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State of Oregon Qualified Allocation Plan for Low- Income Housing Tax Credits – Draft Redline

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Revised [September 2026](#)

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1 Introduction

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

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

9 OHCS administers the LIHTC Program under Oregon Administrative Rule (OAR) Chapter
10 813, Division 90. This Qualified Allocation Plan (QAP or Plan) is intended to comply with the
11 requirements of Section 42(m)(1)(B) of the Code, which requires that a QAP set forth:

- 12 1. The selection criteria OHCS will use to determine its housing priorities,
- 13 2. The preferences of OHCS in allocating housing credit dollar amounts among selected
14 projects (Projects), including:
 - 15 a. Projects serving the lowest income tenants.
 - 16 b. Projects obligated to serve qualified tenants for the longest periods.
 - 17 c. Projects that are located in qualified census tracts and the development of which
18 contributes to a concerted community revitalization plan; and
 - 19 d. The procedures that OHCS must follow in monitoring for program noncompliance in
20 notifying the IRS of such noncompliance and in monitoring for noncompliance with
21 Project habitability standards through regular site visits.

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

- 24 1. Project location.
- 25 2. Housing needs characteristics.
- 26 3. Project characteristics, including whether the Project includes the use of existing
27 housing as part of a community revitalization plan.
- 28 4. Sponsor characteristics.
- 29 5. Tenant populations with special housing needs.
- 30 6. Public housing waiting lists.
- 31 7. Tenant populations of individuals with children.
- 32 8. Projects intended for eventual tenant ownership.
- 33 9. The energy efficiency of the Project.
- 34 10. The historic nature of the Project.

1 This Plan does not apply to the allocation of a “recycled” volume cap per Section 146(i)(6)
2 of the Code. Such “recycled” volume cap shall be assigned and allocated in accordance
3 with policies and procedures established from time to time by OHCS.

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

8 The Plan has been revised for 2027. OHCS reserves the option to issue temporary public
9 notices, rules, or other guidance through which, procedurally, OHCS will continue to
10 efficiently administer the LIHTC Program, in a manner consistent with this Plan, and with
11 OHCS’s goals.

12 Additionally, OHCS reserves the right to amend, modify, or withdraw provisions contained
13 in this Plan that are inconsistent or in conflict with state or federal laws or regulations. In
14 the event of a major natural disaster, pandemic, epidemic, disruption in the financial
15 markets, or reduction in subsidy resources available, including tax credits, OHCS may
16 disregard any section of the Plan, including evaluation criteria, that interferes with an
17 appropriate response.

18 A public hearing was held concerning the Plan on October 12, 2026, after appropriate
19 notice was provided following IRS Section 42(m)(1)(A)(ii). Public comments and agency
20 responses can be found in Appendix B: Public Comments and Responses in this
21 document.

22 **Credit Overview**

23 **4% Low-Income Housing Tax Credits**

24 The State of Oregon (State) has access to allocate federal tax credits specifically available
25 to Projects financed using tax-exempt bond proceeds associated with Oregon’s private
26 activity bond authority. The tax-exempt bonds are subject to the volume cap limitations in
27 Section 146 of the Code as further detailed in Section 42(h)(4)(A) and (B) of the Code.

28 OHCS allocates the Private Activity Bonds (PAB) as resources become available utilizing
29 the Oregon Centralized Application (ORCA) structure. Specifics of this offering are made
30 available in the LIHTC relevant sections of the ORCA. All set-asides, prioritizations, and
31 performance standards within the ORCA will remain applicable and required. All
32 definitions in the ORCA Manual are incorporated by reference.

33 **9% Low-Income Housing Tax Credits**

OHCS allocates the State's 9% LIHTCs based on selection criteria integrated into the ORCA. All allocations are made with evaluative considerations required in the QAP, the Code, and the ORCA itself. All definitions in the ORCA Manual are incorporated by reference.

Specific to the 9% tax credits, OHCS holds the following:

- 1) 10% of the annual credit ceiling must go to qualified nonprofits, those organizations described in section 501(c)(3) or section 501(c)(4) of the Code and that has as one of its exempt purposes the "fostering of low-income housing" as required by IRC §42 (h)(5). Non-profits awarded under this set-aside are required to meet the IRC requirements of Material Participation as defined by §469(h).
- 2) 9% tax credits are offered annually using the following set-aside targets:
 - ~~a. 25% of the annual credit ceiling is reserved for preservation projects, consistent with the preservation criteria outlined in the ORCA.~~
 - ~~b. 10% of the annual credit ceiling is reserved for developments that serve Native Nations on tribal trust land.~~
 - ~~a. 65% of the annual credit ceiling should be allocated consistent with the percentages outlined in the ORCA. All set-asides will have a minimum of the 9% project cap.~~

Attention: 2027 and 2028 Funding Rounds

For the 2027 and 2028 funding rounds only, OHCS will allocate the State's 9% LIHTC using a temporary funding structure. Unless otherwise specified below, all allocations are made in accordance with the QAP, the Code, and the ORCA itself. All definitions in the ORCA Manual are incorporated by reference.

- 1) The following cross cutting set asides apply during both funding rounds
 - a. 10% to Culturally Specific Organizations.
 - b. 10% to non-profit led organizations.
- 2) 10% to Native Nations will also apply to both funding rounds.
- 3) Preservation
 - a. The 2027 9% LIHTC funding round is limited to Preservation projects only.**
 - b. Projects submitted for Preservation will be selected based on the criteria and tiebreakers in the Preservation framework in the Preservation Manual.
 - c. 10% of funding will be allocated to serve Native Nations.
 - d. 90% of funding will be allocated to all other eligible preservation projects.
- 4) New Construction
 - a. The 2028 9% LIHTC funding round is limited to New Construction projects only.**

- 1 b. Projects requesting 9% LIHTC during the New Construction round will be expected
2 to meet minimum project requirements (Mandatory and Supplemental Criteria).
3 Projects will be reviewed and ranked based on the established tiebreakers.
4 c. Preservation projects will not be considered during this funding cycle.
5 d. 10% of funding will be allocated to serve Native Nations.
6 90% of funding will be allocated consistent with the percentages outlined in the
7 ORCA Manual.
8
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10 **Determination of Credit Amount**

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

- 13 1) 20 – 50 test under Section 42(g)(1)(A) of the Code,
14 2) 40 – 60 test under Section 42(g)(1)(B) of the Code, or
15 3) Income averaging test under Section 42(g)(1)(C).

