

**Maryland**  
**Department of**  
**Housing and**  
**Community**  
**Development**

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**MULTIFAMILY RENTAL FINANCING PROGRAM GUIDE**

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**Attachment to the 2004 Qualified Allocation Plan**



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## **Mission**

### **Maryland Department of Housing and Community Development**

The Department of Housing and Community Development is dedicated to improving the quality of life in Maryland by working with partners to revitalize communities, expand homeownership and affordable housing opportunities and preserve historic sites and traditions.

### **Housing Development Programs**

Housing Development Programs revitalizes communities and promotes economic diversity by providing financial resources to complement those available in the private sector to build and rehabilitate community infrastructure and quality affordable rental housing.

## 1.0 Introduction

The Maryland Department of Housing and Community Development (the Department) administers financing programs for the construction, acquisition and rehabilitation of multifamily rental housing. Housing Development Programs (HDP) within the Community Development Administration (CDA) administers these programs for the Department. With the exception of the Office and Commercial Space Conversion (OCSC) Program, which provides market rate housing, these programs provide affordable rental housing for lower and moderate-income families and individuals.

Many of the Department's multifamily funding sources can be applied for using a consolidated application form. Awards from some of these sources are made under a competitive process using specific funding cycles. This guide (Guide) provides an overview of how funding requests for most of these programs are evaluated and processed and replaces the Department's former Housing Development Programs Handbook. The Guide and the governing statutes and regulations are the controlling authority in the event of any conflicts with any other written procedures, processes or documents. The Guide contains the following sections:

- Section 1: Introduction
- Section 2: Overview of the Funding Process
- Section 3: Project Threshold Criteria
- Section 4: Project Evaluation Criteria
- Section 5: Exhibits

### 1.1. Applicability

This Guide covers the application procedures for the following multifamily rental housing financing programs available through the Department:

- Multifamily Bond Program (MBP or Bond Financing)
- Rental Housing Fund (RHF)
- Federal Low-income Housing Tax Credit Program (Tax Credits)

The RHF includes all of the following state and federally funded loan programs: Rental Housing Production Program (RHPP), Elderly Rental Housing Program (ERHP), Nonprofit Rehabilitation Program (NRP), Maryland Housing Rehabilitation Program (MHRP) and the Federal HOME Investment Program (HOME). Staff will review each application to determine the appropriate funding program(s) within the RHF for the project. The Department has complete discretion to determine which program will fund an RHF award. Resources for the Tax Credits and the RHF are allocated to projects during scheduled rounds of competition. The Partnership Rental Housing (PRHP) and OCSC programs are not covered by this Guide and have separate materials.

Applicants only requesting Bond Financing and Tax Credits approved with Bond Financing (non-competitive credits that are not allocated from the State's tax credit ceiling) are not subject to the competitive process but must still meet the threshold criteria and obtain a minimum score

of 180 under the selection criteria in this Guide. Additional information on MBP or Bond Financing is provided in highlighted boxes throughout the Guide.

Like PRHP, funding in the OCSC Program is also not competitive; however, applications must be submitted through the local jurisdiction. An abbreviated application form is used for this program. Applicants for these programs may apply at any time during the year. With the exception of the OCSC program, requests for funding must use the same application form and are subject to departmental underwriting and construction reviews.

Before submitting an application for funding from any program covered by this Guide, sponsors are encouraged to meet with HDP staff to discuss the proposed development, funding options, processing and program guidelines. Please contact HDP at 410.514.7446 to schedule a meeting.

## **1.2. Vision for Affordable Rental Housing in Maryland**

The Department promotes the production and preservation of housing by providing financial assistance that is complementary to funds available in the private sector. This goal is accomplished through a variety of homeownership, rental, historic preservation and neighborhood revitalization programs. A major component of this effort is the financing of affordable rental housing. The Department has structured its threshold and evaluation criteria to target projects that meet the following objectives.

### ***1.2.1. Production of Quality Development***

Development teams must demonstrate the capacity to develop quality affordable rental housing in a timely and comprehensive manner. In order to ensure the development of affordable housing that is sustainable over the long term, the Department will evaluate the scope of work, marketability, project aesthetics, material selections, amenities, design and costs. Projects that can proceed with the least delay upon funding are preferred.

### ***1.2.2. Public Purpose***

Projects should promote a holistic view of housing, including a focus on coordinated community efforts, tenant services and resident empowerment. The Department supports projects that serve the lowest income levels feasible for the longest time and that meet locally identified needs for affordable housing. Projects that promote and encourage local nonprofit and minority or women owned businesses in the development of affordable housing are also encouraged.

### ***1.2.3. Leveraging and Effective Use of State Resources***

To maximize the efficient use of State resources, the Department encourages the leveraging of other resources. For these purposes, competitive Tax Credits are considered a State resource. The Department also encourages use of its tax-exempt and taxable bond program resources as well as amortizing RHF loans.

#### **1.2.4. Revitalizing Neighborhoods and Targeting Growth Areas**

The State's Priority Places Initiative applies to all projects seeking funding under this Guide. This initiative requires all newly constructed developments to be in priority funding areas, which are described in this Guide under the subheading Project Location and Marketability in Section 3 – Project Threshold Criteria. Targeted revitalization also is encouraged through a preference for projects in designated revitalization areas or neighborhoods with community revitalization plans involving rehabilitation of existing structures.

## 2.0 Overview of the Funding Process

For projects requesting Bond Financing and non-competitive Tax Credits only, some of the following steps may not apply, but more information for those programs may be found in the highlighted text boxes throughout this Guide.

### 2.1 Application Submissions

Applications for projects that are subject to the competition will be accepted and reviewed during scheduled, competitive rounds. The Department will schedule and provide a notice of the rounds of competition for the reservation of financing. The schedule will provide the application deadline dates. If needed, additional rounds of competition may be held until all available resources have been reserved. Only projects that meet the threshold requirements set forth in this Guide, that are submitted by eligible sponsors, and that have complete applications submitted no later than the application deadline will be rated and ranked in any competitive round.

Sponsors and developers are encouraged to meet and discuss proposed projects with Department staff prior to the competitions. Staff will be able to provide preliminary feedback regarding project specifics and may be able to provide suggestions for stronger applications. Please contact HDP at 410.514.7446 to schedule a meeting.

Applications must be submitted on the Department's Application Submission Package, which contains more detailed information regarding many of the requirements in this Guide. Information in the application submission kit supplements this Guide and should be reviewed carefully to ensure compliance with these requirements. Copies of the application submission package for the RHF program, Tax Credits, and Bond Financing, are available through the Department's website at:

<http://www.dhcd.state.md.us/rhfunds/rentapps.asp>

### 2.2 Threshold Review

This is a screening process that is intended to eliminate projects that do not meet basic guidelines. Department staff reviews applications and supporting documentation to determine compliance with the Department's criteria. If projects satisfy all threshold criteria they will then be evaluated against the project selection criteria. Incomplete applications or projects that do not meet the threshold requirements will not be rated against the project selection criteria and will not be ranked during the competitive process. Instead, these applications will be withdrawn from processing and the sponsors notified of the deficiencies. Rejected applications may be strengthened and resubmitted in a subsequent round.

### ***Bond Program: Threshold Requirements***

Projects requesting Bond Financing, with or without non-competitive Tax Credits, must also meet all of the threshold requirements unless specified otherwise. Projects requesting Bond Financing that do not meet threshold requirements or have incomplete applications also will be withdrawn from processing.

## **2.3 Project Selection Review**

Department staff first will rate projects that meet the threshold requirements against the project selection criteria in Section 4 of this Guide. This evaluation consists of a review of the application, supporting documentation and a preliminary site visit.

An internal Department committee will also evaluate applications subject to the competition. Recommendations for reservations of loan funds or Tax Credits will be based on the rating and ranking of the projects and on the availability of resources. These recommendations will be made to the Department's Housing Finance Review Committee (HFRC) for review. After evaluating the recommendations, the HFRC will make a final recommendation to the Secretary of the Department who will, in his or her discretion, approve projects for a reservation of funds and further processing.

Projects that are not approved will be withdrawn from processing and the sponsors notified of the deficiencies so that applications may be strengthened and possibly resubmitted. Sponsors of unsuccessful applications are encouraged to meet with the Department's staff to discuss in more detail the evaluation of the projects.

## **2.4 Processing Rental Housing Fund Loan Requests**

If projects include RHF loan financing provided by the Department, the following processes and requirements apply. If projects also include Tax Credits, additional procedures, described later in this section, apply as well.

### ***2.4.1 Reservations***

Following approval of the recommended reservations, sponsors will receive funding reservation letters. These reservation letters will include the preliminary terms and conditions for the commitment of loan funds. They will also specify requirements that must be met in order for the projects to be approved for commitment, including processing documentation and time frames. The reservation is not a commitment to make a loan, and the Department is not obligated to make a loan unless it issues a commitment letter. The Department reserves the right in making a reservation to substitute sources of funds, if, in the Department's sole determination, this substitution will provide for a more efficient use of its resources.

A reservation may be canceled and an application withdrawn from processing if any of the following occur:

- The loan processing and submission kit requirements as described in this section are not met. This includes a failure to meet the time frames established in each kit.
- The project is changed substantially from the initial submission. A substantial change includes:
  - a reduction in the original score of more than 5%;
  - a significant change in the project’s design, financing or amenities;
  - a material reduction in the project’s income targeting;
  - a change of the project’s sponsor or other member of the development team without the prior written approval of CDA; or
  - a change of the project’s site.
- The project is changed so that it no longer meets all threshold requirements.
- The project’s developer, sponsor or owner, or their general partners, files for bankruptcy or is the subject of an involuntary bankruptcy.
- The project is for any reason no longer feasible.
- The project’s developer, sponsor or owner submits false, misleading or incomplete information to the Department.

#### **2.4.2 Kick-off Meeting**

Following the issuance of the reservation letter, the Department will schedule a “kick-off” meeting with the sponsor. The multifamily lending team assigned to the project, including underwriting, construction, tax credit and finance staff, will be present at the meeting. The sponsor should require representatives of the contractor and architect as well as the management agent to attend. If any of the financing for the project will require mortgage insurance, a representative of the insurer should also be present at this meeting. Other Department staff that may need to attend the kick-off meeting include the Deputy Director for Multifamily Housing, Development Assistance program staff, Equal Opportunity Officer, the Department’s attorney and, compliance and asset management staff.

The purpose of this meeting is to review the reservation letter and gain a common understanding of its requirements, terms and provisions for further processing of the application. At the kick-off meeting, the Deputy Director or Team Leader will review the requirements and time frames of the loan processing schedule and submission kit processing in detail. At the kick-off meeting, the assigned team may elect to schedule a subsequent meeting with the sponsor to conduct a detailed site visit.

#### **2.4.3 Underwriting and Construction Review**

After a reservation letter is issued, the loan application will be underwritten and detailed construction plans and documents will be reviewed before issuance of a commitment letter. The review process is generally divided into two phases, viability and commitment reviews. A third phase, preliminary review, may be added before viability review at the discretion of the Department for particularly complicated new construction or rehabilitation projects.

Specific milestone dates for completing these reviews and issuing commitment letters are discussed at the kick-off meeting and set in conformance with the Department's submission kit loan processing system. Documentation requirements for this review period will be included in the attachment to the reservation.

Detailed guidance will be provided to sponsors throughout this process to assist the development team in the preparation of construction plans and underwriting documentation. The architectural requirements for each stage of this review are those defined in the American Institute of Architect's (AIA) publication The Architect's Handbook of Professional Practice. More specifically, the requirements are outlined in the AIA document B162a.

