

STATE OF NEW MEXICO
HOUSING TAX CREDIT PROGRAM

QUALIFIED ALLOCATION PLAN

Effective as of January 1, 201~~9~~⁸



NEW MEXICO MORTGAGE FINANCE AUTHORITY

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I. Background and Purpose of the Qualified Allocation Plan

A. General

This “Allocation Plan” constitutes the “Qualified Allocation Plan” (QAP) for the state of New Mexico and is intended to comply with the requirements set forth in Section 42 of the Internal Revenue Code of 1986¹, as amended, including all applicable rules and regulations promulgated thereunder (collectively, the “Code”). This Allocation Plan applies to all allocations of Low Income Housing Tax Credits pursuant to Section 42 of the Code (hereinafter LIHTC, credits or tax credits) and multifamily private activity tax-exempt bonds made for QAP year 2019⁸.

The LIHTC program was created in the Tax Reform Act of 1986 as an incentive for individuals and corporations to invest in the construction or rehabilitation of low income housing. The tax credit provides the investor a dollar-for-dollar reduction in personal or corporate federal income tax liability for a 10-year period for Projects meeting the Program’s requirements.

B. Role of MFA

New Mexico Mortgage Finance Authority (MFA) ~~is~~ is the Housing Credit Agency (HCA) for the state of New Mexico, responsible for administering the tax credit program and allocating tax credits to eligible New Mexico Projects.² Accordingly, MFA awards tax credits to Projects meeting its Project Selection Criteria, including an annual population allocation, any subsequent carry-forward, returned credits and national pool credits. MFA monitors existing Projects for compliance with ~~the~~ Section 42 of the Code; however, MFA does not make any representation to any party concerning compliance with Section 42 of the Code, Treasury regulations or other laws or regulations governing LIHTC. Neither MFA, nor its agents or employees will be liable for any matters arising out of or in relation to, the allocation of LIHTC. All organizations and individuals intending to utilize the LIHTC program should consult their own tax advisors concerning the application of tax credits to their projects and the effect of tax credits on their federal income taxes.

Administration of the tax credit program, as outlined in this QAP, is consistent with the statutes creating MFA in 1975 [Chapter 303, Laws of New Mexico, 1975, known and cited as the New Mexico Mortgage Finance Authority Act, being Sections 58-18-1 through 58-18-27, inclusive,⁷] as supplemented in 1995, as follows:

The legislature hereby finds and declares that there exists in the state of New Mexico a serious shortage of decent, safe and sanitary residential housing available at prices and rentals within the financial means of persons and families of low income. This shortage is severe in certain urban areas of the state, is especially critical in the rural areas and is

¹ Section 42 of the Code is found in the United States Code in Title 26, Subtitle A, Chapter 1, Subchapter A, Part 4, Subpart D, at Section 42 (26 U.S.C. §42.)

² Additional capitalized terms are defined in **Section XI**, the Glossary.

inimical to the health, safety, welfare and prosperity of all residents of the state. The legislature hereby further finds and determines that to aid in remedying these conditions and to help alleviate the shortage of adequate housing, a public body politic and corporate, separate and apart from the state, constituting a governmental instrumentality, to be known as the New Mexico Mortgage Finance Authority should be created with power to raise funds from private investors in order to make such private funds available to finance the acquisition, construction, rehabilitation and improvement of residential housing for persons and families of low income within the state. The legislature hereby finds and declares further that in accomplishing this purpose, the New Mexico Mortgage Finance Authority is acting in all respects for the benefit of the people of the state in the performance of essential public functions and is serving a valid public purpose in improving and otherwise promoting their health, welfare and prosperity and that the enactment of the provisions hereinafter set forth is for a valid public purpose and is hereby so declared to be such as a matter of express legislative determination.

The federal laws governing the tax credit program are subject to change. Final interpretations of certain rules and regulations governing the program may not yet have been issued by the U.S. Department of Treasury. In the event that any portion of this QAP should conflict with Section 42 of the Code, amendments made thereto or federal regulation promulgated thereunder, the federal regulation shall take precedence. If any portion of this QAP is invalid due to such conflict, the validity of the remaining portions will in no way be impacted, affected or prejudiced.

MFA reserves the right to resolve all conflicts, inconsistencies or ambiguities, if any, in this Allocation Plan or which may arise in administering, operating or managing the allocation of LIHTC.

In accordance with MFA's inherent discretion, reasonable judgement and prudent business practices, MFA may reject any Application or Project that MFA has determined does not satisfy the requirements and objectives of the Code, regulations promulgated under the Code or this QAP, regardless of the Application's rank priority.

MFA shall not be responsible for any expenses incurred by any Applicant in submitting an Application or otherwise responding to or providing any information in conjunction with this QAP. All costs incurred by Applicants in the preparation, transmittal or presentation of any Application or material submitted in response to this QAP shall be borne solely by the Applicants.

In addition, MFA may cancel or modify the provisions of this QAP at any time and may reject any or all Applications submitted under this QAP and re-issue the QAP. If MFA rejects any or all Applications submitted under this QAP and re-issues the QAP, all costs incurred by Applicants in the preparation, transmittal or presentation of any Application or materials submitted in response to this QAP shall again be borne solely by Applicants.

REGARDLESS OF ANY PROVISION OF THIS QAP OR ANY DOCUMENT REFERENCED BY OR INCORPORATED IN THIS QAP, IT IS EACH APPLICANT'S SOLE RESPONSIBILITY TO DEMONSTRATE IN ITS APPLICATION THAT THE PROJECT PROPOSED IN THE APPLICATION SHALL COMPLY WITH THE CODE AND ALL ASSOCIATED REGULATIONS IN ALL RESPECTS. FAILURE BY ANY APPLICANT TO DEMONSTRATE

THAT THE PROPOSED PROJECT SHALL COMPLY WITH THE CODE AND ALL ASSOCIATED REGULATIONS SHALL RESULT IN THE REJECTION OF THE APPLICATION AND PROJECT.

Code Section 42(m) states that the HCA must make allocations of tax credits pursuant to a QAP which:

1. Sets forth Project Selection Criteria to be used to determine housing priorities of the HCA, which are appropriate to local conditions. These criteria must consider project location, housing needs characteristics, project characteristics, sponsor characteristics, participation of local tax-exempt organizations, public housing waiting lists, tenants with special housing needs including individuals with children, energy efficiency standards, historic character and projects intended for eventual tenant ownership.
2. Gives preference in allocating housing credit dollar amounts among selected Projects to those which:
 - a. Serve the lowest income tenants;
 - b. Serve qualified tenants for extended periods of time; and
 - c. Are located in Qualified Census Tracts (QCTs) and the development of which contributes to a Concerted Community Revitalization Plan.
3. Provides a procedure that the agency will use in monitoring for noncompliance.

This document is intended to fulfill requirements one and two above for MFA's tax credit allocation activity in the state, commencing on its effective date. The procedure required in item three above is summarized in **Section X** but published in full under a separate cover and is available upon request.

C. Public Hearings

Following public notice, a draft QAP was made available to the public for comment for a period of 21 days (beginning September 17⁶, 2018⁷ and continuing through October 8⁶, 2018⁷), during which time a public hearing was held on October 2, 2018⁷. MFA accepted written comments during this 21 day comment period and considered comments presented at the public hearing, prior to completion of the plan.

II. Low Income Housing Tax Credit Program Summary

A. General

The Tax Reform Act of 1986 established the tax credit program to stimulate private sector investment in low income rental housing. In August of 1993, permanency was granted to the tax credit program after numerous temporary annual extensions.

There are numerous technical rules governing a Project's qualification for tax credits. The following subsections of this Section II contain a summary of certain key provisions of Section 42 of the Code and regulations and the tax credit program. Applicants are advised to review Section 42 of the Code directly for further detail. Capitalized terms, when not defined in the text of this document, are defined in **Section XI** or in Section 42 of the Code.

B. Amount of Tax Credit Available Statewide

The state of New Mexico, for the calendar year 201~~9~~⁹⁸, will receive a population-based tax credit allocation equal to ~~approximately \$2.7456250 (indexed for inflation)~~ per resident. The current year's population estimates, as provided by the Internal Revenue Service (IRS) and the estimated Annual Credit Ceiling, including any carry-forward, returned or national pool credits received by the state, may be found on MFA's website.

C. Equalization of New Construction and Rehabilitation Projects

In order to serve the dual purposes of building new affordable housing units and rehabilitating existing structures to create or preserve affordable housing units, MFA desires to equalize the tax credits awarded in the 9 percent application round based on project type. As such, new construction Applications, including adaptive reuse Applications, will be scored against other new construction Applications and rehabilitation Applications will be scored against other rehabilitation Applications; thus creating two separate tracks or categories for purposes of scoring and reserving tax credits for specific projects. An adaptive reuse project shall be categorized as a new construction Project for purposes of equalization. Up to 50 percent of MFA's available tax credit ceiling (less any forward allocations) will be made available for award to the highest scoring new construction Projects, which includes adaptive reuse Projects. Up to 50 percent of MFA's available tax credit ceiling (less any forward allocations) will be made available for award to rehabilitation Projects. MFA anticipates allocating no more than 50 percent of its available tax credit ceiling (less any forward allocations) to each of these tracks/categories. MFA will award tax credits to the top scoring projects in each track/category, based on their eligibility and requested amount, up to the total amount that is 50 percent of the available tax credit ceiling (less any forward allocations.)

If tax credits remain in either track/category, these remaining tax credits, may, in MFA's discretion, be pooled. Thereafter, MFA may select one or more Projects to be awarded tax credits, including any forward allocation of tax credits, using the following methodology. MFA will review the next highest scoring Project from each track/category and will determine which Project has the highest "proportionate" score; that is, the greater percentage of scoring points achieved versus possible scoring points available in the respective track/category. In the event of a tie in this calculation, the remaining tax credits will be awarded to the new construction Project, which includes adaptive reuse Projects. In the event MFA chooses, in its sole discretion, to forward allocate tax credits to an additional project, the next highest scoring project in the rehabilitation category will be awarded. In the alternative, MFA may determine, in its sole discretion, to not "pool" remaining tax credits and to not forward allocate the following year's tax credits, even if that means that MFA chooses to not fully allocate any year's Annual

Credit Ceiling. Any application of the tie breaker process and/or decision to forward allocate tax credits lies solely within MFA's inherent discretion and is not subject to further review.

MFA will use the same process to select Projects that have been placed on the waiting list for an allocation of tax credits. For example, if a rehabilitation Project is initially awarded tax credits but later fails to move forward in the allocation process, the next highest-scoring rehabilitation Project may be given an award of tax credits. If no similarly categorized Project is available (e.g. if no rehabilitation Project is available for purposes for this example), then MFA may choose the next highest-scoring Project in the other track/category from the waiting list (e.g. new construction for purposes of this example.)

Should an Application consist of both new construction and rehabilitation, the Project will be classified, for purposes of this section, as new construction/adaptive reuse if 51 percent or more of the total units are newly constructed or constitute an adaptive reuse. Similarly, a Project will be classified as rehabilitation if ~~50~~51 percent or more of the total units are proposed for rehabilitation. Note that for scoring purposes, the rehabilitation points set forth in Project Selection Criterion No. 3 shall not be made available to a combined new construction/rehabilitation Project should the Project be categorized as a new construction or adaptive reuse Project.

In the event a Project consists of an equal number of new construction/adaptive reuse units and an equal number of units to be rehabilitated, then Applicant shall specifically state in their Application which track/category to place its Project for scoring purposes; however, the rehabilitation points set forth in Project Selection Criterion No. 3 shall not be made available to the combined new construction/rehabilitation Project should the Applicant categorize the Project as a new construction Project. Note: an Applicant may choose to place its combined new construction/rehabilitation Project in the rehabilitation track even if the Project fails to satisfy the provisions of Project Selection Criterion No. 3 and is awarded no points pursuant to that criterion. In the event Applicant fails to specify which scoring track/category they desire to place their Project, MFA will make this determination based on the information available, which shall be final and not subject to review.

D. Nonprofit Allocation Set-Aside

A minimum of 10 percent of the Annual Credit Ceiling must be allocated each year to Projects involving Qualified Nonprofit Organizations. MFA's Allocation Set-Asides (see **Section III.D**) are intended to implement this requirement. However, Qualified Nonprofit Organizations may also apply for tax credits in excess of these set-asides.

For the purposes of identifying Applicants eligible for this allocation set-aside, several requirements must be met, as described in Code Section 42(h)(5). A qualified nonprofit organization is an organization described in Sections 501(c)(3) or 501(c)(4) of the Code and exempt from tax under Section 501(a). The production of decent, safe and affordable housing must be one of the defined goals, objectives or purposes of the nonprofit organization. The nonprofit organization must materially participate in the Project, meaning that the organization must be involved on a regular, continuous and substantial basis

in both the development and operation of the Project during the term of the Compliance Period. The nonprofit must also own an interest in the Project throughout the Compliance Period and may not be affiliated with or controlled by a for-profit organization.

E. Minimum Apartment Unit Set-Asides

In order for a Project to qualify for tax credits, the Project Owner must make a minimum set-aside election of income and rent levels as listed below. Once made, this election is irrevocable. If the Project fails to meet its elected minimum set-aside standard at the end of each year, it is not a qualified low-income housing project for the year under IRC Section 42(g)(1)(C) and this noncompliance must be reported on IRS Form 8823. The Project Owner may be subject to the recapture of low income housing tax credits.

1. 20/50 Election: ~~rent~~ At least 20 percent of the units in the Project ~~must be rent-restricted to and occupied by~~ households ~~whose~~ incomes ~~is~~ at or below 50 percent of the Area Gross Median ~~Income~~ ~~(AMI)~~ ~~(20/50 Election).~~
2. 40/60 Election: ~~or~~ At least 40 percent of the units ~~in the Project must be rent-restricted to and occupied by~~ households ~~whose~~ incomes ~~is~~ at or below 60 percent of the ~~AMI~~ ~~Area Gross Median Income~~ ~~(40/60 Election.)~~
3. Income Averaging (IA) Election: This election under Section 42 of the IRS Code was authorized by the Consolidated Appropriations Act of 2018. This set-aside allows the Project to serve households up to 80 percent AMI (80%) as long as at least 40 percent of the total units are rent and income restricted **and** the average income limit for all tax credit units in the Project is at or below 60 percent AMI (60%).
 - a. The following applies for this election:
 - i. Projects cannot be an existing LIHTC project.
 - ii. Income and rent limits **must be in ten percent increments**, and may include 20 percent AMI (20%), 30 percent AMI (30%), 40 percent AMI (40%), 50 percent AMI (50%), 60 percent AMI (60%), 70 percent AMI (70%), or 80 percent AMI (80%).
 - b. The average of the imputed income limitations designated cannot exceed 60% AMI.
 - c. All units must be designated with a specific AMI percentage at the time of application.
 - d. Unit designations may float, but are subject to the Next Available Unit Rule and the original designations must be maintained throughout the Affordability Period. Income averaging applies to rent and income limits. If a unit has a designated limit of 80% AMI, the maximum rent that can be charged to a household for that unit is 30% of 80% of AMI. Similarly, if a unit has a limit of 40% AMI, the maximum rent that may be charged is 30% of 40% of AMI.
 - e. Skewing of unit designations is not permitted. Project Owners must disperse unit types across chosen rent/income limits in a way that does not violate Fair Housing.

MFA will require reasonable parity between different bedrooms sizes at each income band utilized on the Project.

- f. The MFA-ordered market study must demonstrate sufficient need at each income level chosen.
- g. Project Owners of projects with more than one building must elect to treat all of them as part of a multiple building project (checking “Yes” on line 8b of the 8609 form).
- h. IA Projects may be subject to an increased compliance monitoring fee.
- i. The MFA shall only accept an Application that chooses the IA election if all units in the Project are rent-restricted to and occupied by households whose income is ~~income- and rent-restricted LIHTC units at or below 80% of AMI.~~ In other words, the MFA will not accept an Application that chooses the IA election if the Project includes unrestricted, market rate units.
- j. An Application for an IA Project must include within its equity and debt commitment letters confirmation of the utilization and approval of Income Averaging.

The changes to the IRS Code described above do not extend to the set-aside requirements associated with the issuance of tax-exempt bonds in accordance with Section 142 of the IRS Code. 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.

The 30% AMI income and rent level under the LIHTC is not the same as the Extremely Low Income and rent restriction under the National Housing Trust Fund (NHTF). The NHTF statute and regulation define “Extremely Low Income” as the greater of 30% of AMI or the federal poverty line for applicable household size. Income Averaging unit designation is based solely on AMI. Projects that have layered NHTF with LIHTC should be mindful of this difference.

The IRS makes the ultimate determination regarding whether or not the Project is in compliance with this and/or any other election made by the Project Owner. Acceptance by MFA does not guarantee acceptance by the IRS. Project Owners should consult with their legal counsel. These requirements are subject to change in the event the IRS issues further guidance on Income Averaging.

Only low income units as determined by the Project’s set-aside election are eligible for tax credits. For example, if the 20/50 Election is chosen, only units that are rent restricted and set aside for tenants whose income does not exceed 50 percent of Area Gross Median Income are qualified as low income units. If the 20/50 Election is chosen, units with income and rent limits above 50 percent of Area Gross Median Income are not eligible for tax credits. Similarly, if the IA Election is chosen, only units that are rent restricted and set aside for tenants whose income does not exceed 850 percent of Area Gross Median Income are qualified as low income units. Theis minimum set-aside election is irrevocable under the Code.

F. Rent and Income Restrictions

Set-aside units must only be rented to households meeting certain income restrictions. Furthermore, rents charged for set-aside units may not exceed 30 percent of the applicable income limit(s) designated by Applicant. Gross rent limits provided annually by HUD (found on MFA's website) must be reduced by a utility allowance that accurately reflects the cost of tenant-paid utilities by unit size. While the Code excludes any payments made under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupant thereof) from the gross rent calculation, only rents that do not exceed the tax credit Ceiling Rents and are supported by the market study will be used for underwriting purposes. Exceptions may be made for Projects with project-based subsidies when the program governing the project-based subsidy allows higher rents. More detail regarding rental assistance payments and qualifying tenants can be found in the MFA Tax Credit Monitoring and Compliance Plan, which is issued under a separate cover and summarized in Section X.

G. General Public Use

Generally, all units, including set-aside units, must be made available to the general public under an initial lease term of at least six months. However, exceptions are made for single room occupancy and transitional homeless facilities.

Under Treasury Regulation Section 1.42-9(b), if a residential unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for tax credits under Section 42 of the Code. However, as clarified in Section 42(g)(9) of the Code, a qualified low-income project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants 1) with special needs, 2) who are members of a specified group under the federal program or state program or policy that supports housing for such a specified group or 3) who are involved in artistic or literary activities. Any unit that is part of a hospital, nursing home, sanitarium, life care facility, retirement home providing significant services other than housing is not for use by the general public.

Units set-aside for Project employees (property managers, maintenance staff, etc.) for which rent is collected will be considered unavailable to the general public and, thus, will be treated as market rate units. Units set-aside for Project employees for which rent is not collected will be treated as common area. Projects may set-aside or otherwise have a preference for military veterans that have served in the armed force of the United States and MFA encourages all Projects to develop marketing plans that involve outreach and marketing of units to veterans.

H. Eligible Projects

MFA's tax credit program is intended for rental housing located in the state of New Mexico. Projects may include transitional housing for the homeless, Single Room Occupancy (SRO) projects, senior and other special housing needs projects. Dormitories, "trailer parks" and transient housing (e.g. emergency

shelters for homeless persons and families) are ineligible. Proposed Projects must be eligible for an allocation of credits under Section 42 of the Code.

I. Scattered-site Projects

~~Projects that would otherwise qualify as a Project for the purposes of Section 42 of the Code but for their lack of proximity may nonetheless be eligible for tax credits provided they meet the following criteria: Under IRC §42(g)(3)(D), each low-income building is considered a separate project unless the taxpayer identifies each building which is, or will be, part of the project. Under IRC §42(g)(7) and Treas. Reg. §1.103-8(b)(4)(ii), two or more qualified low-income buildings can be included in a project only if the buildings:~~

- ~~1. All buildings are located within the same county;~~
- ~~2. The scattered sites are located on separate and legally distinct parcels of land;~~
- ~~3. Units are similarly constructed;~~
- ~~4. All buildings are owned by the same person or entity for federal tax purposes;~~
- ~~5. All buildings are financed pursuant to a common financing plan; and~~
1. All of the units (except employee units treated as common space) are low income units
located on the same tract of land, unless all the units in all the "scattered site" buildings to be included in the project are low-income units;
2. Are owned by the same person (entity) for federal tax purposes;
3. Are financed under a common plan for financing; and
- ~~6.4. Have similarly constructed units.~~

Generally, each site of a scattered-site Project must have a community space adequate for the provision of services and services must be delivered at each site in order for the Project to be eligible for points for **projects in which units are reserved for households with special housing needs, projects reserved for senior housing or projects in which 25 percent of all units are reserved for households with children.** However, if one of the project sites proposed for rehabilitation does not have adequate community space for the provision of services, services may be provided for residents at another project site so long as the following conditions are met: 1) the project sites are located within a quarter of a mile of each other and connected by an ADA accessible route, 2) the Application demonstrates, to the sole satisfaction of MFA, how the needs of persons with disabilities who do not have access to on-site services will be met and 3) sufficient community space for the provision of services is available for all residents of the project.

J. Projects Involving Both Rehabilitation of Existing Units and the Construction of New Units

In accordance with the provisions of this QAP, Projects may combine the rehabilitation of existing residential units with the construction of new residential units. Applications for combined rehabilitation and new construction Projects, however, must submit additional Application materials as provided for in Project Selection Criterion 4, *Rehabilitation Projects* (i.e. separate schedules A and D must be provided

for each activity as well as for the entire Project.) Each activity (rehabilitation or new construction) will be evaluated separately, as if each were a separate Project, in regards to ~~MFA 20198~~ *Mandatory Design Standards for Multifamily Rental Housing* (Design Standards) and cost limits provided in Section IV.C.2. Section II.C., above, is applicable to combined new construction and rehabilitation.

K. Compliance Period and Extended Use Period (30 Year Minimum)

The initial Compliance Period for any Project is 15 years. An Extended Use Period also applies to any Project for a minimum of 15 additional years following the expiration of the Compliance Period, during which time transfers and tenant dislocation are limited. The Project Owner shall not sell, assign, convey, transfer or otherwise dispose of the Project or any building in the Project without prior written consent of MFA during the Compliance and Extended Use Periods. By agreeing to an Extended Use Period, the Project Owner and its successors and assigns agree to maintain the Project as a qualified low income housing project (as defined in Section 42(g) of the Code) through the expiration of the Extended Use Period. During the Compliance and Extended Use Periods the Project Owner is prohibited from evicting or terminating tenancy of an existing tenant of any low income unit other than for good cause and/or increasing the gross rent with respect to a low income unit not otherwise permitted by Section 42 of the Code, as applicable throughout the entire commitment period.

By submitting an Application for an allocation of tax credits to a Project in accordance with this QAP, the Applicant and Project Owner agree to waive their right to request that MFA present a “Qualified Contract” for the Project in accordance with Code Section 42(h)(6). The Applicant and Project Owner further agree that the Extended Use Period shall not be terminated for any reason other than foreclosure (or instrument in lieu of foreclosure), and existing low income tenants will not be evicted or charged rents in excess of tax credit rents for a period of three years after the expiration of the Extended Use Period. Failure to comply with set-asides or any reduction in the number or floor space of the set-aside units during the Compliance Period, will result in recapture, with non-deductible interest of at least a portion of the tax credits taken previously. MFA will notify the IRS if it learns of any noncompliance. The Project Owner must also make tenant income determinations and file an annual compliance statement with MFA.

L. Compliance Monitoring

As of January 1, 1992 the IRS required each HFA to write and implement a Monitoring and Compliance Plan (summarized in Section X.) MFA’s plan includes a combination of Project Owner’s certification of continued compliance and regular property visits for all complete ~~tax credit~~ LIHTC Projects. During the property visit, MFA will conduct a compliance audit and a physical inspection. The IRS has provided substantial penalties, including recapture of the tax credits plus interest, for non-compliance with the policies and procedures set forth in Section 42 of the Code and MFA’s Tax Credit Monitoring and Compliance Plan. Monitoring and compliance fees described in **Section IV.B** will be assessed for each year of the Compliance and Extended Use Periods. The fees will be billed annually in December/January for the subsequent year and will be due no later than January 31. Project Owners will be given the option to pay the initial 15 years of monitoring and compliance fees at the time of final allocation

application. Failure to pay monitoring and compliance fees within the time frame specified in the invoice will result in MFA's filing of a "Notice of Noncompliance" (IRS Form 8823) with the IRS and the Principal(s) will be deemed ineligible for additional funding from MFA, including tax credit, for any Projects while the fees remain outstanding.