16 OHCS makes the financial feasibility and viability determination required under Section
17 42(m)(2)(A) for all 4% and 9% LIHTC allocations. The Code requires OHCS to allocate only
18 what is necessary for financial feasibility throughout the extended use period. OHCS will
19 evaluate each proposed Project considering relevant factors, including but not limited to
20 the following items:

- 21 1) Project cost, including the reasonableness of cost per unit, developer fees and
22 overhead, consultant fees, builder profit and overhead, and syndication costs;
23 2) Sources and uses of funds and the total financing planned for the Project, including
24 the ability of the Project to service debt;
25 3) The proceeds or receipts expected to be generated because of tax benefits;
26 4) The use of federal funds and other assistance; and
27 5) Other factors that may be relevant to the economic feasibility of the Project, such as
28 the area economy or the housing market.

29 Based on this evaluation, OHCS will estimate the amount of tax credits to be reserved for
30 the Project. This determination is made at the sole discretion of OHCS and is in no way a
31 representation as to the actual feasibility of the Project. Rather, it will serve as the basis for
32 making reservations of tax credits for Projects competing for credit from the federal
33 housing credit ceiling, or it will serve as an initial determination of credit amount
34 concerning a Project financed by private activity bonds. The amount of tax credits may
35 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 close-out application and before the issuance of IRS Form 8609, (Low-Income Housing Credit Allocation and Certification) as detailed in the Placed-In-Service Allocation Requirements section of this QAP.

If there is a material increase in LIHTC pricing after 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:

- 1) To decrease rents.
- 2) 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.
- 3) 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 (HSC). These charges include but are not limited to, application charges, recipient charges, reservation fees, issuance charges, and compliance charges. The charges adopted by the HSC are included in the General Policy and Guidelines Manual (GPGM), as well as posted on the [Oregon Centralized Application \(ORCA\) webpage](#) of the OHCS website.

LIHTC Allocation Application Process

All applications for LIHTC are evaluated and reviewed through the ORCA. For selected applicants, all projects must meet ORCA standards and expectations, including, but not limited to, standards, timelines, and documentation. These are in addition to, not in lieu of, requirements and expectations from the QAP and any other programmatic requirements of the LIHTC program.

Applications for 4% Low-Income Housing Tax Credits and Conduit Bond Financing.

OHCS offers 4% LIHTC and associated Private Activity Bonds (PAB) on a rolling basis as

resources remain available and retains a waitlist of projects in alignment with the ORCA policies.

Projects are evaluated using the process laid out by OHCS below, and the number of projects selected are based on available resources through the ORCA. In managing the states' PAB resource investments to support housing, OHCS will work annually with the Housing Authorities of Oregon to establish a Housing Authority Owned (HAO) PAB set-aside. This HAO PAB set-aside is eligible for projects that are owned by Housing Authorities and do not require any state loan or grant funding, as defined below. These resources are held for that following year; unused resources that are not requested within the timelines, along with PAB that was not set-aside for HAO Projects, are offered through the ORCA for eligible applications and projects.

Housing Authority Owned (HAO) definition

1) Required:

- a. Site control including Housing Authority or county owned land;
- b. 51% or more ownership interest and control of the General Partner or Managing Member entity
- c. For the purposes of PAB: Project does not require state loan or grant funding.

2) Must meet one:

- a. A loan or contribution of either cash or value representing the lesser of at least 10% of total sources or \$2 million, including but not limited to seller financing in a rehabilitation/resyndication, a sponsor loan, a land lease loan, or a land lease contribution.
- b. Federal, state, or locally-provided project based rent assistance for at least the lower of 15 units or 15% of units.

Applications for 9% Low-Income Housing Tax Credits will be accepted and reviewed annually as funding availability allows. 9% LIHTC projects will be notified of their status, and those selected to move forward into the ORCA process will be given access to a Procorem WorkCenter to begin the ORCA process' Impact Assessment. Applicants not selected can choose to have the project placed on the ORCA 9% LIHTC [waitlist-reserve list](#) which will remain active through **the last working day of** September of each calendar year. Projects may not be on more than one waitlist for resources within the ORCA. If projects are on the 9% LIHTC [waitlist-reserve list](#) and sufficient credits become available (from a return of credit or otherwise) projects will be funded in order from the [waitlist-reserve list](#) as resources will allow. If 9% LIHTC are not fully allocated after all eligible projects are selected, or sufficient credits are returned from a failed project, OHCS may, at its

discretion, either consider projects on a first-come first-reviewed basis or open a subsequent window or windows for acceptance of intake forms for 9% LIHTC projects.

OHCS reserves the right to waive, change, or alter any timelines, processing, and other QAP requirements, at its sole discretion, to encourage and facilitate the financing of tax-exempt, 4% LIHTC and 9% LIHTC financed projects including, but not limited to, implementing application pauses and blackout dates, and increasing allocations of LIHTC and PAB.

Project Performance Guidelines

All applications including those funded, in underwriting, or forthcoming are subject to:

- a. Any stipulations outlined by OHCS in writing via project-specific documents, OHCS programs, or policy manuals.
- b. Limitation of one applicant requested 30-day extension to the financial close date per project.
- c. Availability on the OHCS financing calendar.
- d. Formal notification to OHCS regarding any material changes to the project throughout underwriting or post-construction close. Including but not limited to:
 - 1) The number of buildings or units,
 - 2) The project contact person,
 - 3) The Identity of Interest disclosure,
 - 4) The development team,
 - 5) The project's total project costs,
 - 6) A financing source (whether debt or equity),
 - 7) Operating revenue or expenses for the project of more than ten percent,
 - 8) Anything that would result in a change in the standards OHCS uses to evaluate projects,
 - 9) Changing the scope of the project, such as adding or subtracting buildings, square footage, units, and design elements that impact the budget and livability of tenants,
 - 10) Changing project type and switching to a different intended tenant population,
 - 11) Replacing sponsor and project ownership in a way that has a financial impact on the project,
 - 12) Showing a gap, after funding approval and prior to closing and construction start, of more than 10 percent of OHCS investment (exclusive of tax credits).

Housing and Economic Recovery Act of 2008 (HERA) Basis Boost

Under 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.

- 1) Rural Projects as defined using the methodology found in the ORCA,
- 2) Preservation Projects,
- 3) Projects containing a minimum of either 25% or 5, whichever is greater, permanent supportive housing units,
- 4) Projects that meet Enhanced Accessibility standards as defined in Attachment A: Enhanced Accessibility Standards,
- 5) Projects sited on tribal lands,
- 6) Projects with at least 20% of the units restricted to LIHTC 30% AMI rents and income limits,
- 7) Projects that are located in Transit Oriented Districts (TODs) as designated by local governments,
- 8) 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,
- 9) Projects that co-locate Early Care and Education (ECE) facilities with affordable housing. Co-located as defined by OAR 813-125-0011.