Additionally, other underwriting requirements will be detailed and made clear to all parties early in the process. Projects in the advanced stages of development will be able to proceed at a much quicker pace. In any event, the Department and sponsors should make every attempt to complete all review requirements within the time frames outlined in the reservation letters.

#### 2.4.3.1 Preliminary Review

The Department may at its discretion require a preliminary review as an initial phase. During this phase sponsors will submit updated application forms along with schematic design drawings, as specified in the submission kit to be supplied at the kick-off meeting. Staff will review the material and issue a preliminary progress report to the sponsor. The progress report will include the Department's underwriting pro forma and a term sheet showing any changes in the anticipated loan terms and conditions based on the findings during the preliminary review.

#### 2.4.3.2 Viability Review

During this phase of the review process, sponsors will submit updated application forms along with more detailed construction and underwriting documentation, all as specified in the viability submission kit to be supplied at the kick-off meeting. Department staff will review the material and issue a viability report to the sponsor. The viability report will include the Department's underwriting pro forma and a term sheet showing any changes in the anticipated loan terms and conditions based on the findings during the preliminary review, if any.

#### 2.4.3.3 Commitment Review

At this stage of review, sponsors will submit final application forms and complete construction and underwriting documentation. After Department staff has reviewed the material, a commitment report, including a final underwriting pro forma and updated term sheet, will be prepared. The commitment report will be sent to the sponsor and the term sheet to the Department's attorney. Based on the findings in the commitment report and the viability report, a draft commitment letter will be prepared and sent to the sponsor. The sponsor, working with the underwriter, must confirm the business terms to be included in the commitment letter and identify any remaining issues to be resolved within seven days of the date of the draft commitment letter. The Department's attorney will finalize the commitment letter and begin preparing the loan documents.

#### **2.4.4 Initial Closing**

Along with the loan commitment letter, the sponsor will receive a loan closing checklist. The checklist specifies the closing documents that the sponsor must provide before the financing will be closed.

The Department's standard loan conditions are detailed in the commitment letter. The sponsor should also review and understand the Department's draw and requisition requirements, particularly those affecting the initial draw. Staff will be available to meet and review the draw procedures. Copies of the draw procedures also are available on the Department's website. When all of the documents identified in the kit have been submitted, reviewed and approved, the Department's attorney will schedule an initial closing date. The Department will move expeditiously to initial closing. The initial closing can usually be scheduled within two weeks of receipt, in acceptable form, of all closing documents. However, the initial draw must be submitted to HDP at least 15 business days prior to initial closing. Accepting the Department's form closing documents without modification also will expedite the closing process.

Following the closing, Department staff will schedule a servicing meeting with the sponsor to discuss the terms and conditions of the loan. This meeting is intended to ensure that all parties fully understand how the loan will be repaid and other conditions of the commitment are met.

#### **2.4.5 Construction or Rehabilitation Period**

Construction or rehabilitation of the project will normally commence once initial closing is complete. Prior to the start of construction or rehabilitation, the sponsor and general contractor must participate in a pre-construction conference with the HDP construction staff responsible for the project, including the HDP Engineer and Finance Manager. The purpose of this meeting is to review fully all construction period procedures such as inspections by Department staff, draw requisition and disbursement procedures and change order procedures and requirements. All other project lenders should be present at this meeting to ensure a smooth inspection and draw process.

At the sponsor's request, the Department may permit work on the project to begin prior to closing of the Department's financing. An Early Start of the construction or rehabilitation may be authorized only after issuance of the commitment letter. Approval for an Early Start will be evidenced by written approval issued by HDP. Work may begin when the conditions of the Early Start letter are met and the pre-construction conference has been held. The Department will not fund any costs incurred for work performed under an Early Start unless the loan is eventually closed.

#### **2.4.6 Final Closing**

After the completion of construction or rehabilitation, sponsors must complete a certification of costs incurred that has been prepared by an independent certified public accountant. The cost certifications will be reviewed by HDP staff within 90 days of receipt provided all construction closes out documents and change order requests have been submitted before or at the same time that the cost certification is received. A final determination of mortgage proceeds letter will be prepared and sent to the sponsor for signature.

## 2.5 Processing Tax Credit Requests

If projects include Tax Credits and other financing provided by the Department, the following requirements apply in addition to the processing steps previously outlined. However, if only Tax Credits are requested, only the following procedures are required. The specific requirements for the tax credit program are set forth in detail in the *Maryland Low Income Housing Tax Credit Program: Qualified Allocation Plan* (the Qualified Allocation Plan or QAP). The following information is a summary only and applicants should review the QAP prior to submitting an application for Tax Credits.

### 2.5.1 Reservations

Following approval, sponsors will, depending on the timing of the funding round, receive either tax credit reservation letters or allocations. Reservation letters are conditional commitments to allocate Tax Credits. The reservation or allocation will be for only those Tax Credits, in the sole determination of the Department, necessary for the financial feasibility of the project and its viability as a qualified low-income housing project. Each reservation will be further subject to a number of conditions. These conditions include the submission of evidence of timely completion of the project and documentation certifying compliance with federal requirements. Owners also will be required to verify project costs as a condition for a Carryover Allocation (as defined below) and again at the time the project is placed in service. A reservation may be cancelled and the project withdrawn from processing for the same reasons discussed previously in the loan reservation section (Section 2.4.1).

### 2.5.2 Allocations

Sponsors either must place projects in service within the year in which the Tax Credits are allocated or qualify for a binding conditional commitment to carryover the Tax Credits for up to two years (a Carryover Allocation). To qualify for a Carryover Allocation, sponsors must meet all conditions in the reservation. Sponsors also must incur at least 10% of the reasonably expected basis at the later of October 1 of the year the Carryover Allocation is made or within five months of the date of the Carryover Allocation. If applicable, the Department expects sponsors to meet the 10% test by the issuance of the Department's loan commitment. To keep the Carryover Allocation and receive an IRS Form 8609 (as discussed below), the project must be placed in service by the end of the second year following the Carryover Allocation.

At the time buildings are placed in service and all required post-completion documentation is received and reviewed, the Department will prepare and issue the IRS Form 8609 (*Low-Income Housing Credit Allocation Certification*) certifying the final amount of Tax Credits allocated to each building in the project. A Form 8609 will be needed to claim the Tax Credits for any building in the project. Before the IRS Form 8609 will be issued, the Department must receive and review the current organizational documents for the owner and a recorded extended low-income housing covenant (in form and substance determined by the Department) and additional documentation concerning placed-in-service dates, project costs, eligible basis and syndication of the project. If a cost certification is required for the project, the Department will not issue Form 8609 until it has completed its review of the cost certification and a final determination of mortgage proceeds has been signed and returned by the sponsor.

Prior to issuance of the Form 8609, the Department also will undertake a final evaluation of projects to determine the amount of Tax Credits needed to make developments feasible. Only the amount needed for financial feasibility and viability as a qualified low-income housing project throughout the compliance period will be allowed. Any additional Tax Credits previously allocated to projects will be recaptured

### ***Bond Program: Processing Applications***

Applicants requesting only Bond Financing and the non-competitive Tax Credits (not allocated from the State's Tax Credit ceiling) should apply using the Application Submission Package. All requests for Bond Financing are subject to Department underwriting and construction reviews. Applicants also are advised that the process described here applies only to bonds issued by CDA under its Parity Bond Resolution. A Parity Bond Resolution means that all bonds issued under the Bond Resolution are equally and ratably secured, unless otherwise provided by the Administration. Applicants seeking to finance projects through "stand-alone indentures" should expect differences in processing and should contact HDP for terms before applying.

Applications for Bond Financing will be subject to an initial Threshold Review (see Section 3 of this Guide) and also must score at least 180 points as described in Sections 1 and 4 of this Guide. MBP processing is subject to certain fees that are subject to change. For current fee information, please consult the Department's website at [www.dhcd.state.md.us](http://www.dhcd.state.md.us). A reservation package will be issued upon issuance of conditional approval by the Department's Housing Finance Review Committee (HFRC). As part of the reservation package, sponsors will be given the opportunity to exercise a 90-day rate lock (for loans less than \$20 million) and detailed schedule and closing checklist covering all of the required due diligence necessary to close the loan. Longer rate lock periods are available upon request and payment of an additional fee. CDA will close and fund loans within the rate lock period provided all due diligence materials are submitted and approved.

Tax-exempt Bond Financed projects are eligible for non-competitive Tax Credits. The Department will issue a letter pursuant to Section 42(m) of the Internal Revenue Code reserving Tax Credits to qualified projects prior to initial loan closing. Applicants must elect to lock in the tax credit applicable percentage in the month the bonds are issued or in the first five days of the following month (see Internal Revenue Code §42(b)(2)(A)(ii)). Projects receiving either mortgage insurance or subsidies from HUD may also be subject to subsidy layering review under §911 of the Federal Housing and Community Development Act of 1992.

Bond Financed projects must meet Federal and State income-targeting requirements. Federal minimum income-targeting election requirements for Bond Financing are identical to the requirements of the Low Income Housing Tax Credit program. In addition, State income targeting requirements mandate that a minimum of 51% of all units at the project must be rented to families with incomes of 85% of statewide median income or less.

Applicants proposing to rehabilitate currently occupied properties must provide evidence that the minimum Federal and State occupancy set-aside requirements are met prior to initial loan closing. Current tenant income certifications must be received and approved by the Department before a commitment will be issued for currently occupied properties.

#### **Special Procedures for Expedited Processing**

Eligible projects requesting only Bond financing may be processed under an expedited system. To be eligible, applications must request only tax exempt financing, pass threshold review, score at least 180 total points, and score at least 55 points for Development Team Experience and Financial Capacity, 35 points on its market study and 45 points for Development Quality. If these requirements are met and subject to conditional HFRC approval, the project can expect to receive its inducement approval and a reservation of bond financing within 90 days of application submission.

To ensure timely processing, the construction and underwriting review will be limited to an analysis of the project's overall conformity to the construction and underwriting standards as established by the Department and conformity to federal requirements. The primary underwriting responsibilities will be delegated to the credit enhancers and their appropriate Delegated Underwriters and Servicers (DUS Lenders).

As part of the reservation package, sponsors will be given the opportunity to exercise a 90-day rate lock and detailed schedule and closing checklist covering all of the required due diligence necessary to close the loan. Longer rate lock periods are available upon request and payment of an additional fee. CDA will close and fund loans within the rate lock period provided all due diligence materials are submitted and approved.

## 3.0 Project Threshold Criteria

To be evaluated against the project selection criteria in Section 4.0 of this Guide, projects must meet all of the following threshold criteria. These requirements are intended to eliminate projects that do not meet basic program guidelines and to ensure that Department resources are reserved for projects that are viable and ready to proceed. Projects that do not meet the threshold criteria or that have incomplete applications will be withdrawn from processing. After a reservation has been issued, projects that do not continue to meet threshold criteria will be withdrawn from processing. Except for requirements of the program's governing statutes the threshold requirements may be waived at the Department's discretion for compelling reasons that are not inconsistent with the applicable statute. See Section 5.0 of this Guide for waiver provisions and requirements.

### 3.1 Application Material

#### 3.1.1 Application Submission

Complete applications for projects seeking competitive financing must be received no later than the prescribed date and time. Sponsors must submit two (2) complete copies of the application form including all attachments and exhibits. Application forms should not be re-typed, changed or modified in any manner. All information on the application form must be completed or indicated that it is not applicable and all required exhibits must be included. Incomplete or late applications will not be considered for funding under any program. No new application material concerning the project will be accepted after the application deadline date. However, the Department, at its discretion, may request applicants to submit clarifying data. Documents submitted with the applications, such as market studies and agreements, should be less than one year old. Letters of support from local government must be for the specific round.

