



MEMO

TO: Public Hearing Attendees

FROM: Jeanne Redondo

DATE: August 28, 2025

SUBJECT: Draft 2026 Qualified Allocation Plan

Recommendation:

Staff recommends approval of the attached 2026 State of New Mexico Housing Tax Credit Program 9% and 4% Qualified Allocation Plans (QAPs), along with the Universal Multifamily Underwriting Supplement, Mandatory Design Standards for Multifamily Housing and the applicable Post-Award Processes and Requirements Handbooks

Background:

The Low-Income Housing Tax Credit (LIHTC) program, established in 1986 under Section 42 of the Internal Revenue Code (the "Code"), is the nation's primary vehicle for financing the development of affordable rental housing. The Code requires each state to adopt a Qualified Allocation Plan (QAP), which outlines the selection criteria and compliance standards applicable to LIHTC awards.

Housing New Mexico/MFA revises its QAP on an annual basis to respond to market conditions, address implementation challenges, and align with evolving state housing priorities.

Discussion:

Stakeholder Engagement and Process Improvements

While stakeholder feedback has historically been collected through an annual "Developers Forum," this year Housing New Mexico expanded its outreach to ensure broader representation and deeper insights into the application of QAP policies. The following improvements were made to the stakeholder engagement process:

- **Targeted focus groups** were held with Developers, Consultants, State Board of Finance Staff, and Private Activity Bond Issuers.
- Developer and Consultant sessions were further broken down by topic:
 - QAP Structure
 - 9% LIHTC Content
 - 4% LIHTC Content
- State Board of Finance Staff and Private Bond Issuer sessions were based around oversubscription of Private Activity Bonds and a restructure of the 4% LIHTC process.

Structural Reorganization for 2026

During sessions, developers and consultants agreed that the organization and usability of the current QAP made it difficult to navigate the requirements necessary to prepare quality applications. In response to this feedback, developers strongly supported the creation of:

- **A separate QAP for 9% and 4% LIHTC programs**
- **A modular structure** to simplify document navigation and improve clarity

In response, staff reviewed the QAP structure of each of the 50 states and is introducing a **significant restructuring** of the 2026 QAP. LIHTC policy guidance is now divided into four distinct documents:

1. **Qualified Allocation Plan (QAP)** – Establishes scoring, threshold requirements, and program priorities for 9% and 4% credits respectively (in separate documents).
2. **Universal Multifamily Underwriting Supplement** – Standardizes feasibility and underwriting expectations across all multifamily funding sources.
3. **Post-Award Processes and Requirements Handbook** – Details post-award compliance procedures, including carryover, final allocation, and ongoing reporting requirements for 9% and 4% credits respectively (in separate documents).
4. **2026 Mandatory Design Standards for Multifamily Housing**- Details the design requirements for multifamily housing utilizing resources from Housing New Mexico.

The Universal Multifamily Underwriting Supplement, Post-Award Processes and Requirements Handbooks and 2026 Mandatory Design Standards for Multifamily Housing are incorporated by reference into the applicable QAP as appendices, so applicants will only need to download one file to have all documents needed to submit an application.

Public Review and Approval Process

A draft of the 2026 QAP will be published on Housing New Mexico's website and announced in at least three newspapers of general circulation, initiating a **21-day public comment period** and a formal **public hearing** scheduled for August 28, 2025. After incorporating public feedback, the revised QAPs and appendices will be finalized and presented for formal approval by the Policy Committee, Finance Committee, and the Board of Directors before submission to the governor.

9% LIHTC Discussion

Housing New Mexico has introduced a significant structural reorganization in the presentation of its Low-Income Housing Tax Credit (LIHTC) policies between the 2025 and 2026 QAP cycles. While the underlying program requirements remain largely intact, the 2026 QAP introduces a **modular framework** that separates policies and guidance into four distinct documents. This change is intended to increase clarity, and streamline application and compliance processes. The restructuring will improve clarity by grouping similar content within appropriate functional documents, promote consistency in underwriting practices across funding sources, reduce redundancy in guidance and increase transparency. To accomplish this, Housing New Mexico Staff has separated the LIHTC Policies into four separate documents which include:

- **The Qualified Allocation Plans** - Establish the allocation priorities, eligibility criteria, and applicable scoring rubric for the 9% and 4% LIHTC programs. Where the previous QAP included all scoring, threshold, underwriting, and post award guidance for both programs; the draft 2026 QAPs now include only threshold criteria, scoring methodology, general requirements and a summary of compliance requirements for each program.
- **The Universal Multifamily Underwriting Supplement**- Details underwriting standards, feasibility thresholds, and financial assumptions applicable across all multifamily housing programs. Where the previous QAP had some portions of the underwriting supplement embedded within the QAP, the Underwriting Supplement is now a standalone document that outlines financial feasibility standards, cost reasonableness benchmarks, and updated underwriting assumptions for all multifamily funding sources.
- **Post Award Processes and Requirements Handbooks**- Outlines reporting requirements, and ongoing responsibilities following the issuance of a 9% and 4% tax credit award through the final allocation of tax credits on IRS forms. Where the previous QAP included post award requirements within its narrative, the post award requirements are now provided in an independent handbook detailing reservations, carryover, 10% test, design review, and final allocation processes.