Returned / Unused LIHTC Allocation Authority

Specific to 9% LIHTC - If an application considered for a LIHTC reservation/allocation is withdrawn or canceled, available credits were not originally allocated during the funding round, a project cannot make its carryover requirements, or the National Pool, as prescribed at IRS section 42(h)(3)(D)(iii), is awarded above current estimates, OHCS may do any of the following:

- 1) Fund the next project from the list of eligible 9% LIHTC ORCA applications for that year, if applicable. The applicant is given 30 days to reevaluate the project's financial feasibility and determine whether the proposed project can move forward or not,
- 2) Open a second and subsequent funding round through the ORCA process,
- 3) Add the returned amount to the total available credits for the following calendar year's application cycle. 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.

OHCS may take such steps as it deems appropriate to maintain the desired funding split between set-aside categories outlined in the ORCA.

Re-evaluation of Reservation

The following events will result in a re-evaluation of a previously issued reservation:

- 1) Failure to close within three hundred days of the reservation (“Reservation Period”),
- 2) The proposed Project will not have construction completion by the date mutually agreed upon,
- 3) The proposed Project will not be placed in service by the date mutually agreed upon,
- 4) Other material changes at OHCS’s reasonable discretion.

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:

- 1) Revoke the reservation.
- 2) Approve the requested changes to the original reservation or application as proposed.
- 3) Leave the reservation in place with no changes.

Project Selection Process

The following section describes the criteria and process used to apply for tax credits.

Private Activity Bonds and 4% Low-Income Housing Tax Credits

The following is an overview of the process for requesting 4% LIHTC and PAB through the ORCA. All projects, including HAO projects, must meet ORCA standards and expectations, including, but not limited to, standards, timelines, and documentation. These are in addition to, not in lieu of, requirements and expectations from the QAP and any other programmatic requirements of the LIHTC program.

Intake Process

Projects applying for 4% LIHTC and PAB resources, with or without state subsidy requests, must apply through the agency’s ORCA process and designate their application as a 4% LIHTC and PAB request by selecting that option in their ORCA Intake Form (Intake Form). OHCS does not guarantee the award or recommendation of a PAB allocation based solely on this Intake Form designation, but any Intake Form that does not request 4% LIHTC and PAB will not be directed towards the PAB application. The Intake Form submission should also indicate the amount of gap resources the applicant intends to request, or the

1 application will be considered as a HAO PAB Set-Aside project (see HAO Project Selection
2 section). OHCS will determine the appropriate gap resources to assign to the project based
3 on the project design, location, gap resource availability and other factors.

4 When PAB resources are included in the ORCA resources, project sponsors who submitted
5 Intake Forms for 4% LIHTC and PAB that have been reviewed and approved by OHCS are
6 given access to a Procorem WorkCenter to begin the ORCA Impact Assessment application
7 step.

8 **Project Selection**

9 Project applications that are submitted are evaluated in the ORCA, and the number of
10 projects selected for funding recommendation are based on available PAB volume cap,
11 and corresponding gap resource availability. Through the ORCA, PAB will be tracked and
12 allocated based upon a first completed, first reviewed process and in alignment with the
13 estimated closing date of the project as provided by the applicant. Where resources are
14 insufficient to fund all projects, a waitlist of projects is maintained.

15 OHCS will steward and strive to maximize the leverage of the state's PAB authority that is
16 made available for affordable housing investments. The project selection process for the
17 4% LIHTC / PAB projects relies on the ORCA process and readiness requirements.
18 However, where there is a risk that OHCS will not substantially commit all available PAB to
19 projects in a given year, OHCS reserves the right to reassign resources within the funded
20 pipeline or direct resources to projects on the ORCA waitlists based on development
21 timelines. This PAB Timeline Prioritization establishes criteria that are applied to identify
22 best-fit projects that have been reviewed in the Impact Assessment and are on an ORCA
23 waitlist. In addition, OHCS reserves the right to allocate PAB to fund pipeline gaps or
24 challenges as it deems necessary.

25 **HAO Project Selection**

26 In managing the states' PAB resource investments to support housing, OHCS will work
27 annually with the Housing Authorities of Oregon to establish a Housing Authority Owned
28 (HAO) PAB Set-Aside. This HAO PAB Set-Aside is eligible for projects that are owned by
29 Housing Authorities and do not require any state loan or grant funding, as defined above.

30 These resources will be held for that following year; unused resources that are not
31 requested within the timelines, along with PAB that was not set-aside for HAO projects, are
32 offered through the ORCA. Housing Authorities may choose to issue the bonds for HAO
33 projects where sufficient capacity is demonstrated and within OHCS suballocation
34 policies. Housing Authority sponsored projects that request gap funding and 4% LIHTC

through the traditional ORCA application will not count against the HAO set-aside. Every year by February 28th (year 0), Housing Authorities must provide OHCS with:

- 1) HAO Project list for the subsequent year's (year one) PAB resource needs; these projects will be required to submit full applications and ORCA process requirements, and
- 2) HAO future pipeline for the following year (year two) which will be used to support the determination of the needed HAO set-aside and will be considered by OHCS alongside state resource needs; these projects will be submitted through the ORCA intake within a year.

PAB Award Calculations and Commitments

To determine PAB award needs, OHCS utilizes the Total Project Cost dollar amount from the Impact Assessment proforma to make an estimate of PAB utilization (~~5530~~55% of the total project cost). Project PAB resource needs must remain within 10% of the requested amount in the Impact Assessment application or they may be required to forfeit the resource commitment and re-apply for resources as a new application.

Where projects are determined to have material changes, the resource commitment will be deemed invalid. OHCS will review project change to determine if it is material. Material changes that may result in loss of PAB include, but are not limited to, a change in:

- 1) The number of buildings or units,
- 2) The project contact person,
- 3) The Identity of Interest disclosure,
- 4) The development team,
- 5) The project's total project costs,
- 6) A financing source (whether debt or equity),
- 7) Operating revenue or expenses for the project of more than ten percent,
- 8) Anything that would result in a change in the standards OHCS uses to evaluate projects,
- 9) Changing the scope of the project, such as adding or subtracting buildings, square footage, units, and design elements that impact the budget and livability of tenants,
- 10) Changing project type and switching to a different intended tenant population,
- 11) Replacing sponsor and project ownership in a way that has a financial impact on the project,
- 12) Showing a gap, after funding approval and prior to closing and construction start, of more than 10 percent of OHCS investment (exclusive of tax credits).

Note: Changes in projects that incorporate value engineering are not considered material changes. Changes or delays due to actions or inactions taken by local, state or federal jurisdictions are also not considered material changes.

Timelines and Closing Dates

Estimated closing dates are required at Intake and Impact Assessment and form the basis of a project's readiness estimation and timelines. OHCS recognizes that these dates are estimates and likely to change, however, all projects must meet the timelines associated with each step of the ORCA process or their PAB hold may be forfeited. OHCS may require timelines to move based upon a number of factors including PAB availability.