#### 3.1.2 Application Fee

Application fees must be paid simultaneously with or before submission of an application. All application submissions, including repeat submissions, must include evidence that the \$1,000 application fee has been paid. Applications received without the required fee will not meet the threshold requirements. Application fee checks payable to the "Community Development Administration" should be sent under separate cover to the DHCD Central Cashier P.O. Box 500, Crownsville, Maryland 21032. A copy of the check should be included with the application.

### 3.2 Development Team

#### 3.2.1 Previous Project Performance

Members of the applicant's team may not:

- Have participated as an owner or manager in the development or operation of a project that has defaulted on a Department or other government or private sector loan in the previous five years.

- Have consistently failed to provide documentation required by the Department in connection with other loan applications or the management and operation of other existing developments;
- Have been involuntarily removed within the previous 5 years as a general partner or managing member from any affordable housing project whether or not financed or subsidized by the programs of this Department;
- Have a current limited denial of participation from the U. S. Department of Housing and Urban Development (HUD);
- Be debarred, suspended or voluntarily excluded from participation in any Federal or State program; or
- Have been directly involved with any project placed on the Department's defaulted loans watch list due to actions which, in the opinion of the Department, are attributable to the sponsor or the development team.

Failure to disclose required information on the application may subject the applicant to penalties under Maryland law. Members of the development team are individuals or organizations, including officers and directors of corporate members of the team, general partners of partnership members, and managing members of limited liability companies, that are involved in the development of the project in any of the following roles:

- Applicant;
- Developer and co-developer, if any;
- Guarantor(s);
- Owner (including any ownership interest other than limited partners);
- Architect;
- General Contractor;
- Management Agent: or
- Consultant.

### **3.2.2 Financial Capacity**

In addition, members of the development team acting in the role of sponsor, developer, guarantor, or owner will not be considered for funding if they have unpaid State or federal income, payroll or other taxes as of the application date or a record within the past five years of:

- Chronic past due accounts;
- Substantial liens or judgments;
- Three or more instances of unpaid taxes (even if cured prior to the application date); or
- Foreclosures or bankruptcies.

This evaluation will be based on mandatory disclosures by development team members as well as a review of Department records, personal credit histories, commercial credit reports and other available data.

### **3.2.3 Previous Participation**

Development team members are also ineligible to participate in the program if they received reservations or commitments of funding but were unable to carry the project forward. This prohibition applies only to reservations or commitments issued within four years prior to the date of the application.

For Tax Credits, this includes entities that:

- Received a reservation but were unable to place their projects in service in the year of their reservation or to meet the requirements to receive a Carryover Allocation;
- Received a Carryover Allocation but could not meet the 10% expenditure test deadline necessary to keep a Carryover Allocation; or
- Received a Carryover Allocation or other Allocation but could not place their projects in service within the time required by the tax credit program.

For RHF and Bond Financing, this includes entities that received a reservation or commitment of loan funds but were unable to close the financing.

### **3.2.4 Fees and Other Obligations Due to the Department**

Development team members are also ineligible to participate in the program if they have unpaid fees, loan arrearages or other obligations due to the Department on other projects.

## **3.3 Local Government Support and Contribution**

Applications must include a resolution or letter of support from the local government executive, council or manager and evidence of a local contribution for the project. The resolution or letter must indicate its support of the project in the current round of competition, and an interest in providing a local contribution that satisfies the Department's policy. A letter of support should indicate the signing official's favorable support of the project application in the current funding round and the intent to submit the project for a local resolution. Support should not be contingent upon the completion of tasks or improvements that are unrelated to the project, such as off-site work that is not necessary for completion of the project.

A local contribution must generally reduce the development or operating costs of a project. In some circumstances, the Department may accept other types of contributions that otherwise support a project. A resolution must be provided and contribution be committed or provided prior to loan closing, or in the case of Tax Credits, prior to the issuance of the IRS Form 8609.

### ***Bond Program: Local Support***

Bond Financed projects that do not have other State sources of funding do not need a contribution from the local government. However, Bond Financing, including projects financed by tax-exempt local-issues, requires that a local resolution supporting the project be provided prior to initial closing of the loan or issuance of the §42(m) eligibility letter. In addition for projects receiving Tax Credits, HDP cannot issue an eligibility letter pursuant to §42(m) of the Internal Revenue Code until this resolution is received and accepted.

## **3.4 Site Requirements**

### **3.4.1 Site Control**

Sponsors must have sufficient site control to allow projects to move forward if they receive a reservation of funds. At the time of application, site control should extend for at least 180 days after the application deadline date (including extension options) with an option to continue the control for another 180 days. Acceptable evidence of site control includes deeds, contracts of sale, leases, purchase options or other forms at the Department's discretion.

### **3.4.2 Utility Availability**

Evidence that public water, sewer, electric, gas, telephone and other utility services are at project sites or will be available during the construction or rehabilitation period must be provided. Acceptable evidence of utility availability may include a letter from the development team's civil engineer, the utility company providing the service, a responsible local official or, for existing buildings, copies of recent utility bills.

### **3.4.3 Zoning**

Properties must be properly zoned for their intended use. If a zoning change, variance or exception is required, sponsors must provide the following information in the application:

- Documentation illustrating the present status of the proposed zoning change, the local planning and zoning process;
- Contact information for a local official familiar with the project and responsible for the approval process; and
- A detailed schedule with projected dates for obtaining the required approvals corresponding to the project schedule in the application (Form 202).

### **3.4.4 Environmental Assessments**

Each project must comply with applicable requirements of local, state and federal environmental laws and regulations. As part of the Application Submission Package, an environmental assessment checklist or environmental report, if available, must be included. Please see Exhibit G of the Application Submission Package for more information.

### **3.4.5 Exceptions**

The requirements for site control, availability of utilities, and environmental and zoning compliance are not applicable to projects that involve the purchase of completed residential units constructed under a density bonus, affordable zone or other comparable program. Instead, sponsors of these types of projects must provide a detailed proposal for identifying specific sites and indicating how and when they will obtain site control.

## **3.5 Project Location and Marketability**

### **3.5.1 New Construction and Priority Funding Areas**

All projects involving any new construction must be located in a Priority Funding Area (PFA) under Maryland's Priority Places Initiative. PFAs include:

- All incorporated municipalities including Baltimore City, with some exceptions related to water, sewer and density for areas annexed after January 1, 1997;
- All areas between the Baltimore beltway and the Baltimore City limits and the Washington, DC beltway and the Washington DC boundary;
- Designated neighborhoods under the Maryland Department of Housing and Community Development's Neighborhood Business Development Program;
- Federal and State enterprise zones; and
- All areas designated by county governments as PFAs, including rural villages designated in county comprehensive plans as of July 1, 1998; and
- Certified heritage areas within locally designated growth areas.

All applications for projects involving any new construction must include a letter from the county government that certifies the project is located in a PFA. If the project is located in an area designated by a county government as a PFA, the Maryland Department of Planning must also confirm the area in writing in as being consistent with the local comprehensive plan. The PFAs described in the first four bullets above are designated by State government as PFAs, and applications for projects located in these areas do not require confirmation letters from the Department of Planning. Rehabilitation projects are not subject to this requirement.

### **3.5.2 Market Study**

Applications must include a market study prepared by an independent professional that has experience with multifamily rental housing and/or tax credit housing in Maryland and is on the list of acceptable market analysts maintained by the Department. Market studies should not be more than one year old as dated from application submission and should conform to the requirements set forth under the Market Study paragraph in the Project Evaluation Criteria section of this Guide. A list of acceptable market analysts may be obtained from the Department's website at <http://www.dhcd.state.md.us/rhfunds>.

## **3.6 Occupancy and Rent Restrictions**

### **3.6.1 Minimum Occupancy Restrictions**

At a minimum, sponsors must agree that low-income units in the projects will be rented to families with incomes that do not exceed the levels required under the proposed funding source.

### **3.6.2 Relocation and Displacement**

For existing occupied buildings, the applicant must submit a draft of the relocation plan for projects that result in the temporary or permanent displacement of current occupants. Generally, the Department will not participate in a project if the development results in the permanent displacement of more than 5% of the elderly or disabled residents or 10% of the non-elderly residents dwelling on the site of the proposed project.

If the project will result in the relocation of any tenants (i.e. households or businesses), the Department expects that the applicant will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4601 also known as “URA”) and §104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. §5304(d)) regarding resident notice and compensation. These requirements apply to all funding requests regardless of the ultimate source of the funds.

All applicants should make themselves familiar with URA and §104(d) requirements, including notices from both the purchaser and seller to residents that may apply to their project. The Department will consider waivers to its cap on permanent displacement only to the extent that the displacement complies with URA and leverages substantial federal investment. Information on federal relocation requirements may be found on the Internet at:

<http://www.fhwa.dot.gov/environment/teas/10.htm>

## **3.7 Financing Terms and Conditions**

### **3.7.1 Other Financing**

Letters of intent to provide financing must be furnished for all funding sources identified in the application. At a minimum, letters of intent must state that projects appear feasible and show the amount of anticipated funding, general repayment terms and any conditions. If financing will be subsidized or insured by institution evidence must be provided that the appropriate applications have been prepared and have been or are ready to be filed. For projects proposing financing with a FHA-insured first mortgage, the lender must include a letter of intent with the application. This letter of intent must detail the lender’s proposed schedule for Multifamily Accelerated Processing (MAP). This schedule must correspond with the developer’s schedule as set forth on the Application Form (202).

For projects that will be syndicated for tax credit equity investment, sponsors must provide a proposal from at least one syndication firm showing the amount of Tax Credits expected, investor type, expected net proceeds, syndication costs and pay-in schedule.

### **3.7.2 Rental Housing Fund**

In general, RHF loans must be fully repaid on an amortizing basis at an annual rate of 4% for a term of up to 40 years. If the development cannot support the loan at a 4% interest rate, the rate may be reduced to as low as 2% at the Department’s discretion. The maximum loan per project is the lesser of \$1.5 million or the total development cost of the project multiplied by the percentage of income-restricted units. Funding requests in excess of \$1.5 million will be considered on a case-by-case basis.

While the Department encourages repayment of its funds on an amortizing basis, the Department, at its discretion, may permit loans funded by RHF or a portion thereof, to be repaid on a cash flow basis. The proportion of the loan that may be repaid on a cash flow basis and the terms for repayment will be determined by a Departmental review of the project's net operating income.

The Department expects to receive 100% of the cash flow although the Department may agree to share up to 25% of cash flow with the borrower. All cash flow loans must be repaid at the end of the loan term.

### ***Multifamily Bond Program: Terms and Conditions***

Loans provided under the Multifamily Bond Program (MBP) must be amortized at an interest rate set by the Department. The term of the loan may be up to 30 years for taxable bond funded loans or 40 years for tax-exempt bond funded loans. All projects must be credit-enhanced so that the bonds sold to fund the loans can receive a rating of “Aa” or better from the Department’s rating service. Private placement of bonds may be considered. The Department may offer an option for a rate lock and will adjust interest rates to reflect market conditions.

### ***3.7.3 Prepayment Requirements***

In addition, loans derived from the Department’s RHF and MBP are, by regulation, subject to the prepayment, tenant notice and relocation requirements of the Maryland Assisted Housing Preservation Act, Art. 83B, §§9-101, Annotated Code of Maryland, and COMAR 05.05.04, 05.05.01, 05.05.07 or 05.05.08, depending on the RHF program source of funding and COMAR 05.05.02 for Bond Financed loans.