M. Eligible Basis According to Type of Activity

The "eligible basis" is generally the same as a Project's adjusted depreciable basis for tax purposes. Fees or points charged to obtain long-term financing, syndication costs and fees and marketing expenses are not included in eligible basis. These ineligible fees, costs and expenses include credit enhancement, credit origination fees, bond issuance costs, reserves for replacement, start-up costs and future operating expenses. Costs related to the acquisition of land, costs attributable to any commercial portion of the property and costs attributable to non-set-aside units that are above the average quality of the set-aside units in the Project are also ineligible. Additionally, federal grants shall not be included in a Project's eligible basis in accordance with Section 42 of the Code.

The eligible basis attributable to new construction or rehabilitation costs for a Project that has units ~~set-aside reserved~~ for senior housing, households with children or households with special housing needs and that is not financed with tax-exempt bonds may, in MFA's sole discretion, based upon a Project's financial need and provided state housing priorities are advanced, be increased by **up to** 30 percent and as needed for financial feasibility for the purpose of calculating tax credits. The eligible basis attributable to new construction or rehabilitation costs for a tax-exempt bond financed Project may be increased by **up to** 30 percent and as needed for financial feasibility for the purpose of calculating tax credits only if the Project is located in a HUD-designated QCT or a HUD-designated Difficult Development Area (DDA.) In no case will a Project's eligible basis attributable to the acquisition of an existing building be increased.

N. Ten-Year Rule

In order for the acquisition of an existing building to qualify for tax credits, the tax payer must adhere to the "Ten-Year Rule," meaning that the Project Owner must acquire the building from an unrelated person who has held the building for at least ten years. The 10-year requirement shall not apply to federally-assisted buildings and state-assisted buildings. In addition, the Secretary of the Treasury can waive the 10-year "Placed in Service" limitation for buildings acquired from a federally insured depository institution that are in default, as defined by Section 3 of the Federal Deposit Insurance Act or from a receiver or conservator of such an institution. Please refer to Section 42(d) of the Code for exceptions to the Ten-Year Rule.

O. Federal Grants and Federal Subsidy

The eligible basis of any Project shall not include costs financed with a federal grant. Many federal operating and rental assistance funds are excluded from this provision, as are Native American Housing

Self Determination Act (NAHSDA) funds. Please refer to Section 1.42-16(b) of the Treasury regulations for a complete list of federal assistance waived from this provision.

For the purpose of determining a Project's applicable credit percentage, federal subsidy means any construction or permanent financing that is directly or indirectly financed from state or local bonds, including municipal bonds, which are tax-exempt for federal income tax purposes. The most common form of federal subsidy is tax-exempt bond financing. Tax-exempt bond financing does not require a reduction in eligible basis provided that the tax-exempt bond financing is greater than 50 percent of the aggregate basis of the land and building(s).

P. Qualified Basis According to Type of Project

The "Qualified Basis" is that portion of the eligible basis attributable to low income units. It is calculated as the smaller of the percentage of low income units in the building or the percentage of floor space devoted to low income units in a building.

Q. Placed in Service Requirement

The 10-year credit period, 15-year Compliance Period and minimum 15-year Extended Use Period begin with the taxable year in which the building is "Placed in Service" (the time at which a building is "suitable for occupancy," which generally refers to the date of the issuance of the first certificate of occupancy for each building in the Project for new construction, Certificate of Substantial Completion for rehabilitation, or date of purchase by a new owner for acquisitions) or, at the Project Owner's election, the following taxable year.

Section 42(h)(1)(E) of the Code allows for the allocation or carryover allocation of tax credits to a building that is part of a new construction or rehabilitation Project, with the limitations described in Section 42(h)(1)(E), if an Applicant's qualified expenditures or actual basis in the Project, as of the date which is one year after the date that the allocation was made, is more than 10 percent of the taxpayer's reasonable expected total basis in the Project as of the close of the second calendar year following the calendar year in which the allocation was made. MFA requires evidence of ownership and submission of a complete carryover allocation application by November 15th³ of the year in which the tax credit award was made and evidence of the expenditure of more than 10 percent of the expected basis in the Project by August 31⁴ of the following year. A cost certification detailing the qualified expenditures or actual basis, that make up 10 percent of the reasonable expected basis and a description of Applicant's method of accounting must be prepared by a Certified Public Accountant (CPA) and submitted to MFA at that time. If the complete Carryover Allocation Application, the CPA's Cost Certification, the Attorney's Opinion, in the form required by MFA, regarding the qualification of the Project for tax credits and any other required materials are not received by 5:00 p.m. (Mountain Standard Time) on the applicable dates noted herein, the Project's credit reservation may be canceled. Section 42(h)(1)(E) further allows for a

³ November 15th is defined in the Glossary.

⁴ If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.

qualified building to be Placed in Service in either of the two calendar years following the calendar year in which the allocation is made. This paragraph does not apply to tax-exempt bond financed Projects.

R. Building Classification and Tax Credit Applicable Percentages

The tax credit's applicable credit percentage (i.e., the "4 percent" or "9 percent" credits for which a Project is eligible) is determined by the type of project proposed, its use of federal subsidy or federal grants and the amount of credit necessary to reach feasibility and long-term viability. The rates of 4 percent and 9 percent are upper limits of available credits, which fluctuate based on market conditions. The actual "applicable credit percentages" are based on monthly prevailing interest rates that are calculated and published by the U.S. Treasury department as the "applicable federal rate" or "AFR." The amount of the annual tax credit is calculated to yield a present value of either 30 percent (in the case of 4 percent credits) or 70 percent (in the case of 9 percent credits) of Qualified Basis, as adjusted by MFA. The applicable credit percentage may be locked in at the Project Owner's option, at the sooner of 1) the month in which the building is Placed in Service or 2) the month in which a binding commitment (carryover allocation) is made for an allocation or, in the case of tax-exempt bond financed Projects, the month the tax-exempt obligations are issued. Listed below are types of projects, which could be considered eligible for the tax credits and the applicable credit percentage for each project type.

1. **New construction.** New construction Projects that are not financed by tax-exempt bonds are eligible for 9 percent credits. Projects financed with tax-exempt bonds are eligible for 4 percent credits only.
2. **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 percent of the Qualified Basis of the building being rehabilitated or 2) at least \$6,000 per low income unit being rehabilitated. For Projects Placed in Service after 2009, the \$6,000 will be indexed for inflation. The minimum rehabilitation expenditures included in Qualified Basis for Projects Placed in Service in [2016-2017](#) was \$6,700. Rehabilitation Projects that are not financed by tax-exempt bonds are eligible for 9 percent credits. Projects financed with tax-exempt bonds are eligible for 4 percent credits only.
3. **Acquisition/rehabilitation of an existing building.** The maximum applicable credit percentage for acquisition of an existing building that will be subsequently rehabilitated is 4 percent. To qualify for tax credits for the acquisition, rehabilitation expenditures includable in the Qualified Basis must exceed the greater of 1) at least 20 percent of the Qualified Basis of the building being rehabilitated or 2) at least \$6,000 per low income unit being rehabilitated. For Projects Placed in Service after 2009, the \$6,000 per low income unit figure will be indexed for inflation. The minimum rehabilitation expenditures included in Qualified Basis for Projects Placed in Service in [2016-2017](#) was \$6,700. Rehabilitation expenditures associated with acquisition of an existing building can qualify for the 9 percent tax credits as long as the rehabilitation

expenditures are not funded with tax-exempt bonds. Projects financed with tax-exempt bonds are eligible for 4 percent credits only.

4. **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.

S. Audit Requirements

Beginning with issuance of the Reservation contract and Reservation letter by MFA and during the entire term of the Compliance and Extended Use Periods, MFA reserves the right, under the provisions of Section 42 of the Code, the Project's Land Use Restriction Agreement (LURA), and in accordance with its inherent discretion, to perform an audit or other related procedures of any project that has received an allocation of tax credits. Projects selected for audit or other related procedures may be chosen at random or based on MFA's discretion. An audit or other related procedure may include, but is not limited to, an on-site inspection of all buildings, and a review of all records and certifications and other documents supporting criteria for which the Project Owner received points in the Application for an allocation of tax credits. In addition, MFA reserves the right to audit all costs of a Project, including invoices, all third- party contracts, e.g. construction contract(s), management contract(s), architect and other professional contract(s), all construction pay applications and back up documentation (including, but not limited to, subcontractor invoices), and any other documents deemed necessary to perform the above.

III. Housing Priorities and Project Selection Criteria

A. Needs Analysis

This plan is consistent with the needs analysis of the state of New Mexico Consolidated Plan for Housing and Community Development and 2018-2022 Action Plan. Housing priorities stated in the Consolidated Plan include increasing the supply of decent, affordable rental housing, expanding housing opportunities and access for individuals with special needs, expanding the supply of housing and services to assist the homeless and preserving the state's existing affordable housing stock.

B. Housing Priorities

The following priorities are to be used by MFA in the distribution of tax credits and are reflected in the allocation set-asides and Project Selection Criteria used to rank competitive Projects. These priorities include the following:

1. Levels of affordability in excess of the minimum requirements, through one or more of the following:
 - a. Higher numbers of set-aside units; and/or

- b. Rents set to serve lower income tenants, for example, tenants earning no more than 40 percent or 30 percent of median income; and/or
 - c. Extended Use Periods longer than the 30-year minimum.
- 2. Provision of affordable housing to households on public housing waiting lists;
- 3. Maximizing leverage by obtaining other public or private non-equity program resources;
- 4. An equitable distribution of tax credits throughout all parts of the state where affordable housing is needed;
- 5. Provision of housing to serve documented senior and households with special housing needs, tenant populations of households with children, projects intended for eventual tenant ownership and under-served urban and rural areas;
- 6. Nonprofit development;
- 7. Production of housing with high quality design and construction;
- 8. Production of projects that are located in QCTs and which projects contribute to the development of a Concerted Community Revitalization Plan;
- 9. Provision of housing that is energy efficient or historic in nature; and
- 10. Efficient use of scarce resources including tax credits, measured through lower development costs or other means.

C. Minimum Project Threshold Requirements

All tax credit Applications must meet each of the following requirements, in addition to the eligibility requirements of Section 42 of the Code. MFA will use the deficiency correction process as described in **Section IV.C.5** to allow Applicants to correct deficiencies related to site control, zoning and fees (requirements 1-3 below.) All other threshold requirements are not correctable and initial Applications not meeting those requirements will be rejected. Applications not meeting site control, zoning and fee requirements will be rejected if they are not corrected within the time period allowed in Section IV.C.5.

1. Site control.

- a. Site control for all of the property needed for the Project must be evidenced by:
 - i. A fully executed and legally enforceable purchase contract or purchase option and/or a written governmental commitment to transfer or convey the property to the Applicant or Developer or Project Owner by deed or lease that demonstrates Applicant or Developer or Project Owner will possess a qualified leasehold interest upon execution of the lease, (collectively termed a “transfer commitment”). If a transfer commitment is submitted, the commitment must provide for an initial term lasting at least until July 31 of the year in which the allocation is made (“initial term.”) **This initial term must not be conditioned upon any extensions requiring seller consent, additional payments, financing approval, tax credit award or other such requirements.** Similarly, the transfer commitment must not require any additional actions on behalf of Applicant during the initial term which could allow the seller/lessor to terminate the transfer commitment if the action is not fulfilled by Applicant. If the transfer commitment requires an escrow payment or other

deposit due and payable after signing, evidence that payment was received must be included in the initial Application; or

- ii. A recorded deed or recorded lease demonstrating that Applicant possesses a qualified leasehold interest.
 - b. Site control evidence and the Application materials must show exactly the same names, legal description and acquisition costs. (Exception: In the case of To Be Formed partnerships, the relationship between the parties must be shown.) All signatures, exhibits and amendments must be included to be considered complete.
 - c. At Carryover, Project Owner must submit evidence that they have taken ownership of the land or depreciable real property or has executed a lease for the land (and buildings if applicable) with a term extending at least three years beyond that of any agreed upon Affordability Period. For tribal projects, this includes a fully executed Master lease and sublease with evidence of filing with the Bureau of Indian Affairs.
2. **Zoning.** Evidence that the current zoning of the proposed site(s) does not prohibit multifamily housing must be submitted. The evidence must indicate the specific address or location of the site, if no address has been assigned, for the proposed Project and be dated no more than six months prior to the Application deadline. This requires that multifamily projects not be prohibited by the existing zoning of the proposed site and there is no pending litigation, pending variance, or unexpired appeal process relating to the zoning of the proposed site. Projects sited on land which is not zoned or which is zoned agricultural, are exempt from this threshold test, but must obtain zoning approval and deliver evidence of it to MFA no later than November 15th of the year of the reservation.
3. **Fees.** All fees owed to MFA for all Projects in which Principal(s) of the proposed Project participate must be current. Fees currently due and owing must be received by MFA by the date due.
4. **Minimum Project score.** The Project must achieve at least a minimum score established in the Project Selection Criteria established in accordance with **Section III.E** below.
5. **Applicant eligibility.** All members of the development team (i.e. Developer, Project Owner, general partner, contractor, management company, consultant(s), architect, attorney and accountant, etc.) of the proposed Project must be in good standing with MFA and all other state and federal affordable housing agencies. For example, debarment from HUD, MFA or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally-financed Projects (for example, late payments within the 18-month period prior to the Application deadline, misuse of reserves and/or other Project funds, default, fair housing violations, noncompliance (e.g. with the terms of LURAs on other Projects_{7, 8}) or failure to meet development deadlines or documentation requirements_{7, 8}) on the part of any proposed development team member or Project Owner or other Principal may result in rejection of an Application by MFA. In addition, MFA will consider a Principal's progress made

with previous tax credit reservations, including timeliness in delivering required documents and fees and meeting all required deadlines. All members of the development team (i.e. Developer, Project Owner, architect, general contractor, etc.) are required to sign an affidavit affirming they have no related party relationships; or, that all related party relationships have been properly disclosed. The form of this affidavit can be found on MFA’s website.

6. **Financial feasibility.** Applications must demonstrate, in MFA’s reasonable judgment, the Project’s financial feasibility. Please refer to Section IV.C.2, **Section IV.D** and **Section IV.E** requirements pertaining to MFA’s financial feasibility considerations.

7. **Pre-Application Requirements.**

- a. Intent to Submit- In advance of submitting the entire Application package on February 12~~3~~, 201~~9~~⁸, Applicants must submit an ~~n~~ Intent to Submit a Tax Credit Application and Development Synopsis on or before January 23, 201~~9~~⁸. (See Application Attachments Checklist for form.) This submission is a mandatory requirement for the 201~~9~~⁸ competitive LIHTC Application round.
- b. ~~Effective It is MFA’s intent, beginning with the 2019 competitive LIHTC Application round, and beginning on January 1, 2018 a~~All for tax-exempt bond financed Projects are required to, ~~that all Applicants~~ meet with MFA staff at least 30 days prior to submission to review and discuss the proposed Project. MFA desires and encourages all Applicants ~~f~~For the 2019 competitive LIHTC Application round, ~~Applicants are required~~ to meet with MFA staff during the fourth quarter of 2018 ~~and must be prepared~~ to discuss their Project, ~~including the above threshold items, and any other issues and/or questions concerning the Project. This pre-application meeting for Projects proposed for submission during the 2019 competitive LIHTC Application round must be requested by the Applicant no later than December 1, 2018. Applicants with tax-exempt bond financed Projects are required to meet with MFA staff at least 30 days prior to submission of their Application.~~

Additional minimum Project threshold requirements apply to tax-exempt bond financed Projects, as described in **Section VI.B**.

D. Allocation Set-asides

1. **Nonprofit set-aside.** Ten percent of the annual credit ceiling for each calendar year will be reserved for Projects sponsored by qualified nonprofit organizations as defined in Code Section 42(h)(5)(C). For purposes of this set-aside, only federal requirements identified in Code Section 42(h)(5) will apply. The aggregate amount of tax credits allocated by MFA to qualified nonprofit organizations may exceed this amount.

2. **USDA Rural Development set-aside.** Ten percent of the annual credit ceiling will be set aside for new construction Projects with direct USDA Rural Development (USDA-RD) financing (USDA-RD 514/515/516 and MPR programs) that meet the following requirements:
 - a. The initial Application for **new construction** Projects must include the following:
 - i. A financing commitment for the direct USDA-RD financing. **Financing commitments and evidence of USDA-RD debt restructuring must include loan interest rate, term and repayment requirements.**
 - ii. A letter from an authorized officer of the New Mexico USDA-RD office stating that:
 - ◆ The Project has been reviewed
 - ◆ USDA-RD favorably considers the proposed transaction
 - ◆ Upon approval of a complete Application to Rural Development and an award of tax credits, USDA-RD will submit the file to its national office in Washington, DC and recommend final approval of the transaction.
 - b. The Project's score must be within 20 percent of the highest scoring Project to be awarded tax credits through the ranking process in the same funding round.

Please note that USDA will not approve an application for a Section 514 farm labor housing loan unless the Applicant is a non-profit.

3. **Ranking to meet allocation set-asides.** If the scoring and ranking process, without regard to the nonprofit set-aside, does not result in awards to Projects sponsored by qualified nonprofit organizations sufficient to fill the nonprofit set-aside requirement, the next highest scoring, qualified nonprofit organization eligible Projects will receive awards sufficient to fulfill that requirement ahead of the lowest scoring Projects that would otherwise have received an award. If there are insufficient qualified nonprofit organization eligible Projects to meet the nonprofit set-aside, the unallocated nonprofit set-aside tax credits cannot be allocated to other eligible Projects. A similar procedure will be used to meet the USDA-RD set-aside; however, if there are insufficient USDA-RD eligible Projects to meet the USDA-RD set-aside, any unallocated USDA-RD tax credits may be used for other eligible Projects. In addition, if the top scoring Project qualifying for the USDA-RD set-aside is awarded less than 10 percent of the annual credit ceiling but there are insufficient tax credits remaining to fully fund a second project under the set-aside, only the top scoring Project will be awarded tax credits under the set-aside.

Tax-exempt bond financed Projects are not subject to the above allocation set-aside considerations.

E. Project Selection Criteria to Implement Housing Priorities

The criteria shown below are the basis for the awarding of points to a particular proposed Project during the Application round(s) conducted by MFA. Applicants may not rely on prior submissions or prior

scoring to support a re-submission of an Application. Tax credit reservations will not be awarded to Projects achieving fewer than ~~eighty-five (85)~~100 points (~~the “minimum score” for a new construction and/or adaptive reuse Project~~) or ~~115 points (the minimum score for a rehabilitation Project)~~ unless too few Projects score above this level and MFA, in its reasonable judgment, decides to reduce the minimum score. Projects scoring ~~one hundred eighty-five (85)~~100 or more points (~~new construction and/or adaptive reuse Projects~~) and ~~Projects scoring 115 or more (rehabilitation Projects)~~ will be ranked according to their scores and in accordance with Section II.C. herein, subject to allocation set-aside requirements. Reservations will be made to these Projects, unless they are eliminated under threshold review or subsequent processing, starting with the highest scoring Projects, all in accordance with Section II.C. herein, until all available tax credits are used. In order to avoid a concentration of tax credit awards in a particular year in any particular municipality, county or market area, MFA reserves the right, in its sole discretion and as a part of its subsequent processing, to eliminate a lower scoring Project which is located in the same municipality, county or market area as a higher scoring Project provided the lower scoring Project is “similar” in terms of construction type and/or resident population served. Tax-exempt bond financed Projects will also be scored and must obtain the minimum score of at least ~~seventy (70)~~ 780 points ~~for new construction and/or adaptive reuse or 95 points for rehabilitation Projects~~ in order to obtain a Letter of Determination. Included within those minimum points must be points for serving a targeted population (households with special housing needs, senior housing or households with children.)

Other than ~~the criteria~~the criteria that include scaled-point structures, partial points will not be awarded.

Within each scoring track/category, if two or more Projects with equal scores (each a “tied Project”) would require more than the available tax credits, the tied Project with the lower total development cost per unit will be selected first for an award of credits. If too few tax credits are available to make a full award of credits to any tied Project, MFA will determine in its discretion whether to award a partial allocation, to commit future year’s tax credits to the Project in accordance with **Section VIII**, to award no tax credits at all to any tied Project or to choose some combination of these options.

Regardless of strict numerical ranking, the scoring does not operate to vest in an Applicant or Project any right to a reservation or tax credit allocation in any amount. MFA will, in all instances, reserve and allocate tax credits consistent with its sound and reasonable judgment, prudent business practices and the exercise of its inherent discretion. Consequently, MFA may reject any Project that MFA deems to be inconsistent with the objectives of this QAP or prudent business practices regardless of the Project’s numerical ranking.