In the event that a project does not move forward within required ORCA timelines or does not meet required standards within the ORCA process, PAB will be reallocated by OHCS.

Additional Process Information

- 1) For selected applicants, the projects must meet ORCA standards and expectations, including, but not limited to, standards, timelines, and documentation. These are in addition to, not in lieu of, requirements and expectations from the QAP and any other programmatic requirements of the LIHTC program,
- 2) After Impact Assessment application evaluation, projects must receive HSC approval for state resource commitments if such resources are needed for the project and included in the initial proforma. A Letter of Intent (LOI) will be issued by OHCS based on an up-to amount for both the gap resources and PAB,
- 3) At the Financial Eligibility step, project sponsors provide a comprehensive, detailed proforma, with cost estimates supported by bids. The LOI is updated with a more precise amount at this time,
- 4) The proforma provided at Financial Eligibility should have,
 - a. Costs within 10% of the Impact Assessment proforma and the allowable PAB further refined, and
 - b. Complete due diligence submitted by the readiness timeline requirements.
- 5) Projects may be held at the final step in the ORCA process, the Commitment step, until closing dates are available. If a project is held by OHCS for reasons outlined in this Plan or at OHCS's discretion, the readiness timeline requirements are suspended during that period. Once projects have finished the Commitment step, they are moved forward into the closing stage and have no more than 6 months to close. Projects that do not close in the 6 month period will be removed from the queue and must restart the ORCA process,
- 6) Projects must return to HSC at completion of the Commitment step to lock in the PAB rate. Once the PAB allocation is locked, any surplus can be released.

9% Low-Income Housing Tax Credits

Intake and Request Form

Projects applying for 9% LIHTC resources must complete a 9% LIHTC Request Form identifying their interest. The 9% Request Form will be available for a minimum of six weeks, and the open period will be announced by OHCS through a Technical Advisory at least two weeks in advance of opening.

The 9% Request Form will be used to evaluate, screen, and, if necessary, rank 9% project applications by the adopted tie-breaker criteria. While it will not include all documentation required for finalizing resource commitments, it will require more information and detail than the general ORCA Project Intake form. The review and ranking process is competitive, therefore, there is no cure period provided following the application deadline. If information submitted with a 9% Request Form is missing or incomplete, the 9% Request Form will not meet threshold and will not be ranked, making the request ineligible to move forward.

Projects recommended for 9% LIHTC will be required to meet all applicable evaluation standards in the ORCA to retain resource reservation. Information provided in the 9% Request Form and following through the application process constitute application commitments for the project. Such commitments made regarding the character, quality, and financing of a project in the 9% selection process will be enforced during the underwriting process and beyond. Departure from those commitments will trigger reconsideration of the award.

9% LIHTC Project Cap

To ensure the distribution of funds, OHCS establishes a cap on 9% LIHTC projects. Project sponsors may not request more than the established limit per project. Staying at or below the 9% LIHTC cap is a threshold standard.

9% LIHTC per project cap: \$2,500,000

OHCS also establishes a restriction that applicants may not receive more than an average of 15% of the annual 9% LIHTC allocation over any two sequential year's 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.

1 [Projects will still be limited by the per project cap.](#)

2 **Application Process**

3 Projects are evaluated using the process laid out by OHCS below, and the number of
4 projects selected are based on available resources identified as available for that funding
5 round. Applications for 9% LIHTC are accepted and reviewed annually as funding
6 availability allows. 9% LIHTC projects will be notified of their status, and those selected to
7 move forward into the ORCA process will be given access to a Procorem WorkCenter to
8 begin the ORCA process's Impact Assessment. [Projects will have 30 days to submit their](#)
9 [Impact Assessment application following notification.](#)

10 Applicants not selected can choose to have the project placed on a reserve list for
11 consideration of any potential 9% LIHTC credits that may come available. This option
12 remains active through September of each calendar year. The reserve list is cleared each
13 year on October 1. If projects have opted in as 9% LIHTC reserve projects and sufficient
14 credits become available (from a return of credit or otherwise), projects are funded in order
15 from the original tiebreaker list as resources will allow. If 9% LIHTC are not fully allocated
16 after all eligible projects are selected, or sufficient credits are returned from a failed
17 project, OHCS may, at its discretion, either consider projects on a first-come first-reviewed
18 basis or open a subsequent window or windows for acceptance of intake forms for 9%
19 LIHTC projects.

20 For selected applicants, all projects must meet ORCA standards and expectations,
21 including, but not limited to, standards, timelines, and documentation. These are in
22 addition to, not in lieu of, requirements and expectations from the QAP and any other
23 programmatic requirements of the LIHTC program.

24 **Project Criteria: New Construction Only**

25 **Applicability:** *The criteria in the following sections apply only to new construction projects.*
26 *They do not apply to preservation projects. Preservation projects are evaluated using the*
27 *Preservation Criteria in the Preservation Program Manual.*

28 ~~In order to select new construction projects to access 9% LIHTC through the ORCA~~
29 ~~process,~~ OHCS will use the following criteria to create the list of projects that are eligible to
30 be moved forward to Impact Assessment. Projects must meet mandatory threshold criteria
31 and 3 or more supplemental criteria to meet the eligibility standard.

32 If the total resources requested by projects that meet minimum threshold for this
33 evaluation are greater than the total resources available, projects will then be evaluated
34 against tie-breaker criteria. The number of projects selected to move forward with the

comprehensive ORCA application using 9% LIHTC will depend upon total resources available.

Mandatory Criteria

Projects must meet all of the following mandatory criteria.

Responsive to Tenant/Community Needs

- 1) Project includes features in the design, services, site location, or other project considerations that are tailored to the population being served (e.g. appropriate levels of supportive services for chronically homeless households, co-located ECE facility for families with young children, universal design features for older adults and people with disabilities, transportation opportunities or unique design features for veterans, unique features or access to locations of cultural significance for communities of color, etc.).
- 2) Project demonstrates alignment with the Oregon Housing Needs Analysis (OHNA) and local jurisdiction housing production strategies, in that there is shown to be a need for the AMI level the project is proposing. Small cities under 10,000 population without an OHNA requirement are exempt from this requirement.

Community Needs

- 3) Project has supporting documentation from a local Housing Authority demonstrating that a commitment is in place to market available units to their wait list or will rely on coordinated entry for tenant referrals.

Supplemental Criteria

Projects must meet at least three of the following supplemental criteria. While encouraged, projects will not be prioritized over other projects for including more than three of these criteria.

Responsive to Tenant/Community Needs

1. Project incorporates an average unit Area Median Income (AMI) of less than 50% or are including Project-Based Rental Assistance (PBRA) with at least 20% of their units.
2. Project contains facilities or space designed to support families with young children as defined by Oregon Administrative Rules (OAR) 813-125-0011.
3. Project includes accessible units beyond minimum code requirements [rounded up to the next whole number](#).