### ***3.7.4 Tax Credits***

The Tax Credit reservation or allocation for any single project is limited to \$1,000,000. Reservations or allocations approaching this amount may be split over two or more calendar years. Additional conditions and restrictions on tax credit reservations and allocations are provided in the Qualified Allocation Plan, which is available on the Department’s web site at <http://www.dhcd.state.md.us/rhfunds>. Financing from the Transitional Housing Grant and Partnership Rental Housing programs may not be included in eligible basis if competitively allocated Tax Credits are used. *Please contact HDP before submitting an application for Tax Credits involving either of these two programs*

In order to balance the demand for RHF and Tax Credits, the Department reserves the right to adjust the amount of Tax Credits as well as RHF requested in the application. The Department also may substitute other sources of funds for those requested.

### ***3.7.5 Construction or Rehabilitation Costs***

The construction or rehabilitation costs for projects must be within a reasonable range for the scope of work proposed. If the proposed costs per gross square foot exceed the maximum limits outlined below, sponsors must submit a request for waiver in accordance with Section 5.0 of this Guide that includes a detailed explanation of the reason construction or rehabilitation costs are outside of this range.

Construction or rehabilitation costs include all work, including site development, associated with the physical development of projects. The projects' costs are obtained by dividing the amount of the construction or rehabilitation contract by the gross square footage of the buildings to be constructed or renovated. The construction contingency should not be factored into this equation.

<b>Maximum Construction Costs per Gross Square Foot</b>			
Type of Building	New Construction	Substantial Rehabilitation	Moderate Rehabilitation
Townhouses	\$85	\$89	\$29
Cottage, Single Family and Semi-detached Dwellings	85	89	29
Garden Apartments	67	51	24
Elevator Buildings (≤5 floors)	72	56	29
Mid-rise Buildings	85	64	32
High-rise Buildings	91	67	32

### **3.7.6 Moderate Rehabilitation**

For projects that consist of the rehabilitation of existing buildings, the Department has established a minimum rehabilitation standard to ensure that meaningful, and not just cosmetic, rehabilitation is undertaken. The total hard construction costs (exclusive of fees or overhead items) of rehabilitation for projects must be at least \$15,000 per unit and supported by a building evaluation report performed by an engineer or other qualified professional. Waivers of this minimum must be requested in accordance with Section 5.0 of this Guide.

### **3.7.7 Lead Hazard Elimination**

The Department is committed to the goal of 100% elimination of risk from lead hazards in housing. Upon completion of any rehabilitation, all existing buildings must be certified by the Maryland Department of the Environment (MDE) as lead-safe and meet HUD/EPA clearance standards. All abatement and clean-up must be carried out in accordance with MDE requirements (COMAR 26.02.07, [Procedures for Abating Lead Containing Substances in Buildings](#)). All abatement contractors or subcontractors must be certified and accredited by MDE. For information on MDE abatement requirements, call **1-800-776-2706** for the MDE Lead Hotline or please refer to:

<http://www.mde.state.md.us/health/lead/index.html>

All projects originally constructed before 1950 must also register with MDE's lead poisoning prevention program. Projects originally constructed before 1978 may voluntarily register with MDE's lead poisoning prevention program to obtain certain limited liability from lead-related claims. The Department strongly recommends this voluntary participation. For information on registration forms, requirements and fees for the MDE lead poisoning prevention program contact the MDE Lead Hotline at the number above or go to:

<http://www.mde.state.md.us/programs/landprogams/leadcoordination/rentalowners>

## 3.8 Development Budget

### 3.8.1 Acquisition Price

For projects involving acquisition and rehabilitation of existing buildings or the purchase of raw land, the acquisition price may not exceed the standards set forth below.

- For an arms length transaction, the maximum acquisition price may not exceed the lesser of the contract sales price or the appraised value of the property.
- For transactions involving a change in use, appraisals will include an “as is” value and an after rehabilitation value under its projected use. In such cases, the acquisition cost may not exceed the lesser of the two values or any lower value based upon the standards for related party transactions described in this section.
- For a related party transaction where the property was acquired less than two years before the application date, the maximum acquisition price may not exceed the lesser of the appraised value of the property or the original acquisition price plus carrying costs acceptable to the Department.
- For a related party transaction where the property was acquired two or more years before the application date, the maximum acquisition price may not exceed the appraised value of the property.
- For school and other sites owned by local governments or religious institutions, CDA loan funds may not be used to purchase these sites for conversion to housing.

For purposes of this section, acquisition is defined as transfer of title and legal ownership. Applicants with questions regarding the definition of arms-length and related-party transactions should contact the Department. With the approval of the Department and in order to meet the 10% expenditure test for an allocation of Tax Credits, the maximum acquisition price may be increased to include real estate taxes and other carrying costs associated with owning the site during the period after acquisition and application.

The acquisition price must be supported by an appraisal performed by a licensed independent professional appraiser. Independent, professional appraisers under contract with the Department will perform the appraisal, and the applicant will pay the costs of any required appraisals. The Department, at its sole discretion, may accept an appraisal that is required by another lender and prepared by an independent professional appraiser for that lender.

### 3.8.2 Syndication Related Costs

For projects that are syndicated for Tax Credits, the equity raise-up rate should be within current market standards. When the project’s gap analysis is performed, the Department will review the raise-up rate to ensure that it is competitive in the tax credit market.

### 3.9 Limitation on Fees

Fees in the development budget are limited according to the standards established by the Department for rental housing projects. Projects subject to federal subsidy layering requirements have the same limitations under a Memorandum of Understanding between the Department and HUD. See the Qualified Allocation Plan for further information.

Category	Limitation
Builder's Profit	5% to 10% of the net construction costs
Builder's Overhead	2% to 3% of the net construction costs
General Requirements	5% to 10% of the net construction costs
Architect Design	2% to 5% of the construction contract
Architect Administration	1% to 3% of the construction contract
Developer's Fee	10% to 15% of total development costs not to exceed \$2.5 million
<i>Please see below for additional information.</i>	

#### 3.9.1 Net Construction Costs

Net construction costs are equal to the construction contract amount less builder's profit, builder's overhead, general requirements and bond fees.

#### 3.9.2 Builder's Profit

A builder's profit is permitted even if a relationship or identity of interest exists between the developer and general contractor. However, all general contractors must meet the Department's guidelines and be approved to act as a general contractor for the project. The allowable profit will range from 5% to 10% of the net construction costs.

#### 3.9.3 Builder's Overhead

Allowable builder's overhead may range from 2% to 3% of the net construction costs with the lower percentage applicable to larger projects and the higher percentage to projects of lesser amounts.

#### 3.9.4 General Requirements

The allowable general requirements are determined based on the size of the project. General requirements may range from 5% to 10% of net construction costs.

#### 3.9.5 Architect's Fees

The allowable architect's fee for project design may range from 2% to 5% of the construction contract amount. For architectural administration, the allowable fee may range from 1% to 3%.

#### 3.9.6 Developer's Fee

The developer's fee must include all fees paid to processing agents and development consultants. The range of allowable developer's fees is from 10% to 15% of total development costs based on the table below. The developer's fee may not exceed \$2.5 million.

Fee on Development Costs	Fee on Acquisition Costs
<ul style="list-style-type: none"> <li>15% on first \$10,000,000</li> <li>10% on amount over \$10,000,000</li> </ul>	<ul style="list-style-type: none"> <li>10% on first \$10,000,000</li> <li>5% on amounts over \$10,000,000</li> </ul>

For projects with proposed developer's fees in excess of \$2.5 million, sponsors must submit a request for a waiver in accordance with Section 5 of this Guide. Total development costs include the following: expenses related to the actual construction or rehabilitation of the project; fees related to the construction or rehabilitation such as architecture, engineering and legal expenses; financing fees and charges such as construction interest, taxes, insurance and lender fees; and acquisition related costs. Total development costs do not include the following: hard or soft cost contingencies, syndication related costs; funded guarantee and reserve accounts that are required by lenders or investors; and developers' fees.

### **3.10 Financial Pro Forma**

The financial pro forma of projects will be evaluated based on a review of estimated operating expenses, construction costs, reserve for replacement deposits, vacancy rates and debt service coverage ratios. Sponsors must submit a minimum 20-year pro forma.

#### **3.10.1 Vacancy Rate**

The pro forma vacancy rate must be fully supported by the market study. During subsequent underwriting by Department staff, the rate may be adjusted up or down to reflect documented market conditions.

#### **3.10.2 Project Phasing**

Applications for subsequent phases of projects already in receipt of a reservation of RHF or Tax Credit allocations must show evidence that the original phase(s) of the project achieved sustaining occupancy. HDP defines sustaining occupancy for this purpose as a minimum of three months of break-even operations and 90% or above occupancy. The Department may waive this requirement upon specific request in accordance with Section 5.0 of this Guide.

### **3.11 Project Schedule**

#### **3.11.1 Application Schedule**

Sponsors must submit a detailed project completion schedule consistent with the Department's loan submission kits. Sponsors are expected to meet the development schedules as proposed if projects are approved for reservations of funding. In cases where a zoning change, variance or exception is necessary, schedules must be consistent with the analysis provided by the development team's zoning attorney or engineer.

#### **3.11.2 Post Reservation Scheduling**

The Department must approve any significant deviations from project schedules. In these cases, sponsors must submit updated schedules, including an explanation for the delays, to the Department for review. Sponsors must promptly notify the Department if for any reason projects that received reservations become infeasible.

The Department will monitor the progress of projects to ensure timely completion. Tax Credit and RHF Reservations and Tax Credit Carryover Allocations will be canceled if the project falls too far behind its schedule in the Department's determination or if it is determined that

Department resources are in jeopardy of being lost to the State due to nonperformance by sponsors. Failure to meet Department processing schedules also may also affect future scoring (see also Section 4.1.1, “*Development Team Experience*” below).

For projects requesting RHF, the applicant’s processing schedule must be consistent with the Department’s loan submission kit process. For a project requesting an allocation of current year Tax Credits, the sponsor must demonstrate that the project will meet the requirements for an allocation of the current year’s Tax Credits. Typically, this means that the sponsor must accrue or expend a minimum of 10% of the project’s reasonably expected basis in the current year. For forward reservations of future year Tax Credits, the applicant must meet the 10% expenditure test at the earlier of the date set forth in the application schedule or within five months of receiving a Carryover Allocation from the Department, and place the project in service by the end of the second year following the Carryover Allocation. Please refer to the Qualified Allocation Plan for more information on processing of Tax Credit reservations and allocations.

## 4.0 Project Evaluation Criteria

Once projects meet the threshold requirements, they will be rated according to the nature and character of the development and, if subject to the competition for RHF and Tax Credits, ranked against other projects. During a competitive round, each application will be evaluated and awarded points based on the criteria it meets and ranked against the other projects included in the round. The selection criteria outlined below are based on Maryland's housing priorities and needs.

### ***Bond Program: Minimum Evaluation Criteria Score***

Applications requesting MBP funding and non-competitive Tax Credits must still obtain a minimum score of 180 points under the evaluation criteria to be eligible for funding.

### **Summary of Evaluation Criteria Scoring (315 Points Total)**

<b><i>Capacity of Development Team</i></b>	<b><i>Total 100 Points</i></b>	<b><i>Application Package Exhibit(s)</i></b>
Development Team Experience	50 points	Exhibits A, J, K, L, M, N, O, P, Q, Form 202
Financial Capacity	20 points	Exhibit O
Deductions from Team Experience Score	(up to minus 30 points)	Exhibit DD
Nonprofit /Housing Authority Participation	15 points	Exhibit Q
MBE/WBE Participation	15 points	Exhibit P
<b><i>Public Purpose</i></b>	<b><i>Total 75 Points</i></b>	
QCT/DDA, Rehabilitation and Revitalization Plans	10 points	Exhibit A, S, Form 202
Income Targeting – Below 60% of Median	20 points	Exhibit A, Form 202
Long Term Use Restriction	5 points	Exhibit A, Form 202
Disabled and Special Needs Housing	5 points	Exhibit A, V, X, Form 202
Family Housing	5 points	Exhibit A
Tenant Services	20 points	Exhibit V
Link to Public and Assisted Housing Waiting Lists	5 points	Exhibit W
Small Scale Project (30 units or less)	5 points	Exhibit A, T, Form 202

<sup>1</sup> See *Application Submission Package*, Revised July 25, 2003.