Project Selection Criterion

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| 1 | <p>Nonprofit, New Mexico Housing Authority (NMHA), or local Tribally Designated Housing Entity (TDHE) Participation, or Tribal Housing Authority (THA) Participation</p> <p>Tier 1: Local nonprofits (as that term is defined in this criterion below), and NMHAs and TDHEs and THAs that demonstrate financial capacity by having net worth/net assets of at least</p> | Tier 1: 10 points |
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| | <p>\$1,000,000 will qualify for 10 points. Nonprofits, NMHAs, and TDHEs <u>and THAs</u> with net worth/net assets below \$1,000,000 may partner with another entity to increase the general partners combined net worth above this threshold.</p> <p>Tier 2: Local nonprofits, NMHAs, and TDHEs <u>and THAs</u> which have net worth/net assets of at least \$250,000 will qualify for five points. In addition qualified, nonprofit organizations that do not meet this criterion’s definition of “local nonprofit” but demonstrate strong financial capacity by having net worth/net assets of at least \$2,000,000 will qualify for five points.</p> <p>For any entity to claim points under this scoring criterion, the qualified, nonprofit organization, NMHA, or TDHE <u>or THA</u> must own at least 51 percent of the general partner interest and be receiving a minimum of 10 percent of the developer fee as identified in the Project Application. The developer fee calculation is made before any reduction for consultant fees. When more than one entity is receiving a portion of the developer fee, documentation will be required evidencing the agreement among the entities as to the fee split arrangement. Also, the Application must include evidence that a representative of the qualified, nonprofit organization, NMHA, or TDHE <u>or THA</u> (board member, officer, director, commissioner or staff) has attended the MFA QAP training and/or other MFA approved tax credit training prior to submitting the Application. This approved training must have been completed within the six months prior to submittal of the Application.</p> <p>Net worth/net assets must be substantiated by accountant-reviewed or audited year-end financial statements for each general partner whose financials are being relied upon to meet the minimum net worth/net assets. <u>A for-profit partner entity’s reviewed financial statements may be used to achieve net worth/net assets thresholds.</u></p> <p>Local nonprofit means a qualified, nonprofit organization that has a board of directors that is comprised of a majority of New Mexico residents at the time the Application is submitted and was incorporated in New Mexico before January 1 of the year in which the Application is submitted.</p> | Tier 2: 5 points |
| 2 | <p>Locational Efficiency</p> <p>Projects located in proximity and connected to 1) services and 2) public transportation are eligible for four points. Projects located in proximity and connected to 1) services or 2) public transportation are eligible for up to two points for each of these criteria. Public transportation must be established and provided on a fixed route with scheduled service. Alternative forms of transportation may be acceptable provided sufficient documentation is provided that establishes the alternate form of transportation is acceptable to MFA. <u>For example, projects on tribal land with established “on call” transportation programs that provide the users a choice of local destinations shall be considered “public transportation.”</u> A future promise to provide service does not satisfy this scoring criterion.</p> <p>See the applicable year <i>Locational Efficiency Supplement</i> for additional detail and submission requirements.</p> | Up to 4 points |
| 3 | <p>Rehabilitation Projects</p> <p>The scoring criterion applies to the rehabilitation of low-income apartment units or the</p> | <u>Up to 5</u> 10 points + up to 5 |

| | |
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| <p>conversion of market rate apartment units to low-income units. These scoring points are not available in a combined new construction and rehabilitation Project wherein the Application is categorized as new construction as discussed in Section II.C.</p> <p>To be eligible for points under this criteria, en points will be awarded to all Projects eligible for points under this criterion thatProjects must incur average rehabilitation construction costs of \$25,000 per unit or more for moderate rehabilitation or \$45,000 per unit or more for substantial rehabilitation, and provided that more than 20 years must have elapsed since issuance of certificates of occupancy or the units were Placed in Service and/or it has been 20 years since the Project’s prior rehabilitation utilizing tax credits as a source of funding was finished and those units were Placed in Service (together, this prerequisite is referred to as the “20-year requirement.”) A limited exception to this 20-year requirement is available when a sale or transfer of Project ownership to an unrelated third party has occurred. A capital needs assessment (CNA) documenting rehabilitation needs of the Project will be required at time of Application when an Applicant is requesting an exception to the 20-year requirement. A CNA will be required at carryover for all other rehabilitation Projects. In all cases, the CNA will be reviewed and must support the scope of work outlined in the Application. <u>Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards.</u> (Rehabilitation Projects are also subject to the Qualified Basis limits outlined in Section II.R.2. & 3.)</p> <p>In combined new construction and rehabilitation, rehabilitated units must account for the greater of at least 25 percent of the total units or 15 units. The separation of rehabilitation costs and new construction costs must be designated in the Application on separate Schedules A and D (i.e., the Application must include a Schedule A and D for the entire Project, a Schedule A and D for the rehabilitation costs and a Schedule A and D for the new construction costs.) All schedules must reconcile. The addition of common space to an existing Project is not considered new construction.</p> <p>For rehabilitation Projects meeting the above <u>threshold</u> criteria, the following additional points are available for a Project that exceeds the 20-year requirement as follows:</p> <ul style="list-style-type: none"> ≥ 22 years <u>- +1</u> point ≥ 24 years <u>- +2</u> points ≥ 26 years <u>- +3</u> points ≥ 28 years <u>- +4</u> points ≥ 30 years <u>- +5</u> points <p>Applicants must submit at time of Application sufficient documentation to establish that it satisfies the 20-year requirement with respect to the age of the Project or date of completion of last rehabilitation utilizing tax credits as a source of funding. This documentation may be in the form of certificate(s) of occupancy. In the case of a Project with a previous tax credit allocation, the completed Form 8609’s (with Part II First Year Certification completed) and recorded LURA must be submitted at the time of Application.</p> <p>Applicants must also submit an accurate, detailed and concise description of the work to be performed by the contractor, the Applicant and any third parties relating to the rehabilitation of the Project. Referred to as the Scope of Work, this submission must</p> | <p>additional points</p> |
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| | <p>identify the work to be performed including any demolition. See MFA 20198 Submission Instructions for Preliminary Architectural documentation for multifamily housing applications for more detailed discussion of Scope of Work requirements.</p> <p>In addition, Applicants must also submit a detailed narrative addressing rehabilitation vs. demolition including a discussion of the following: (i) why the Project is appropriate for rehabilitation and not demolition; (ii) the physical aspects of the existing building(s), including, but not limited to, structural conditions; (iii) any relocation issues, as described in more detail below; (iv) work performed, including the inclusion of any third party reports, to determine the reasonableness of a rehabilitation versus demolition; and (v) preservation of affordability, including any existing federal rental assistance contracts, and the impact of a rehabilitation or demolition on this assistance.</p> <p><u>The narrative must include information about any existing debt on the property or Project that will be assumed or paid with LIHTC equity or an MFA-administered funding source, including the outstanding amount, interest rate, and monthly payment amount and whether the. Additionally, explain whether the debt will be paid in full or assumed. Any assumed debt must be reflected in Schedule A-1 and Schedule C-1 (cash flow). Any debt to be paid off must be reflected as a use in Schedule A-1. If the debt is in the form of outstanding bonded indebtedness, explain whether bonds are redeemable, callable, and/or refundable. MFA may require a legal opinion in the case of redeemable bond debt.</u></p> <p>Finally, Applicants must submit a preliminary displacement/relocation plan <u>detailing/outlining</u>: (i) any potential permanent, temporary or economic displacement/relocation issues; (ii) the <u>approximate</u> number of current tenants to be relocated; (iii) where tenants could be relocated during the rehabilitation and length of time; (iv) how displacement/relocation can be minimized and how relocation expenses will be paid for if incurred; (v) good faith estimate of displacement/ relocation costs. A final version of the displacement/relocation plan is due at time of submission of a Carryover application, along with a displacement/relocation assistance plan (e.g. Who will receive assistance? How much assistance will they receive? When and how will they receive their assistance? Who will provide advisory services to those displaced?)</p> <p>These points can be awarded in conjunction with points under sustaining affordability. MFA reserves the right to request additional information or documentation regarding the scope of work.</p> | |
| 4 | <p>Sustaining Affordability</p> <p>15 points: Projects which meet one of the criteria listed below are eligible for 15 points:</p> <ol style="list-style-type: none"> 1. Previously subsidized existing Projects that are currently restricted but for which use restrictions are to expire on or before December 31, 20232 or 2. Existing Projects that are currently subsidized and eligible for prepayment and termination of their use agreement or <u>LIHTC projects that</u> are eligible to make a Qualified Contract request on or before December 31, 20232 or 3. Projects that have or will have a federal rental assistance contract covering at least 75 percent of all units. | 5 or 15 points |

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| | <p>Five points: Projects that have or will have a federal rental assistance contract covering at least 20 percent of all units are eligible for five points.</p> <p>(See Application Attachments Checklist for additional materials required to obtain these points.)</p> | |
| <p><u>5</u></p> | <p><u>Income Levels of Tenants</u></p> <p><u>An Application may qualify for up to sixteen (16) points for rent and income restricting a Project for the Affordability Period at the levels identified below:</u></p> <p><u>A. For any Project located within an Urban Area that proposes to use either the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively:</u></p> <ul style="list-style-type: none"> <u>• At least 40 percent of all Low-Income Units at 50 percent or less of Area Gross Median Income (16 points);</u> <u>• At least 30 percent of all Low-Income Units at 50 percent or less of Area Gross Median Income (14 points); or</u> <u>• At least 20 percent of all Low-Income Units at 50 percent or less of Area Gross Median Income (12 points).</u> <p><u>B. For any Project not located within an Urban Area that proposes to use either the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively:</u></p> <ul style="list-style-type: none"> <u>• At least 20 percent of all Low-Income Units at 50 percent or less of Area Gross Median Income (16 points);</u> <u>• At least 15 percent of all Low-Income Units at 50 percent or less of Area Gross Median Income (14 points); or</u> <u>• At least 10 percent of all Low-Income Units at 50 percent or less of Area Gross Median Income (12 points).</u> <p><u>C. For any Project located within an Urban Area that proposes to use the Average Income Election under §42(g)(1)(C) of the Code:</u></p> <ul style="list-style-type: none"> <u>• The Average Income for the proposed Project will be 54% or lower (16 points);</u> <u>• The Average Income for the proposed Project will be 55% or lower (14 points);</u> <u>or</u> <u>• The Average Income for the proposed Project will be 56% or lower (12 points).</u> <p><u>D. For any Project not located within an Urban Area that proposes to use the Average Income Election under §42(g)(1)(C) of the Code:</u></p> <ul style="list-style-type: none"> <u>• The Average Income for the proposed Project will be 55% or lower (16 points);</u> <u>• The Average Income for the proposed Project will be 56% or lower (14 points);</u> <u>or</u> <u>• The Average Income for the proposed Project will be 57% or lower (12 points).</u> <p><u>For Projects applying to receive points under Income Levels of Tenants A and B above, Applicants should not include units provided for managers or maintenance staff in the calculation for percentage of units at or below 50% of Area Gross Median Income (i.e. – manager and maintenance residential units should not be included in the denominator of</u></p> | <p><u>Up to 16 points</u></p> |

| | <p><u>the calculation).</u></p> <p><u>Projects that receive points under Income Levels of Tenants C and D above may not receive points under Evaluation Criteria 6 below.</u></p> <p><u>Maximum points that may be awarded under the Income Levels of Tenants Scoring Criterion and the Projects that Incorporate Market Rate Units Scoring Criterion combined is 16.</u></p> | | | | | | | | | | | | | |
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| 6 | <p><u>Projects that Incorporate Market Rate Units</u></p> <p><u>Projects that incorporate market rate units equal to at least 15 percent of the total units.</u></p> <p><u>Projects that receive points under Income Levels of Tenants C and D above may not receive points under Projects that Incorporate Market Rate Units.</u></p> <p><u>Maximum points that may be awarded under the Income Levels of Tenants Scoring Criterion and the Projects that Incorporate Market Rate Units Scoring Criterion combined is 16.</u></p> | 4 points | | | | | | | | | | | | |
| 5 | <p><u>Project Average Gross Median Income (AGMI) Level</u></p> <p>To determine the AGMI, calculate a weighted average based on the number of units set-aside at each income level. Market rate units will be treated as if they were set-aside at 100 percent of AGMI. When calculating AGMI, round to the nearest whole number at each tier, following the example in the Glossary definition of AGMI.</p> <table border="1" data-bbox="248 1083 1125 1304"> <thead> <tr> <th>AGMI Percentage</th> <th>Counties w/AMI less than or equal to \$55,200</th> <th>Counties w/AMI greater than \$55,200</th> </tr> </thead> <tbody> <tr> <td>50% or less</td> <td>40 points</td> <td>35 points</td> </tr> <tr> <td>51-59%</td> <td>35 points</td> <td>30 points</td> </tr> <tr> <td>60-69%</td> <td>30 points</td> <td>25 points</td> </tr> </tbody> </table> <p>Maximum points that may be awarded for rent and income targeting in <i>Project Average Gross Median Income (AGMI) Level, Projects that Incorporate Market Rate Units and Project Average Gross Median Rent (AGMR) Level</i> combined is 65. See chart.</p> | AGMI Percentage | Counties w/AMI less than or equal to \$55,200 | Counties w/AMI greater than \$55,200 | 50% or less | 40 points | 35 points | 51-59% | 35 points | 30 points | 60-69% | 30 points | 25 points | <p>50% or less: 35-40 points</p> <p>51-59%: 30-35 points</p> <p>60-69%: 25-30 points</p> |
| AGMI Percentage | Counties w/AMI less than or equal to \$55,200 | Counties w/AMI greater than \$55,200 | | | | | | | | | | | | |
| 50% or less | 40 points | 35 points | | | | | | | | | | | | |
| 51-59% | 35 points | 30 points | | | | | | | | | | | | |
| 60-69% | 30 points | 25 points | | | | | | | | | | | | |
| 6 | <p><u>Project Average Gross Median Rent (AGMR) Levels</u></p> <p>To determine the AGMR, calculate a weighted average based on the number of units set-aside at each rent level. Market rate units will be treated as if they were set-aside at 100 percent of AGMR. When calculating AGMR, round to the nearest whole number, following the example in the Glossary definition of AGMR.</p> <p>A Project can opt to restrict rents at a lower level than the targeted income level for any given unit(s), but in no case can the rent levels exceed the income levels.</p> <p>Maximum points that may be awarded for rent and income targeting in <i>Project Average Gross Median Income (AGMI) Level, Projects that Incorporate Market Rate Units and</i></p> | <p>60-69%: 20 points</p> <p>51-59%: 25 points</p> <p>50% or less: 30 points</p> | | | | | | | | | | | | |

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| | Project Average Gross Median Rent (AGMR) Level combined is 65. | |
| 7 | <p>Projects that Incorporate Market Rate Units</p> <p>Projects that incorporate market rate units equal to at least 15 percent of the total units.</p> <p>Maximum points that may be awarded for rent and income targeting in Project Average Gross Median Income (AGMI) Level, Projects that Incorporate Market Rate Units and Project Average Gross Median Rent (AGMR) Level combined is 65.</p> | 10 points |
| 78 | <p>Projects Committed to an Extended Use Period of the Following:</p> <p>35-year Affordability Period (15-year initial Compliance Period plus 20-year Extended Use Period)</p> <p>If the Project site will be leased, refer to Section III.C. for site control requirements.</p> | 5 points |
| 89 | <p>Projects in Which Units are Reserved for Households with Special Housing Needs Housing Priority</p> <p>Due to restrictions within the USDA program, this selection criterion is not available to Projects involving USDA-RD rental assistance. Projects in which units are reserved for households with special housing needs are eligible for points as follows:</p> <p>Option A: 20 percent of total units set aside reserved for households with special housing needs (see definition in Glossary). To be eligible for points under this option, at least 10 percent of the total units in the Project must be rent restricted at 30 percent of Area Median Income (AMI) or have permanent rental subsidy support with a project-based federal rental assistance contract that ensures residents do not pay rent in excess of 30 percent of their adjusted income.</p> <p>Option B: 5 percent of total units set aside reserved for households with special housing needs and 5 percent of the total units rent restricted at 30 percent of AMI.</p> <p><u>For purposes of this housing priority, total units includes non-revenue generating units i.e. manager's units.</u></p> <p>To receive points for this criterion housing priority, the initial Application shall include a completed Service Coordination Certification, on the template provided in the applicable Application Attachments Checklist, demonstrating how units will be marketed and made available to households with special housing needs, among other items. Applicants are required to score a minimum of the five points for Threshold Requirements as found in the Service Coordination Certification in order to elect to serve households with special housing needs. Selection of either Option A or Option B requires submission of a completed Service Coordination Certification along with a proposed budget. In addition, Applicants must indicate on the Application form and Schedule B, <i>Unit Type and Rent Summary</i> that 10 percent or 5 percent in accordance with the election of Option A or B above, of the total units will be rent restricted at 30 percent of AMI or include a copy of the federal rental assistance contract that covers at least the minimum percentage of the total units required by the election made. In addition, Applicants selecting Option A may elect additional points as described below:</p> | <p>Option A: Up to 15 points</p> <p>Option B: <u>Up to 5</u> points</p> |

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| Food pantry - onsite, or contiguous and accessible to the property and of adequate size with reasonably sufficient quantities of food, both perishable and non-perishable. | 2 points |
| Free transportation services to support medical and social service needs – minimum 2 days per week. Bus passes are not sufficient to satisfy this scoring item. | 5 points |
| Health Promotion/disease prevention/wellness classes or blood pressure or other health screening – provided at least every two months onsite and provided by a qualified service provider. Any health services must be provided by a licensed individual or organization. Examples include substance abuse counseling, crisis prevention and intervention, mental health counseling/therapy, etc. | 3 points |
| Case management services – provided onsite by a qualified service provider to a majority of the special housing needs residents on a voluntary and as-needed basis but at least quarterly. | 5 points |
| <u>Other - MFA approved service. Must be approved by MFA in writing one month before Application due date.</u> | <u>1-2 Points each as deemed appropriate</u> |
| <p><u>These points may not be combined with points for Projects Reserved for Seniors Housing Priority or Households with Children Housing Priority.</u></p> <p>For services provided by a qualified service provider, an Application must include an MOU between the Project Owner and the service provider(s) describing their expertise with providing services, the planned description and delivery of services, and the staff capacity for providing ongoing case management. Qualified service providers must have a minimum of three years of experience providing a service or assistance to persons with special housing needs.</p> <p>The <u>set-aside housing priority</u> requirement and any additional services committed to will be enforced through a provision in the LURA. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in service provided. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. Recognizing that circumstances change over time, the Service Coordination Plan may evolve as needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting changes to the plan, and the new services must provide a similar level of service to the residents. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g. if a new service contract is not timely executed or services are altered without MFA’s advance approval). The Project Owner will be required to maintain a file containing contracts with qualified service providers and other third party qualified personnel, documentation of when and where services were provided and documentation of time spent both on-site and off-site by the qualified service provider or other third party qualified personnel. Services must be optional for residents residing in <u>set-aside reserved</u> units. Any cost for services must be separated from rent.</p> | |

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| | <p>All Projects shall comply with federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g. Housing Opportunity for Persons Living with AIDS program, the Section 202 and Section 811 programs or the Housing for Older Persons Act).</p> <p>Projects must include appropriate space reserved for the delivery of any third-party services, such as a private office with secure file storage space (if client files are to be stored on-site), in order to be eligible for points under this criterion.</p> | |
| <p>91 0</p> | <p>Projects Reserved for Seniors Housing Priority</p> <p>These points benefit Projects specifically designated as Senior Housing. "Senior Housing" means Projects that qualify for an exemption from familial status discrimination under the Fair Housing Act. To qualify for this exemption, Projects must be:</p> <ul style="list-style-type: none"> • Provided under any state or federal program that HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program); or • Intended for, and solely occupied by persons 62 years of age or older; or • Intended and operated for occupancy by persons 55 years of age or older in compliance with the Housing for Older Persons Act (HOPA), 24 CFR Part 100 Final Rule. <p>Applicants are required to submit a Certification for Projects Reserved for Seniors Housing Set-Aside Priority Scoring Detail/Commitment.</p> <p>New construction Projects must include central common areas that can be used for resident activities and serving meals with an adjoining kitchen area. (Provision of meals is not required. See scoring chart below.)</p> <p>Set-aside Housing priority points will be awarded based on the Project meeting the requirements above. Additional points may be awarded for enrichment service activities as listed below. To receive additional points under this category housing priority, the Project Owner must certify that a service coordinator will be on-site a minimum of two days per week for a cumulative minimum of ten hours per week and the Project must include adequate common space for the provision of the proposed enrichment services. The service coordinator must be in addition to the property manager. Enrichment services must be optional to the residents and offered on-site, for the exclusive use of only those residents living at the site, and be actively linked to the Project, not simply available to the community at-large. The proposed Project annual operating budget must include at least \$2,500 for the provision of enrichment services.</p> <p>The Applicant must indicate in the initial Application which enrichment services will be provided, including a list of any proposed fees for services. Fees must be reasonable in MFA's sole determination. Where necessary, Project Owners must provide executed contracts with qualified service providers when the Project is Placed in Service. Contracts with service providers must include: 1) a description of the service(s) to be provided including frequency, 2) acknowledgement that service(s) will be provided on-site and 3) list the amount of any fee for service(s) provided. MFA will not issue IRS Form(s) 8609 unless</p> | <p>Up to 15 points (see chart)</p> |

Project Owner demonstrates, to MFA’s sole satisfaction, that enrichment services are being delivered as committed to in the initial Application. MFA, at its sole discretion, may allow substitution of enrichment services as deemed appropriate by MFA.

This ~~set-aside~~ housing priority requirement and any additional enrichment services committed to will be enforced through a provision in the LURA. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in service. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g. if a new service contract is not timely executed or services are altered without MFA’s advance approval.) The Project Owner will be required to maintain a file containing contracts with service providers, documentation of when and where services were provided and documentation of time spent on-site by the service coordinator. Services must be optional for residents ~~residing in set-aside units~~. Any cost for services must be separated from rent.

All Projects shall comply with Federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g. Housing Opportunity for Persons Living with AIDS program, the Section 202 and Section 811 programs or the Housing for Older Persons Act).

For Project Owner-provided services, Project Owner must provide sufficient documentation, in MFA’s sole discretion, of Project Owner’s experience and ability to provide the services, including any past experience in providing said services.

These points may not be combined with points for ~~Projects in Which 25 Percent of Total Units are Reserved for Households with Children~~ Housing Priority or ~~Projects in Which Units are Reserved for Households with Special Housing Needs~~ Housing Priority.

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| <u>Set-aside</u> <u>Housing priority</u> and design requirements met <u>(must be met to be eligible for further points in this category)</u> | 7 points | |
| Community building and all units incorporate universal design (must be evidenced in plans and specifications) | 3 points | |
| Service enrichment scoring (requires service coordinator for point awards): | | |
| Providing one prepared meal on a daily basis, available to all tenants at little or no cost to tenants | 2 points (congregate meals) | |
| | 1 point (meal service) | |
| Bi-monthly health and nutrition education. Examples include, but are not limited to, fitness classes, walking programs, seminar instruction on cooking for one, information on the Supplemental | 1 point | |

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| | Nutrition Assistance Program (SNAP.) | | |
| | Quarterly blood pressure or other health screening | 1 point | |
| | Quarterly computer training | 1 point | |
| | Social events designated to provide engaging activities for residents “build community” such as holiday potlucks, arts and crafts events, book clubs, creative writing, bingo and other games, field trips to the movies or a museum or other place of interest, etc. Bi-monthly or six per year (qualified service provider not required) | 1 point | |
| | Beyond Financial Literacy – financial counseling and tax preparation-educational programs to occur quarterly and focus on one or more of the following topics: budget counseling, financial planning assistance, credit score counseling, avoiding credit traps, income tax preparation in partnership with CPAs or a VITA program or local community college. | 1 point | |
| | Gardening: delivery of at least four monthly gardening classes per year during the growing season by a qualified instructor plus provision of gardening space of at least three square feet per unit for at least 50 percent of the units in the Project. | 1 point | |
| | Estate Planning and End of Life Planning – educational programs to occur quarterly and focus on one or more of the following topics: 1) estate planning 101 – what is and do you need the following: advance health care directive (living will); durable power of attorney for healthcare and HIPAA release; durable power of attorney for finances; a will and revocable living trust; 2) What is hospice and does Medicare cover this?; 3) Probate: what is it and how to avoid it; and 4) funeral planning. | 1 point | |
| | <u>Other - MFA approved service. Must be approved by MFA in writing one month before Application due date.</u> | <u>1-2 Points each as deemed appropriate</u> | |
| <u>10</u> <u>4</u> | <u>Projects in Which 25 Percent of All Units are Reserved for Households with Children Housing Priority</u> Projects in which 25 percent of all units are reserved for households with children are eligible for points as described below: For new construction Projects, at least 10 percent of the total units must have three or more bedrooms with at least 1.75 bathrooms and a further 15 percent of the total units must have two or more bedrooms with at least 1.75 bathrooms. For rehabilitation Projects, 30 percent of the total units must have at least two bedrooms. For Projects that combine rehabilitation and new construction, all units added to existing properties must have at least two bedrooms with 1.75 bathrooms and/or three bedrooms with 1.75 bathrooms until the percentages required for new construction Projects are met for the Project overall. All Projects must include adequate common space for the provision of the proposed enrichment services. The Applicant must provide a description of the Project’s | | Up to 15 points (see chart) |

specific design elements that serve the needs of households with children.

For purposes of this housing priority, total units includes non-revenue generating units i.e. manager's units.

Set-aside Housing priority points will be awarded based on the Project meeting the requirements above. Additional points may be awarded for enrichment service activities as listed below. To receive additional points under this category housing priority, the Project Owner must certify that a service coordinator will be on-site a minimum of two days per week for a cumulative minimum of ten hours per week. The service coordinator must be in addition to the property manager. Enrichment services must be optional to the residents, offered on-site and be actively linked to the Project, not simply available to the community at-large. The proposed annual Project operating budget must include at least \$2,500 for the provision of enrichment services.

The Applicant must indicate in the initial Application which enrichment services will be provided including a list of any proposed fees for services. Fees must be reasonable in MFA's sole determination. Where necessary, Project Owners must provide executed contracts with qualified service providers with the Placed in Service Application. Contracts with service providers must include: 1) a description of the service(s) to be provided including frequency, 2) indicate that service(s) will be provided on-site and 3) specify any fee for service(s) provided. MFA will not issue IRS Form(s) 8609 unless the Project Owner demonstrates, to MFA's sole satisfaction, that enrichment services are being delivered as committed to in the initial Application. MFA, at its sole discretion, may allow substitution of enrichment services as deemed appropriate by MFA.

The set-aside housing priority requirement and any additional enrichment services committed to will be enforced through a provision in the LURA. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in service. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g. if a new service contract is not timely executed or services are altered without MFA's advance approval.) The Project Owner will be required to maintain a file containing contracts with service providers, documentation of when and where services were provided and documentation of time spent on-site by the service coordinator.

All Projects shall comply with Federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g. Housing Opportunity for Persons Living with AIDS program, the Section 202 and Section 811 programs or the Housing for Older Persons Act).

For Project Owner-provided services, Project Owner must provide sufficient documentation, in MFA's sole discretion, of Project Owner's experience and ability to provide the services, including any past experience in providing said services.