- **2026 Mandatory Design Standards for Multifamily Housing-** Ensures that publicly funded affordable housing developments are durable, cost-effective, and supportive of resident well-being. These standards promote quality construction practices that balance affordability with long-term sustainability, require compliance with health, safety, and accessibility regulations, and encourage energy efficiency through environmentally responsible design. They also help integrate housing into communities in a way that enhances livability while aligning projects with federal and state funding requirements.

Purpose and Benefits of the Reorganization

- **Improved Usability:** Applicants and partners can more easily navigate relevant sections without having to search through unrelated content.
- **Clearer Compliance Framework:** Post-award requirements are now codified in a dedicated handbook, reducing confusion and enhancing accountability.
- **Underwriting Consistency:** The Universal Multifamily Underwriting Supplement applies uniformly across funding sources, standardizing expectations.
- **Flexibility for Future Updates:** Modular structure allows Housing New Mexico to update individual sections without redrafting the entire QAP.

This year, staff also focused on ways to contain costs and make policy clearer. The proposed revisions to the 9% QAP focus on containing costs by limiting the percentage over the average cost of new construction projects that a new construction development cannot exceed, incorporating the first right of refusal into the partnership agreement, expanding distances for locational efficiency, reducing the supportive services required for points, limiting the acquisition costs used in underwriting, and by reducing EV parking requirements. In addition, wherever possible, sections were removed where they merely re-state the Internal Revenue Code and Treasury Regulations, the content was re-written to be more concise or consistent with other sections, and tables were included to make the content more accessible. The following are some of the more notable changes made to the 9% QAP:

Limitation on Tax Credit Awards to a Single Project or Principal: 9% QAP Section II.B

Previously no Applicant, any General Partner or Affiliate of an Applicant or Person or Entity receiving or identified as eligible to receive any part of a Developer fee for a Project could receive more than two awards in a round. This has been reduced to one award in a round to address capacity issues and to allow more participants to receive at least one award.

Housing New Mexico/MFA Fees and Direct Costs: 9% QAP Section II.C

Several Asset Management fees have been added, including:

- late fees in the amount of \$1,500 for failure to submit annual monitoring fees by the January 31st deadline,
- reinspection fees when Housing New Mexico/MFA is unable to complete an inspection due to the owner/agent's failure to notify residents or the owner/agent's failure to appear for the inspection in the amount of \$80 for trips up to 60 miles and \$250 for trips further than 60 miles,
- noncompliance fees in the amount of \$150 plus \$25 per Form 8823, and
- fees of \$200 for noncompliance for a LURA that extends beyond six months after the traditional 30-day initial response time, plus a reinspection fee if a follow-up inspection becomes required for monitoring reviews that are open 12 months beyond the initial response deadline.

Nonprofit Right of First Refusal: 9% QAP Section V.A

The requirements for a right of first refusal (ROFR) under Section 42(i)(7) of the Internal Revenue Code have been modified to require that the investor agreement include specific provisions granting the ROFR, rather than execute a separate agreement that would require further legal review.

Locational Efficiency: 9% QAP Section V.B

The distance from the site to services and to public transportation was increased to expand opportunities to purchase land that may be less expensive as follows:

	2025 Distance	2026 Distance
Proximity to Services: three amenities	.5 mile	1 mile
Proximity to Services: six amenities	1 mile	2 miles
Proximity to Bus/Urban Areas	.5 mile	1 mile
Proximity to Bus/Outside Urban Areas	.5 mile	2 miles

Projects Committed to a longer Extended Use Period: 9% QAP Section V.G

This scoring criterion was modified to permit Projects committing up to 50 years of affordability to be eligible for **up to 8 points** based on the length of the affordability period indicated in the table below.

Affordability Period Duration	Total Points
35 Years	5
40 Years	6
45 Years	7
50 Years	8

Households with Special Housing Needs: 9% QAP Section V.H

To reduce costs, full points for this criterion were reduced from 10 points to 5 points, thereby reducing the number of services required to qualify for full points. This scoring criterion already limits the service coordinator hours based on the number of households being served, so it was clarified that the hours are based on the number of units set aside for households with special housing needs, rather than the entire property.