<b><i>Location and Marketability</i></b>	<b><i>Total 55 Points</i></b>	
Market Study	40 points	Exhibit T
Other Investment in Community	5 points	Exhibit U
Rural Project	10 points	Exhibit A, T, Form 202
<b><i>Development Quality</i></b>	<b><i>Total 55 Points</i></b>	
Building Design Fits Community	7 points	Exhibits Y, Z, and AA
Site Layout Well Thought Out	7 points	
Units are Spacious and Well Designed	7 points	
Material Selections Are Good	7 points	
Design Promotes Energy Efficiency	7 points	
Site is Suitable	7 points	
Opportunities for Recreation and Activities	6 points	
Unit Amenities Are Good	7 points	
<b><i>Leveraging and Long Term Subsidies</i></b>	<b><i>Total 30 Points</i></b>	
Leveraging of Non-State Resources	10 points	Exhibit BB
State Subsidy per Affordable Bedroom	10 points	Exhibits A, BB, Form 202
Long-Term Operating Subsidies (PILOT or Sec. 8)	10 points	Exhibit CC

#### **4.1. Capacity of Development Team**

Points are awarded based on the capacity of the development team to develop affordable rental housing, including the extent to which qualified and experienced professionals are identified and committed to the project for the long term.

##### ***4.1.1. Development Team Experience (50 maximum points)***

Points will be awarded based on the demonstrated relevant experience and qualifications of the members of the development team. Crucial for determining the capacity of the development team are the members of the developer entity including the applicant, developer, co-developer, guarantors, consultant, and owner (the entity with a controlling interest). The other lead members of the team are the general contractor, architect and management agent. Staff will evaluate the development team members based on their record of accomplishment during the past five years with projects that are similar to the proposed project. Team members without appropriate experience should establish partnerships with experienced entities. For maximum points, the members with controlling interests in the developer and the owner should have previous experience in these capacities. Scoring for each entity within the team will be as follows:

<i>Evaluation Criteria</i>	<i>Developer Entity (18 points maximum)</i>	<i>General Contractor (12 points maximum)</i>	<i>Architect (8 points maximum)</i>	<i>Management Agent (12 points maximum)</i>
The entity(s) has a consistent and successful track record during the past five years with projects that are similar to the proposed project and has shown the ability to remedy problems.	18	12	8	12
The entity(s) has an overall successful track record during the past 5 years but may not have sufficient experience, has not always promptly addressed problems or may not have sufficient experience with similar projects.	12	8	5	8
The entity(s) has an inconsistent track record during the past 5 years, may not have sufficient experience, has not promptly addressed some problems, or may not have sufficient experience with similar projects.	6	4	3	4
The entity(s) has limited or no experience, has a record of problems that were not promptly addressed, or has limited or no experience with similar projects.	0	0	0	0

#### **4.1.2. Deductions from Team Experience Score (Up to 30 Points Deducted)**

##### **4.1.2.1. Previous Participation with Housing Development Programs and Asset Management**

Up to five points may be deducted from the Development Team Experience Score for lead members (developer, co-developer, owner or property manager) of the team involved in projects currently in the Department's pipeline that are not meeting or have failed to meet the Department's loan processing schedules. These points also may be deducted for lead members (developer, co-developer, owner or property manager) that have a record of consistent failure to promptly resolve compliance matters or that have a record of:

- Untimely submission of required Department Asset Management documents including, but not limited to, annual audits, operating statements and budgets;
- Properties with annual physical inspection or management report company performance evaluations with ratings of Below Average or Unsatisfactory;
- Failure to maintain a current Management Agreement on file with Asset Management; and
- Late payments of all types including cashflow billings.

##### **4.1.2.2. Project Financing and Underwriting**

Five points each may be deducted from the total points otherwise due under the Development Team Experience score for failure by the applicant to address any of the following financing or underwriting requirements:

**Minimum Reserve for Replacement (RfR) Deposits** - must not be less than the minimum standards for the scope of work proposed:

- For new construction or substantial rehabilitation projects a minimum annual deposit of \$250 per unit; or
- For moderate rehabilitation projects a minimum annual deposit of \$300 per unit.

For rehabilitation projects, a capital needs assessment or comparable engineering report will be required before closing in order to establish a final amount for the reserve for replacement deposit. For all projects, the Department reserves the right to adjust the RfR amount based on a new capital needs assessment every five years.

**Operating Reserves** - shall range from three to six months of projected operating expenses plus all required debt service payments and monthly replacement reserve payments. The Department when evaluating guaranties for completion, lease-up, or operations will consider the demonstrated financial capacity and liquidity of the owner or other guarantor. At a minimum, funded operating reserves must remain in place until the project has achieved economic break-even operations for a fiscal year confirmed by its annual audit and has reached 90% occupancy for 12 consecutive months. Then reserves may be released over the next three or more years at the discretion of the Department, provided the project continues to achieve economic break-even operations and 90% occupancy. Upon release, operating reserves generally may be used to pay any outstanding deferred developer's fee and then should be used to reduce any State loan.

#### ***Bond Program: Operating Reserve Requirements***

Bond Financed projects must provide evidence of reserves sufficient to cover project operating or working capital deficits. Generally, the Department requires that minimum reserve requirements shall range between 3 and 6 months of projected operating costs plus anticipated debt service payments for the period. Projects also must meet any additional requirements of the credit enhancement provider for Bond Financing. See Exhibit B of this Guide for further details on reserve requirements.

**Annual Operating Expenses Per Unit** - including real estate taxes and excluding reserve for replacement deposits, should range from \$2,500 to \$4,500 per unit.

**Maximum Rents** – the low-income units in the projects must be rent restricted as required by the funding source. For projects receiving project-based rental assistance, the application must include information concerning the actual rent to be paid by the tenants and the estimated subsidy that will be received by the project owner. For this analysis, the actual tenant-paid rent will be evaluated rather than the gross rent received resulting from the rental assistance. If any rental assistance is not project-based, the assisted portion of the rent should not be included in the project's income projections. In these cases, the gross rent will be evaluated and not the amount actually paid by the tenants.

Maximum unit rents (including tenant paid utilities) may not exceed 30% of the imputed gross income limit applicable to each unit. The imputed gross income limit will be based on 1.5 persons per bedroom for units with one or more bedrooms and 1.0 person for efficiency units.

Rent levels including tenant paid utilities must be supported by the market study. Rents should also allow for a reasonable affordability window so those tenants with incomes below the maximum levels are not paying a disproportionate percentage (i.e. greater than 30%) of their income for rent. The Department will consider the project's capture rate in reviewing the rents. For elderly projects, the imputed household size may not exceed three persons regardless of the number of bedrooms. Area median income limits for 2003 adjusted for household size may be found on the Department's website at:

<http://www.dhcd.state.md.us/downloads/IL2003.pdf>

**Minimum Debt Service Coverage Ratio (DSCR)** – must be 1.1 to 1 by the first year of sustaining operations after considering all must-pay debt service payments, including Bond Financed mortgage payments. A debt coverage ratio of 1 to 1 will be required for other amortizing debt service on RHF provided through the Department. The Department will work with the sponsor to meet more stringent requirements imposed by other lenders or equity providers.

To avoid a deduction against the Development Team score, sponsors must submit a request for a waiver in accordance with Section 5.0 of this Guide that includes a detailed explanation of the reasons for failing to meet these standards.

#### **4.1.3. Financial Capacity (20 maximum points)**

Maximum points will be awarded to development entities and guarantors that have the financial capacity to undertake the project. Working capital sufficient to carry the project through pre-development and net worth sufficient to provide applicable guarantees will be considered in determining the principals' financial capacity. Points will be awarded as follows:

<b>Net Worth As A Percentage Of Total Development Cost</b>	
Over 25%	10 Points
Between 10% and 25%	5 Points
Under 10%	0 Points

<b>Liquid Assets As Percentage of Total Development Cost</b>	
Over 4 %	10 Points
Between 2% and 4%	5 Points
Under 2%	0 Points

To perform this evaluation, the Department requires that operating information be submitted with the application. Please consult Exhibit O in the Application Submission Package for more information regarding this requirement.

#### **4.1.4. Nonprofit or Public Housing Authority Participation and Community-based Involvement (15 maximum points)**

Points may be awarded when the project involves a nonprofit organization that is tax-exempt under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code and independent of any for-profit entity or is an eligible public housing authority. The number of points awarded will be determined based on the role of the nonprofit entity and its demonstrated capacity to undertake its role in a project of the type and scope proposed.

Up to 15 points may be awarded when the entity has a controlling ownership interest in the project and is a Qualified Nonprofit within the meaning of Section 42(h)(5)(B) and (C) of the Internal Revenue Code which, among other things, requires that the entity:

1. Materially participate in the development and management of the project, and
2. Be neither controlled by nor affiliated with any for-profit entity.

Alternatively, up to 15 points may be awarded if the entity is community based and is a member of the development team, civil engineer or tenant service provider.

A controlling ownership interest means a 51% interest in the general partner of a limited partnership or a similar arrangement for corporations and limited liability companies. Up to 10 points may be awarded when 1) the entity is not community based and does not have a controlling ownership interest but is a member of the development team, civil engineer or the tenant service provider or 2) is community based and has another important role. Up to 5 points may be awarded for other important roles for nonprofit entities that are not community based.

Local Community Housing Development Organizations (CHDO's) are by definition community-based. Other nonprofit organizations will be considered community based if they are headquartered in the same community as the project, independent of the control of any for-profit entity, and provide services specific to that community. If the entity is not headquartered in the same community as the project, it may still receive points if at least one-third of its board is composed of community residents or members of organizations headquartered in the community and the organizations can show a history of involvement in the community.

A nonprofit or public housing authority (PHA) may also be considered community-based through formation of a local advisory board, composed of community members, that participates in the design, development and operation of the project. The community will be defined by local neighborhood definitions, not on the basis of political boundaries.

The Department will consider the extent to which the project involves specific and significant participation by the entity and the capacity of the entity to carry out its role. The application must include letters of intent from the organization that document the specific services or products to be provided to the project. For a local advisory board, the application should document the role of the board and its level of involvement, through meeting notes or minutes, letters or other evidence of participation.

#### **4.1.5. Minority-owned and/or Women-based Business Enterprise Participation (15 maximum points)**

Preference is given to projects which involve a minority-owned or women-owned business enterprise certified by the Maryland Department of Transportation (MDOT) pursuant to the Maryland Minority Business Enterprise/Federal Disadvantaged Business Enterprise Program (MDOT certified). Enterprises certified by a comparable program operated by a local Maryland jurisdiction also are eligible for scoring under this category. Please refer to <http://www.mdot.state.md.us/mbe/index.html> or call the MDOT Office of Minority Business Enterprise at (410) 865-1240 for more information on certification by MDOT as an MBE/WBE.

The number of points awarded will be determined based on the role of the entity and its demonstrated capacity to undertake its role in a project of the type and scope proposed. Up to 15 points may be awarded when the MDOT or locally certified entity has a controlling ownership interest. Up to 10 points may be awarded for MDOT or locally certified minority-owned or women-owned business involvement when the entity does not have a controlling ownership interest but is a member of the development team, the civil engineer or tenant service provider. Up to 5 points may be awarded for other important roles. In general more points will be awarded for a larger role and demonstrated capacity. A controlling ownership interest means a 51% interest in the general partner of a limited partnership or a similar arrangement for corporations and limited liability companies. Points for a lesser interest in the ownership entity will be awarded based on the extent of the risks and rewards of ownership afforded the MBE/WBE participant. The Department will evaluate the organization of these entities, their history of housing related activities and their specific role in the project.