Economic/Workforce Impact

4. Project includes features in the design, services, site location or other project considerations that provide opportunities for employment to residents and benefit to the community (e.g. co-located ECE facility for families with young children, access to community college or workforce training site, walkable access or access to transit to high job density locations).

Section 42 considerations

5. Projects 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.
6. Projects that have formally committed to meeting the Department's Sustainability Standards which include energy efficiency expectations that exceed current State of Oregon Energy Code requirements.
7. Projects intended for eventual tenant ownership.

Organization Type

8. Lead developer is a Culturally Specific Organization and/or a nonprofit organization developing in a rural area.

Tiebreakers

Projects that meet the threshold for evaluation under the above criteria will be further prioritized, if necessary, using the following criteria, in the order listed below, with a. being the first considered and d. being the last:

- a. Policy enriched:

Project contains at least one of the following characteristics:

- Permanent Supportive Housing (PSH) (meeting all PSH standards described in the ORCA, and with a minimum of 25% or 5 units, whichever is greater, dedicated to this model),
- Contains facilities or space designed to support families with young children defined by OAR 813-125-0011,
- Enhanced accessibility as defined in Attachment A: Enhanced Accessibility Standards.

- b. Federal Subsidy Leverage:

1 Project has committed leverage of at least \$100,000 of HOME, or Community
2 Development Block Grant Funds (CDBG), Tax Increment Finance, or another OHCS-
3 approved place-based economic development fund that is awarded for gap funding by
4 Participating Jurisdictions in lieu of HOME.

5 c. Efficient Unit Production:

6 Projects will be ranked based on the total number of credits requested per units being
7 provided for the community, with the lowest ratio first and the highest ratio last.

8 d. Average AMI:

9 Projects will be ranked based on the lowest average household AMI served, with the
10 lowest average AMI being first and the highest last.

11 **Preservation Projects**

12 Preservation projects are defined by the Preservation Manual adopted by OHCS to include:

- 13 • Projects at risk of loss due to physical ~~or financial challenges~~ condition issues
14 • Properties with federal project-based rent assistance at imminent risk of loss
15 • Expiring properties at risk of conversion to market-rate.

16 To apply for 9% LIHTC, preservation projects will also submit a 9% Request Form which will
17 have the applicant provide project-specific details for the resource investment request.
18 These 9% Request Forms for Preservation will be evaluated in alignment with criteria
19 established within the OHCS Preservation Manual. The Preservation Program establishes
20 criteria to assess risk within each of the following applicable preservation project types:

- 21 • Risk of Loss Physical ~~or Financial Challenges~~ Condition Issues
22 • Risk of Loss Federal Project-Based Rent Assistance
23 • Risk of Loss Expiration and Conversion to Market-Rate.
24

25 All qualifying information for Preservation 9% projects and tiebreakers is referenced in the
26 Preservation Program Manual.

27 ~~OHCS will evaluate applications against criteria in their respective preservation type to~~
28 ~~identify projects that meet Critical Priority thresholds. Once all Critical properties are~~
29 ~~identified, if there are more projects than are able to be funded, OHCS will utilize~~
30 ~~tiebreakers to determine which projects will be selected to move forward into the ORCA~~
31 ~~process. If no Critical properties are identified, OHCS will follow the same process but~~

1 evaluate properties in the High Priority category. If no High Priority properties are identified,
2 OHCS will follow the same process but evaluate properties in the Medium Priority category.

3 For the purposes of preservation priorities, households that meet both of the following
4 criteria are considered vulnerable:

5 • ~~Households that are~~ **Very Low Income** (earning 50% or less of the Area Median
6 Income), **and**

7
8 • ~~One or more of the following is true~~ of the household:

- 9 ○ ~~One or more resident identifies as a person with disabilities (including~~
10 ~~behavior health challenges, substance use disorder, etc.);~~
 - 11 ○ ~~One or more resident represents a historically underserved population;~~
 - 12 ○ ~~The primary language spoken in the household is a language other than~~
13 ~~English;~~
 - 14 ○ ~~Includes one or more children under 18;~~
 - 15 ○ ~~At least one member of the household is 62 years old or older.~~
- 16

17 **Project Criteria: Risk of Loss Physical or Financial Challenges**

18 For properties at risk of loss due to physical or financial challenges being experienced,
19 those deemed to be **critical** priority will be those in which all of the following are true:

- 20 1) ~~Applicant is a Culturally Specific Organization;~~
- 21 2) ~~Project is currently at-risk; and,~~
- 22 3) ~~Two thirds or greater of households in the property are considered vulnerable by~~
23 ~~OHCS's definition.~~

24 Those deemed to be a **high** priority will be those in which all of the following are true:

- 25 1) ~~Applicant is either a Culturally Specific Organization or a Culturally Responsive~~
26 ~~Organization;~~
- 27 2) ~~Project is at-risk within the next five years; and,~~
- 28 3) ~~One third or greater of households in the property are considered vulnerable by OHCS's~~
29 ~~definition.~~

30 Those deemed to be a **medium** priority will be those in which all of the following are true:

- 31 1) ~~Project is at-risk within the next seven years; and,~~
- 32 2) ~~One third or greater of households in the property are considered vulnerable by OHCS's~~
33 ~~definition.~~

34 35 **Project Criteria: Risk of Loss Federal Project-Based Rent Assistance**

For properties at risk of loss of existing Federal Project-Based Rent Assistance (PBRA); those deemed to be ~~critical~~ priority will be those in which both of the following are true:

- 1) ~~PBRA is at risk within two years of the date of application; and,~~
- 2) ~~At least 50% of the units in the property have PBRA.~~

Those deemed to be ~~high~~ priority will be those in which both of the following are true:

- 1) ~~PBRA is at risk within five years of the date of application; and,~~
- 2) ~~At least 50% of the units in the property have PBRA.~~

Those deemed to be ~~medium~~ priority will be those in which the following is true:

- 1) ~~PBRA is at risk within seven years of the date of application.~~

Project Criteria: Risk of Loss Expiration and Conversion to Market-Rate

For properties at risk of loss due to expiration of affordability covenants and potential conversion to market-rate, those deemed to be ~~critical~~ priority will be those in which either:

- 1) ~~The property is in a census tract defined as rural by OHCS; or~~

~~Both of the below are true:~~

1) ~~Either:~~

a. ~~Fifty percent or more of units in the property either are rent-restricted to 50% AMI or lower, or have PBRA attached; or,~~

b. ~~Twenty five percent or more of units in the property either are rent-restricted to 30% AMI or lower, or have PBRA attached;~~

