

## 2023 Bond Checklist

This document is intended to be a summary of areas in the New Mexico Qualified Allocation Plan (QAP) where there are different requirements between 9% LIHTC competitive application projects and 4% LIHTC projects associated with tax-exempt bonds. *It is not all inclusive and Applicants should refer to the QAP for further information.*

### **General Process:**

QAP Section VI *Processing of Tax-Exempt Bond Financed Project Applications* includes information specific to 4% Projects.

Applicants apply for private activity bonds through an issuing agency for an inducement resolution. In New Mexico, while there are a number of local municipalities that are issuing agencies, MFA can issue bonds for the entire state. If the Applicant desires to apply for private activity bonds through MFA, please refer to MFA's website for more information: <https://housingnm.org/developers/rental/bond-financing>

Applicants apply to MFA for a determination of qualification that the project is eligible for 4% tax credits, regardless of the issuing agency issuing the bonds. This letter is also known as a 42(m) letter. Applicants submit the tax credit application to MFA and receive a draft 42(m) letter *before* working with the issuing agency to apply to the New Mexico State Board of Finance (SBOF) for private activity bond volume cap. <https://www.nmdfa.state.nm.us/board-of-finance/private-activity-bonds/pab-overview/>

A calendar of SBOF meetings and deadline to submit the SBOF application is available on the SBOF website. <https://www.nmdfa.state.nm.us/board-of-finance/monthly-meetings/>

### **Application:**

All items in Tabs 1 – 14<sup>1</sup> from the Tab 1a Checklist are required.

QAP Section VI describes the processing of tax-exempt bond financed Project Applications.

Tax-exempt bond financed Projects *are not required to meet a minimum score* in order to obtain a Letter of Determination. However, they must meet and agree to all seven of the following mandatory criteria in order to be eligible for 4% non-competitive tax credits:

#### **1. Serve a Targeted Population**

Either meet all requirements under the Underserved Populations set-aside found at QAP Section III.D and submit PSH Certification of Quality at Tab 15c OR

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<sup>1</sup> All references to Tabs are to the Tabs in the Application.

Meet the threshold requirements for one of the three targeted populations found at QAP Section III.E.8 – 10:

*Special Housing Needs Housing Priority – QAP Section III.E.8:*

- Everything described in QAP Section III.E.8 on pages 31-36 is required except for the supportive services that may be elected for points on pages 34 – 35.

*Seniors Housing Priority – QAP Section III.E.9:*

- The project must qualify for an exemption from familial status discrimination under the Fair Housing Act, submit a Fair Housing Act Certification for Senior Housing Facilities (Tab 21d) and meet MFA's Mandatory Design Standards as described on page 36.
- The project must comply with Fair Housing Requirements as described at the top of page 38.
- Supportive services are not required. If the applicant elects to provide non-required services, the project must conform to the requirements stipulated on pages 36 - 38 regarding any fees and other documentation regarding the elective services.

*Households with Children Priority – QAP Section III.E.10:*

- The project must meet the requirements on page 39 and provide the description of the Project's specific design elements that serve the needs of Households with Children stipulated on the top of page 40 (*See* Tabs 22a and 22d).
- Supportive services are not required. If the applicant elects to provide non-required services, the project must conform to the requirements stipulated on pages 40 - 41 regarding any fees and other documentation regarding the elective services. (If electing to offer services, complete the bottom portion of Tab 22a, as applicable, and all of Tab 22c.)

**2. Achieve a Smoke-Free at Home Certification of Platinum or Gold\***

4% LIHTC Projects are required to participate in the New Mexico Smoke-Free at Home program. Complete Tab 30 indicating that the Project Owner will obtain either platinum or gold certification (as applicable).

- New Construction Projects: must agree to participate and obtain the Smoke-Free at Home NM Platinum Certification (no smoking or use of electronic cigarettes at any time on any part of the property);
- Rehabilitation and/or Adaptive Reuse Projects: must agree to participate and obtain the Smoke-Free at Home NM Gold Certification (no smoking or use of electronic cigarettes is permitted at any time on any part of the property);

The Project must have appropriate space for the provision of smoking cessation classes.

More information on the Certification programs may be found at <https://www.smokefreeathomenm.org/get-certified-today/>.

\*In order to receive Certification, Applicants will be required to complete three steps as detailed on the Smoke-Free at Home website, including the submission of a Letter of Intent, a Lease Addendum, and a Violation Policy. Proof of the applicable certification must be submitted with the Project's 8609 Application.

**3. Meet all of 2022 Design Requirements (including HERS ratings), unless granted a waiver**

The architect's certification at Tab 11e must be submitted. If the Applicant is requesting a waiver, complete Tab 11l and submit the applicable fee.

**4. Must be located within 15 minutes driving distance of a facility in which fresh produce is available;**

Complete Tab 17a Locational Efficiency Score Worksheet with address of facility.