## **4.2. Public Purpose**

### **4.2.1. Qualified Census Tracts, Difficult Development Areas, Rehabilitation and Community Revitalization Plans (10 maximum points)**

Ten points may be awarded for projects that contribute to a concerted community revitalization plan and are located in a Qualified Census Tract (QCT) or Difficult Development Area (DDA) as defined in Section 42(d)(5)(C) of the Internal Revenue Code. Alternatively, 10 points also may be awarded to rehabilitation projects that contribute to a concerted community revitalization plan regardless of location in a QCT or DDA. For a listing of Qualified Census Tracts and Difficult Development Areas, please consult the HUDuser website at:

<http://www.huduser.org/datasets/qct.html>

For the purpose of qualifying projects for scoring under this criterion, rehabilitation means repairs or alterations to an existing building, or buildings, where a majority of the structural elements of the original building or buildings, at a minimum, is incorporated into the finished project. In its discretion, the Department may award these points to a project that involves the demolition and replacement of an existing housing project if rehabilitation of the existing building or buildings is infeasible or impractical. To receive points, the replacement project must comply with the Department's policies concerning displacement and relocation of existing tenants and be consistent with the Community Revitalization Plan.

A community revitalization plan is a plan that is consistent with Maryland's Priority Places Initiative and established to prevent or reverse the decline or disinvestment in the community. The plan must be local in nature with defined geographic boundaries. To be acceptable, a plan also should include evidence of a concerted planning process including consultation with and input from major stakeholders, particularly community residents and businesses. Plans will be evaluated and scored based on the evidence and the extent of the endorsement of the plan by either local government or by established community based organizations. The plan should include discussions of the types of development that will be encouraged, the potential sources of

funding, services to be offered to the community, participants in the revitalization effort, or outreach and marketing efforts to be undertaken. The plan must include more than a mapping of where housing, commercial, industrial and other development will be allowed. A County or municipal zoning or land use plan or consolidated plan prepared as required by HUD does not qualify unless it meets the standards for Community Revitalization Plans as described above.

#### **4.2.2. Income Targeting (20 maximum points)**

To be eligible for RHF or a reservation of Tax Credits, sponsors must rent a minimum number of units to income eligible families. For Tax Credit projects, at least 20% of the units must be rented to families with incomes of 50% of area median or less or 40% of the units must be rented to families with incomes of 60% of the area median or less. All units financed with State funds must be rented to families with incomes of 60% of area median or less.

To the extent that restricted units will be rented to families with incomes below 60% of the area median, more points will be awarded. The lowest income level considered under this criterion is 30% of the area median income. Maximum points will be awarded for projects in which all of the low-income units will be rented to families with incomes of 30% of the area median or less. Points for projects with other income mixes will be determined based on the weighted average percent of median income per bedroom.

<b>Income Targeting</b>					
Wtd. Avg.	Points	Wtd. Avg.	Points	Wtd. Avg.	Points
30 – 31%	20	43%	13	50%	6
32 – 33%	19	44%	12	51%	5
34 – 35%	18	45%	11	52%	4
36 – 37%	17	46%	10	53%	3
38 – 39%	16	47%	9	54 – 55%	2
40 – 41%	15	48%	8	56 – 57%	1
42%	14	49%	7	58 – 60%	0

*Example. A 100 unit rental housing project consists of 25 one-bedroom units, 50 two-bedroom units and 25 three-bedroom units. The one-bedroom units will be rented to families with incomes of no more than 50% of the area median. Twenty of the two-bedroom units will be rented to families with incomes of no more than 60% of the area median, twenty more will be rented to families with incomes of no more than 40% of the area median, and 10 will be rented to families with incomes of no more than 30% of the area median. Ten of the three-bedroom units will be rented to families with income of no more than 50% of the area median and the remaining 15 three-bedroom units will be rented to families with incomes of no more than 40% of the area median.*

*Step One: Find the number of bedrooms serving each income level.*

*60% of AMI -- 20 2-bedrooms or 40 bedrooms [20 x 2 = 40]*

*50% of AMI -- 25 1-bedrooms and 10 3-bedrooms or 55 bedrooms [(25 x 1) + (10 x 3) = 55]*

*40% of AMI -- 20 2-bedrooms and 15 3-bedrooms or 85 bedrooms [(20 x 2) + (15 x 3) = 85]*

*30% of AMI -- 10 2-bedrooms or 20 bedrooms [10 x 2 = 20]*

*Step Two: Multiply the number of bedrooms at each income level by the maximum income level for those bedrooms and add the results.*

40 bedrooms x 60% of AMI =	2400
55 bedrooms x 50% of AMI =	2750
85 bedrooms x 40% of AMI =	3400
20 bedrooms x 30% of AMI =	<u>600</u>
Total	9150

*Step Three: Divide the result by the total number of bedrooms to get the weighted average percent of median income per bedroom.*

$9150 \div 200 = 45.75\%$  of AMI, rounds to 46% of AMI.

*Step Four: Use chart above to determine number of points for 46% of AMI.*

*46% of AMI corresponds to 10 points.*

#### **4.2.3. Long Term Use Restriction and Homeownership Opportunities (5 maximum points)**

Owners must maintain compliance with the low-income occupancy provisions required under the funding program. When RHF is being provided, the minimum retention period is the longer of 15 years or the period that the mortgage is outstanding, which is generally 30 to 40 years. Under federal rules, Tax Credit project owners must agree to maintain low-income occupancy restrictions during the 15-year compliance period and during an additional 15-year extended use period for a total use restriction of 30 years. The owner may, however, choose to exercise opt-out provisions provided under federal law after the compliance period.

Projects will be evaluated and awarded five points in this category for agreeing to maintain the income and rent restrictions for 40 or more years and not exercise any opt-out rights. Maximum points may also be awarded for projects that will be converted to homeownership for their residents after the 15-year compliance period has expired. To qualify for full scoring under this criterion, properties intended for eventual homeownership must be physically designed to facilitate marketing for and conversion to homeownership. Applicants also must present a strategy in their applications that shows how funding will be made available from project or other dedicated resources to prepare and assist residents for the transition of the project to homeownership at the close of the 15-year compliance period.

#### **4.2.4. Housing for People with Disabilities or Special Needs (5 maximum points)**

Projects that provide integrated housing opportunities for income-qualified persons with disabilities or other special needs may be awarded points in this category. Such housing includes, but is not limited to:

- Housing targeted to the non-elderly disabled living on Supplemental Security Income (SSI);
- Housing that provides additional fully accessible (as opposed to adaptable) units over any minimum requirements in local or state codes; or
- Housing within the larger undertaking targeted to homeless individuals or households, or transitional housing for the homeless.

To receive points, the targeted units must be made available only to persons with disabilities or special needs. Targeted units must be made available until the prescribed percentage of residents is achieved but no longer than 30 days beyond 80% initial occupancy. Points will be awarded based on the percentage of units targeted to disabled or special needs populations over and above any minimum requirements that may be imposed by State or federal fair housing laws according to the following table:

<b>Percent of Units for Disabled/Special Needs</b>	
10% or more of the proposed units	5 points
8-9% of the units	4 points
6-7% of the units	3 points
4-5% of the units	2 points
1-3% of the units	1 point
Less than 1% of the units	0 points

#### **4.2.5. Family Housing (5 maximum points)**

Points may be awarded based on the percentage of non-age restricted units with 2 or more bedrooms available to individuals or households with children according to the following table:

<b>Percent of Units for Family Housing</b>	
10% or more of the proposed units	5 points
8-9% of the units	4 points
6-7% of the units	3 points
4-5% of the units	2 points
1-3% of the units	1 point
Less than 1% of the units	0 points

#### **4.2.6. Tenant Services (20 maximum points)**

Points may be awarded for linking service programs to the project. Examples of programs that may be considered include, but are not limited to, the following:

- Parenting programs for young parents (such as family support centers), parenting skills sessions for all interested parents and parent and child activities
- Literacy programs (such as book clubs, toddler reading programs, story groups), libraries and book sharing groups or centers
- Art activities or art centers for children that include painting, photography, ceramics, etc.

- Day care or before and after school child care
- Health education and referral or health care outreach centers
- Job training and preparation centers
- Job opportunities for residents
- Housing services and/or community coordinators
- Mentoring programs where young adults mentor adolescents or more established adults mentor other adults
- Housing and/or community meeting centers
- Recreation centers located within housing complexes
- Nutritional services
- Eating together programs
- Assisted or congregate living services including assistance with activities of daily living, instrumental activities of daily living, medical services, or housekeeping
- Transportation services

The tenant service plan submitted with the application will be evaluated. Points may be awarded based on the extent to which the plan is comprehensive, well defined, economically and practically feasible, appropriate for the proposed tenant population, innovative and involves a unique collaboration, partnership, ownership or management structure. Projects that include on-site services must be designed to include the necessary physical space for the services. To be scored under this criterion, letters or agreements documenting a service provider's involvement with the project should be submitted. More points will be awarded to the extent that the services are actively linked to the residents and not simply provided to the community at large.

#### **4.2.7. Public and Assisted Housing Waiting Lists (5 maximum points)**

Points may be awarded to projects that establish a priority for households on waiting lists for public housing or other federal or State assisted low-income housing. To receive points, the applicant also must demonstrate that the entity maintaining the waiting list is willing to refer tenants to the project.

#### **4.2.8. Small Projects (5 maximum points)**

Points will be awarded to projects that consist of 30 or fewer units. Points will not be awarded for phased projects when the phases in combination contain more than 30 units. A project will not be considered phased if the second section is submitted after the first section has achieved break-even operations for one fiscal year and 90% occupancy for 12 consecutive months.

### **4.3. Project Location and Marketability**

#### **4.3.1. Market Study (40 maximum points)**

Points may be awarded to projects that fill a demonstrated need for affordable rental housing in the local market and that will be competitive. Maximum points will be awarded for high quality market studies that show a strong market demand for the project. The market study should include the following:

- Geographic definition (other than a simple radius) and analysis of the market area;
- Data regarding neighborhood or community characteristics such as crime or incompatible land uses that could negatively affect the success of the project;
- Number of renter households qualified by income and, if appropriate, age for the targeted program(s) in the market area;
- Rent levels, operating expenses, amenities, turnover rates, waiting lists and vacancy rates of comparable projects in the market area with an analysis of the competitive advantages offered by the applicant's proposed project;
- Absorption rate for the proposed project;
- Support for the applicant's proposed vacancy rate;
- Support for the project's proposed income targeting;
- Penetration or capture rate for the proposed project including rates at housing costs (rent plus utility allowance, if any) not exceeding 30% of gross median income for the targeted income levels; and
- A conclusion or executive summary capturing the above information.

The market study must be prepared by a third-party professional experienced with multifamily rental housing and/or tax credit housing in Maryland and is on the list of acceptable market analysts maintained by the Department on its website. The study should be detailed and provide a logical basis for all conclusions. Other projects that the Department has funded in the area should be identified, as should the impact of the proposed project on these developments and on any other existing projects.

A list of acceptable market analysts may be obtained from the Department website at <http://www.dhcd.state.md.us/rhfunds> or by calling the Department. Current income limits also are available on the website.

#### **4.3.2. Other Investment in the Community (5 maximum points)**

Up to 5 points may be awarded if the sponsor documents that other significant investment has recently occurred, is ongoing or is planned for the community in which the project is located. Points will be awarded for documentation of recent (completed within the last three years) or on-going development or for awards of funds for imminent development, within close proximity to the project. To qualify for maximum points under this criterion, evidence must include the approximate amounts invested, committed or planned in the other developments. For in-fill sites in established, stable neighborhoods, these points may be awarded for documentation of recent or on-going business investment, stable or increasing property values and home ownership investment.