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| | <p>These points may not be combined with points for <i>Projects Reserved for Seniors Housing Priority</i> or <i>Projects in Which Units are Reserved for Households with Special Housing Needs Housing Priority</i>.</p> | |
| | <p><u>Set-aside Housing priority</u> and design requirements met (<u>must be met to be eligible for further points in this category</u>)</p> | <p>7 points</p> |
| | <p>Service enrichment scoring (requires service coordinator for point awards):</p> | |
| | <p>Bi-monthly health and nutrition education, including but not limited to, fitness classes, walking programs, seminar instruction on meals in minutes.</p> | <p>1 point</p> |
| | <p>Semi-annual CPR training</p> | <p>1 point</p> |
| | <p>Quarterly blood pressure or other health screening</p> | <p>1 point</p> |
| | <p>Quarterly computer training</p> | <p>1 point</p> |
| | <p>Weekly tutoring during school year</p> | <p>1 point</p> |
| | <p>Quarterly job training, search assistance and/or placement</p> | <p>1 point</p> |
| | <p>Gardening: delivery of at least four monthly gardening classes per year during the growing season by a qualified instructor plus provision of gardening space of at least three square feet per unit for at least 50 percent of the units in the Project.</p> | <p>1 point</p> |
| | <p>Food resources program: a monthly program offering two of the following: 1) assistance and referral with applications for SNAP, (USDA); 2) youth summer lunch program (USDA) (daily when school is not in session) or 3) after-school snack program twice a week.</p> | <p>1 point</p> |
| | <p>Youth character building: a program occurring at least quarterly that will provide teens with group education covering a range of topics including drug prevention, self-defense, safe internet behavior, non-violence and teen dating, teambuilding, goal setting, basic teen financial literacy and referral to job training and alternative education resources.</p> | <p>1 point</p> |
| | <p>Beyond financial literacy: financial counseling and tax preparation; educational programs to occur quarterly and focus on one or more of the following topics: budget counseling, financial planning assistance, credit score counseling (restoring credit and avoiding credit traps); homebuyer education and down payment assistance, income tax preparation in partnership with a certified public accountant or VITA program or community college.</p> | <p>1 point</p> |
| | <p><u>Other - MFA approved service. Must be approved by MFA in writing one month before Application due date.</u></p> | <p><u>1-2 Points each as deemed appropriate</u></p> |
| <p><u>11</u> <u>2</u></p> | <p>Leveraging Resources Applicants should not plan on using solely LIHTC equity financing. Projects in which at least 1% of the total development cost (TDC) is to be made permanently available to the project through a grant or other contribution by a private third party entity or other federal funds or endowed by formal resolution of a state, local governmental entity or local tribal</p> | <p>Up to 10 points</p> |

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| | <p>governmental entity or tribal council are eligible for points. A grant or other contribution awarded by a private third party may count as a contribution provided applicant provides evidence the grant/contribution is irrevocable, legally binding, evidenced by a formal resolution of the third party’s Board of Directors or other controlling authority and the third party does not possess an ownership interest in the project. Federal funds may count as a contribution provided applicant provides a binding federal award letter. General Partner contributions may count as a contribution provided there is no hard debt repayment requirement. In addition, deferred developer fee may count as a contribution provided the proformapro forma, which proformapro forma shall be confirmed by MFA, supports repayment of deferred fee by year 15. Any deferred fee that cannot be repaid in 15 years will not be considered a contribution and will not count in eligible basis.</p> <p>Up to 10 points will be awarded corresponding to the percentage of TDC contributed as described in this scoring criterion. Only whole points will be awarded with the point value rounded down to the nearest percentage point. For example, a project that receives a local contribution provides leverage of 2.3 percent of TDC, is eligible for two points, a project that provides leverage receives a local contribution of 5.7% of TDC is eligible for five points, etc., up to 105 points. The value of the contribution must be listed as a source on Schedule A-1 and, when not a cash contribution, as a cost on Schedule A.</p> <p>The commitment from a private third party, federal government, state, local governmental entity, local tribal governmental entity or tribal council may be made in the form of cash, land and/or buildings. Construction permit fee waivers may count as a contribution provided applicant submits a signed letter from the local governmental entity confirming the legal basis for imposing the permit fee(s) and the amount of the permit fee(s) to be waived. A tax abatement, cost to remediate the land and/or buildings, or similar cost incurred by a prior landowner do not qualify as a contribution. Tax-exempt or taxable bond financings, funds awarded or loaned by MFA requiring hard debt payment during the Affordability Period, non-verifiable or non-measurable sources not based upon an existing fee schedule, and sources requiring any hard debt payment during the Affordability Period, will not be counted in meeting this criterion. Contributions made more than two years prior to submission of an Application will not be counted as a contribution.</p> <p>“As-is” appraisals dated no earlier than six months prior to the application date and completed by MAIs licensed in New Mexico must be submitted for all applications in which land or building values are counted toward the contribution, unless the land is Native American Trust Land. Appraisals must take into account any use restrictions on contributed land and buildings and include the value of any leasehold interest, if applicable. Contributions of Native American Trust Land qualify for five points. Additional points may be awarded for additional eligible cash or building contributions. For Native American Trust Land donations, a certified copy of the tribal council resolution will be required.</p> <p>Any percentage of contribution claimed, for which points are awarded, will continue to be monitored and tested by MFA and shall be satisfied during the life of the Project, until issuance of Form 8609(s).</p> | |
| <p><u>12</u> 3</p> | <p>Complete Applications</p> <p>Points are awarded to initial Applications that meet all the standards described in Section</p> | <p>5 points</p> |

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| | <p>IV.A.4 under “Content and Format” when initially submitted and that do not require any deficiency corrections. In addition, the following are necessary for a Complete Application: (i) all MFA Schedules must be fully completed, using the current year’s published forms and schedules, and contain accurate and consistent information/data, including, but not limited to, accurate and complete information contained in any Schedule and the “other” categories ; (ii) Applicant shall adhere to MFA’s published Underwriting Supplement, unless a waiver has been granted by MFA, when completing Schedules; (iii) all information contained in the Application must match and be consistent with all other information in the Application, including, but not limited to, square footages in the Rental Development Project Application and Architect’s drawings and specifications; (iv) the electronic and hard copy Applications must match; and (v) any narratives submitted must be accurate, complete and concise and contain the requested information .</p> | |
| 13 4 | <p>Marketing Units to Households Listed on Public or Indian Agency Waiting Lists</p> <p>Projects providing a commitment to market the units to households listed on public or Indian housing agency waiting lists are eligible for points under this criterion. A letter to the PHA or TDHE which serves the jurisdiction of the proposed site verifying this commitment is required to obtain points for this criterion.</p> | 2 points |
| 14 5 | <p>QCT/Concerted Community Revitalization Plan</p> <p>Projects that meet the criteria listed below are eligible for 5 points:</p> <ol style="list-style-type: none"> 1. The Project is located in a QCT and 2. The Project is a) also located in an area covered by a Concerted Community Revitalization Plan and the development of the proposed Project contributes to the Concerted Community Revitalization Plan by engaging in a housing activity promoted in the plan or b) the proposed Project is also located within ½ mile of a New Mexico designated MainStreet area. <p>Projects that are not in a QCT but are either a) located in an area covered by a Concerted Community Revitalization Plan and the development of the proposed Project contributes to the Concerted Community Revitalization Plan by engaging in a housing activity promoted in the plan or b) are located within ½ mile of a New Mexico designated MainStreet area are eligible for 3 points. <u>For scattered site projects, all of the scattered sites comprising the Project need to be located in a QCT and/or located in an area covered by a Concerted Community Revitalization Plan, and all sites must contribute to the Plan.</u></p> <p>A list of New Mexico designated MainStreet areas is located at http://www.nmmainstreet.org</p> | 0-5 points |
| 15 6 | <p>Projects with Units Intended for Eventual Tenant Ownership</p> <p>Projects in which at least half of the units are intended for eventual tenant ownership are eligible for points under this criterion, provided the Applicant commits to a minimum Extended Use Period of 15 additional years beyond the Compliance Period. The Project design must be conducive to this purpose, using single family homes, duplexes and/or townhomes that have individually-metered utilities and public streets. This commitment will be evidenced by submission of a long-range Tenant Conversion Plan at initial</p> | 5 points |

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| | <p>Application and will be documented in the LURA. The Tenant Conversion Plan, which must be reasonably acceptable to the MFA in order to receive points under this category, must be implemented on or before one (1) year prior to the termination of the Compliance Period. Please see definition of Tenant Conversion Plan in Section XI. These points may not be awarded in combination with points under <i>Projects Committed to an Extended Use Period</i>.</p> | |
| 16 7 | <p>Projects with Historic Significance</p> <p>Projects certified on the National Register of Historic Places (i.e., meeting the criteria for Part 1 Approval for Historic Tax Credits) are eligible for points under this criterion.</p> <p>If federal Historic Tax Credits are included in the financing structure of the Project, evidence that the National Park Service has received a complete Historic Certification Application – Part 2 for the Project must be included in the Project Owner’s carryover allocation package.</p> | 5 points |
| 17 8 | <p>Blighted Buildings and Brownfield Site Reuse</p> <p>Projects that include the demolition of blighted building(s) or the remediation and reuse of a Brownfield site are eligible for points under this criterion. Blighted building(s) must account for at least 10 percent of the sum of each building’s gross square feet. For scattered site projects, the total square footage of the blighted buildings must equal or exceed 10 percent of the proposed total new construction square footage. Points in this criterion cannot be combined with points under <i>Rehabilitation Projects</i>.</p> | 5 points |
| 18 9 | <p>Projects Located in Areas of Statistically Demonstrated Need</p> <p>Tier 1 Areas Eligible Projects are located in the counties of: Bernalillo*, Cibola*, Dona Ana, Eddy, Los Alamos, Luna*, McKinley*, Otero, Rio Arriba*, Sandoval, Santa Fe, Taos* and Valencia*. In addition, all Projects on Native American Trust Lands or Native American-owned lands within the tribe’s jurisdictional boundaries are eligible for Tier 1 points.</p> <p>Tier 2 Areas Eligible Projects are located in the counties of: Chavesz, Colfax*, Curry*, Grant, Lea, Lincoln, Roosevelt*, San Miguel*, Sierra, and Socorro*, and Torrance*.</p> <p><i>These tier areas are subject to change based on any changes in the 20198 Action Plan.</i></p> <p>In addition to the above Tier 1 and Tier 2 counties described above, an Applicant may petition MFA, on or before January 24, 20198, through a narrative discussion, to include a particular town or municipality within one of the above Tier classifications or to re-classify a Tier 2 county to a Tier 1 county. Applicant will be required to provide MFA with specific, verifiable and measurable data in support of their request, which should include data for the particular town or municipality. MFA will consider data submitted evidencing vacancy rates, population growth, waiting lists and other applicable data regarding the area/market (e.g. market study, PHA list) when making the determination whether to classify a town or municipality as a tier area. To qualify or reclassify a town or municipality</p> | <p>Tier 1: 10 points</p> <p>Tier 2: 5 points</p> |

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| | <p>as Tier 1, the town or municipality, at a minimum, must meet MFA’s Tier 1 criteria, e.g. vacancy rate and population growth. MFA’s determination shall be final and MFA will make a good faith effort to post notice of any such determinations on MFA’s website by February 1.</p> <p>*Indicates an area remains on the list for a second year even though it did not meet criteria in 20198.</p> | |
| <p>19 20</p> | <p>Efficient Use of Tax Credits</p> <p>For purposes of this scoring criterion, new construction Projects include adaptive reuse Projects. New construction Projects that request <u>less than \$165,074000</u> tax credits per low income unit and <u>less than \$165.6150</u> tax credits per low income square foot are eligible for <u>1520</u> points. New construction Projects that request <u>less than \$176,681500</u> tax credits per low income unit and <u>less than \$187.2200</u> tax credits per low income square foot are eligible for <u>1015</u> points. New construction Projects that request <u>less than \$165,074000</u> tax credits per low income unit or <u>less than \$165.6150</u> tax credits per low income square foot are eligible for <u>510</u> points.</p> <p>Substantial rehabilitation Projects that request <u>less than \$143,065125</u> tax credits per low income unit and <u>less than \$143.5255</u> tax credits per low income square foot are eligible for <u>1520</u> points. Substantial rehabilitation Projects that request <u>less than \$154,472438</u> tax credits per low income unit and <u>less than \$154.9588</u> tax credits per low income square foot are eligible for <u>1015</u> points. Substantial rehabilitation Projects that request <u>less than \$143,065125</u> tax credits per low income unit or <u>less than \$143.5255</u> tax credits per low income square foot are eligible for <u>510</u> points.</p> <p>Moderate rehabilitation Projects that request <u>less than \$121,055250</u> tax credits per low income unit and <u>less than \$121.4663</u> tax credits per low income square foot are eligible for <u>1520</u> points. Moderate rehabilitation Projects that request <u>less than \$132,261375</u> tax credits per low income unit and <u>less than \$132.6675</u> tax credits per low income square foot are eligible for <u>1015</u> points. Moderate rehabilitation Projects that request <u>less than \$121,055250</u> tax credits per low income unit or <u>less than \$121.4663</u> tax credits per low income square foot are eligible for <u>510</u> points.</p> <p>For the purpose of this criterion, low income square footage means the sum of each building gross square feet multiplied by the Project’s applicable fraction and includes common space allocated to low-income use. <u>Square footage of commercial space, garages and structured parking are excluded for the purposes of this calculation.</u></p> <p><u>Applicants may request less credits than the project is otherwise eligible for to obtain points in this category, however, projects must meet underwriting guidelines for financial feasibility. Projects which were awarded points for the <i>Efficient Use of Credits</i> Project selection criteria may not apply for additional tax credits if circumstances change unless the subsequent Application results in the same scoring range under <i>Efficient Use of Credits</i> when combined with the scoring range in the initial Application. In other words, a subsequent request for additional tax credits shall not be granted if Applicant received points for the <i>Efficient Use of Credits</i> in a prior round and now exceeds the efficient use of credits scoring ranges when evaluating both Applications as one single Application. See Section III.G. for additional requirements concerning supplemental tax credits.</u></p> | <p><u>510, 1015</u> or <u>1520</u> points</p> |

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| 20 1 | <p>Non-Smoking Properties</p> <p>Both 9 percent LIHTC and 4 percent LIHTC Projects are required to participate in the American Lung Association in New Mexico Smoke-Free at Home program. More information on the Certification programs may be found at smokefreeathomenm.org/cost-savings/. Projects are eligible for scoring points as follows provided the Certification described below is obtained <u>and proof of certification is submitted with the Project's 8609 application</u>:</p> <ul style="list-style-type: none"> (i) Projects agreeing to participate and obtain the Smoke-Free at Home NM Platinum Certification (new construction Projects which do not allow any smoking at any time on any part of the property) (6 points); (ii) Projects agreeing to participate and obtain the Smoke-Free at Home NM Gold Certification (applies to new construction, rehabilitation and/or adaptive reuse Projects and no smoking is permitted at any time on any part of the property) (6 points); (iii) Projects agreeing to participate and obtain the Smoke-Free at Home NM Silver Certification (applies to new construction, rehabilitation and/or adaptive reuse Projects and does not allow smoking inside any of the units and common areas, nor within 25 feet of all entry ways and windows of the building. (4 points) <p>The Project must have appropriate space for the provision of smoking cessation classes.</p> | 4 or 6 points |
| 21 2 | <p>Adaptive Reuse Projects</p> <p>Projects which will involve the conversion of an existing building that was not initially constructed for residential use to multifamily residential use are eligible for five points. Projects involving the conversion of motel rooms, hotel rooms, dormitories, convents, etc. are considered adaptive reuse and not rehabilitation.</p> <p>In combined new construction and adaptive reuse Projects, converted space must account for at least 20 percent of the sum of each building's gross square feet. The separation of conversion costs and new construction costs must be designated in the Application on separate Schedule A and D (i.e., the Application must include a Schedule A and D for the entire Project, a Schedule A and D for the rehabilitation/conversion costs and a Schedule A and D for the new construction costs.) All schedules must reconcile.</p> <p>Projects eligible for points for <i>Rehabilitation Projects</i> are not eligible for points under this criterion.</p> | 5 points |
| 22 3 | <p>Other Scoring Points Available</p> <p>Up to six additional points are available to a Project meeting any one or more of the following criteria:</p> <ul style="list-style-type: none"> (i) The Project is not in the <u>set-aside housing priority</u> for Households with Special Housing Needs and targets extremely low income residents, which includes income and rent restricting at least 5 percent of total units in the Project to residents earning 30 percent or less of Area Median Income, for which no federal assistance is <u>existing available</u>. For projects in the Special Housing Needs <u>set-aside housing priority category</u>, the Project restricts an <i>additional</i> 5 percent of the total units in the Project to residents earning 30 percent or less of Area Median Income, which | Up to 6 points maximum |

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| | <p>units may have permanent rental subsidy support with a project-based federal rental assistance contract that ensures residents do not pay rent in excess of 30 percent of their adjusted income. In either case, Applicants must indicate on the Application form and Schedule B, <i>Unit Type and Rent Summary</i>, the applicable units will be rent restricted at 30 percent of AMI (or include a copy of the federal rental assistance contract that covers at least the minimum percentage of the total units if in the Special Housing Needs Set-aside housing priority category). (3 points)</p> <p>(ii) The Project involves newly constructed units totaling 35 units or less, and does not contain any rehabilitation or adaptive reuse in Project scope and the MFA-ordered Market Study supports need for the project (3 points); or</p> <p>(iii) The Project is to be located in a town or municipality with a population less than 16,000 people pursuant to data published by the 2016 U.S. Census Bureau, and the MFA-ordered Market Study supports need for the project (3 points);</p> <p>(iv) The Project is to be located in a town or municipality with no “active” LIHTC Projects. “Active” is defined as a town or municipality for which a LIHTC award was made in the last five (5) calendar years and the MFA-ordered Market Study supports need for the project (3 points);</p> <p>(v) Project’s resident selection criteria contain a preference for active duty or retired US military Veterans. (3 points)</p> <p>The Application is capped at six (6) points maximum for this scoring criterion.</p> | |
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F. Additional Credits for Projects with Partial Allocations

If an Applicant receives a partial allocation in a given round and requests additional credits in a subsequent round, the minimum Project threshold requirements and the Project selection criteria for scoring used in the initial allocation year will be applied to the evaluation of the Project in the subsequent allocation year. The Project’s ranking relative to initial application year Projects will be determined by calculating the Project score as a percentage of the highest score in its initial allocation round and multiplying that percentage by the highest score in the subsequent Application round to derive its subsequent Application year score and ranking among the subsequent round Applications.

G. Additional Supplemental Tax Credits for Cost Increases

Projects with increased eligible basis as a result of increases in hard construction costs may apply for additional tax credits in subsequent allocation rounds prior to issuance of an IRS Form 8609. Full Applications will be required for competition within an allocation round and the Project will compete on the same basis as that of the subsequent round Projects. However, Projects for which increased tax credits have been requested cannot exceed MFA’s cost limits or limitation on an award to a single Project for the year of the initial award or subsequent round. In addition, Projects which were awarded points for the *Efficient Use of Credits* Project selection criteria may not apply for additional tax credits unless the subsequent Application results in the same scoring range under *Efficient Use of Credits* when combined with the scoring range in the initial Application. In other words, a subsequent request for additional tax credits shall not be granted if Applicant received points for the *Efficient Use of Credits* in a prior round and now exceeds the efficient use of credits scoring ranges when evaluating both

Applications as one single Application. Applications that are submitted for additional tax credits will be subject to MFA's evaluation process and the availability of credits, as well as limitations on the time period for allocation of additional credits under Section 42 of the Code. Only one additional tax credit allocation will be permitted by MFA for any given Project. The process is intended for hardship cases and hardship will have to be documented accordingly in any such request.

H. New Allocations to Projects Previously Subsidized with Tax Credits

Existing Projects that previously received tax credit allocations and are now eligible under Code Section 42(d)(2) for new acquisition tax credits may apply for a current allocation. However, because of prior subsidy investment in the Project and the scarcity of the resource and to ensure that the subsidy is not being used primarily for ownership transfer, previously subsidized Projects must demonstrate: 1) a real risk of loss of affordable units, 2) an addition of significant improvements and services to enhance livability for the tenants and 3) that more than 20 years has passed since the Project was Placed in Service. These may qualify for standard tax credit applicable percentages (as described in **Section II.N.**)

However, in a proposed sale transaction when there is an identity of interest in any Principal of the buyer and seller, the Project will be subject to reduced developer fees. When there is such an identity of interest, the developer fee percentages (described in **Section IV.D.2.b**) will be calculated on Total Development Cost less Acquisition Costs. An "as-is" appraisal dated no earlier than six months prior to the Application date and completed by MAIs licensed in New Mexico must be submitted.

Tax-exempt bond financial Projects are excluded from the above requirements.

I. Property Standards

All newly constructed and/or rehabilitated properties must meet applicable state and local building codes, including but not limited to: the New Mexico Commercial Building Code, the New Mexico Residential Building Code, the New Mexico Energy Conservation Code, the New Mexico Existing Building Code, the New Mexico Plumbing Code, the New Mexico Mechanical Code the New Mexico Solar Energy Code, the New Mexico Electrical Code, the New Mexico Electrical Safety Code, and all international and uniform building codes as referenced and adopted by the aforementioned codes. In addition, all newly constructed Projects must obtain a Home Energy Rating System (HERS) score of 65 or better and all rehabilitation Projects must obtain a HERS score of 75 or better. All Projects must meet the provisions and requirements of the Americans with Disabilities Act (ADA) as applicable. Public and common use areas within Projects are subject to these requirements. Projects combining housing tax credits with another federal source of funding must comply with HUD Section 504 requirements as required in the 2010 ADA Standards. Projects must also adhere to the Federal Fair Housing Act and shall adhere to the federal fair housing accessibility and adaptability requirements promulgated through the Fair Housing Accessibility Guidelines [56 FR 9472, 3/6/91]. Finally, conformance to Design Standards in the Application package is mandatory for all Projects, including tax-exempt bond financed Projects.

IV. Allocation Procedure and Application Requirements

A. Allocation Rounds

1. Submission Date(s)

MFA intends to conduct one competitive LIHTC Application round each calendar year. However, MFA reserves the right to conduct additional LIHTC rounds or to award tax credits outside of the rounds.

Initial applications for the 201~~98~~ competitive LIHTC Application round will be accepted between the hours of 8 a.m. and 5 p.m. Mountain Standard Time on business days from February 1, 201~~98~~ through February 13~~12~~, 201~~98~~. Initial Applications must be received by MFA at the address identified in Section IV.A.2 of this QAP no later than the Application deadline. Late Applications will not be accepted. If the Projects submitted do not use all of the available tax credits or if additional tax credits become available later in the year, MFA will consider a second round or make allocations to lower-scored eligible Projects at MFA's sole discretion.

Initial Applications for tax-exempt bond financed Projects are accepted on a continuous basis, subject to the timing requirements outlined in **Section VI.B.**

2. Place of Submission

Initial Applications may be delivered by U.S. mail, by courier service or by hand to the following address:

MFA
Attn: ~~Housing~~ Tax Credit Program Manager
344 Fourth St., SW
Albuquerque, NM 87102
505-843-6880

3. Form of Submission

Initial Applications may not be delivered by facsimile transmission or e-mail. One complete original hard copy Application is required, along with an electronic color copy (described below in **Section IV.A.4.b.**) The required forms will be provided electronically and may be downloaded from MFA's website at <http://www.housingnm.org/developer>. All Applications must be marked "LIHTC APPLICATION" in readily visible print. On receipt, MFA will date and time stamp the Application. No additional materials may be submitted after the initial Application is date and time stamped by MFA, unless requested by MFA in accordance with the provisions of this QAP.