At Tab 17c, insert map showing driving distance to facility described at Tab 17a.

**5. Market Study must indicate a vacancy rate in the Primary Market Area of less than 10%;**

Submit the Tab 13a Certification of Qualified Professional with the Market Study.

**6. Must market to local Public Housing Authorities;**

Insert letter to PHA Director of Jurisdiction for the Project from the Applicant verifying this commitment at Tab 24.

**7. Include a preference for Veterans in the Tenant Selection Criteria.**

Insert a letter indicating that the Tenant Selection Criteria will include a preference for active duty, Honorably Discharged or retired US military Veterans at Tab 33.

**Project Design and Reporting:**

4% Projects are subject to MFA's Design Standards

All 4% Projects must submit a quarterly progress report to MFA following the issuance of a Final Determination letter, starting with the next quarter end, March 31st, June 30th, September 30th, and December 31st each year. The Quarterly Progress Report form will be provided on MFA's website. Any failure to provide a timely progress report, or failure to provide a complete and accurate report containing the required information, may result in a loss of tax credits.

## **Underwriting:**

4% Projects are subject to MFA's Universal Multifamily Initial Underwriting Supplement.

### **The following do not apply to 4% Tax-Exempt Bond Projects:**

- **Average Income election** under IRC Section 42(g)(1)(C) does not extend to the set-aside requirements associated with the issuance of tax-exempt bonds in accordance with Section 142 of the IRS Code (26 U.S.C. § 142). Projects that receive an allocation of 4% LIHTC in conjunction with an issuance of tax-exempt bonds must meet the set-aside requirements of both Section 42 and Section 142 of the IRS Code.
- **State Designated Basis Boost** in IRC Section 42(d)(5)(v)
- **Carryover Allocations** are not issued for tax-exempt bond projects with 4% tax credits. The allocation is made upon issuance of 8609s.
- **Developer Fee** limitations based on identity of interest.

### **The following do apply to 4% Projects:**

- **Maximum number of credits** limited to amount required for feasibility, but not otherwise capped.
- **Basis Boost for Qualified Census Tract (QCT) or HUD-designated Difficult Development Area (DDA)** - Projects located in a HUD-designated Qualified Census Tract (QCT) or a HUD-designated Difficult Development Area (DDA) may be eligible for a 30% basis increase (basis boost). Documentation of this status must be included in the Application. In no case will a Project's Eligible Basis attributable to the acquisition of an existing building be increased. (See Sections IV.E.5. and IV.E.6 for further information.)
- **Cost Limits** – The Construction Cost Limits provided in Section IV.C.2 apply to all Projects, including 4% Projects. However, applicants should note that the definition of Total Development Cost in the Glossary excludes the costs of issuance on line 65 of the Schedule A development budget.
- **4% Floor** - The Consolidated Appropriations Act of 2021, passed by Congress on December 21, 2020, permanently fixed the floor of the 4% credit at 4%. The amount of the annual tax credit is calculated to yield a present value of 30% (in the case of 4% credits) of Qualified Basis, as adjusted by MFA.
- **Rehabilitation of an existing building.** To qualify for tax credits, rehabilitation expenditures includable in Qualified Basis must exceed the greater of 1) at least 20% of the Qualified Basis of the building being rehabilitated or 2) at least \$7,400 per low-income Unit being rehabilitated, as adjusted annually by the IRS. Projects financed with tax-exempt bonds are eligible for 4% credits only.
- **Acquisition/rehabilitation of an existing building.** The maximum Applicable Credit Percentage for acquisition of an existing building that will be subsequently rehabilitated is 4%. To qualify for tax credits for the acquisition, rehabilitation expenditures includable in the Qualified Basis must exceed the greater of 1) at least 20% of the Qualified Basis of the building being rehabilitated or

2) at least \$7,400 per low-income Unit being rehabilitated, as updated by IRS Revenue Procedure annually. Projects financed with tax-exempt bonds are eligible for 4% credits only.

- **Federal Grant financed Projects with reduction in Eligible Basis.** In the case of a Project financed with Federal Grants, whether a newly constructed or rehabilitated building, the Project Owner shall exclude the amount of the Federal Grants from Eligible Basis.
- **Developer Fee** shall not exceed 14% of Total Development Cost (See QAP Glossary). The maximum developer fee is locked in at 8609 issuance for 4% Projects.
- **Section 811.** 4% Projects looking to participate in the 811 PRA program are welcome to apply with the expectation of availability, however they are not eligible for the 5% boost to the capped developer fee.
- **Equity Pricing.** For 4% credits the equity-pricing factor to be used at Final Allocation will be the actual equity-pricing factor contained in the Project's syndication agreement and the Applicable credit percentages, if rates ever exceed 4%, are determined at either the month the tax-exempt obligations are issued or Placed In Service date.