#### **4.3.3. Rural Projects (10 maximum points)**

Points will be awarded to projects that are in rural areas as designated by the Rural Development programs of the U.S. Department of Agriculture or that either are in federal Community Development Block Grant (CDBG) non-entitlement or HOME non-participating jurisdictions that have an area median income below the non-metro median income. Counties below this level include Allegheny, Caroline, Dorchester, Garrett, Somerset, Washington, Wicomico and Worcester.

#### **4.4. Development Quality (55 maximum points)**

Under this category, projects will be evaluated and awarded points based upon the quality of the project design, material selection and environmental and site considerations. Staff will inspect the project and associated community and will thoroughly evaluate the plans and specifications (see Application for details of submission requirements).

There are 8 specific criteria (see Exhibit C for details) that will be used to ascertain the scoring for development quality. These criteria and associated points are:

1. The building design and use are compatible with the surrounding environment and existing neighborhood. *(7 points)*
2. The layout of the buildings and other improvements on the site is well thought out and complements the surrounding environment. *(7 points)*
3. Individual unit sizes are spacious and the floor plans well designed. *(7 points)*
4. Material selections are of good or better quality, designed for normal maintenance and can be expected to perform well over the long term. *(7 points)*
5. Design features promote comfort and energy efficiency over the estimated useful life of the project. *(7 points)*
6. The site is suitable for the proposed development and no excessive geotechnical, environmental or utility infrastructure expenditures are needed or anticipated. *(7 points)*
7. The buildings and the project site, including the immediate surroundings, provide adequate space for recreation, education and community activities. *(6 points)*
8. Unit amenities are consistent with or better than amenities in other, similar projects in the market area. *(7 points)*

#### **4.5. Leveraging and Long Term Subsidies**

##### **4.5.1. Leveraging (10 maximum points)**

The extent to which Department funds are used to leverage other funds will be considered. Points will be awarded based on the percent of non-Department funds specifically identified and designated to supplement Department funds.

For purposes of this section, Department funds include the State's HOME Investment Program, Rental Housing Production Program, Maryland Housing Rehabilitation Program, Elderly Rental Housing Program, Nonprofit Rehabilitation Program, Community Legacy Program and the Partnership Rental Housing Program.

Other Federal (including bond financing and unallocated Tax Credits and local funds originating from State Small Cities Community Development Block Grants), State, local (including HOME Investment Program funds administered by local participating jurisdictions) or private funding will be considered leveraged funds. Because the Department administers Tax Credits, equity derived from Tax Credits allocated from the State's credit ceiling will be included in Department funds for computing leverage.

In order to compare the Tax Credit equity fairly for all projects, an imputed raise-up amount, based on current market rates, will be used. The one exception to this rule will be for Tax Credits that may be awarded in connection with the 30% basis increase allowed under the Internal Revenue Code (IRC) for projects in Qualified Census Tracts or Difficult Development Areas. In such cases, only equity derived from Tax Credits awarded for the lower basis will be considered Department funds. Equity derived from Tax Credits awarded in connection with the increased basis will be considered leveraged funds. For a listing of Qualified Census Tracts and Difficult Development Areas, please consult the HUDuser website at:

<http://www.huduser.org/datasets/qct.html>

The leverage ratio will compare all Department funds to all project costs. Since total development costs, as used in this guide, does not include certain costs that can be paid from Tax Credit equity, these additional costs will be included in the calculation as well. The extra costs are developer's fee, funded guaranties and reserves, and syndication costs.

In mixed income developments, the Department will evaluate leveraging on the affordable rental units only. The total costs of the project will be prorated using the number of bedrooms.

<b>Percent of All Project Costs Leveraged with Other Funds</b>	
65% of adjusted net costs are leveraged	10 points
61% to 64% of adjusted net costs are leveraged	9 points
56% to 60% of adjusted net costs are leveraged	8 points
52% to 55% of adjusted net costs are leveraged	7 points
49% to 51% of adjusted net costs are leveraged	6 points
45% to 48% of adjusted net costs are leveraged	5 points
40% to 44% of adjusted net costs are leveraged	4 points
35% to 39% of adjusted net costs are leveraged	3 points
30% to 34% of adjusted net costs are leveraged	2 points
25% to 29% of adjusted net costs are leveraged	1 point
Less than 25% of adjusted net costs are leveraged	0 points

*Example. (Note: all figures supplied in this example are for illustrative purposes only. In particular, actual raise rates used in evaluation may vary based on HDP's analysis of the syndication market. HDP will publish separately on the Department website the imputed rate in advance for each competitive round.) A 25 unit rental housing project located in Baltimore County consists of 10 one-bedroom units and 15 two-bedroom units. The total development*

costs for the project are \$2,000,000. Financing for the project includes a first mortgage private loan of \$700,000, a second mortgage Rental Housing Production Program loan of \$342,855, a local contribution of \$425,000 and an annual tax credit award of \$114,286. The imputed raise-up rate for this example is 75 cents on the dollar. The owner's legal and accounting costs for syndication are \$50,000, reserves are \$50,000 and the Developer's fee is \$225,000.

Step 1. Calculate the tax credit equity that will be provided to the project.

<b>Tax Credit Equity</b>	
Annual Tax Credits	\$114,286
Credit Period	x 10
Total Tax Credits	= 1,142,860
Imputed Raise-up	x .75
Imputed Subsidy (rounding)	=\$ 857,145

Step 2. Calculate the total DHCD subsidy.

<b>Total DHCD Subsidy</b>	
Tax Credit Equity	\$ 857,145
DHCD Loans	\$ 342,855
Total Subsidy	\$ 1,200,000

Step 3. Calculate all project costs.

<b>All Project Costs</b>	
Total Development Costs	\$ 2,000,000
Developer's Fee	\$ 225,000
Guaranties and Reserves	\$ 50,000
Owner Syndication Costs	\$ 50,000
Total Costs	\$ 2,325,000

Step 4. Determine the costs associated with the affordable portion of the project.

<b>Adjusted Costs</b>	
Affordable BRs	40
Total BRs	40
% Affordable	= 100%
All Project Costs	x 2,325,000
Adjusted Costs	=\$ 2,325,000

Step 5. Determine the portion of funds leveraged from other sources.

<b>Leverage Evaluation</b>	
Total State Subsidy	\$ 1,200,000
Adjusted Costs	<u>2,325,000</u>
% State Funds	= 52%
Total Funds	<u>100%</u>
Less % State Funds	( 52%)
% Leveraged	= 48%

*Step 6. Calculate the number of points for the percent leveraged from the chart above. 48% of all costs leveraged equal 5 points.*

#### **4.5.2. State Subsidy per Affordable Bedroom (10 maximum points)**

Total State subsidies per affordable housing bedroom will be used to determine the effectiveness of the Department funds. The amount of departmental funds, as defined in the previous criterion on leveraging, will be evaluated. However, the amount of Tax Credits per bedroom will also be included in the calculation. To make this calculation comparable for all projects, an imputed raise-up rate, based on current market rates, will be used. In the case of projects that may receive an increase in basis under the Internal Revenue Code (IRC) because they are located in Qualified Census Tracts or Difficult Development Areas, only the equity derived from Tax Credits awarded for the original basis will be considered. Equity derived from Tax Credits awarded for the increased basis will not be considered. The lower the amount of all State subsidies per affordable housing bedroom, more points will be awarded.

<b>Total Subsidy per Bedroom</b>	
Subsidy is \$25,000 or less per bedroom	10 points
Subsidy is \$35,000 or less and more than \$25,000 per bedroom	5 points
Subsidy is \$50,000 or less and more than \$35,000 per bedroom	2 points
Subsidy is more than \$50,000 per bedroom	0 points

*Example. Same facts as above.*

*Step 1. Calculate the State subsidy per affordable bedroom.*

<b>State Subsidy</b>	
State Funds (from above)	\$ 342,855
Affordable Bedrooms	<u>÷ 40</u>
State Subsidy Per Bedroom	<u>= \$ 8,571</u>

*Step 2. Calculate the tax credit subsidy per bedroom.*

<b>Tax Credit Subsidy</b>	
Annual Tax Credits	\$ 114,286
Credit Period	x 10
Total Tax Credits	= 1,142,860
Imputed Raise-up	x .75
Imputed Subsidy (rounding)	=\$ 857,155
Affordable Bedrooms	÷ 40
Tax Credit Per Bedroom	=\$ 21,429

*Step 3. Calculate the total subsidy per bedroom.*

<b>Total Subsidy</b>	
Tax Credit Per Bedroom	=\$ 21,429
State Subsidy Per Bedroom	+\$ 8,571
Total Subsidy Per Bedroom	=\$ 30,000

*Step 4. Calculate the number of points for subsidy per bedroom based on the chart above. \$30,000 per bedroom equals 5 points.*

#### **4.5.3. Long-term Operating Subsidies (10 maximum points)**

Points will be awarded to projects that use long term operating or rent subsidies. The subsidies must reduce the operating expenses or rent for low-income tenants. The tenants should pay no more than 30% of their gross income for housing expenses, including utilities. Project based rental subsidies, payments in lieu of taxes or other operating or social service subsidies are encouraged.

For HOME participating jurisdictions, maximum points may be awarded for projects with a subsidy of at least \$200 per unit per year for a period of 10 years. For HOME non-participating jurisdictions, maximum points will be awarded for projects with a subsidy of at least \$100 per unit, per annum for 10 years. Fewer points will be awarded to the extent that the subsidy per unit per year is below \$200 for HOME participating jurisdictions or \$100 for HOME non-participating jurisdictions, the subsidy is for a term of less than 10 years, or repayment terms of the subsidy diminish its overall value to the project. The Department will evaluate the subsidy by computing the total value of the subsidy and dividing it by the term in years of the subsidy and the number of units in the project.

## 5.0 Waivers

### 5.1. Waivers – General

The Code of Maryland Regulations (COMAR) allows the Secretary of the Department to waive or vary particular regulations generally to the extent that the waiver is consistent with the governing statute if, in the determination of the Secretary, the application of a regulation would be inequitable or contrary to the purposes of the governing statute. The standards for each RHF program vary slightly, so applicants should consult COMAR Title 05 and Regulation .01.09.10 for Rental Housing Loan Processing; .05.01.29 for the Elderly Rental Housing Program; .05.04.22 for the Rental Housing Production Program; 05.06.21 for the Low Income Housing Tax Credit Program; 12.01.22 for the HOME Program; and 05.02.17B for the Mortgage Bond Program.

In general and unless specified in Section 5.2 below, HDP requires applicants considering a request for a waiver of the Threshold or Evaluation Criteria in this Guide to submit such requests in writing to the Deputy Director, Multifamily Housing Development Programs, at least 90 days in advance of the application submission deadline for consideration by the Secretary.

This provision for waivers applies only to state funded programs and state-imposed threshold and competitive criteria for the federal Low-Income Housing Tax Credits (LIHTC) Program. Federal regulations affecting the Low Income Housing Tax Credit, HOME and MBP programs may not be waived by the State, and applicants should consult their attorney or tax advisor on the possibility of waivers of Federal requirements.

### 5.2. Waivers of Threshold or Competitive Criteria

For specific threshold criteria listed below, the Department will consider requests for waivers based on the following:

***Previous Project Performance*** (see 3.2.1 above) – for defaults involving Department loans, waivers of the restriction on participation in funding rounds may be granted for development team members that were not involved in the defaulted loan for at least one year prior to the default. In the case of other defaulted loans, waivers may be granted based on the circumstances surrounding the particular default. Among the factors considered in granting a waiver are:

- Reasons for the default;
- The applicant's role in the defaulted property and responsibility for guaranties or operations of the defaulted property; and
- Performance of other properties in the applicant's portfolio.