~~And,~~

- 2) ~~One third or greater of tenant households are considered vulnerable by OHCS's definition.~~

Those deemed to be ~~high~~ priority will be those in which the both of the following are true:

1) ~~Either:~~

a. ~~Twenty five percent or more of units either are rent-restricted to 50% AMI or lower, or have PBRA attached; or,~~

b. ~~The project includes any units rent-restricted at 30% AMI or lower;~~

And,

~~2) One third or greater of tenant households are considered vulnerable by OHCS's definition.~~

~~There is no medium priority categorization for this preservation type.~~

Preservation Tiebreakers

~~Projects that meet threshold meeting the Critical priority definitions above will be further prioritized as necessary, using the following criteria, in the order listed below (with criteria 1. being the first considered and criteria 4. being the last) if all else is equal:~~

~~1) Projects in the Federal Project-Based Rent Assistance category;~~

~~2) Projects in the At Risk of Loss: Expiring Affordable Properties category (ranked in order of date of expiration of latest expiring restrictions, from soonest to latest);~~

~~3) Projects in Census Tracts with the highest market rate rents, as published by HUD;~~

~~4) Projects that would preserve the greatest number of rent-restricted units.~~

Programmatic Requirements

Minimum Requirements for LIHTC Projects

OHCS has the following minimum requirements for any LIHTC-funded project. Developers must demonstrate through their application, during underwriting, in the lease-up process, and throughout the extended use period their compliance with all applicable requirements. Failure to meet any of the criteria may disqualify a project from receiving any funding presently or in the future.

Long-Term Affordability

All Projects awarded 9% LIHTC must remain affordable for 60 years.

All 4% LIHTC Projects must remain affordable for 60 years except for Projects where LIHTC resources are paired with other OHCS resources offered for 4% LIHTC pairing for at least 30 years. When this pairing happens, the LIHTC Project's affordability will be at least 30 years and will match the affordability of the paired source if it is over 30 years.

Resyndication Restrictions

Projects funded with LIHTC in 2027 and after are not eligible to apply for an 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.

Limited Partnership Agreement (LPA)

1 All project applicants and owners are responsible for understanding the specifics of their
2 Limited Partnership Agreement. OHCS expects all parties to execute the LPA document in
3 good faith and maintain the goal of producing and maintaining affordable housing
4 throughout Oregon.

5 **Violence Against Women Act**

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

17 **Waiver of Qualified Contract**

18 By submitting an application for LIHTC funding, all LIHTC Applicants waive the right to
19 request a qualified contract under Section 42(h)(6)(E)(i) of the Code. Thus, any OHCS-
20 required extended use commitment shall not terminate at the end of the compliance
21 period but will have a minimum duration of 60 years for 9% LIHTC and either 60 years or, if
22 paired with a source that has a shorter affordability period, either 30 years or the length of
23 affordability for the paired resource, whichever is greater, for 4% LIHTC transactions.

24 **Asset Management Compliance and Project Monitoring**

25 As the authorized allocating agency for the state of Oregon, OHCS is responsible for
26 monitoring Projects for compliance with Section 42 of the Code, corresponding Treasury
27 regulations, and any other applicable IRS guidance (rulings, procedures, decisions,
28 notices, and any other applicable IRS guidance), the Fair Housing Act, state laws, local
29 codes, OHCS loan or regulatory documentation, and any other legal requirements in
30 administering the LIHTC Program. Project owners (Owners) must comply with all such
31 requirements if implemented after this QAP is approved. OHCS is also responsible for
32 establishing monitoring procedures to verify compliance and is required by law to report
33 noncompliance to the IRS. Monitoring each Project is an ongoing activity that extends
34 throughout the affordability period (a minimum of 30 years).

35 Projects with funding sources obtained from OHCS in addition to the tax credits, will be
36 monitored for the most restrictive requirements of all combined OHCS programs. Owners

1 must be aware of the differences in Program regulations, including PSH projects which
2 must adhere to OHCS' PSH Standards and policies for tenant selection and low-barrier
3 screening.

4 OHCS' LIHTC Compliance Manual is incorporated here by reference and OHCS may
5 perform an on-site review of any building in the Project, interview residents, review resident
6 applications and financial information, and review the Owner's books and records relating
7 to the Project as consistent with the law and as OHCS determines it to be appropriate.
8 Owner must provide OHCS reasonable access to the Project and its books and records,
9 and reasonably cooperate in all such compliance monitoring. In connection with these
10 obligations, an Owner must take all reasonably necessary actions to allow OHCS to
11 inspect housing units occupied by residents.

12 **Program Compliance**

13 All OHCS Projects must satisfy the Program Requirements for each applicable OHCS
14 funding source reserved. Each OHCS funding source has separate requirements, which
15 can be found in the supplemental Program manuals.

16 **Relocation Plan**

17 If any relocation or displacement of existing tenants might occur because of an allocation,
18 the development team must provide a satisfactory relocation plan to OHCS including a
19 complete survey of existing tenants. The tenant survey must be in the OHCS-provided
20 format and can be augmented to include copies of the third-party verifications before
21 construction closing for the project.

22 **Ownership Integrity**

23 OHCS may reject any application or solicitation of funding where any member, officer,
24 principal, or entity within the Project ownership, management, or development team:

- 25 • Is under investigation by a public body or has a pending claim, indictment, suit,
26 action, or other proceeding against them. Has filed for or has a foreclosure
27 judgement against. Has been removed as owner, managing partner, or developer by
28 other project lenders and funders within the previous five years.
- 29 • Has been convicted of or been determined by an administrative or judicial (whether
30 criminal or civil) order or judgment to have committed fraud, misrepresentation,
31 theft, embezzlement, or any other act of moral turpitude (including but not limited
32 to any felony or malicious behavior) within the previous ten years.

33 **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.

Reservation of Extended Use Agreement

Projects that receive an 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.

Right of First Refusal (ROFR)

Applicable to Projects with Non-Profit General Partners. OHCS reserves the right to require any or all of the following concerning LIHTC applications and funded projects:

- 1) Provisions to be included in the Applicant's organizational documents limiting transfers of partnership or member interest or other actions detrimental to the continued provision of affordable housing,
- 2) A letter of intent from a tax credit investor that grants to a qualified not-for-profit organization a right of first refusal (the "ROFR") 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,
- 3) Terms in the extended use agreement requiring notice and approval by OHCS of transfer of partnership or member interests,
- 4) Debarment from the program of Project sponsors, investors, syndicators, or lenders having demonstrated a history of conduct detrimental to long-term compliance with any extended use agreements, whether in Oregon or another state and the provision of affordable tax credit units, and
- 5) Provisions to implement any amendment to the IRC or any future federal or state legislation, regulation, 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 section and to be in the best interest of the Plan.

