacity
As proposed development team capacity scoring disadvantages small organizations. Because scores are averaged over a smaller number of projects, one under-performing project drags down the average more for a small organization. Smaller organizations are also more likely to serve BIPOC and other populations with less access to housing. OHCS also favors large organizations that have completed multiple LIHTC projects in a given period.

Cost effectiveness
Project sponsors should be scored based on the performance of previous projects. OHCS has a trove of data on actual project costs vs. NOFA proposal cost estimates. The current process favors sponsors that low-ball expenses. It should favor organizations that accurately estimate costs and deliver on their promises.

Thank you for your consideration.

Nick Sauvie (he/him)
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Re: Comments on the draft 2022 Qualified Allocation Plan

Ms. Parada:

Please accept these comments on the proposed draft 2022 Qualified Allocation Plan. Housing Works is the Housing Authority serving Central Oregon. Housing Works is a prolific developer of affordable housing in our region and we have nearly 1,300 affordable housing units in service or currently under development.

1. The Draft QAP discusses adjusting access to 4% LIHTC due to the potential over subscription of the Private Activity Bond resource anticipated beginning in 2022. The precise language proposed in the draft is as follows:

   The 4% LIHTC commitments will be made competitively. All projects requesting to be financed with tax-exempt private activity bonds will be subject to their availability and the following prioritization schedule outlined by the department:

   1. *Pairing 4% LIHTCs with competitive fund offerings in Notice of Funding Availabilities (NOFAs).*
   2. *Rental Assistance Demonstration, HUD Section 18, and significant funding commitment from local jurisdictions such as the Portland/Metro Bond fund applications.*
   3. *4% LIHTC applications will be prioritized based on key factors supporting alignment with the Statewide Housing Plan. Additional details will be included in a future update to the Qualified Allocation Plan as needed.*

   This language is vague and potentially inequitable and contributes to an inefficient pipeline of development. Also, in as much as the prioritization advantages urban areas over rural areas, it is inconsistent with the Statewide Housing Plan. It is our presumption based upon prior Housing Stability Council discussion that this proposed policy change is designed to maximize the leverage of the newly scarce federal Private Activity Bond resource. As a goal this laudable, but the policy itself falls short of the goal.

   First, Priority #2 refers to RAD/Section 18 and significant local funding such as the Portland/Metro Bond funding applications. As written, this policy seems to favor only projects within the three Portland Metropolitan Counties and as such is fundamentally inequitable to low-income State residents as a whole. In addition, the policy does not identify what is considered a "significant funding commitment."

To be fair to all the residents of the State, the policy should be written as follows: "**Funding commitments from local jurisdictions utilizing, any source available to them, with higher priority given to applications demonstrating a higher ratio of local funding to Private Activity Bond funding**."

Second, while the policy identifies three priorities, the third priority appears to trump the first two by alluding to "key factors supporting the alignment with the Statewide Housing Plan." It is unclear whether this additional prioritization is meant to apply **within** the previous priorities or to supersede the first two priorities. This should be clarified within the policy language. In addition, the QAP should either list or reference the "key factors" which will be applied to prioritize applications. Perhaps, this is an opportunity to provide some access to 4% LIHTC to rural communities that typically do not have the resources to provide local financial leverage.

Finally, the policy should specifically acknowledge that Housing Authorities organized under ORS Section 456 have the power to issue Bonds for their own account and on behalf of others. The Policy should specifically recognize that Housing Authorities should not be precluded from applying for 4% LIHTC if they choose to issue Private Activity Bonds outside the OHCS allocation with the approval of the State Private Activity Bond Committee.

Policy consideration needs to recognize and promote work being completed outside of OHCS subsidy and competitive funding programs. Housing Works has successfully worked with local jurisdictions to provide gap financing for 4% LIHTC developments that did not have to enter or apply for limited and competitive OHCS resources. The 47-unit Midtown Place new construction development in Redmond that is 90% complete is a perfect example of this. We are planning another 60-unit new construction development in our region that will follow a similar path and will not be requesting competitive OHCS resources. OHCS policy should really encourage this type of work and "get it done" approach because far more units can be produced with limited resources. In addition, Housing Works is a few months away from closing a refinance/rehab of our largest property in Bend utilizing Housing Works issued bonds and 4% LIHTC. This is only possible because of a significant sponsor loan of equity back into the project. If this project was forced to go to a competitive funding round, OHCS will lose this owner leverage and more funds will be requested from OHCS simply because they are now available for this purpose, further reducing the availability of resources for other projects in Oregon.

Thank you for your consideration.

David Brandt
Executive Director.

Appendix 3 – OHCS Public Comment Responses

See next page.