4. Content and Format: Complete Applications

Complete Applications will meet the following standards when they are initially submitted and without benefit of any subsequent submissions, including any such submissions received during the deficiency correction period:

a) **All Application documents that require signatures must be included and bear the original signatures in blue ink from all general partners.** MFA will require submission of an “omnibus” signature page wherein all general partners must certify, among other things, that the Application submitted, including all schedules and certifications, is accurate and complete and does not contain any misrepresentations.

b) Complete initial Applications must include the application form, the LIHTC application attachments checklist found in the application package and all mandatory items listed in Section I of the LIHTC application attachments checklist, including a CD, DVD or USB flash drive containing a complete **color** copy of the LIHTC Application, including all attachments, in PDF file format with protected personal information such as Social Security numbers and Board member home addresses, redacted. The CD, DVD or USB flash drive must contain a single PDF file “bookmarked” for each Application tab (tab) and named accordingly (e.g. Tab 1, Tab 2, etc.) Each bookmark must include all of the documents required for the respective tab, as identified in the Attachment Application Checklist and named accordingly (e.g. Tab 1.1 – Attachments Checklist, Tab 1.2 – Tax Credit Selection Criteria Scoring Worksheet.” All documents must be submitted in numerical order.

c) Complete initial Applications must include application fees as outlined in Section IV.B below.

d) Complete initial Applications must be submitted in at least two brown classification folders, legal, two partitions (i.e. six fasteners), with all attachments provided in the order listed. Attachments must be tabbed and numbered as in the Attachments Checklist and the PDF bookmarks. Classification folders may be purchased at Staples, Office Max or similar suppliers.

e) No additional materials may be submitted after the initial Application is date- and time- stamped by MFA, unless requested by MFA in accordance with the provisions of this QAP.

f) Current year MFA forms **must be used** when provided and **no substitutions will be accepted.**

g) All information must be current, clearly legible and consistent with all other information provided in the Application. Every document contained in the hard copy Application must match exactly to every document contained in the electronic Application.

h) Forms must be completely filled out and executed as needed. All signatures are to be made in **blue ink.**

i) Except as MFA may determine is necessary to evaluate the “Applicant eligibility” threshold requirement in **Section III.C.5** all Applications must be self-contained: MFA will not rely on any previously submitted information, written or verbal, to evaluate the Applications in a given round.

In determining whether the Application is complete, MFA will examine the package for both the availability of all required materials listed in Section I of the Application Attachments Checklist and for the content of those materials. Failure to provide or complete any element of the initial Application

package, including all items listed in Section I of the Application Attachments Checklist, may result in immediate rejection of the Application without complete review. When special documents required to obtain points under particular project selection criteria are not provided in the initial Application, as listed in Section II of the Application Attachments Checklist, the related points will not be awarded. The Application Attachments Checklist is not intended to be a comprehensive listing of all documents required to be submitted. Applicants bear the burden of determining and submitting any additional documents that directly support an Application or other information required by this QAP to be submitted.

In addition to the actions MFA may take pursuant to Section IV.C.5 Deficiency Correction Period, MFA may request additional information from any Applicant as deemed necessary for a fair and accurate evaluation of an Application. MFA may also choose to accept inconsistent information and if so, may select any of the inconsistent pieces of information over any other pieces of information over any other piece, in its reasonable judgment. However, MFA is under no obligation to seek further information or clarification or to accept inconsistent responses.

The Applicant will bear sole and full responsibility for submitting its Application in accordance with the requirements of the Internal Revenue Code and the QAP and will be deemed to have full knowledge of such requirements regardless of whether or not a member of MFA’s staff responds to a request for assistance from Applicant or otherwise provides Applicant assistance with respect to all or a portion of the Application.

5. Communications and Quiet Period

Questions concerning the competitive LIHTC Application -round Application requirements must be submitted through MFA’s website at www.housingnm.org/low-income-housing-tax-credits-lihtc-allocations. No questions will be accepted after 5 p.m. Mountain Standard Time, January 24, 2019~~8~~. Answers will be posted to the website and once posted will be deemed a part of this QAP. It is the sole responsibility of Applicants to review the website for answers to questions.

A “Quiet Period” for each competitive round will begin at the time an initial Application is submitted and end upon the announcement of the tax credit awards. During the Quiet Period, Applicants shall not contact MFA’s management, employees, members of the Board of Directors or their proxies, officers or agents in regard to an Application under consideration unless expressly directed to do so by MFA staff. The purpose of the Quiet Period is to create a fair and consistent process for all Applications in the competitive round. The Quiet Period only applies to Applications under consideration during the competitive round and not to any other projects, issues, or applications-applicationsor issues, including questions regarding MFA gap funding requested in conjunction with the Application.

The imposition of the Quiet Period does not alleviate any Applicant of its obligations to notify MFA of changes to the Project as provided for in Sections IV.H. and IV.I. herein. In addition to the provisions of Sections IV.H. and IV.I., Applicants are required to notify MFA of any material change in circumstances concerning the Application, development team, threshold requirements and/or scoring changes.

Applicant shall notify the Housing Tax Credit Program Manager in writing immediately of the material change, and MFA staff shall review the notification and determine, in its sole discretion, what action, if any, to be taken with respect to the pending Application.

All communications regarding Projects which have received tax credit awards and tax-exempt bond financed Projects should be directed to:

~~Susan H. Biernacki, J.D.~~

~~Shawn Colbert~~ ~~Rebecca Velarde~~ ~~TBD~~

~~Housing Development Department Director~~ ~~Tax Credit Program Manager~~

~~Tax Credit Program Manager~~

~~(505)767-2273~~

~~505-767-2251~~ ~~73TBD~~

~~TBD@housingnm.org~~ ~~velarde@housingnm.org~~ ~~colbert@housingnm.org~~ ~~biernacki@housingnm.org~~

6. Prohibited Activities

Applicants (including Applicants for tax-exempt bond financed Projects) or their representatives shall not communicate with or by any other means attempt to influence members of the Board of Directors and their proxies or members of the Allocation Review Committee (ARC) regarding any Application except when specifically permitted to present testimony at a tax credit related proceeding. **An Application shall be rejected if the Applicant or any person or entity acting on behalf of Applicant violates the prohibitions of this section.** A list of the members of MFA's Board of Directors and their proxies and ARC members can be found at <http://www.housingnm.org>. A list of ARC members, [MFA board members](#), and MFA [leadership, and LIHTC program management staff, employees](#), which is current as of the date of this QAP, is attached hereto as Exhibit 1. It is the Applicant's responsibility to check MFA's website for a current list of board members and ARC members.

Any communication made or action taken in violation of the Quiet Period or the prohibited activities section of the QAP shall be immediately reported to the tax credit program manager, whose contact information is provided in **Section IV.A.5**. Nothing in this section shall be construed to alter or affect the mandatory appeals processes and procedures that are prescribed elsewhere in this QAP. **An Applicant's failure to adhere to the prescribed application and appeals processes and procedures shall result in the rejection of the Application.**

B. MFA Fees and Direct Costs

All fees are non-refundable. They are due at the times and in the amounts shown below and they apply to both allocated and non-allocated tax credits. Fees may be delivered in the form of personal or business checks, money orders or cashier's checks. Any check returned for insufficient funds will result in rejection of the Application, cancellation of the reservation or other actions available to MFA. Exceptions may be granted at MFA's sole discretion and fees may be adjusted annually, as determined by MFA in its sole discretion.

Application Fee (for initial and supplemental requests)

- ◆ Due at submission of tax credit initial Application
- ◆ \$500 for nonprofit or governmental entity Applicant; \$1,000 for a for-profit Applicant

Market Study and Design Review Deposit

- ◆ \$8,500 (deposit) due at submission of tax credit initial Application

This deposit is intended to cover the cost of the commissioned market study and a portion of the design reviews for compliance ~~with Design~~ with Design Standards. Design reviews are estimated to cost between \$8,000 to \$15,000, depending on Project location and complexity. This is an estimate only and the final cost may vary. If the market study or design review costs more than the deposit, the difference will be billed. If the cost is less, the difference will be refunded. Any amount in excess of the \$8,500 deposit is due within 20 calendar days of billing by MFA.

Processing Fee

Projects receiving a reservation of 9 percent tax credits

- ◆ Due at execution of reservation contract
- ◆ 7.5 percent of the MFA-determined tax credit allocation amount rounded down to the nearest dollar.

Projects financed with tax-exempt bonds

- ◆ Due prior to delivery of letter of determination or construction start, whichever occurs first.
- ◆ 3.5 percent of the MFA-determined annual tax credit amount rounded down to the nearest dollar
- ◆ If the actual tax credit amount is greater at final allocation than when the letter of determination was delivered, the Applicant must pay an additional processing fee of 3.5 percent of the increase in the tax credit amount.

Monitoring and Compliance Fees

- ◆ Due annually by January 31st for each year of the Extended Use Period. The monitoring and compliance fee for the entire 15-year Compliance Period may be paid in a lump sum at the final allocation application (number of units x \$45/unit/year x 15 years).
- ◆ ~~20198 --~~
 - \$45/set-aside unit/year (Income Averaging projects may be subject to an increased compliance monitoring fee.)

Appeal Fee

- ◆ \$5,000 due at submission of appeal
- ◆ No appeal will be entertained in advance of appeal fee payment.

Subsidy layering review, request for increase in tax credits, request for changes to a Project and/or requests for document corrections (when not a result of an administrative error by MFA, including when changes or alternate forms are proposed by an Applicant in lieu of MFA standard forms.)

- ◆ \$500 due at submission of review/correction request

Extension Fee

- ◆ Due at submission of request to extend deadline of any documents required under Subsequent Project Requirements and/or with submission of late or missing documents required under Subsequent Project Requirements
- ◆ \$500 per week

C. Staff Analysis and Application Processing

1. **Threshold review.** Following the Application deadline, MFA will undertake a threshold review to determine whether the initial Application meets the minimum Project threshold requirements shown in Section III.C. If the initial Application fails the threshold review because it does not achieve the minimum score, it may be retained until MFA determines whether all tax credits can be allocated to higher scoring Projects. If the initial Application fails to meet site control, zoning and fee requirements, the Applicant will be given an opportunity to correct the deficiency in accordance with Section IV.C.5 and if not corrected in the time period allowed, the Application will be rejected. The Applicant eligibility and financial feasibility threshold requirements are not correctable and Applications that fail to meet these requirements will be rejected.
2. **Cost limits.** Total development costs for various types of Projects may not exceed the following:
 - a. **New construction and adaptive reuse Projects.** The total development cost per unit must not exceed 130 percent of the weighted average total development cost per unit for all new construction and adaptive reuse Projects submitted in the same round.
 - b. **Acquisition/rehabilitation Projects.** The total development cost must not exceed 100 percent of the weighted average total development cost per unit for all new construction and adaptive reuse Projects submitted in the same round.
 - c. **Tax-exempt bond financed Projects.** Total development cost must not exceed the limits established for new construction, adaptive reuse or acquisition/rehabilitation Projects, as appropriate, submitted in the most recent allocation round.
 - d. **Rehabilitation, new construction and adaptive reuse Projects.** For Projects that involve rehabilitation of existing units, the construction of new units and/or the adaptive reuse of an existing building, the costs related to each will be evaluated separately for comparison to the limits established in Sections IV.C.2.a. and b. above.

See the Glossary Section XI for the definition of the terms “unit” and “total development cost” as they apply to the cost limit calculations in this section. Costs that exceed these limits will be

excluded when calculating the tax credit amount. These limits are binding through final allocations.

3. **Local notice.** The Chief Executive Officer of the local jurisdiction where the Project is located will receive a “local notice” from MFA stating that an Application has been received. The local jurisdiction and the Chief Executive Officer are to be identified by the Applicant in the Application form. The jurisdiction may be a municipality, town, county or tribal government. Such notification will be issued for all Applications not more than 10 business days after MFA’s Application deadline and the recipient will have 30 calendar days to respond.
4. **Site visits.** On completion of the threshold review, MFA will visit the proposed sites for the highest ranking Projects. Sites considered by MFA in its reasonable judgment to be inappropriate due to current or foreseeable adverse health, safety, welfare, site constraints or marketability risks may be cause for rejection of any Application, regardless of threshold review or scoring results. Communications made by or on behalf of an Applicant in response to communications initiated by MFA in conjunction with a site visit shall not be a violation of the Quiet Period.
5. **Deficiency correction period.** MFA may provide a deficiency correction period after the threshold review. This period is intended only to: 1) correct threshold items that are identified as correctable in Section III.C, 2) address complete Application items, 3) clarify ambiguous information, 4) complete forms or 5) make minor corrections to the Application. In no case shall the deficiency correction period be used by MFA to allow an Applicant to submit scoring items listed on Section II of the LIHTC Application Attachments Checklist. If the deficiency correction period is used, MFA will provide notice to Applicants having such shortcomings in their Applications via e-mail and U.S. mail. Applicants will have five business days after the date of the e-mail notice to correct deficiencies. All materials must be submitted no later than 5 p.m. Mountain Standard Time on the fifth business day, following “Form of Submission” requirements shown in **Section IV.A.3** above. Certain types of deficiencies cannot be corrected during the deficiency correction period, including an Applicant’s failure to provide materials or to provide materials in the required form, as well as other deficiencies that MFA determines in its reasonable judgment may not be correctable. Furthermore, the deficiency correction period may not be used by the Applicant to alter the original structure of the Project. This prohibition includes, but is not limited to, all changes listed in **Section IV.H**. If the information requested by MFA is not submitted within the timeframe provided or is submitted but remains deficient, the Application may be rejected without any further review.
6. **Supplemental Information Submission.** If at any point during the processing of an Application, staff determines that supplementary information is needed to complete its review, the Applicant will be notified in writing and will have five business days after the date of MFA’s notice to deliver a written response. In no case shall the supplemental information request be used by MFA to allow an Applicant to submit scoring items listed on Section II of the LIHTC

Application Attachments Checklist. This provision does not apply to incomplete Applications, which may be rejected during the threshold review or subject to the deficiency correction period process.

7. **Design Review and Construction Start.** All Projects will be subject to a minimum of four design reviews by MFA (upon completion of the construction documents, twice during construction and upon full completion of the Project) to determine compliance with the Design Standards. Design review will require periodic site visits to determine compliance with Design Standards. For rehabilitation and adaptive reuse Projects, a CNA will be required subsequent to the initial Application (prior to the issuance of the letter of determination for tax-exempt bond finance Projects and at carryover application for all other Projects) and this assessment will be reviewed by MFA for completeness, consistency with the Application and compliance with the Design Standards. All plans and related design materials submitted as part of an Application must provide enough detail for MFA to determine compliance with the Design Standards. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. **Applicants shall not commence construction on a Project prior to receipt of MFA's written approval of complete construction documents.** Applicants are required to post MFA-provided signs/banners in English and Spanish featuring MFA's fraud hotline at the Project work site(s) throughout duration of construction. In the event there is material design changes/differences between those plans and specifications submitted ~~at an~~ Application and those contained in the final construction documents, MFA will require Applicant to submit a detailed narrative of material design changes made to final plans and specifications. MFA staff will make a good faith effort to perform an initial review of construction documents within 10 business days of submission of complete construction documents. Final approval will occur upon receipt of an approval recommendation from MFA's architect that all outstanding issues, if any, have been resolved.
8. **Market Study.** For Projects passing the threshold review in a 9 percent tax credit allocation round and ranking among the top scoring Projects and/or wherein MFA determines a study is warranted, MFA may commission a standardized market study by outside professionals chosen pursuant to the requirements of MFA's procurement policy and having no financial interest in any of the Projects. For all tax-exempt bond financed Projects, MFA shall commission or cause to be commissioned, a standardized market study by outside professionals chosen pursuant to the requirements of MFA's procurement policy and having no financial interest in any of the Projects. A deposit is required with each Application. Any additional cost of these studies will be charged to Applicant and failure to pay any additional costs within 20 calendar days of the billing will result in rejection of the Application.
9. **Other Project compliance.** All Principals (see Glossary) related entities and affiliates must be in compliance with respect to all other federally subsidized housing or ~~tax credit~~ LIHTC projects that they own or operate throughout the country. Applicants shall submit a complete list of **all** projects in which Applicant has an interest. Each Applicant shall also submit an affidavit

certifying Applicant is not in default with respect to any material compliance matter for any such project or shall state what defaults exist and what corrective action Applicant is taking. If MFA determines, either through information provided by an Applicant or through MFA's investigation, that any federally subsidized housing or ~~tax credit~~LIHTC project in which any Principal has an interest is in default of any material compliance matter, MFA may reject the Application. See **Section IV.F.1** for additional discussion. This determination of default in regards to any Principal may concern, but is not limited to, progress made with previous tax credit reservations, including timely delivery of required documents and meeting all required deadlines; development compliance; and payment of monitoring fees.

10. **Development team review.** Staff will review the qualifications of each development team member (Developer, Project Owner, general partner, contractor, management company, consultant(s), architect, attorney and accountant, etc.) to determine capacity to perform in the role proposed. Considerations may include related experience, financial capacity, performance history, references, management and staff, among others. All members of the development team (i.e. Developer, Project Owner, architect, general contractor, etc.) are required to sign an affidavit affirming they have no related party relationships; or, that all related party relationships have been properly disclosed. The form of this affidavit can be found on MFA's website. **An Application may be rejected or substitutions requested if the development team or any member thereof is unsuitable as determined by MFA.**

D. Feasibility Analysis and Financial Considerations

All Projects successfully completing the threshold review and ranking among the highest scoring Projects for which annual credit ceiling is available in a given year, as well as tax-exempt bond financed Projects which pass threshold review, will undergo financial analysis by MFA staff to determine whether the Projects are financially feasible. Such determinations will rely on both the financial data submitted by the Applicant and on staff judgments with respect to feasibility matters. Projects that do not appear financially feasible in MFA's judgment may be rejected without further processing. Although financing commitments will not be required at initial Application, all sources must be clearly identified and their terms specified. Financing commitments will be required as a "subsequent requirement" after the initial reservation is made.

Initial Applications for any tax credits (4 or 9 percent) must include a letter of interest from a tax credit syndicator or direct investor stating the terms and pricing for the purchase of tax credits allocated to the Project. In addition, all Projects will be underwritten using the more conservative of the standards indicated in this QAP, those in an underwriting supplement to be published by MFA at least one month prior to the Application deadline, the terms listed in any financing commitment or letter of interest; or, in cases where one is available, the Project's market study. Project 15-year pro forma cash flow projections must include an operating expense inflation factor of at least 3 percent, a rental income inflation factor of no more than 2 percent and a vacancy factor of at least 7 percent for all occupancy-related income.

1. **Development costs.** Development costs will be evaluated against the average costs of competing projects. In the case of rehabilitation Projects and adaptive reuse Projects an appraisal and CNA of the existing project will be required (prior to the issuance of the letter of determination for tax-exempt bond finance Projects and at the time of the carryover application for all other Projects), and used by MFA to evaluate development costs. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. For rehabilitation Projects, the acquisition cost on which tax credits are calculated will be held to the lesser of sale price or appraised value. Applicants submitting costs atypical in the marketplace must provide information acceptable to MFA, justifying such costs. Projects with excessive costs will be subject to adjustments to the amount of tax credits requested. MFA, in the course and scope of its underwriting, will examine how costs are categorized /allocated in Schedules A and D. MFA reserves the right to re-categorize /allocate costs to different categories should MFA determine, in its sole discretion, that costs have been categorized incorrectly. Applicants shall describe all costs contained in any category labelled “other” with sufficient specificity so that it is clear what these costs encompass.

2. **Developer and other fees.** Fees are limited to the following standards:

a. **Builder profit, overhead and general requirements**

In Projects where an “identity of interest” (as defined in this section) is not present, builder profit may not exceed 6 percent of construction costs, builder overhead may not exceed 2 percent of construction costs and general requirements may not exceed 6 percent of construction costs. For purposes of these calculations, see definition of construction costs in the Glossary.

Where an identity of interest exists between or among the Developer/Project Owner, builder (e.g. the general contractor), design professionals and/or subcontractors, builder profit shall not exceed 4 percent of construction costs. An identity of interest means any relationship that is based on shared family or financial ties between or among the Developer/Project Owner, builder (general contractor), design professionals and/or subcontractors that would suggest that one entity may have control over or a financial interest in another. An identity of interest will be presumed if any of the following factors are present as between or among the Developer/Project Owner, builder (general contractor), design professionals and/or subcontractors; common or shared ownership of any of the above-listed entities; common family members as owners or investors in any of the above-listed entities; common control of the above-listed entities even if the control is not exercised by a common owner or common investor.

The maximum Builder fees are locked in at Initial Application. For LIHTC purposes, any amount of fee that exceeds the lesser of the limits established at Initial Application or the percentage limitations will be excluded from the Project’s Eligible Basis when calculating the tax credit allocation.

b. **Developer fees**

Developer fees [for 9% LIHTC projects](#) shall not exceed: 1) \$22,500 per low-income unit for Projects with 30 or fewer units, 2) \$21,000 per low-income unit for Projects with 31-60 units, 3) \$19,500 per low-income unit for Projects with 61-100 units not to exceed \$1.5 million and 4) \$15,000 per low-income unit for Projects with more than 100 units not to exceed \$1.8 million. Additionally, in no case shall the developer's fee [for a 9% or 4% LIHTC project or](#) exceed 14 percent of total development cost. [Donations of land and waived fees are excluded from total development cost when calculating maximum allowable developer fees.](#) Developer fees include all consulting costs for services typically rendered by a Developer. Any reserve, excluding the MFA-required project reserve (see below), may be considered as part of the developer fee, if it is not held for the benefit of the Project for a minimum of 15 years. For purposes of these calculations, Total Development Cost is adjusted to exclude developer fees, consultant fees and all reserves. Where an identity of interest exists between the Developer/Project Owner and the builder, the above-mentioned fee may be further reduced if MFA, in its discretion, determines the fee to be excessive. In a proposed sale transaction where there is an identity of interest in any Principal of the seller and buyer, the Project will be subject to reduced developer fees. Where there is such an identity of interest, the developer fee percentages will be calculated on Total Development Cost reduced by Acquisition Costs. Also, an "as-is" appraisal dated no earlier than six months prior to the Application date and completed by an MAI licensed in New Mexico must be submitted. [The maximum developer fee is locked in at Initial Application. For LIHTC purposes, any amount of fee that exceeds the lesser of the limits established at Initial Application or the percentage limitations will be excluded from the Project's Eligible Basis when calculating the tax credit allocation.](#)

c. Architect and Engineering Fees

The architects' fees, including design and supervision fees, and engineering fees, must be capped at 3.3 percent of Total Development Cost. Architects' fee and engineering fees shall be deducted from Total Development Cost when calculating this fee cap. Architect design fees may be reduced further when the same design has been used in previous developments. This fee limit is a soft cap and any amounts in excess of this cap will not be included in eligible basis. Exceptions to the above rules governing architect and engineering fees may be granted based on site or project specifics and in MFA's sole discretion. Supporting documentation shall be provided to justify any increase request. Although the same standards will apply for Projects subject to subsidy layering review, such Projects will require Board approval for subsidy layering purposes whenever they exceed the federally-defined ceiling standard limits and only five such excess fee amounts can be approved in any given year.

Increases in Project costs subsequent to the Application deadline may not result in an increase in any of the fees calculated above for tax credit allocation purposes. These fees may be held to the same dollar amount as approved by MFA during the initial underwriting of the Project. Any changes in the amount of fees through the course of

development will require prior approval of MFA and must be justified by a change in scope of the Project. Any change in the scope of the Project that results in increased fees for which an exception is being requested constitutes a change to that Project.