LIHTC Reservation Requirements

All LIHTC Applicants must comply with the requirements of the ORCA, in addition to these requirements, the following will also be applicable.

Requirements for Reservation

Those projects selected by OHCS as recipients of LIHTCs will be issued a LIHTC reservation (REUA), Carryover Allocation (if applicable), and Form 8609 (Outlined in the Place-In-Service Allocation Requirements section). OHCS may disqualify the Project/Applicant and cancel the LIHTC reservation and/or Carryover Allocation if requirements are not met by the deadlines set by OHCS.

Reservation Period

If the Applicant does not satisfactorily complete the conditions of the LIHTC REUA and/or Carryover Allocation Agreement, OHCS may rescind the LIHTC Reservation for the project. OHCS may reallocate any 9% LIHTCs returned or rescinded. OHCS will require each Applicant who has received a LIHTC reservation to demonstrate the project is making satisfactory progress toward completion through regular progress reports.

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.

Determination of the LIHTC Allocation Authority Year (9% LIHTC Specific)

When making a reservation of LIHTC, OHCS reserves the right to make an allocation of a future year's credit ceiling (Forward Allocation). Such Forward 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 (9% LIHTC Specific)

Once a project is successfully selected for an allocation of 9% LIHTCs. The following requirements must be met in addition to any of those requirements by the department or other resources allocated to the project.

9% LIHTC Carryover Allocation Agreement

9% LIHTC Applicants, on or before November 1 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 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.

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 required CPA's certification should itemize all 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 Years Credit Allocation

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 outlined by OHCS. OHCS reserves the authority to exchange an allocation of credits from one year to credits in the subsequent year with the amount unchanged. Applicants must demonstrate good cause to return their reservation to OHCS and are limited to one return per application. This practice is also called a "credit swap" or a "credit refresh."

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

1 For example, a 2027 awarded Project that receives a forward reservation of 2028 tax credits
2 may upon good cause swap those 2028 credits, if requested by March 31, 2028, for an
3 allocation of 2029 credits. This is necessary if the Project will not be placed in service by
4 December 31, 2030, but instead will be placed in service by December 31, 2031.

5 After LIHTCs have been returned, an Applicant may apply for additional LIHTCs. Projects
6 must comply with the requirements applicable in the initial year of award and all
7 representations made in the initial application (unless specifically and explicitly waived by
8 OHCS).

9 **Placed-In-Service Allocation Requirements**

10 All LIHTC Applicants are required to complete a final application containing required
11 documentation. Any changes from the Equity Closing are subject to OHCS review and
12 approval before the issuance of IRS Form 8609. Projects with excess funds must return
13 those funds to one or more of the public funders upon Project completion. OHCS funding
14 resources will have a priority for return upon the determination of excess funds for the
15 Project.

16 OHCS will accept and process final application documents and issue IRS Form 8609(s)
17 throughout the year. OHCS reserves the right to set a schedule for review and approval of
18 8609(s). Commercial costs should be separated from the cost certification in an individual
19 column or deducted from the total residential costs. In either circumstance, the budget
20 use pages should identify both components of cost separately. However, a Project Owner
21 must submit a complete application with all Placed-In-Service documentation, including
22 the independent Certified Public Accountant's Report (Cost Certification) and the
23 certificates of occupancy for each building in the Project at least sixty (60) days prior to
24 when the Owner expects to receive the IRS Form 8609.

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

31 **Project Changes**

32 An Applicant must notify OHCS in writing of, and obtain its written consent to, any material
33 changes in a Project. An Applicant must notify OHCS when a material change is first
34 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:

- 1) The number of buildings or units,
- 2) The project contact person,
- 3) The Identity of Interest disclosure,
- 4) The development team,
- 5) The project’s total project costs,
- 6) A financing source (whether debt or equity),
- 7) Operating revenue or expenses for the project of more than ten percent,
- 8) Anything that would result in a change in the standards OHCS uses to evaluate projects,
- 9) Changing the scope of the project, such as adding or subtracting buildings, square footage, units, and design elements that impact the budget and livability of tenants,
- 10) Changing project type and switching to a different intended tenant population,
- 11) Replacing sponsor and project ownership in a way that has a financial impact on the project,
- 12) Showing a gap, after funding approval and prior to closing and construction start, of more than 10 percent of OHCS investment (exclusive of tax credits).

OHCS will determine whether a change in a project is substantial and triggers the requirement to return the project to a previous step in the ORCA process. 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.

Cost Saving 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 or Developer are not permitted. All ORCA-specific policies related to cost savings apply to LIHTC.

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:

- 1) An interest in the land, the Project, or any building,
- 2) An ownership interest in the entity that is the Applicant or Project Owner,
- 3) 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:

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

Process and Requirement for Obtaining OHCS 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:

- 1) The name of the Project,
- 2) The names of the Applicant and/or the Owner, the proposed transferor and transferee, and all other relevant parties,
- 3) A complete description of the proposed transfer or assignment, including the proposed effective date, and
- 4) 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 committed to participate under the set-aside category for Qualified Non-Profit, any transfer or assignment must ensure that the Project continues to qualify for such set-aside category.

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 before 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

1 budget items at least ten (10) days before submission to the OHCS Finance Committee for
2 approval.

3 **Market Study**

4 Applicants must submit a complete market analysis before receiving a 9% LIHTC or 4%
5 LIHTC allocation. The deadline for submission will be established within the Financial
6 Eligibility step of the ORCA process for projects selected for funding. Applicants should
7 read and refer to the [LIHTC Market Analysis Guidelines](#) for a full description of OHCS
8 policies and guidelines. Selected projects must use [approved OHCS Market Analysts](#) as
9 required in code at IRC §42(m)(1)(A)(iii).

10 **Considerations**

12 **Reservation of Rights**

13 Project/Request Denial. OHCS, in its sole discretion, may reject an application where the
14 Applicant, Owner, principal, consultant, or other participant concerning the proposed
15 Project, previously has done any of the following:

- 16 1) Participated in a project that failed to complete a Project in accordance with requests
17 or certified plans presented to OHCS or other public or private allocating agencies,
- 18 2) Failed to complete a Project within the time schedule required or budget indicated in
19 the request,
- 20 3) Failed to effectively utilize previously allocated Program funds and was notified of such
21 failure to meet appropriate utilization in advance of request or closing date,
- 22 4) Participated in a Project that was found to be in non-compliance with Program rules as
23 evidenced by OHCS or other public or private Allocating Agency Project monitoring and
24 missed the cure time deadline given in writing,
- 25 5) Been debarred or otherwise sanctioned by OHCS or other state, federal or local
26 governmental agency,
- 27 6) Been convicted within the last ten (10) years of criminal fraud, misrepresentation,
28 misuse of funds, or moral turpitude or currently is under indictment for such an offense,
- 29 7) Been subject to a bankruptcy proceeding within the last five (5) years,
- 30 8) Otherwise displayed an unwillingness or inability to comply with OHCS requirements,