Households Reserved for Seniors Housing Priority: 9% QAP Section V.I

Full points for this criterion were reduced from 10 points to 5 points and the hours the service coordinator needs to be on-site were reduced from 10 hours to 5 hours. Reducing the number of services required to qualify for full points along with the required hours to implement the reduced level of services is expected to reduce operational costs and potentially increase the permanent loan for which the project can qualify.

Households with Children Housing Priority: 9% QAP Section V.J

For the same reason cited for Households with Senior Housing Priority, full points for this criterion were reduced from 8 points to 4 points and the hours the service coordinator needs to be on-site was reduced from 10 hours to 5 hours.

Other Scoring Points Available: 9% QAP Section V.U.3

The three points available for women and minority participation were removed based on current federal executive orders. Over the past few years, virtually every project qualified for these points, so staff does not anticipate that the ranking of applications will be changed significantly based on the removal of these points.

Acquisition Cost Limits: Universal Multifamily Underwriting Supplement Section III.A.1

The limit on the acquisition cost was expanded from “the acquisition cost on which tax credits are calculated will be held to the lowest among the purchase price, the Applicant’s procured appraisal and the construction lender’s appraisal” to also include “If the acquisition is bridged before selling the real estate to the Project Owner, the purchase price used to determine the acquisition cost limit will be the lesser of the amount paid at the time of the bridge financing, the Applicant’s procured appraisal and the construction lender’s appraisal.”

Total Development Cost Limits: Universal Multifamily Underwriting Supplement: Section III.2.a

In 2025, the Total Development Cost per Unit was not permitted to exceed 130% of the average Total Development Cost per Unit for all new construction and Adaptive Reuse Projects submitted in the same round, and the hard Construction Cost plus architect and engineering fees per square foot was not permitted to exceed 130% of the average cost

per square foot for all new construction and Adaptive Reuse Projects submitted in the same round. This 130% cushion was reduced to 120% to incentivize lower development costs where possible.

E-V Capable Parking Spaces: 2026 2026 Mandatory Design Standards for Multifamily Housing: New Construction: Section A.4.e (page 3)

Previously, Projects were required to provide a minimum of .05 parking spaces per Unit that were EV-Capable. This requirement has been removed for cost efficiency.

4% LIHTC Discussion

Another significant topic addressed during this year's planning cycle is the growing demand for Private Activity Bonds (PABs) and the corresponding 4% LIHTC allocations.

- For calendar year 2025, \$200 million of New Mexico's \$388.8 million PAB cap is reserved for multifamily housing.
- As of July 2025, demand had exceeded supply by more than \$113 million.
- Demand is projected to remain high due to population growth and a deepening affordable housing crisis.

To better prioritize limited resources, Housing New Mexico proposed implementing a competitive allocation process for 4% LIHTC applications tied to PABs. The proposed scoring criteria emphasized:

- Project Readiness
- Developer Capacity
- Location & Community Impact
- Cost Containment

However, on July 3, 2025, Congress passed and on July 4, 2025, President Trump signed into law the "One Big Beautiful Bill Act" (Public Law 119-21). This legislation permanently reduced the PAB "50% Test"—a longstanding federal requirement—down to 25%, effective for projects closing on PABs on or after January 1, 2026.

Implications for New Mexico:

- Projects can qualify for 4% LIHTC with less PAB financing.
- More developments will become eligible without exceeding PAB volume cap.
- This change enhances Housing New Mexico's ability to address housing shortages with greater flexibility and impact.

Given this federal shift, staff believes the proposed 4% QAP policies focused on readiness and reasonable limits can ensure effectiveness without a competitive round.

The proposed revisions to the 4% QAP focus on project readiness and containing Private Activity Bond Cap by enforcing stricter timelines, adding financial penalties and limiting the number of projects that a developer has in the pipeline. Also included in the changes is a clarification of the approval timeline for Hybrid developments. The following are some of the more notable changes made to the 4% QAP:

Hybrid 9%/4% Development: 4% QAP Section I.D.3.A.4

The 2025 QAP stated that an application to the state board of finance for private activity volume cap would not be approved to move forward until the Housing New Mexico/MFA board approved the 9% portion of the development, which was subject to receipt of the private activity volume cap. If Housing New Mexico/MFA was the proposed bond issuer, the state board of finance application was due upon Housing New Mexico/MFA board approval of the 9% portion of the development.

This section was changed to provide separate requirements where the hybrid Project is all within one building through a condominium plat. In this instance, both the 9% and 4% tax credit applications must be submitted concurrently by the 9% tax credit round application deadline, and any reservation of tax credits for the 9% portion, if approved, will be contingent upon an allocation of private activity volume cap by the State Board of Finance. If the State Board of Finance does not issue an allocation of private activity bond volume cap on or before December 31, 2026, Housing New Mexico/MFA would issue a binding commitment for 9% LIHTC in a future year that is contingent upon an allocation of private activity bond volume cap.