3. **Reserves (escrows) included in development costs.** The development budget must include an operating reserve equal to a minimum of six (6) months of projected operating expenses, debt service payments and replacement reserve payments. Larger operating reserves may be required for Projects which show a declining debt coverage ratio in 15-year cash flow projections, have rental assistance contracts included in their income projections or have other factors that MFA determines in its discretion to warrant larger reserves. Replacement reserve levels must be shown in the operating budget at the minimum of \$250 per unit per year for senior housing (new construction Projects only) and \$300 per unit per year for all other new construction and rehabilitation and adaptive reuse Projects. Project reserves of any kind in the development budget will not be included in MFA's calculation of Eligible Basis for tax credit purposes.
4. **Operating expenses and replacement reserves.** MFA will review the projected operating expenses, replacement reserves and loan terms and may, in its determination of economic feasibility, make key adjustments based upon industry standards, its own underwriting parameters, the CNA or facts obtained from other appropriate sources. Applicants are urged to carefully review operating cost pro formas. Applicants must include real estate taxes in their operating expenses, unless evidence of a perpetual real estate tax waiver (throughout the term of permanent financing) is submitted with the Application.
Replacement reserves for the first 15 years may be capitalized in the development budget assuming there is a source of funds that can be used to establish the reserve account. Capitalized reserves are a non-eligible basis project cost and establishing reserve accounts may not be an eligible expense for some MFA funding sources. If the capitalization results in projected excess cash flow, MFA may reduce the subsidy for the Project. A qualified CPA or tax attorney should be used to determine the appropriate accounting treatment of capitalized reserves.
5. **Debt service coverage and subordinate debt.** Applicants who are proposing subordinate debt must include the terms of the loan and pro formas must reflect the ability to repay the senior and subordinate debt with an aggregate minimum debt service ratio of 1.20. Projects that have debt service ratios higher than 1.40 may receive smaller tax credit awards, smaller subsidized loans or higher loan rates than requested in the Application. MFA will consider total annual cash flow as well as debt service ratio when making this determination. MFA will generally not consider the repayment of deferred developer fees when underwriting for feasibility but may consider a Project infeasible if the deferred fee represents a financial burden to the Project.
6. **Unit distributions.** For Projects with more than one income and rent tier, all unit types must be distributed proportionately among each of the multiple tiers. That is, if 30 percent of the units

are to be set-aside for tenants earning no more than 50 percent of median income, then the units used for this income group must include 30 percent of all one-bedroom units, 30 percent of all two-bedroom units, etc. This also applies to market rate units in the Project. This is intended to prevent allocation of all of the high rent units to the higher income groups, thereby maximizing income while potentially violating the intent of fair housing law.

While the Code excludes any payments made under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupant thereof) from the gross rent calculation, only rents that do not exceed the tax credit Ceiling Rents and are supported by the market study will be used for underwriting purposes. Exceptions may be made for Projects with project-based subsidies when the program governing the project-based subsidy allows higher rents. See MFA underwriting policy - LIHTC and project-based rental assistance for additional requirements. Note that in order to underwrite to such rents, a copy of a federally-approved rent schedule must be provided to MFA, e.g. HUD, USDA. More detail regarding rental assistance payments and qualifying tenants can be found in the MFA tax credit monitoring and compliance plan, which is issued under a separate cover and summarized in Section X.

E. Credit Calculation Method

1. **Tax credit calculations.** During each evaluation, MFA will determine the amount of tax credits to be reserved, committed or allocated by considering factors specific to each Project including, but not limited to, the following:
 - a. Development costs
 - b. Funding sources available to the Project for construction and permanent financing:
 - i. First mortgage loans
 - ii. Grants
 - iii. Tax credit proceeds
 - iv. Project Owner equity
 - v. Subordinate debt
 - c. Projected operating income and expenses, cash flow and tax benefits
 - d. Maximum tax credit eligibility
 - e. Debt service coverage ratio compared to lender requirements or commercial lending practices, as applicable
 - f. Project reserves
 - g. Developer fees and builder overhead and profit
 - h. Per unit cost limits (section IV.C.2)

2. **Amount of tax credits for reservation or carryover allocation.** To estimate the amount of the tax credit allocation for a Project at initial Application or at carryover, MFA will use the prior 12 months average applicable credit percentage of the Qualified Basis, as adjusted by MFA or the amount needed to fill the financing gap. The procedure to determine the amount to fill the financing gap is outlined in number three below.

3. **Tax credit proceeds.** At the time of initial Application, MFA will use the more conservative of the equity-pricing factor stated in the letter of interest from the tax credit syndicator or the equity-pricing factor listed in the underwriting supplement published by MFA for the current allocation round. The prior twelve months' average of applicable credit percentage will be used along with the equity-pricing factor to estimate the tax credit proceeds. At the time of the carryover allocation, the Project Owner must deliver a written letter of intent from a syndicator or equity provider that clearly states the equity-pricing factor. That equity-pricing factor along with the prior 12 months average applicable credit percentage will be used to estimate the tax credit proceeds for the carryover allocation. 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 percentage will have been determined at either carryover (or in the case of tax-exempt bond financed Projects, the month the tax-exempt obligations are issued) or Placed in Service date.

4. **Limitation on tax credit awards to a single Project or Principal.** Subject to the exceptions contained herein, ~~no LIHTC~~ LIHTC Project shall receive a tax credit reservation in excess of \$1, ~~232150,333000~~. 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 receive more than two tax credit reservations in any given competitive LIHTC Application round. Projects to be located on adjacent sites proposed by the same Applicant in the same allocation round will be treated as a single Project.

5. **Other factors limiting the credit reservation.** The amount of credit reserved, committed and finally allocated to a Project shall be the lesser of:
 - a. The maximum tax credit eligibility of the Project
 - i. Maximum tax credit eligibility is the maximum amount of tax credit justified by a Project's Qualified Basis, as adjusted by MFA and taking into consideration any increase in eligible basis approved by MFA and the applicable credit percentage as described in **Section IV.E.2** above or the applicable credit percentage that was locked-in at carryover (or in the case of tax-exempt bond finance Projects, the month the tax-exempt obligations are issued) or was in effect when the building was Placed in Service; or
 - ii. The amount requested in the Application; or
 - iii. The amount necessary to fill the funding gap.
 - b. The funding gap is the difference between total development cost (exclusive of syndication-related costs) and all available funding sources, including HOME funds awarded in conjunction with the tax credit allocations, excluding anticipated tax credit proceeds. The terms of all proposed sources must be within reasonable industry norms and financing for the Project has to be maximized when evaluating rate, term, debt service coverage, loan-to-value, etc. The maximum tax credit amount allowed based on the funding gap will be determined by the MFA limits stated in **Section IV.E.3** above.

6. **Increased basis for high cost areas.** Additional eligible basis (up to 30 percent of the initial calculation) will be considered for Projects located in HUD-designated difficult development areas and QCT if deemed necessary for viability of the Project by MFA. Applicants requesting such increases must deliver evidence in the initial Application package that the Project is located in a DDA or QCT. Note that all areas of the state are eligible for this additional basis boost. Projects that are not financed with tax-exempt bonds have units ~~set aside~~reserved for senior housing, households with children or households with special housing needs may also be determined to be eligible for the basis increase (up to 30 percent) if deemed necessary for project feasibility as determined by MFA. The boost may not be applied to Projects financed by tax-exempt bonds unless located within a HUD-designated DDA or QCT.
7. **Adjustments to credit allocations.** When actual tax credit proceeds are confirmed and final financial feasibility analysis is performed during review of final allocation packages, there may be adjustments to the tax credit allocation. Adjustments may also be made at carryover when the 12-month average applicable credit percentage has changed and, for rehabilitation Projects, when the ~~CNA and~~CNA and appraisal are provided. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. If actual Project costs or funding sources differ substantially from the projections submitted in the Application, MFA may reduce the final tax credit allocation or the Project Owner may establish project reserves to offset the deficit, if in MFA's reasonable judgment the Project has sufficient tax credit eligibility. The conditions for such reserve accounts will be determined by MFA on a case-by-case basis.
8. **Federally required subsequent financial analysis.** Federal regulations require that housing credit agencies conduct evaluations at three specific times to determine the amount of applicable tax credits.
 - a. Upon receipt of an Application for LIHTC reservation; and
 - b. Prior to granting a tax credit allocation; and
 - c. No earlier than 30 days prior to awarding the tax credit certification, IRS Form 8609.

F. Final Processing and Awards

1. **Additional considerations.** Applications meeting the requirements of the threshold review and feasibility analysis described above will be further evaluated and processed by MFA. In this step all remaining determinations will be made with respect to development team capability, design, readiness to proceed and other factors in MFA's reasonable judgment to evaluate the Project's Application. Projects must meet ~~the Design~~the Design Standards available from MFA on the website. Debarment from HUD, MFA or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally-financed projects (for example, late payments within the 18-month period prior to the Application deadline, misuse of reserves and/or other project funds, default, fair housing violations, non-compliance [e.g. with

the terms of LURAs on other projects] or failure to meet development deadlines or documentation requirements) on the part of any proposed development team member or Project Owner or other Principal may result in rejection of an Application by MFA. In addition, MFA will consider a Principal's progress made with previous tax credit reservations, including timeliness in delivering required documents and fees and meeting all required deadlines. When scoring and ranking generates multiple Projects that would draw tenants from a single market area (as determined by MFA market studies for the Projects in question), MFA may choose to eliminate the lower scoring or higher cost Project to avoid overbuilding and distribute credits more evenly throughout the state. In addition, MFA reserves the right to reject any Project, which MFA in its reasonable judgment determines is inconsistent with prudent business practices or with the intent and purpose of the QAP. MFA may also make awards conditional on specific modifications to the Project that MFA in its sound judgment considers necessary to enhance the feasibility or safety of the Project.

2. **Selection of projects for awards.** Projects meeting the threshold review requirements listed in Section III.C will be ranked and ordered according to scoring procedures established in Sections II.C and III.E with consideration to the allocation set-asides as described in Section III.D. Staff will then prepare a summary of the Projects to be recommended for allocations. Eligible and ineligible Projects will be distinguished for purposes of subsequent awards if additional credits become available. Tax-exempt bond financed Projects will be evaluated in a similar process but will not compete against other Projects for an allocation of tax credits.
3. **Allocation Review Committee (ARC).** The Chairman of the Board of MFA will appoint an ARC. The functions of this committee will be to: 1) review the Project rating and ranking results in the staff's proposed award summary, 2) determine whether or not the proposed awards have been made consistent with the criteria and other aspects of this QAP, 3) conduct the appeals process and 4) make final award recommendations to the Board. MFA will notify Applicants of the preliminary status of their Projects with the use of a preliminary reservation letter, preliminary waitlist letter or rejection letter, after the committee's approval of the staff's proposed awards and before the appeal process begins. Such letters will be scheduled to be issued approximately 90 days after the Application deadline. Except for appeals as described in **Section IV.E.4** below, the provisions of this section are not applicable to tax-exempt bond financed Projects.
4. **Appeal process.** Applicants wishing to appeal a determination made by MFA with respect to their Application may do so in writing delivered to MFA no later than 5 p.m. ~~local Mountain~~ Standard time on the 10th calendar day after the date of the preliminary reservation letter, preliminary waitlist letter or rejection letter (or draft letter of determination, in the case of tax-exempt bond financed Projects). Appeal requests may only be filed by the general partner or proposed general partner and only one appeal may be filed with regard to an Application. MFA's initial determination with respect to the Application will stand unless the Applicant can prove or justify, solely on the basis of materials submitted in the initial Application, why the decision should be changed. The ARC will review the appeal and take whatever action it deems

appropriate. The decision by ARC or the Board, if the matter is referred to the Board, will be final' no further appeals will be entertained. Appeals may result in re-ranking of Projects, in rejection of previously approved Projects and/or in approval of previously rejected Projects. Once the appeals process is completed and the resulting recommendations are approved by MFA's Board of Directors, final reservation letters (or draft letter of determination in the case of tax-exempt bond financed Projects) will be issued.

5. **Board of Directors.** The Board will make final awards for each competitive 9 percent tax credit allocation round, although for logistical reasons the preliminary reservation letters, preliminary waitlist letter and rejection letters may be issued prior to the appeals process and the Board's final decisions. Final reservation letters will be issued following the Board decision. The Board will approve Projects considered to be eligible Projects and these may include Projects for which tax credit allocations are not immediately available. If any Projects receiving a reservation fail to meet subsequent requirements, an allocation of tax credits may be revoked and then awarded by MFA to the next highest scoring eligible Project(s) on the waiting list. Any conflicts of interest of Board members are to be disclosed and Board members having such conflicts will abstain from votes approving or disapproving ~~tax credit~~LIHTC Projects in accordance with MFA's policies, procedures, rules and regulations regarding conflicts of interest. The provisions of this section relating to Board actions following competitive allocation rounds are not applicable to tax-exempt bond financed Projects.

G. Notification of Approval and Subsequent Project Requirements

Note: Only Sub-sections 7.e and 8-9 of this section (IV.G) apply to tax-exempt bond financed Projects.

Successful Applicants will be notified of MFA's allocation decision in the form of a reservation letter. MFA anticipates reservation letters will be delivered in June 201~~98~~, shortly after approval of tax credit awards at the June, 201~~98~~ board meeting

Reservation letters and/or Carryover allocations are non-transferable either to another entity or within the same entity where there is a change in control or general partner interests, except with the express written consent of MFA, it being the explicit intention of the QAP to prevent one party from obtaining such a Reservation and/or Carryover allocation in order to see or broker its interest in the proposal (except for syndication purposes). Because all representations made with respect to the Project Owner, Application, Developer or related party or entity, or any member of the development team, their experience and previous participation are material to the evaluation made by MFA, it is not expected that MFA's consent will be granted for such transfers unless a new Application is submitted and scores no less than the original Application, and the transfer is a benefit for the Project.

Affirmative actions after reservation. From the date of the reservation, the Applicant must meet each of the deadlines specified below for follow up activity in order to maintain its reservation or carryover allocation. **MFA has no obligation to provide any further notice to Applicants of these requirements and failure to submit any one or more of the items may cause the reservation to be terminated or the**

carryover allocation to be cancelled. Applicants must further agree to voluntarily return their reservations or tax credit allocations for reallocation to other Projects by MFA if any of the deadlines below are not met.

1. At reservation

The processing fee must be paid at this time and any other conditions noted in the reservation letter, which may include evidence of continued site control, must be satisfied.

2. ~~Semi-Annual~~Quarterly Progress Reports

All Projects must submit a ~~semi-annual~~quarterly progress report to MFA on or before March 31st, June 30th, September 30th, and December 31st each year, beginning with ~~June 30th~~ March 31st after the allocation year, and continuing until the final allocation application has been submitted. The information to be covered in the ~~semi-annual~~ progress reports will be provided on MFA's website. Any failure to provide a timely ~~semi-annual~~ progress report, or failure to provide a complete and accurate report containing the required information, may result in a loss of tax credits.

3. By November 15th (see glossary for the definition of this date) of the allocation year

a. Threshold requirement number two:

Applicants whose Projects were not required to meet threshold requirement number two (zoning) at the Application deadline must submit evidence that all required zoning approvals for the proposed Project have been obtained; and

b. All Applicants must deliver:

i. The contractor's resume, if it was not included in the Application.

ii. Financing commitment(s) (see definition) for construction and permanent financing and any other rental or other subsidy, as applicable. Financing commitments must be submitted from all funding and subsidy sources including construction and first mortgage lender(s), all secondary financing sources (i.e., grants, loans, in-kind contributions) and a letter of intent from the equity provider. Projects which include federal historic tax credits in the financing structure must submit evidence from National Park Service that a complete historic certification – part two (2) for the Project has been received.

iii. For a Project to be financed by HUD, evidence that Applicant has submitted a site appraisal and market analysis (SAMA) application to HUD (for new construction Projects) or a feasibility application (for rehabilitation Projects).

iv. For a Project to be financed by MFA's 542(c) Risk Sharing program, a HUD firm approval letter.

c. **Carryover allocation requirements.** If the Project will not be Placed in Service during the calendar year in which the reservation is made, the Applicant must request a carryover allocation, which allows for 24 additional months to complete the Project. The complete carryover allocation package, including an electronic version (CD, DVD or USB flash drive) and hard copies of these documents shall be delivered to MFA by November 15th of the year in which the reservation was made. It must contain all items on the

carryover allocation requirements checklist, which include, among other items, an updated Application form, updated scope of work (if Project involves rehabilitation),⁵ final construction drawings (if the Project involves rehabilitation), CNA (if Project involves rehabilitation), ~~recorded~~, recorded deed or lease to the site, and a tax opinion addressing satisfaction of the 50 percent rule where there are related parties. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. The Applicant must deliver evidence that the Project Owner has taken ownership of the land and, if applicable, depreciable real property, that is expected to be part of the Project. For tribal Projects, this would include fully executed master and sub-lease agreements with evidence of filing with the Bureau of Indian Affairs. All tax credit fees must be paid to date. In addition, the Project architect must certify that the Project's final plans and specifications meet ~~the Design~~ the Design Standards and contain all commitments made in the initial Application regarding design and building. The Project architect must further certify either there have been no material design changes in the final plans and specifications or, if there have been material design changes made, then a detailed narrative description of the changes made in the construction drawings between Application and carryover must be provided.

- d. **Rehabilitation and adaptive reuse projects.** In addition, rehabilitation Projects must provide, with the carryover application, an appraisal and a CNA of the existing project. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards.

4. **March 1⁵** of the year following carryover

If applicable, the MFA 542(c) Risk Sharing commitment is to be fully executed.

5. **No later than June 30 (see footnote 5) of the year following carryover**

The Applicant must submit complete final construction drawings, specifications and construction documents for MFA review for compliance with the Design Standards. Applicants must receive written approval of complete plans, specifications and construction documents from MFA prior to start of construction. MFA staff will make a good faith effort to perform an initial review of construction documents within 10 business days of submission of complete construction documents. Final approval will occur upon receipt of an approval recommendation from MFA's architect that all outstanding issues, if any, have been resolved.

6. **August 31** (see footnote 5) of the year following carryover

- a. The Applicant must submit evidence that the basis in the Project exceeds 10 percent of the reasonable expected total basis in the Project, an independent auditor's report and cost certification, a Project Owner's attorney's opinion, in the form required by MFA, and any other documentation required by MFA ("10 percent test.")

⁵ If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.

- b. The Applicant must deliver evidence acceptable to MFA that construction of the Project has begun. This will include, at a minimum, building permits and site photographs.
 - c. The Applicant must deliver an executed partnership agreement.
 - d. If federal historic tax credits are included in the financing structure of the Project, evidence of National Park Service approval of the Project's historic certification – part 2 must be submitted.
7. **November 15th** (see glossary and footnote 5) of the second year following the initial allocation.

Final allocation and placed in service requirements. On or before November 15th of the second year following the initial allocation, a Placed in Service application or a final allocation application must be submitted, in electronic form (CD, DVD or USB flash drive) in addition to a hard copy, for each Project. **Failure to meet this requirement will result in the loss of tax credits.** If the Project is to be Placed in Service but Applicant is not yet ready to request LIHTC allocation certification (IRS Form 8609₇), the Placed in Service portion of the final allocation package must still be submitted on or before November 15th of the second year following the initial allocation. A complete final allocation package shall be submitted no later than 120 days following the close of the Project's first taxable year of the credit period. Prior to the issuance of IRS Form 8609 certifications for the Project, the Project Owner must submit a complete final allocation package, containing all items in the final allocation checklist, which include, among other items, the following:

- a. **Cost certification.** Two cost certifications are required to be submitted to MFA, as follows: (i) a Project cost certification prepared by a CPA and executed by both the Project Owner and CPA preparing the report, with a minimum of 20 percent of costs tested, and (ii) a Project cost certification prepared and executed by the general contractor. Both of these cost certifications must be delivered by the Project Owner prior to the issuance of IRS Form 8609 certifications. This form and required documentation must be completed within 60 days after the Project is Placed in Service.
- b. **Architects certification.** A certification from the Project architect with required text as set forth in the final allocation package, certified by the Project Owner, that the Project has been built in conformance with the Design Standards, all applicable codes and commitments made in the initial Application regarding design and building, unless otherwise approved in writing by MFA.
- c. **Project Owner's attorney's opinion.** A Project Owner's attorney opinion submitted on firm's letterhead with required text as set forth in the application package.
- d. **Final contractor's application and certificate for payment, AIA doc. G702 or equivalent.** A fully executed copy indicating all of the hard construction costs for the Project must be submitted with the final allocation package.
- e. **LURA.** Prior to December 31 of the year in which the buildings are Placed in Service, the Project Owner must submit an executed and recorded LURA, satisfactory to MFA in form and content.

8. **Other Project Owner responsibilities and elections.** The Project Owner has several options concerning the month in which the applicable credit percentage is locked in, for both taxable Projects and tax-exempt bond financed Projects. Additionally, the Project Owner must place the buildings in service and claim tax credits within certain time periods. Project Owner must ~~forward written~~ forward written notice and copies of all Certificates of Occupancy (for new construction) or Certificates of Substantial Completion (for rehabilitation) to the tax credit program manager within 30 days of issuance, to ensure that all necessary administrative actions are taken in a timely manner. Otherwise tax credits may not be able to be claimed as desired.

9. **LURA or Extended Use Agreement.** Section 42(h)(6) of the Code requires imposition of “an extended low-income housing commitment.” MFA complies with this requirement with a LURA filed at the time of placement in service or final allocation. The LURA sets forth, as covenants running with the land for a minimum of 30 years (or longer if Project Owner commits to a longer restriction period), the compliance fees, the low-income set-asides, the percentages of median income to be served, the special housing needs to be served, if any, and any other such commitment made in the initial Application or that may be imposed through this QAP and Code Section 42. The LURA may not be terminated prior to its term for any reason other than foreclosure or an instrument in lieu of foreclosure and the Project Owner will not have the right to require MFA to present a “Qualified Contract” in accordance with Code Section 42(h)(6). The Project Owner will also have to deliver subordination agreements from all lenders, giving lien priority to the tax credit restrictions.

H. Termination of Reservations or Rejection of Applications

Any of the following events or actions on the part of the Applicant at any time subsequent to the Application deadline may cause the Application to be rejected or the reservation to be terminated in MFA’s sole discretion:

1. Loss of site control or site change
2. Submission of any false or fraudulent information in the Application or in other submissions
3. Failure to meet the conditions of Section IV.B and IV.G above or in the reservation letter
4. Subsequent regulations issued by U.S. Treasury or the IRS pertaining to Section 42
5. Failure to promptly notify MFA of any material or adverse changes in the facts of the original Application pursuant to **Section IV.I** below
6. Instances of non-compliance continuing beyond the specified cure period on Applicant’s or Principal’s other projects

7. Any other change which would alter the original scoring of the Application or which was not approved in advance by MFA
8. Debarment from HUD, MFA or other federal programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or HUD-financed projects (including but not limited to late payments within the 18 month period prior to the Application deadline, misuse of reserves and/or other project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on other projects,] failure to meet development deadlines or documentation requirements) on the part of any development team member or Project Owner or Principal
9. Change in the federal set-aside election or other set-aside proposed in the initial Application, subsequent to the Application deadline

I. Notification to MFA of Changes to the Project

It is Applicant's responsibility to notify MFA immediately, in writing, of any changes to the Project subsequent to submission of an Application, including the changes listed below and any other material changes, by requesting MFA's approval of such changes. Failure to notify MFA may result in the rejection of an Application or loss of a reservation or tax credit allocation. Approval of such changes will be made in MFA's sole discretion and the change may result in a change in the tax credit amount or other action by MFA. A \$500 fee payment is required at the time of the request for approval of any changes in accordance with Section IV.B. Applicants/Project Owners will not be allowed to make changes to a Project that would result in a change to any of the specific items for which points were awarded, unless extraordinary and well-documented circumstances would warrant it, and changes must be approved by MFA. Any such change(s) to a Project that would require a re-scoring or re-evaluation which causes the Project's rank to fall below its original rank may cause the LIHTC allocation to be rescinded.

Examples of changes of which MFA must be notified:

1. Site control or rights of way are lost;
2. Project costs change in excess of 5 percent of the Total Development Cost shown in the carryover allocation application package;
3. Applicant obtains additional subsidies or financing other than those disclosed in the carryover allocation application package; or loses subsidies or financing included in the carryover application package, and/or the amount of any such financing or subsidy changes by greater than or equal to 10 percent from the amount shown in the carryover allocation application package;

4. Development cost contributions made by a state, local or tribal governmental entity are reduced, increased, withdrawn or substituted with other types of contributions than the ones originally proposed in the Application;
5. The syndication payment timing and/or net proceeds change from those stated in the carryover allocation application package;
6. The parties [other than the limited partner(s)] involved in the ownership entity as represented in the Application change;
7. Changes to Project design, unit design, square footage, unit mix, number of units, number of buildings changes, amenities, parking quantities, landscaping scope, energy performance, water usage, quality of construction or specification;
8. A change in any enrichment service provider and/or change in type of enrichment service to be provided;
9. The general contractor or other member of the original development changes;
10. Any fire or other natural disaster occurring at or near the Project site; or
11. Any other factor deemed material by MFA in its reasonable judgment.

J. Notice Provisions

MFA will typically provide notice to Applicants through certified mail, courier service, facsimile or e-mail transmission. Consequently, correct street addresses, e-mail addresses and fax numbers must be provided clearly in the Application form. **Such notices will be provided only to the single contact person shown in the Application form. MFA will not be responsible for any consequences that may result from the Applicant's inability to receive notice from MFA due to a change in contact person information that was not reported to MFA.**

K. Applications are Public Records

All information contained in Applications for tax credits are public records subject to inspection under state and federal open records laws. In addition, MFA may share information and details obtained from applications with other public agencies.