31 OHCS reserves the right to disapprove any Application if, in OHCS's judgment, the
32 proposed Project is not consistent with the goals of providing decent, safe and sanitary
33 housing for low-income persons. OHCS may impose additional conditions on Project
34 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 Request

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 act in accordance with this Plan, the ORCA, 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, the ORCA, 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

1 Plan shall be valid and enforceable to the fullest extent permitted under State or federal
2 law.

3 **OHCS Sole Discretion**

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

12 **Project/Request Denial**

13 OHCS may reject an application where the Applicant, owner, principal, consultant, or other
14 participant with respect to the proposed Project, previously has:

- 15 1) Participated in a Project that failed to complete Projects in accordance with requests or
16 certified plans presented to OHCS or other public or private allocating agencies,
- 17 2) Participated in a Project that failed to complete a Project within the time schedule
18 required or budget indicated in the request,
- 19 3) Participated in a Project that failed to effectively utilize previously allocated Program
20 funds and was notified of such failure to meet appropriate utilization in advance of the
21 request or ORCA cycle closing date,
- 22 4) Participated in a Project that has been found to be in non-compliance with Program
23 rules as evidenced by OHCS or other public or private Allocating Agency Project
24 monitoring and missed the cure time deadline given in writing,
- 25 5) Been debarred or otherwise sanctioned by OHCS or other state, federal or local
26 governmental agency,
- 27 6) Been convicted within the last ten (10) years of criminal fraud, misrepresentation,
28 misuse of funds, or moral turpitude or currently is indicted for such an offense,
- 29 7) Been subject to a bankruptcy proceeding within the last five (5) years,
- 30 8) Otherwise displayed an unwillingness or inability to comply with OHCS requirements.

31 OHCS reserves the right to disapprove any application if, in OHCS's judgment, the
32 proposed Project is not consistent with the goals of providing decent, safe, and sanitary
33 housing for low-income persons. OHCS may impose additional conditions on Applicants
34 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 concerning 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:

- 1) Refuse to allow the Applicant or other participant to participate in the Tax Credit Program or other OHCS Programs,
- 2) Reject or disqualify an application and cancel any LIHTC reservation or allocation,
- 3) 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 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.

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 ORCA processes govern OHCS's process of allocating LIHTC, Applicants may not rely upon this QAP as an interpretation of IRS 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:

- 1) 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,
- 2) OHCS determines the Applicant or other Program participant made a material misrepresentation, affirmatively or by omission,
- 3) OHCS determines the Applicant or other Program participant is debarred from accessing Program resources or otherwise is not a qualifying Applicant, or
- 4) 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:

- 1) Cancellation of an application,
- 2) Revocation or modification of an Allocation Credit or other award of OHCS resources,
- 3) Debarment of person or entity from accessing OHCS Programs,
- 4) Recoupment of allocated or disbursed resources,
- 5) Specific enforcement,
- 6) Actions for direct, indirect, consequential, or punitive damages,

- 1 7) Appointment of a Project receiver,
- 2 8) Foreclosure of secured interests.

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

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

12 **Effective Date**

13 This Qualified Allocation Plan shall be effective upon its approval and execution by the
14 Governor and shall remain in effect indefinitely or until modified or terminated.

Appendix A: Enhanced Accessibility Standards

Enhanced Accessibility Standards

Checklist for use with the QAP

Projects seeking the LIHTC incentives connected with this checklist must comply with Enhanced Accessibility principles listed below.

Use of the terms “Accessibility” and “Accessible” in this document acknowledges that accessibility is a fundamental element of Universal Design. The required elements in this checklist benefit all users regardless of their needs.

New Construction

New Construction projects must complete the **Mandatory** items listed below. Place checkmark after each item being committed to for the subject project.

Mandatory Items for New Construction

1. Design team will conduct at least one accessible design strategy workshop at the beginning of Schematic Design. This workshop must be designed to orient the design team to accessible/universal/inclusive design possibilities for the project. The workshop must be facilitated by accessibility/universal/inclusive design expert or trained professional. The workshop may be integrated with other development team collaborative work sessions.
The following brief report on the Accessibility Workshop must be submitted during the Financial Eligibility Phase of the ORCA which includes the following information:
 - a. The date the workshop was held.
 - b. A basic description of how the workshop was conducted
 - c. The name of the primary facilitator of the workshop and the name of their organization.
 - d. Key members of the development team that were in attendance, their roles on the project, and the names of their organizations.

A brief summary of the Universal Design (UD) / Inclusive Design (ID) strategies and goals for the project. UD/ID strategies and goals that are standard practice for the project team should be included in this summary. Because Accessibility is being prescribed by this requirement, this **UD/ID Summary** is intended to focus more on UD/ID thinking that may be integrated into the project, however the summary may include Accessibility related enhancements that may not be prescribed under item 2.

2. Project must achieve equivalency with ADA Title II Accessibility Requirements. OHCS funding program participants should refer to **Section 233** of

1 the 2010 ADA Standards for Accessible Design | ADA.gov which defines the scoping
2 and technical requirements under this standard.

3 In addition, the scoping requirements given in Section 233.3.1.1 and 233.3.1.2 of
4 the above referenced standard **are doubled** for the purposes of achieving eligibility
5 for the funding incentives connected with the requirements listed in this Table. This
6 means that projects must make **10%** of the dwelling units fully accessible for
7 mobility impaired persons and **4%** of the dwelling units must include
8 “communication” design elements as prescribed in Section 233 of the ADA
9 Standard for Accessible Design.

10 If more than 10% of dwelling units are designed to achieve ADA Title II Accessibility
11 Requirements, the additional Accessible units will count towards achieving
12 compliance with item 3.

13 3. In addition to the units satisfying item 02, a minimum of 40% (rounded up to the next
14 whole unit; for example, a project with 11 total units would require 2 Type A units, a
15 project with 41 total units would require 9 Type A units, etc.) of the dwelling units
16 must comply with ICC A177.1 Type A unit requirements. All projects must have at
17 least one Type A unit.

18 4. All units meet or exceed 1 Unit Size minimum requirements per OAS Form Series
19 NC, Form NC-3, Item 15.01. Project is not eligible for Variance Requests to reduce
20 this requirement.

21 5. All dwelling units met Clothes Washer and Dryer requirements per OAS Form Series
22 NC, Form NC-3, Item 18.01. Project is not eligible for Variance Requests to reduce
23 this requirement.

1 **Appendix B: Public Comments and Responses**

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3 All public comments and responses will be recorded in the final QAP draft.

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