Limitations on Private Activity Bonds: 4% QAP Section II.B

The private activity bond volume cap allocation by the State Board of Finance must not exceed the greater of:

- 30% of the Project's aggregate basis used to calculate the 25% test, or
- The amount of the Project's permanent mortgage loan in first lien position.

Limitations on developer's use of Private Activity Bonds: 4% QAP Section II.B

The following limitation was added, to incentivize readiness to proceed and completion of a project before starting another, rather than the processing of the final allocations remaining outstanding for years. From January through August, no Applicant, any General Partner or Affiliate of an Applicant or Person or Entity receiving or identified as eligible to receive any part of a Developer fee for a Project may have more than one 4% LIHTC Project in the Application phase (for the period beginning with the submission of a 4% LIHTC Initial Application and ending when the Project starts construction) and two Projects in the construction phase (for the period beginning when the Project starts construction until the Forms 8609 have been issued). The two-Project limit in the construction phase does not include Projects that received bond volume cap prior to 2026, since this is a new policy.

Deadline: 4% QAP Section III.B.1

Rather than a competitive round, staff is recommending the following policy to accept Applications on a rolling basis:

“Applications are accepted on a rolling basis 30 days after Housing New Mexico/MFA receives the Intent to Submit and Project Synopsis described in Section IV.G. (Pre-Application Requirements). Housing New Mexico/MFA will not review Initial Applications that, in its sole discretion, do not demonstrate:

- that the Project will present its request for private activity bond volume cap at a State Board of Finance meeting within 3 months after Housing New Mexico/MFA has completed its review of the Initial Application, and
- that will close on all construction period financing and begin construction on the date that is the earlier of:
 - 6 months after date the State Board of Finance approves the bond allocation at its regularly scheduled meeting, or
 - the date the bonds expire pursuant to State Board of Finance Rules described in NMAC #: 2.61.4 Private Activity Bond Allocations. Applicants should not assume that the State Board of Finance will grant an extension to close on the bonds.”

Complete Application: 4% QAP Section III.B.4

To assist in determining whether a Project is ready to proceed towards closing, the QAP now requires that a “Gantt chart or narrative describing in detail, the scheduled dates and tasks that must be completed to close on all construction phase Project financing and begin construction” be included in the Application.

Extension Fee: 4% QAP Section III.C.5

The fee to request to extend deadlines of any documents and/or with submission of late or missing documents was expanded to explicitly include a request to extend the deadline to close on Project financing and begin construction. The fee was also increased from \$500 per week to \$1,000 per week.

Compliance and Reinspection Fee: 4% QAP Section III.C.7

The asset management fees added to the 9% QAP were also added to the 4% QAP.

Upon Receipt of 42(M) Letter: Post-Award Processes and Requirements Handbook: Section II.A

The draft 42(m) letter now expires three months from the date it was issued rather than six months from issuance because projects are expected to be ready to proceed.

The final 42(m) Letter will only be valid so long as the allocation of private activity bond volume cap remains valid, where it previously had no expiration date. In addition, beginning six months after the date the final 42(m) Letter is issued, the extension fee will be assessed until the Project closes on all construction period financing and begins construction.

Acquisition Cost Limits: The Universal Multifamily Underwriting Supplement Section III.(A)(1)

The limit on the acquisition cost was expanded from “the acquisition cost on which tax credits are calculated will be held to the lowest among the purchase price, the Applicant’s procured appraisal and the construction lender’s appraisal” to also include “If the acquisition is bridged before selling the real estate to the Project Owner, the purchase price used to determine the acquisition cost limit will be the lesser of the amount paid at the time of the bridge financing, the Applicant’s procured appraisal and the construction lender’s appraisal.”

E-V Capable Parking Spaces: 2026 2026 Mandatory Design Standards for Multifamily Housing: New Construction: Section (A)(4)(e)

Previously, Projects were required to provide a minimum of .05 parking spaces per Unit that were EV-Capable. This requirement has been removed for cost efficiency.

Summary:

The 2026 QAP represents a significant evolution in how Housing New Mexico administers LIHTC. Through structural improvements, policy refinements, and responsiveness to federal changes, the proposed plans advance Housing New Mexico’s mission to increase affordable housing supply and program integrity. The 2026 Qualified Allocation Plan (QAP) for New Mexico introduces a major structural reorganization by separating program guidance into four stand-alone documents: the QAP, the Universal Multifamily Underwriting Supplement, the Post Award Handbook, and the 2026 Mandatory Design Standards for Multifamily Housing. This restructuring is designed to improve clarity, usability, and consistency across affordable housing programs. The memo also discusses increased demand for Private Activity Bonds (PABs), implications of the federal “OBBA Act” reducing the 50% Test to 25%, and Housing New Mexico’s recommendation not to shift to a competitive process for 4% LIHTC allocations due to administrative and timing concerns raised by issuers and state partners.