L. Attorney Fees

In any litigation, arbitration or other proceeding arising from, as a result of or pursuant to this QAP and/or the resulting tax credit allocation round, selection process or award determinations, MFA, if it is the prevailing party, shall be entitled to be awarded its reasonable attorney fees, costs and expenses

incurred from the opposing party, regardless of which party initiated the litigation, arbitration or other proceeding.

V. Cost Certification

A. Applicability of Cost Certification

Certification by a CPA is required to certify compliance with the 10 percent test as defined in **Section IV.G.6.a.** Prior to the issuance of a LIHTC certification (IRS Form 8609~~7~~), MFA will require two cost certifications, one prepared by an independent CPA and executed by both the CPA and Project Owner, and a second cost certification prepared and executed by the general contractor, both of which must meet MFA requirements for all Projects as defined in this QAP.

B. Requirements

The Form 8609 cost certification must meet the following requirements:

1. The CPA preparing the cost certification must certify that all costs are related to the Project's development and do not include costs for organization, syndication, professional or consultant fees related to syndication. The CPA shall "test" a minimum of 20 percent of all costs listed therein. Both the CPA and Project Owner must execute the cost certification. In addition, a cost certification is required to be prepared and executed by the general contractor. Each cost certification must specifically identify those costs listed in any general or "Other" category.
2. All fees, including the developer fee, paid to the Project Owner or Developer or to an entity with an identity of interest with the Project Owner or Developer, must be clearly identified. If all or a portion of the developer fee is deferred, copies of the promissory note or other substantiation of the validity of the fee must be reviewed.
3. If the land is purchased from a related party, the Project Owner must submit an appraisal to substantiate fair market value, which appraisal must include a determination of value based upon any land use restrictions per HUD or other entity, including MFA.
4. Legal fees related to land acquisition must be clearly identified.
5. Interest expense related to land must be clearly identified.
6. The sources of all funding including loans, tax credit proceeds, Project Owner/Developer equity and all other sources must be certified.

C. Authority to Determine Maximum Qualified Basis

MFA may challenge the costs provided in the cost certification, impose the limitations set forth in this QAP and at its sole discretion, determine the maximum Qualified Basis against which credit is allocated.

VI. Auxiliary Functions

MFA conducts certain tax credit related functions which are separate from the regular allocation and monitoring process, including the following:

A. Subsidy Layering Review

Pursuant to Section 911 of the Housing and Community Development Act of 1992, HUD is required to determine that Projects receiving tax credits and federal, state or local assistance do not obtain subsidies in excess of that which is necessary to produce affordable housing. This responsibility has been delegated to MFA and MFA's review process will follow the HUD's administrative guidelines issued December 15, 1994. An essential component of this review is an analysis of the reasonableness of fees paid to sponsors, Project Owners, Developers and builders. Consequently for purposes of Section 911 reviews, fees used to calculate tax credit amounts will not exceed the limits stated in **Section IV.D.2 Developer and Other Fees**, above. Some of these maximum fees allowed by MFA exceed the "safe harbor" fee amounts, which apply to Section 911 reviews. Special factors that justify these published higher fees (which do exceed "ceiling" amounts) include, but are not limited to: the relatively high cost of construction and land within the state of New Mexico; the lack of state- or locally-funded soft second financing or operating subsidies; and the general inability of local governments to donate land and/or other services to worthy projects due to the state's "anti-donation" clause.

MFA reserves the right to include or consider other criteria to justify exceeding safe harbor limits for fees associated with Projects requiring subsidy layering reviews. MFA also reserves the right to limit Projects to safe harbor limitations for any reason that, in its sole discretion, deems reasonable. This paragraph applies to all Projects that require subsidy layering reviews.

Requests for subsidy layering reviews may be made at any time by an Applicant and must include a \$500 review fee. Responses will be provided by MFA no later than 30 business days subsequent to receipt of the subsidy layering review request by MFA, unless the request is submitted less than ninety (90) days after an allocation round deadline.

B. Processing of Tax-Exempt Bond Financed Project Applications

Code Section 42 allows tax-exempt bond financed Projects to receive an allocation of 4 percent tax credits provided they meet the minimum requirements for an allocation in the QAP. MFA's determination that a Project satisfies the requirements of the QAP will be based on the Project meeting all minimum Project threshold requirements, staff analysis, application processing, feasibility analysis and property standards described in the QAP in effect when the determination is made. Unless

otherwise stated, all provisions of this QAP are intended to apply to tax-exempt bond financed Projects. The tax credits allocated to tax-exempt bond financed Projects are not subject to the annual credit ceiling and, consequently, are not required to compete in the competitive allocation process described in the QAP. ~~In addition to meeting the minimum score stated in Section III.E., tax-exempt bond financed Projects are required to score at least 13 points in one of the following scoring criteria: points for projects in which units are reserved for Households with Special Housing Needs Housing Priority, Pprojects Rreserved for Seniors Housing Priority or projects in which 25 percent of all units are reserved for Households with Children Housing Priority.~~ MFA staff will ~~also~~ undertake an analysis to determine the tax credit amount necessary for financial feasibility using the same underwriting criteria used in evaluating non-bond-financed projects.

Requests for these determinations must be made by the Project's Developer/sponsor no more than 60 calendar days after an award of bond volume cap is made by the State Board of Finance and no less than 60 calendar days prior to the anticipated bond issuance date. Requests must include an application fee as listed in Section IV.B., a deposit toward the cost of a market study to be ordered by MFA, the development Project Application form with needed schedules, the Attachments Checklist and any other material specified by MFA. For tax-exempt bond financed Projects only, MFA may accept Applicant's market study if Applicant's market study meets all of the requirements of MFA's studies, in MFA's determination, and is dated not more than 180 calendar days prior to the date on which a complete Application is received by MFA. Prior to the release of the Letter of Determination by MFA staff, a processing fee in the amount of 3.5 percent of the approved annual credit amount will be due. MFA's initial response to the Application for 4 percent tax credits will be provided no later than 60 business days subsequent to receipt of the complete Application by MFA.

Tax-exempt bond financed Projects may receive tax credits on the full amount of their eligible basis only if at least 50 percent of the project's "aggregate basis" is financed with tax-exempt bonds. Additionally, numerous bond-financing rules apply and many tax credit requirements are different for tax-exempt bond financed projects. MFA recommends that Project Owners undertaking these projects obtain advice from qualified tax professionals to ensure that such requirements are met.

To ensure that these credits are used to leverage the greatest possible amount of resources, the following additional minimum Project threshold requirements will apply:

1. **Percent of total sources limit.** The private activity bond volume cap allocation by the State Board of Finance must not exceed 75 percent of the Project's Total Development Cost.
2. **Costs of issuance limit.** Costs of issuance may not exceed 5 percent of the bond issue for Projects with total financing sources of \$2,000,000 or more and 7 percent for Projects with total financing sources of less than \$2,000,000.

For all tax-exempt bond financed Projects, the Project Owner must provide notice to MFA that units have been Placed in Service by providing written notice and copies of the Certificates of Occupancy for new construction, the Certificate of Substantial Completion for rehabilitation within thirty (30) days of

issuance. Additionally, the Project Owner must request the issuance of a LURA from MFA within one month of the date on which the last unit of the Project was Placed in Service.

VII. Amendments to the Allocation Plan and Waivers of Plan Provisions

MFA reserves the right to modify this QAP, including its compliance and monitoring provisions, as required by the promulgation or amendment of Section 42 of the Code, from time to time or for other reasons as determined by MFA. MFA will, however, make available to the general public a written explanation of any allocation of housing tax credits that is not made in accordance with established priorities and selection criteria of the agency.

VIII. Future Year's Binding Commitments

MFA staff shall have the authority to advance allocate up to \$300,000 in future year's tax credits to Board-approved eligible Projects. However, advance allocations are made solely at MFA's discretion and no advance allocation may be made to any Project whose tax credit amount is not at least 50 percent funded by the current year's annual credit ceiling without MFA Board approval. Future year commitments in excess of \$300,000 in any given year must also be approved by the Board. Any advance allocation will require the Applicant to execute a binding commitment, as drafted by MFA and agree to the dates and timeframes required in this QAP.

IX. Disaster Relief Allocations

The Board will retain the authority to allocate current or future year's tax credits at any time and in any amount to Projects approved by the Board that are intended to alleviate housing shortages in communities affected by natural disasters.

X. MFA Tax Credit Monitoring and Compliance Plan Summary

A. General Requirements

Federal law requires MFA to develop and implement a compliance-monitoring program for completed Projects that have received LIHTCs. A compliance plan contained in a manual has been developed and is available to the Project Owners at MFA's website, www.housingnm.org. Compliance monitoring is required for a minimum 15 years after receipt of a tax credit allocation. Each Project Owner has chosen to utilize LIHTCs to take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met so that the Project will benefit low income tenants.

Project Owners will be required to submit a quarterly report to MFA for each of the first four calendar quarters after a Project is Placed in Service. At that time, if the Project is determined to be in compliance with Section 42 of the Code, reports may be filed on an annual basis with MFA's approval. Project Owners will be required to submit to MFA a copy of all federal form 8609's, including schedule A, filed with the IRS in the first year that credits are claimed and at any subsequent time as requested by MFA. MFA reserves the right, in its sole discretion, to require such additional reports and/or records as MFA reasonably determines are necessary.

B. Inspections

MFA will conduct annual on-site inspections of at least 33 percent of the projects under MFA's jurisdiction. Each inspection will include a review of the Project's low-income certifications, supporting income documentation, leases, rent records (including utility documentation) and unit inspections in at least 20 percent of the Project's set-aside units and a physical inspection of the entire Project (interior and exterior.) In mixed-use and mixed-income properties, 100 percent of the units may be monitored. If Projects are determined to be in noncompliance, site visits may occur more often. MFA will provide written notification of scheduled inspections.

During the Extended Use Period, MFA reserves the right, under the provisions of Section 42 of the Code and the Project's LURA, to perform an audit of any Project that has received an allocation of tax credits. This audit will include an on-site inspection of all buildings and a review of all tenant records and certifications and other documents supporting criteria for which the Project Owner received points in the Application for an allocation of credits.

C. Recordkeeping and Record Retention

Under the provisions of the tax credits, the Project Owner will be required to keep records as defined below for each building within a particular Project. These records must be retained by the Project Owner for a minimum of six years beyond the Project Owner's income tax filing date for that year. However, first-year Project records must be maintained for six (6) years beyond the tax filing date of the final year of the Project's eligibility for tax credits. The Project Owner must report to MFA, through MFA's WCMS online system, annual audited property financial statements within 120 days of the close of the Project's fiscal year, as well as annual operating budgets. On a monthly basis, the Project Owner must provide tenant income certifications and property vacancy data using the WCMS online system. In addition, the Project Owner must maintain records for each qualified low-income building in the Project showing:

1. The total number of residential units in the building (including the number of bedrooms and size in square feet of each residential unit)
2. The percentage of residential units in the building that are set-aside units
3. The rent charged on each residential unit in the building (including utility allowances)

4. The number of occupants in each residential unit in the building
5. The low-income unit vacancies in the building and documentation of when and to whom the “next available units” were rented
6. The income certification of each low-income tenant
7. The documentation to support each low-income tenant’s income certification
8. The eligible basis and Qualified Basis for each building
9. The character and use of any nonresidential portion of the building included in the building’s eligible basis (this includes separate facilities such as clubhouses or swimming pools whose eligible basis is allocated to each building)
10. Additional documentation and reporting as required by federal regulation
11. Additional documentation and reporting as required by MFA

Failure to annually report is deemed as noncompliance and is reportable to the IRS.

D. Annual Certification Review

It is the responsibility of the Project Owner to annually certify to MFA that the Project meets the requirements of Section 42 of the Code, whichever set-aside is applicable to the Project. Failure to make this certification is deemed as noncompliance and is reportable to the IRS. This annual certification requires the Project Owner to certify that:

1. The Project meets the minimum requirements of the set-aside election
2. There has been no change in the applicable fraction
3. An annual low-income certification has been received from each low-income tenant and documentation is available to support that certification
4. Each low-income unit is rent restricted under Section 42 of the Code
5. Subject to the income restrictions on the Project, all units in the Project are for use by the general public and are used on a non-transient basis
6. There has been no finding of discrimination under the Fair Housing Act

7. Each building within the Project is suitable for occupancy taking into account local health, safety and building codes
8. There has been no change in any building's eligible basis under Section 42 of the Code or if there has been a change, adequate explanation of the nature of the change has been given
9. All tenant facilities included in the eligible basis of any building in the Project are provided on a comparable basis, without a separate fee, to all tenants in the building
10. If a low-income unit in the Project becomes vacant during the year, reasonable attempts are made to rent the unit to tenants having a qualifying income and while the unit is vacant, no units of comparable or smaller size are rented to tenants not having a qualifying income
11. If the income of low-income tenants of units increases above 140 percent of the applicable income limit allowed in Section 42 of the Code, the next available unit of comparable or smaller size will be leased to tenants having qualifying income.
12. Project Owner has not refused to lease a unit to an applicant based exclusively on their status as a holder of a Section 8 voucher and the Project otherwise meets the provisions outlined in the extended low-income housing commitment
13. If the Project Owner received its tax credit allocation from the state ceiling set-aside for projects involving "qualified nonprofit organizations," the nonprofit entity materially participated in the operation of the development
14. There has been no change in ownership or management of the Project that was not approved in advance by MFA
15. The Project Owner has obtained accurate, allowable, current utility allowances for use in the calculation of rents for the Project and acknowledges this to be an annual requirement for the duration for the Compliance Period
16. For the preceding 12 months the Project Owner has complied with Section 42(h)(6)(E)(ii)(I) of the Code that an existing tenant of a low-income unit has not been evicted or had their tenancies terminated for anything other than good cause
17. The Project Owner has complied with Section 42(h)(6)(E)(ii)(II) of the Code and not increased the gross rent above the maximum allowed under Section 42 with respect to any low-income unit.

As an exception, only for RD Projects, MFA may accept a certification from RD that income is based upon annual tenant certifications/re-certifications and that third party verification has been obtained. This

certification will be in a form that is acceptable to both RD and MFA. Project Owners must furnish RD certifications annually, verifying that Projects are in compliance with Section 42 of the Code.

Tax-exempt bond financed Projects in which 50 percent or more of the aggregate basis is funded with the proceeds of bond financing may also be exempt, in MFA's discretion, from many of the certification and review provisions outlined within this document. The monitoring and certification guidelines for these Projects must be in a form that will satisfy those agencies issuing the bonds and MFA. The Project's monitoring procedures must, at a minimum, satisfy the compliance guidelines set forth by Section 42 of the Code.

Projects which are 100 percent allowable for tax credit purposes (i.e. all units are income and rent restricted at 60 percent of AMI or lower) and that have no other financing requiring annual income re-certifications may also be exempt pursuant to HR 3221. Project Owners must furnish MFA certifications annually, verifying that Projects are in compliance with Section 42 of the Code, as well as any other data that MFA may require per our monitoring and compliance guidelines.

The Project Owner of any exempted Project must certify to MFA on an annual basis that the Project is in compliance with the requirements for RD assistance, tax credits or the tax-exempt bond financing guidelines, as applicable, and that all requirements of Section 42 are also being met. The Project Owner must inform MFA of any noncompliance or if Project Owner is unable to make one or more of the required certifications.

E. Compliance Review

MFA may elect to subcontract the monitoring procedure to other agents. In doing so, MFA would designate the subcontractor as the compliance-monitoring agent who would perform MFA's function.

In the event that any noncompliance with the Code is identified, a discrepancy letter entitled "Notice of Non-Compliance," detailing the noncompliance will be forwarded promptly to the Project Owner and the management company of the Project. The Project Owner must then respond in writing to MFA within 30 days after receipt of the discrepancy letter. The response must address all discrepancies individually and must indicate the manner in which corrections will be made. The Project Owner will then have a cure period of 30 days from the date of the discrepancies individually and must indicate the manner in which corrections will be made. The proposed owner will then have a cure period of 30 days from the date of the discrepancy letter to correct the noncompliance detected and to provide MFA will any documentation or certification found to be missing during the annual management review. The cure period may be extended for periods of up to six months. Extensions will be based on a determination by MFA that there is good cause for granting the extension.

MFA will notify the IRS within 45 days after the expiration of the cure period of any noncompliance that has been detected. All corrections made by the Project Owner within the cure period will be acknowledged within this notice. A copy of the Project Owner's response to the noncompliance will accompany the notice to the IRS.

If potential noncompliance is discovered during a compliance monitoring review, the Project Owner will be required to have the Project's managing agent attend a compliance training session within two months following the compliance monitoring review.

In order to offset the cost of monitoring procedures, an annual fee will be assessed for each year of the Extended Use- Period. For 201~~98~~, the monitoring/compliance fee is \$45.00/set-aside unit/per year. The monitoring/compliance fee can be paid annually or in a lump sum to cover the initial 15 years of the Compliance Period. If paid in a lump sum, the amount will be determined in the year the development receives a final allocation. Payment of the lump sum amount will be required prior to issuance of Forms 8609 for each Project. The amount of the compliance monitoring fee for the remainder of the contractual Extended Use Period will be determined in year 15. Annual certifications and reports are due in the MFA office by ~~January-March~~ 31st of each year (for the past reporting year.) Annual compliance reports are due by ~~January-March~~ 31st of each year, through MFA's WCMS online compliance system for the full term of the Extended Use Period. Annual audited property financial statements are due in the MFA office within 120 days of the property's fiscal year end. A notice will be mailed to each Project Owner or a designated representative to remind them that the certification, reports and fees are due.

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XI. GLOSSARY

Acquisition Costs- for purposes of calculating developer fee in related party transactions, the full appraised value of any land and/or existing improvements, including any buildings; and/or costs attributable to the acquisition of any land and/or improvements, including any buildings, and including costs relating to title, recording, legal and site review.

Adaptive reuse Projects - Projects which will involve the conversion of an existing building or buildings, which was not initially constructed for residential use to multifamily residential use.

Affordability Period - Total of the initial Compliance Period plus the Extended Use Period (30-year minimum plus any additional time required and documented in the LURA).

Agency - New Mexico Mortgage Finance Authority (MFA.)

Allocation Review Committee - a committee appointed by the Chairman of the MFA board to review Projects rating and ranking results, to determine if the proposed allocations have been made consistent with the Project selection criteria and the QAP, and to hear appeals and decide their outcome.

Allocation set-asides - the federally mandated tax credit allocation set-aside requirement for projects involving qualified nonprofit organizations, as well as other tax credit allocation set-asides designated by MFA from time-to-time and incorporated into the QAP.

Annual credit ceiling - the total dollar volume of tax credits available for distribution by the agency and authorized pursuant to Section 42 of the Code, in a given year. The population-based ceiling amount is the amount of tax credits allocated to the state each year based on the state population.

Applicable credit percentage - the monthly interest rate issued by the Treasury Department and used to discount the present value of the 70 percent tax credit (approximately 9 percent) and the 30 percent tax credit (approximately 4 percent.)

Applicable fraction - the fraction, the numerator of which is the number of low-income units and the denominator of which is the total number of residential rental units less any unit exempted by Revenue Ruling 92-61; or the fraction, the numerator of which is the floor space of the low-income units and the denominator of which is the total floor space of the residential rental units less any unit exempted by Revenue Ruling 92-61, whichever is less. The eligible basis of a building is multiplied by the applicable fraction to determine the Qualified Basis of a building for tax credit purposes.

Applicant - the general partner or the managing member(s) of the general partner.

Application - the completed forms, schedules, checklists, exhibits, electronic versions such as CDs and USBs, and any additional documentation requested in the initial Application package, carryover allocation package and final allocation package, as well as any supplemental materials requested by

MFA. They must be submitted to MFA in accordance with the QAP in order to apply for the tax credit program.

Application deadline - 5 p.m. Mountain Standard Time on the final day of the application period, except for tax-exempt bond financed Projects, for which the submission date is specified in Section VI.B.

Application package - the forms, schedules, checklists, exhibits, electronic versions such as CDs and USBs, ~~and, and~~ instructions thereto obtained from the agency, which shall be completed and submitted to the agency in accordance with all regulations in order to apply for the tax credit program.

Application period – the period during which Applications will be accepted by MFA as described in the QAP.

Area gross median income – the median income level, issued annually by HUD for each metropolitan area and for each county outside a metropolitan area, which is adjusted for family size and used to calculate maximum income of eligible persons and rents for rent restricted units. As of July 30, 2008, any Project located in a rural area (as defined in Section 520 of the Housing Act of 1949) shall have income limitations measured by the greater of the HUD median income or the national non-metropolitan median income.

~~**Average gross median income (AGMI)**— for a Project, the average area gross median income level(s) at which units are set aside, weighted by the number of units set aside at each income level. AGMI calculations are rounded to the nearest whole number (rounding to occur after percentage of total units has been multiplied by set-aside income level.) Market rate units will be treated as if they were set-aside at 100 percent of AGMI.~~

~~An example of the calculation of AGMI in a 60-unit Project with no management-employee units is as follows:~~

- ~~◆ 27 percent of the units are set aside at 50 percent of AGMI~~
- ~~◆ 46 percent of the units are set aside at 60 percent of AGMI~~
- ~~◆ 27 percent of the units are market rate~~

~~The AGMI calculation would be as follows:~~

| % of total units | | Set aside income level (as a % of median) | | Weighted average (before rounding) | Weighted average (final) |
|---|--------------|--|--------------|---|-------------------------------------|
| 27 | X | 50 | = | 13.5 | |
| 46 | X | 60 | = | 27.6 | |
| 27 | X | 100 | = | 27 | |
| Total AGMI: AGMI for Scoring | | | | 68.1 | 68 |

~~Units to be provided for management or maintenance staff rent free should not be included in the calculation.~~

Average gross median rent (AGMR)— for a Project, the average area gross median rent level(s) at which units are set aside, weighted by the number of units set aside at each rent level. AGMR calculations are rounded to the nearest whole number after percentage of total units has been multiplied by rent restricted level. Market rate units will be treated as if they were set aside at 100 percent of AGMI.

An example of the calculation of AGMR in a 60-unit Project with no management employee units is as follows:

- ◆ 9 percent of the units are rent restricted at 50 percent of AGMI
- ◆ 71 percent of the units are rent restricted at 60 percent of AGMI
- ◆ 20 percent of the units are market rate (not rent restricted)

The AGMR calculation would be as follows:

| % of total units | | Set-aside income level (as a % of median) | = | Weighted average (before rounding) | Weighted average (final) |
|-------------------------------------|---|---|---|---------------------------------------|--------------------------------|
| 9 | X | 50 | = | 4.5 | |
| 71 | X | 60 | = | 42.6 | |
| 20 | X | 100 | = | 20 | |
| Total AGMI: AGMI for Scoring | | | | 67.1 | 67 |

Units to be provided for management or maintenance staff rent free should not be included in the calculation.

Binding commitment – an agreement between MFA and an Applicant by which MFA allocates and the Applicant accepts tax credits in accordance with Section 42(h)(1)(C) of the Code. MFA’s carryover allocation is its binding commitment.

Blighted buildings – buildings that are in such severe disrepair to the extent that rehabilitation or adaptive reuse is no longer feasible.

Board of Directors (Board) – MFA’s Board of Directors.

Brownfield – land where the development, redevelopment or reuse may be complicated by presence of hazardous substance, pollutant or contaminant including petroleum. Brownfield sites require a remediation plan based on a Phase II Environmental Site Assessment.

Building’s gross square feet – the sum of the gross square feet on each floor of a building. Covered parking and structured parking should not be included in the building’s gross square feet.

Capital needs assessment – a report prepared by a competent professional meeting the minimum qualification/certification requirements set forth by MFA, as defined in the Design Standards, third-party licensed architect or engineer that addresses the following:

1. Site visit and physical inspection of the interior and exterior of units and structures
2. Interview with available on-site property management and maintenance personnel regarding past and pending repairs/improvements and physical deficiencies
3. Identification of the presence of any visible environmental hazards on the site or other life safety concerns
4. Opinion as to the adequacy of the proposed budget for recommended improvements.
5. Description of all major systems of the buildings and units with a projection of the remaining useful life of each, including certification of critical building systems or components that have reached or exceeded their expected useful lives
6. Description of all building envelope and structural systems deficiencies
7. Projection of recurring probable expenditures for significant systems and components over 15 years.
8. Determination of the appropriate upfront and ongoing replacement reserve deposits.

