

2025 4% 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, Housing NM/MFA can issue bonds for the entire state. If the Applicant desires to apply for private activity bonds through Housing NM/MFA, please refer to Housing NM/MFA's website for more information:

<https://housingnm.org/developers/rental/bond-financing>

Applicants apply to Housing NM/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 Housing NM/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:

Federal Register Notice: 87 FR 64515

An application is deemed to be submitted on the date it is filed if the application is determined to be complete by the credit-allocating or bond issuing agency. A "complete application" means no more than de minimis clarification of the application is required for the agency to make a decision about the allocation of tax credits or issuance of bonds requested in the application.

- **De minimis:** Initial Applications that meet all the standards described in Section IV.A.4 in the 2025 QAP under "Content and Format" when initially submitted and that do not require any deficiency corrections.
- **Complete Application** – an Initial Application meeting all of the requirements in Section IV.A.4, Content and Format.

All items in Tabs 1 – 14¹ 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 no longer required to meet a minimum score* in order to obtain a Letter of Determination. However, they must meet and agree to all nine of the following mandatory criteria in order to be eligible for 4% non-competitive tax credits (beginning on page 25 of the 2025 QAP):

1. Serve a Targeted Population

Either meet all requirements under the Underserved Populations set-aside found at QAP Section III.D OR

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 33-38 is required except for the supportive services that may be elected for points on pages 36-37.

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

- The project must meet the requirements on page 38 and provide a description of the Project's specific design elements that service the needs of Seniors (Tab 20a)
- 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 20b) and meet Housing NM/MFA's Mandatory Design Standards as described on page 38 .
- The project must comply with Fair Housing Requirements as described at the bottom of page 38 and on page 40.
- 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.

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

- The project must meet the requirements on page 42 and provide the description of the Project's specific design elements that serve the needs of Households with Children stipulated on page 42 (See Tabs 21a and 21b).

¹ All references to Tabs are to the Tabs in the Application.

- Supportive services are not required. If the applicant elects to provide non-required services, the project must conform to the requirements stipulated on pages 43-45 regarding any fees and other documentation regarding the elective services.

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 23 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 Project's 8609 Application.

3. Meet all of 2025 Mandatory Design Requirements Standards for Multifamily Housing (including HERS ratings), unless granted a waiver

The architect's certification at Tab 10e must be submitted. If the Applicant is requesting a waiver, complete Tab 11 and submit the applicable fee.

4. Must be located within a 15-minute drive (as demonstrated through Google Maps) to a facility in which fresh produce is available (or demonstrate that a full-scale supermarket within a 15-minute drive is part of an approved master plan to be developed);

Complete Tab 16a Locational Efficiency Score Worksheet with address of facility.

At Tab 16b, insert Google map showing driving distance to facility described at Tab 16a.

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 22.

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

Insert Veteran's Preference form certifying that the Tenant Selection Criteria will include a preference for active duty, Honorably Discharged or retired US military Veterans at Tab 24.

8. Must be at least Moderate Rehabilitation

The level of rehabilitation (as applicable) must be at least a Moderate Rehabilitation as defined in the Glossary (Section XI of this QAP.)

9. Project must meet all Housing New Mexico/Housing NM/MFA Underwriting Standards

In the 2025 QAP and the current Housing NM/MFA Universal Multifamily Initial Underwriting Supplement.

Project Design and Reporting:

4% Projects are subject to Housing NM/MFA's 2025 Mandatory Design Standards for Multifamily Housing.

All 4% Projects must submit a quarterly progress report to Housing NM/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 Housing NM/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 Housing NM/MFA's Universal Multifamily Initial Underwriting Supplement.

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

- **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.
- **10% Test**

The following do apply to 4% Projects:

- **The maximum number of tax credits** is determined by the project's eligible basis but is not subject to any additional cap.

- **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. **Tax-exempt bond-financed projects are not eligible for any state-designated basis boost.** (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 Housing NM/MFA.
- **Rehabilitation of an existing building.** To qualify for tax credits under the Code, 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 \$8,500 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, the Code requires that 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 \$8,500 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.
- **Applications for 4% LIHTC Projects** must submit the final version of the displacement/relocation assistance plan, including a sample tenant letter, with the Initial Application.
- **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 and QAP Section IV.D.2 for further information.) The maximum developer fee is locked in at 8609 issuance for 4% Projects.
- **Bond Cap request may not exceed 60% of the Project’s “aggregate basis”.**
- **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.

- **Hybrid 9%/4% Developments.** QAP Section II.U includes information regarding hybrid Projects.
- **Processing Fees.** Prior to the release of the Letter of Determination by Housing NM/MFA Staff, a processing fee of 8.5% of the approved annual credit will be due.
- **Average Income election.** Projects electing the Average Income election under Section 42(g)(1)(C) must meet the set-aside requirements of both Section 42 and Section 142 of the Code.