Carryover allocation – the provision under Section 42 of the Code which allows a Project, under certain conditions allowed by Section 42 of the Code, to receive a tax credit allocation in a given calendar year and to be placed in service within a period of two calendar years after the calendar year in which Applicant qualifies for a carryover allocation. The carryover allocation is MFA’s binding commitment for tax credits.

Code – the IRS Section 42 Code of 1986, as in effect on the date of the QAP, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued with respect thereto by the Treasury or the IRS of the U.S.

Complete Application – an initial Application meeting all of the requirements in Section IV.A.4, Content and Format.

Compliance monitoring – the agency’s procedure, as required by Section 42 of the Code and detailed in MFA’s Tax Credit Monitoring and Compliance Plan, of auditing and inspecting all completed ~~tax credit~~LIHTC Projects.

Compliance Period – with respect to any building that is included in the ~~tax credit~~LIHTC Project, a minimum period of 15 years beginning on the first day of the first taxable year of the tax credit period with respect thereto in which a ~~tax credit~~LIHTC Project shall continue to maintain the low-income units as low-income units pursuant to Applicant’s set-aside election in the Application, pursuant to Section 42 of the Code. Compliance Period plus Extended Use Period equals Affordability Period.

Concerted Community Revitalization Plan – a metropolitan development plan as defined in NMSA 1978 Section 3-60A-4 prepared and enacted by a local, county or tribal government at least six months prior to the Application deadline. For Projects located on sovereign tribal lands, “concerted community revitalization plan means a written plan similar in content and affect to a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4, prepared and enacted by a tribal government at least six months prior to the Application deadline, which identifies barriers to community vitality and promotes specific concerted revitalization activities within an area having distinct geographic boundaries.

Consolidated plan – plan prepared in accordance with HUD regulations, 24 C.F.R. 91 (1994⁷), which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs.

Construction costs – for purposes of calculating builder profit, overhead and general requirements and per unit rehabilitation construction cost, the on-site and construction costs in the construction contract, before gross receipts tax, profit, overhead and general requirements. At initial Application and carryover, construction cost should include a reasonable construction contingency.

Contact person – a person identified in the initial Application with decision-making authority for the Applicant, Developer or the Project Owner, with whom MFA will correspond concerning the Application and for the Project.

Contractor’s cost certification – a certification prepared by a CPA, indicating the method of certification, all identities of interest and certification that all construction costs included are related to the Project.

Cost certification – A certification prepared by a CPA on forms provided by MFA, indicating the method of certification, all identities of interest and certification that all Project costs included are related to the project.

Credit period – with respect to any building that is included in the ~~tax-credit~~LIHTC Project, the period of 10 years beginning with 1) the taxable year in which the building is Placed in Service or 2) at the election of the Project Owner, the succeeding taxable year.

Developer – any individual, association, corporation, joint venture or partnership, which is to manage all aspects of the construction and/or rehabilitation of the proposed Project.

Development costs – the sum total of all costs incurred in the development of a Project all of which shall be subject to approval and are approved by MFA as reasonable and necessary. Such costs may include, but are not limited to:

1. The cost of acquiring real property and any building thereon, including payment for options, deposits or contracts to purchase properties
2. The cost of site preparation and development
3. Any expenses relating to the issuance of tax-exempt bonds or taxable bonds by the agency, if any, related to the Project.
4. Fees in connection with the planning, execution and financing of the Project, such as those of architects, engineers, attorneys, accountants and the agency.
5. The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs and other operating and carrying costs incurred during construction, rehabilitation or reconstruction of the Project.
6. The cost of the construction, rehabilitation and equipping of the Project.
7. The cost of land improvements, such as landscaping and off-site improvements related to the Project, whether such costs are paid in cash, property or services.

8. Expenses in connection with initial occupancy of the Project.
9. Allowances established by the agency for working capital, contingency reserves and reserves for any anticipated operating deficits during the first two years after completion of the Project.
10. The cost of such other items, including relocation cost, indemnity and surety bonds, premium on insurance and fee and expenses of trustees, depositories and paying agents for bonds.

Difficult development area – any area designated by the secretary of HUD as having high construction, land and utility costs relative to [Area Gross Median Income](#) in accordance with Section 42(d)(5) of the Code.

Eligible Application or eligible Project – an Application or Project which has met all minimum Project threshold requirements.

Eligible basis – the sum of the eligible cost elements that are subject to depreciation, such as expenditures for new construction, rehabilitation and building acquisition.

Eligible partners or eligible households – one or more natural persons or a family, irrespective of race, creed, national origin or sex, determined by the agency to be of low- or very low-income. In determining the income standards of eligible persons for its various programs, the agency shall take into account the following factors:

1. Requirements mandated by federal law
2. Variations in circumstances in the different areas of the state
3. Whether the determination is for rental housing
4. The need for family size adjustments

Executive director – the executive director of MFA.

Extended Use Period – with respect to any building that is included in a ~~tax credit~~LIHTC Project, the period of affordability **following** the initial 15-year Compliance Period during which time the project continues to be restricted to affordable low-income housing. The minimum Extended Use Period required by Code is fifteen years. Compliance Period plus Extended Use Period equals Affordability Period. **Feasibility analysis** – a financial analysis based on rules established by the IRA and MFA to determine a Project's financial feasibility, which is completed to ascertain a tax credit amount, the adequacy of financing sources, the income required to support operation of the Project.

Federal grant – any federal grant except those specifically excluded in Section 1.42-16(b) of the Treasury regulations.

Federal subsidy – any construction or permanent financing that is directly or indirectly financed from state or local bonds, including municipal bonds, which are tax-exempt for federal income tax purposes.

Federally-assisted building – any building which is substantially assisted, financed or operated under Section 8 of the United States Housing Act of 1937, Section 221(d)(3), Section 221(d)(4) or 236 of the

United States Housing Act, Section 515 of the Housing Act of 1949 or any other program administered by HUD or by the rural housing service of the Department of Agriculture.

Final allocation – a determination by MFA that a Project is complete and that a certain amount of tax credits is warranted. The final allocation must be requested by the Project Owner and culminates in delivery of IRS Form 8609 by MFA.

Financing commitment – a commitment for permanent or construction financing which 1) is not subject to further approval by any loan committee or board of directors or other entity of the creditor making the commitment and 2) contains specific terms of funding and repayment.

General partner – that partner or collective of partners identified as the general partner of the partnership that is the Project Owner and that has general liability for the partnership. If the Project Owner is a limited liability company, the term general partner shall mean the managing member or members with management responsibility for the limited liability company.

Government entity or instrumentality – any agency or other government created entity of the state of New Mexico, the counties or municipalities of New Mexico or the tribal governments of New Mexican tribes and pueblos.

Gross Square Feet – the area that includes all enclosed space as measured from the exterior face of the building walls and means everything under the roof, including storage and patios. Covered parking and structured parking should not be included in gross square feet.

Households or individuals experiencing homelessness - A household or individual is considered homeless if they:

1. lack a fixed, regular, and adequate nighttime residence, which includes a primary nighttime residence of places not designed for or ordinarily used as a regular sleeping accommodation (including cars, parks, abandoned buildings, etc.) or publicly or privately operated shelters or transitional housing, including a hotel or motel paid for by government or charitable organizations; or
2. are being discharged from an institution where they've been a resident for 90 days or less and the person resided in a shelter (but not transitional housing) or place not meant for human habitation immediately prior to entering that institution; or
3. are being evicted from their primary nighttime residence within 14 days and no subsequent residence has been identified and the individual/household lacks the resources and support networks (i.e. family, friends, faith-based or other social networks) needed to obtain housing; or
4. have ALL of these characteristics:
 - unaccompanied youth (less than 25 years of age) or family with children and youth;
 - defined as homeless under other federal statutes who do not otherwise qualify under this definition;
 - has not had a lease, ownership interest, or occupancy agreement in permanent housing for 60 days prior to applying for occupancy;

- has moved two or more times in the 60 days immediately prior to applying for occupancy; AND
 - has one or more of the following: a) chronic disabilities, b) chronic physical or mental health conditions, c) substance addiction, d) histories of domestic violence or childhood abuse, e) child with a disability, f) or two or more barriers to employment, which include i) lack of a high school diploma or GED, ii) illiteracy, iii) low English proficiency, iv) history of incarceration or detention for criminal activity, or v) history of unstable employment.
5. are fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening situations related to violence; ~~have; have~~ no other residence; ~~and;~~ and lack the resources and support networks needed to obtain housing.

Households with children – households that include one or more persons under the age of 18 years.

Households with special housing needs – households in which an individual or household member is in need of supportive services, tenancy supports and housing and meets at least one of the following definitions:

1. Has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation that substantially limits one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.
2. Households or individuals experiencing homelessness (see definition above).

HUD – U.S. Department of Housing and Urban Development

Identity of interest – occurs when any officer, director, board member or authorized agent of any development team member (consultant, general contractor, attorney, management agent, seller of the land, etc.): 1) is also an officer, director, board member or authorized agent of any other development team member; 2) has any financial interest in any other development team member’s firm or corporation; 3) is a business partner of an officer, director, board member or authorized agent of any other development team member; 4) has a family relationship through blood, marriage or adoption with an officer, director, board member or authorized agent of any other development team member or 5) advances any funds or items of value to the sponsor/borrower.

[Income Averaging \(IA\) or Average Income Election – This election under Section 42 of the IRS Code was authorized by the Consolidated Appropriations Act of 2018. This set-aside allows the Project to serve households up to 80 percent AMI \(80%\) as long as at least 40 percent of the total units are rent and income restricted and the average income limit for all tax credit units in the Project is at or below 60 percent AMI \(60%\).](#)

Initial Application – the Application first provided to MFA on or before an Application deadline to request an allocation of tax credits.

Land Use Restriction Agreement or LURA – the agreement submitted to the agency restricting the property to affordable housing use during the Compliance Period and Extended Use Period.

Letter of determination – the letter issued by MFA pursuant to Section 42(m)(1)(D) of the Code advising the Project Owner that MFA has made the determination that a tax-exempt bond financed Project satisfies the requirements for an allocation of tax credits under the QAP conditioned upon Project compliance with Section 42 of the Code.

Tax credit Project LIHTC project – the proposed or existing rental housing development(s) for which tax credits have been applied for or received.

Local government – any county, municipality, tribe or other general-purpose political subdivision in the state of New Mexico.

Local notice – MFA’s letter to the chief executive office (or the equivalent) of the local jurisdiction within which the Project is located, which provides a 30-day period to comment on the Project pursuant to Code Section 42(m)(1)(A)(ii).

Low income housing tax credit (LIHTC) program or tax credit program – the rental housing program administered by MFA pursuant to Section 42 of the Code and by the state of New Mexico Executive Order 97-01.

Low-income tenants – households that occupy set-aside units.

Low income units or set-aside units – units which are rent restricted and set-aside for tenants whose income does not exceed 50 percent, 60 percent or some lower percentage, whichever is elected, of [Area Gross Median Income](#).

Market rate units – residential rental units that are not low-income units.

Material design changes – any change in the Project, its scope or its quality which would affect its underwriting or compliance with MFA’s mandatory design standards. For example, a change in building area, unit areas, unit counts, amenities, parking quantities, landscaping scope, energy performance, water usage, quality of construction or specification would each constitute a material change.

Minimum score – the lowest score with which an Application will be considered to have passed the minimum Project threshold requirement related to scoring.

Moderate rehabilitation – repairs, replacements and improvements that do not fall into substantial rehabilitation as defined herein or where the work is limited to level two (2) alterations (as described by Enterprise Green Communities Criteria.) Level two alterations include the reconfiguration of space, the addition or elimination of any door or window, the reconfiguration or extension of any system, does not include the replacement of two or more major systems or the installation of any additional equipment.

A Project where the work area does not exceed 50 percent of the aggregate area of the building (the work scope is less than an ICC level three alteration.)

Mortgage revenue bonds (MRB) or tax-exempt bonds – bonds issued by state designated issuers, including MFA, which may be used to finance LIHTC projects subject to project allocations made by the State Board of Finance.

Net square feet – the net rentable space measured from the interior of the walls and includes all air conditioned space.

New Mexico housing authority (NMHA) – any public housing authority legally established in the state of New Mexico.

November 15th – November 15th, unless this date falls on the weekend or a holiday, in which case it means the first business day following November 15th.

Ownership of land – holding fee title or a qualified leasehold interest.

Participating title company – a New Mexico title company that maintains pooled, interest-bearing transaction account(s) pursuant to the Land Title Trust Fund Act of 1997.

Placed In Service – the date on which the first unit of a new construction Project is certified or otherwise officially declared as available for occupancy as evidenced by the Certificate of Occupancy. For rehabilitation Projects, it is the date of the Certificate of Substantial Completion. For acquisitions of existing projects, it is the date of purchase by a new Project Owner.

Principal – an Applicant, any general partner of an Applicant and any officer, director, board member or any shareholder, general partner, managing member or affiliate of an Applicant. It also includes any entity receiving any part of a developer fee for a Project. For Project compliance purposes (**Section IV.C.11~~7~~**), Principal would include shareholders with interests of 25 percent or more, all officers or a corporation (whether board members or employees~~7~~), all general partners or members.

Program – the tax credit program as administered by MFA.

Project – the development proposed by the Applicant as specifically described in the Application.

Project expenses – usual and customary operating and financial costs. The term does not include extraordinary capital expenses, development fees and other on-operating expenses.

Project Owner – the legal entity that ultimately owns the Project and to which tax credits will be allocated.

Project selection criteria – the criteria used to score a Project for tax credit allocation purposes.

Qualified Allocation Plan or QAP – this Qualified Allocation Plan, which was adopted by Board action on November ~~15~~, 201~~8~~7 and made effective as of January 1, 201~~8~~98, which was approved by the Governor

of the state of New Mexico pursuant to Section 42(m)(1)(B) of the Code and sets forth the Project selection criteria and the preferences for Projects which will receive tax credits.

Qualified basis – the portion or percentage of the eligible basis that qualifies for the tax credit. It is calculated by multiplying the eligible basis by the applicable fraction.

Qualified census tract – any census tract which is designated by the Secretary of HUD as having 50 percent or more of the households at an income level which is less than 60 percent of the [Area Gross Median Income](#) in accordance with Section 42(d)(5) of the Code.

Qualified leasehold interest – a leasehold interest running at least as long as the Extended Use Period.

Qualified nonprofit organization – an organization described in Sections 501(c)(3) or 501(c)(4) of the Code and exempt from tax under Section 501(a). The production of decent, safe and affordable housing must be one of the defined goals, objectives or purposes of the nonprofit organization. The nonprofit organization must materially participate in the Project, meaning that the organization must be involved on a regular, continuous and substantial basis in both the development and operation of the Project during the term of the Compliance Period. The nonprofit must also own an interest in the Project throughout the Compliance Period and may not be affiliated with or controlled by a for-profit organization.

Rehabilitation costs – as stated in Code Section 42(e)(2), the amounts chargeable to capital accounts and incurred for property in connection with the rehabilitation of a building. For the purposes of the calculation in scoring rehabilitation Projects, only rehabilitation “hard” costs will be considered, which are those costs that would be included in a construction contract. If the Project does not include the construction of new rent restricted units, the cost of the construction of common space buildings will be considered rehabilitation costs.

Rent restricted unit – with respect to a ~~tax credit~~[LIHTC](#) Project, a unit for which the gross rent does not exceed 30 percent of the imputed [Area Gross Median Income](#) limitation applicable to such unit as chosen by the Applicant in the Application and in accordance with the Code. Gross rent must be determined from the rent charts included in the Application package and must correspond to the percentage of [Area Gross Median Income](#)~~AGMI~~ selected by the applicant in the Application. It includes the cost of utilities and must be reduced by the amount of tenant-paid utilities. Gross rent includes all income for the unit, including tenant and any subsidy payments. See also “unit.”

Reservation or reservation contract – the contract executed by MFA and the Applicant with respect to an allocation of tax credits, which states the conditions to be met by Applicant prior to issuance of a carryover allocation.

Reservation letter or reservation – a document issued by MFA which describes the amount of credits provisionally awarded to a Project and the conditions which the Project Owner must meet in order to obtain a binding commitment for tax credits.

Reserved – the units may not be rented to other categories of households unless the Project Owner demonstrates a subsequent change in the level of demand for such units and a good faith effort to obtain the originally targeted tenant category. Any such change in tenant characteristics must be approved in advance by MFA.

Rural development or RD or USDA (previously called “Farmer’s Home Administration” or “FMHA” of the U.S. Department of Agriculture) means rural development or other agency or instrumentality created or chartered by the U.S. to which the powers of RD have been transferred.

Scope of work – as described in MFA’s 2019~~8~~ submission instructions for preliminary architectural documentation under the caption “rehabilitation scope of work narrative.”

Senior Housing – Projects that qualify for an exemption from familial status discrimination under the Fair Housing Act. To qualify for this exemption, Projects must be: (i) provided under any state or federal program that HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program); or (ii) intended for, and solely occupied by persons 62 years of age or older; or (iii) intended and operated for occupancy by persons 55 years of age or older in compliance with the Housing for Older Persons Act (HOPA), 24 CFR Part 100 Final Rule.

Set-aside – all or a portion of a Project’s units that are rent restricted and/or limited to use by a specified tenant income category or a particular special needs tenant group. Set-asides will be described in the LURA.

Set-aside election – the federally imposed minimum proportion of total Project units set-aside as low-income units at one or more [Area Gross Median Income](#) level(s). This election is made by the Applicant and meets the minimum requirements of Code Section 42: larger proportions of units are generally set-aside by the Applicant and restricted in the LURA.

Set-aside units – low-income units.

Single room occupancy (SRO) – housing consisting of single room dwelling units. The unit must contain either food preparation and/or sanitary facilities.

Special needs – see definition above under Households with special housing needs. **State-assisted building** – any building which is substantially assisted, financed or operated under any state law similar in purposes to Section 8 of the United States Housing Act of 1937, Section 221(d)(3), Section 221(d)(4) or 236 of the United States Housing Act, Section 515 of the Housing Act of 1949 or any other program administered by HUD or by the USDA Rural Housing Service.

Subsidy layering review or 911 review – the review conducted under subsidy layering guidelines adopted by HUD in order to assure that excessive subsidies are not provided to Projects which receive both tax credits and other governmental assistance.

Substantial rehabilitation – commonly referred to as a “gut” rehabilitation and includes the replacement and/or improvements to at least two (2) major systems of the building, including its

envelope. Major building systems include roof structures, wall or floor structures, foundations, plumbing, heating, ventilating and air conditioning (HVAC) and electrical systems. The building envelope is defined as the air barrier and thermal barrier separating exterior from interior space. A substantial rehabilitation also includes a Project where the work area exceeds 50 percent of the aggregate area of the building (an ICC level 3 alteration scope of work.)

Tax credit allocation – tax credits approved for a Project by MFA in an amount determined by MFA as necessary to make a Project financially feasible and viable throughout the Project’s Compliance Period pursuant to Section 42(m)(2)(A) of the Code.

~~Tax credit Project – the proposed or existing rental housing development(s) for which tax credits have been applied for or received.~~

Tax credit ceiling rents – the maximum rent that may be charged for a rent restricted unit.

Tax-exempt bond financed Project – a Project, which is being financed by the issuance of tax-exempt bonds subject to applicable volume cap pursuant to Section 42(h)(4) of the Code.

Tenant conversion plan – a written plan acceptable to MFA, describing the method to be used to enable tenants to acquire ownership of their units at such time as conversion to owner occupancy is allowed under Code Section 42. The Project Owner must provide and describe the type of homeownership, financial and maintenance counseling to be offered. The Project Owner must describe in detail how the unit will be converted from a rental unit to homeownership. Other [financial and programmatic structure](#) items the plan must contain include:

- ~~1. [Timing of ownership](#) ~~How the unit will be offered for sale and remain affordable~~~~
- ~~2. [All lienholder interests](#)~~
- ~~1-3. [Eligibility and selection process for potential owners](#) ~~How the unit will be offered for sale and remain affordable~~~~
- ~~2-4. How the value and sales price of the home will be determined at the time of purchase.~~
- ~~3-5. Any favorable financing or down payment assistance~~
- ~~4-6. Formation of any neighborhood associations and if so, the benefits and responsibilities outlined within the proposal.~~
- ~~5-7. Copy of the plot plan for ultimate subdivision or proposed condominium declaration~~

Threshold review – the assessment of a Project with respect to minimum Project threshold requirements as defined in the QAP.

Threshold tests – the minimum Project threshold requirements described in Section III.C. that must be achieved for a Project to be considered further for an allocation.

Total Development Cost – the total of all costs incurred or to be incurred by the Project in acquiring, constructing, rehabilitating and financing the Project. For purposes of calculating developer fees, total development cost will be adjusted to exclude developer fees, consultant fees, commercial space construction costs and all reserves. For purposes of calculating cost limits, the purchase price attributed

to the land, any costs related to commercial space and reserves (not eligible for tax credits) will be excluded.

Unit – a residential rental housing unit in a Project including manager and employee units.

Universal Design – any component of a house or apartment that increases the usability for people of all ages, size and abilities and enhances the ability of all residents to live independently for as long as possible.

Urban Area – [A location within the boundaries of Bernalillo County, the City of Rio Rancho, the City of Las Cruces, the City of Santa Fe, the City of Farmington or the City of Roswell.](#)

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Exhibit 1

Board Members

Chair – Dennis R. Burt – Burt & Company CPAs, LLC
Vice Chair – Angel Reyes – Centinel Bank in Taos
Member, John Sanchez - Lieutenant Governor, state of New Mexico
Member, Hector Balderas – Attorney General, state of New Mexico
Member, Tim Eichenberg – Treasurer, state of New Mexico
Member – Steven Smith – President, R.O.G. Enterprises
Member – Randy McMillan – President, NAI First Valley Realty, Inc.

Allocation Review Committee

Chair, Angel Reyes
Member, Michael A. D’Antonio
Member, Lyle Greenberg
Member, Patricia A. Sullivan
Member, Robert White

Management

Jay Czar, Executive Director
Isidoro “Izzy” Hernandez, Deputy Director of Programs
Gina Hickman, Deputy Director of Finance and Administration
[Shawn Colbert, Director of Housing Development](#)
[TBDRebecca Velarde, Tax Credit Officer](#)

Staff Roster

| | | | |
|--------------------|--------------------|---------|--------------------|
| Al Radicioni | George Maestas | Heather | Patrick Ortiz |
| Alicea Coyne | Abramowski | | Patty Balderrama |
| Amanda Aragon | Jackie Garrity | | Rebecca Sanchez |
| Amy Gutierrez | Jacobo Martinez | | Rene Acuna |
| Angel Candelaria | Jeannette Marquez | | Rita Riddle |
| Angelina Martinez | Jeff Payne | | Rob Jones |
| Anita Racicot | Joseph Navarrete | | Robyn Powell |
| Barbara Tashkandy | Judy Amador | | Rose Baca Quesada |
| Blanca Vasquez | Kathleen Keeler | | Sabrina Su |
| Carmela Arellano | Kathy Griego | | Samantha Vigil |
| Carol Salazar | Laura Chavez | | Sandra Marez |
| Christina Gerwin | Laura Riehl | | Sara Marinelli |
| Christine Wheelock | Laura Thompson | | Shannon Tilseth |
| Cynthia Marquez | Leann Kemp | | Sharlynn Rosales |
| Dana Gohr | Lisa Romero | | Shawn Colbert |
| Debbie Davis | Marjorie Martin | | Shawn Rasmussen |
| Dolores Wood | Melissa Cabrera | | Stacy Havens |
| Doris Clark | Michelle Marquez | | Susan Biernacki |
| Eunice Duran | Monica Abeita | | Suzette Chavez |
| Francina Martinez | Natalie Michelback | | Teresa Chiarolanza |
| Frankie Salcido | Pat Rogers | | Teri Baca |

~~Theresa Garcia~~
~~Troy Cucchiara~~
~~Yvonne Reed~~
~~Yvonne Segovia~~