***Previous Participation*** (see 3.2.2. above) – the Department may grant waivers for development team members unable to meet Department processing requirements based on the justifications for requesting waivers under 3.2.1, Previous Project Performance.

***Construction or Rehabilitation Costs*** (see 3.7.5 above) – requests for waivers of this provision may be submitted to the Department with the application. The Department may grant waivers

based on staff evaluation of the project's conformance with other Threshold criteria, the need to meet the Secretary of the Interior's Standards for Historic Rehabilitation, the amount of equity and other financial resources leveraged, or the experience of the design professionals and the general contractor for the proposed project.

***Moderate Rehabilitation*** (see 3.7.6 above) – requests for waivers of the \$15,000 per unit cost minimum may be submitted to the Department with the application for projects that can demonstrate:

1. A strong need for preservation of affordable housing in the market area;
2. Affordable housing units will be lost if the project is not financed using Department funds; and
3. Adequate reserves based on a capital needs assessment performed by an engineer or other qualified professional will be available to the project.

***Developer's Fees*** (see 3.9.6 above) - for projects with proposed developers' fees in excess of the \$2.5 million limit, requests for waivers may be submitted to the Department with the application. Applicants must include a detailed explanation of the reasons for the increased developer's fee with the request for a waiver. Staff will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements. Any fee in excess of \$2.5 million must be recommended by HFRC and approved by the Secretary. Increasing the fee to increase the Tax Credit eligible basis is not a valid justification for a waiver.

***Project Phasing*** (see 3.10.2 above) – a request for a waiver of this restriction may be submitted to the Department with the application provided that such requests include a market study meeting the criteria of this Guide and demonstrating that the subsequent phase(s) will not adversely affect the leasing and operations of the initial phase.

***Project Financing and Underwriting*** (see 4.1.3 above) – a request for a waiver of the provisions for negative Development Team Capacity points may be submitted to the Department with the application. Applicants seeking waivers must provide a detailed written request including, if necessary, independent studies or analyses by qualified professionals (market analyses, capital needs assessments, etc.) that back their request. Staff will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements.



## Exhibit A: Application and Processing Fees

Description	Low-income Housing Tax Credit	Rental Housing Fund	Due Date
Application Fee (non-refundable)	\$1,000. Funding for these programs is requested on the same application and requires a single application fee regardless of how many programs are involved.		Fee must accompany application.
Reservation Fee (non-refundable)	\$4,000. Reservation fee payments must be submitted with the signed reservation letter regardless of how many programs are involved.		Fee must accompany signed reservation letter.
Tax Credit Allocation Fee (non-refundable)	4% of the annual tax credit amount allocated	None	Varies depending on financing and sponsor type. See QAP for details.
Commitment Fee	None	1.5% of the loan amount. May be financed.	Due at the earlier of initial loan closing or bond closing.
10% Expenditure Test Deadline Extension Fee	\$1,000 for each month the deadline is extended.	None	Payable with application for extension.
Tax Credit Allocation Amendment Fee	\$1,000 per project	None	Payable upon the filing of a request for an amended IRS Form 8609 where the amendment is not the result of an administrative error by CDA.
Closing Attorney's Fees	None	Closing (first loan): \$20,000 Each Additional loan: \$1,000	Payable at initial loan closing.
Tax Credit Compliance Monitoring Fee	\$25 per unit per year	N/A	Payable annually when billed.

***Bond Program: Fees***

Costs of issuance are due at initial closing and for underwriting purposes are estimated at up to 2% of the loan amount plus the unamortized amount, if any, from the original issue. Terms for Commitment Fees are the same as for the Rental Housing Fund. For other fees including Rate Lock, Negative Arbitrage, Cost to Call and Servicing Fees, consult the Department's website at:

<http://www.dhcd.state.md.us/mbp/>

However, fees for the Multifamily Bond Program are subject to change, and applicants are encouraged to monitor the website for the most up to date information.

## Exhibit B: Reserve Requirements

### ***Rental Housing Fund:***

**Working Capital and Lease-Up Reserve:** 2% of the original principal balance of the loan for for-profit developers and 1% for non-profit developers. Funds will be released at sustaining occupancy.

**Operating Reserve:** Three to six months of projected operating expenses plus all required monthly debt service and replacement reserve payments. See “Operating Reserves” on page 29 for information on requirements for release of these funds.

### ***Mortgage Bond Program:***

**Working Capital and Lease-Up Reserve:** Same as for the Rental Housing Fund above or as required by the credit enhancer.

**Operating Reserve:** See page 29 for information.

## Exhibit C: Detail Development Quality Criteria

### 1. *Building design and uses are compatible with the surrounding environment and existing neighborhood. (7 points)*

- Building exterior design features, finishes, height and uses are compatible with the immediate neighborhood and highly suitable for residential use and are significantly improved from their existing condition if a rehabilitation project. (6-7 points)*
- Building exterior design features, finishes and height and uses are not closely compatible with the immediate neighborhood, but, also, are not distinctly different from or complement the surrounding larger community or if a rehabilitation project, are moderately improved from their existing condition and are highly suitable for residential use. (4-5 points)*
- Building exterior design features and finishes are attractive but pose significant contrast with the surrounding environment and neighborhood and are generally suitable for residential use. (2-3 points)*
- Building exterior design features and/or finishes are not compatible with the surrounding community and are unsuitable for residential use. (0 points)*

Please consider the following criteria in assessing points in this category:

- The architectural design is consistent or complimentary to the existing neighborhood;
- The exterior finish materials are consistent with those found on other buildings nearby or there is an adequate buffer from other buildings to introduce different finish materials;
- The building height and mass are consistent with nearby structures and are not overly imposing particularly to existing owner occupied housing, but an adequate buffer from other buildings will be a mitigating factor;
- There are exterior architectural elements which add interest, functionality and generally improve the appearance and quality of the building;
- On rehabilitation project, the scope of work includes significant exterior renewal or cleaning of finishes to provide a positive visual impact on the neighborhood;
- The building is located in an area that is residential, appropriate mixed use area with businesses or uses highly compatible with a residential neighborhood; and
- The building(s) is located in a recognized planned residential growth or revitalization district.

### 2. *The Layout of the building(s) and the improvements, on the site, are well thought out and complement the surrounding environment. (7 points)*

- The building(s) and the other improvements on the site are located such a way that they provide superior accessibility, traffic flow, storm water drain, recreation, noise mitigation, green space and energy conservation. (6-7 points)*
- The building(s) and the other improvements on the site are located such a way that they provide adequate accessibility, traffic flow, storm water drain, recreation, green space and energy conservation. (4-5 points)*
- The building(s) and the other improvements are located on the site such a way that are not conducive to better living and may contribute to additional costs in long run. (0 points)*

Please consider the following criteria in assessing points in this category; the first two criteria should receive greater weight than the remaining three.

- The building, parking areas and other improvements thoughtfully utilize the site with a practical layout where transportation, parking and exterior facilities can be conveniently accessed.
- The building parking areas and other improvements take advantage of existing topography. Excessive grading resulting in steep slope or construction of large retaining walls is not anticipated. Driveways and entrances do not require excessive engineering.

- For existing and urban structures, the setback and parking provided is consistent with nearby buildings and local requirements. On new structures, in addition to the above, there is sufficient setback to provide walkways and a buffer from adjoining properties.
- There are green space areas, courtyards or exterior seating areas which provide privacy, recreational opportunities, and a feeling of spaciousness.
- The site has adequate usable space for project needs as proposed and does not have significant under-utilized or unused areas subject to ongoing maintenance. There are no areas that will require significantly higher than normal maintenance.

**3. Individual unit sizes are spacious and the floor plans well designed. (7 points)**

- Individual units are spacious and well designed with generous space dedicated to living and working areas and ample Closets and storage space. (More than 650 gsf. area for predominant 1-BR units and 20% more area for each additional bedroom unit, preferably with the smallest bedroom not less than 10'x11' in clear size) (6-7 points)
- Individual units are well designed for comfortable living and working, with adequate closet and storage space. (600 - 650 gsf. area for predominantly 1-Br units and 20% more area for each additional bedroom unit, preferably with the smallest bedroom not less than 10'x10' in clear size.) (4-5 points)
- Individual units are less than 600 gsf (1-Br) but adequately laid out for living and working with adequate closet space. (2-3 points)
- Individual unit sizes are restrictive and or have an overall non-functional floor plan or undesirable arrangement. (0 points)

Please consider the following in assessing points in this category:

- If the closet space is significantly inadequate but the size and lay-out are reasonable, deduct 1 point.
- If the floor plan is not efficient, has poor proportions, does not have a practical traffic flow or provides inadequate space for furniture placement, but the size of the units and closet space are reasonable, deduct 1-2 points.
- Failure to provide a second bathroom in 3 bedroom units will result in the loss of 1 point.

**4. Material selections are of better quality and designed for durability and long term performance with reduced maintenance (7 points)**

- Building materials, furnishings and equipment are of superior quality by reputable manufacturers with proven long term performance and significant savings in maintenance costs. (6-7 points)
- Building materials, furnishings and equipment are expected to provide better performance than standard and longer than normal durability with normal maintenance. (4-5 points)
- Materials, furnishings and equipment are expected to provide normal performance and durability with normal maintenance (2-3 points)
- Major materials, furnishings and equipment are expected to provide minimum performance and limited life with normal maintenance. (0 points)

Projects should be able to satisfy the goals of this category and receive full points in a variety of ways. Please consider the extent to which one or more of the following criteria are present to determine total points in this category. Six or more should be present to be placed in the top box; four or more should be present to score in the second box:

- Building exterior is at least 75% masonry or other highly durable materials such as cement fiber siding, stucco, etc.
- Heavy duty paving selected through-out.
- Central system or split system HVAC system.
- High performance roofing specified for durability.
- Exterior trim is upgraded to composite or select materials or exterior trim will be rehabilitated to meet historic rehabilitation standards.
- Cement fiber siding, stucco, EIFS, or premium thickness vinyl siding selected.
- The plumbing and electric fixture package is upgraded for improved functionality, appearance, low-cost maintenance and durability.

- The interior door/trim package has been upgraded to panel doors, better quality hardware, wood trim or additional treatments.
- Heavy gauge metal or solid core wood entrance doors with durable frames and hardware selected.
- The cabinetry is upgraded with plywood boxes and durable finishes and hardware.
- Interior finish elements meet historic standards as applicable.
- Floor coverings are upgraded to significantly higher quality longer lasting products.
- Ceramic tile bathrooms are provided.
- Framing/decking system upgraded over minimum design standards.
- Identifiable, project specific significant upgrades which provide increased performance, better appearance, durability, and lower maintenance.

**5. Design features provide comfort and energy efficiency over the extended period of the project life. (7 points)**

- The design features and the selection of the materials & equipment are clearly specified for higher efficiency and prolonged performance for the conservation of energy. (5-7 points)
- The design features and the selection of the materials & equipment are clearly specified for moderately better than conventional efficiency and performance for the conservation of energy. (2-4 points)
- The design features and the selection of the materials & equipment are retained or specified for replacement for average efficiency and performance. (0-1 points)

Please consider the following in assessing points in this category. Each item present should result in one point

- Verifiable, high efficiency HVAC system is specified. SEER rating of specified HVAC equipment should be 13 or greater to receive maximum points. The delivery system is optimally designed, highly efficient and can be balanced. Electronic energy management components, programmable thermostats, tamper proof controls and other devices which conserve energy or provide comfort are specified.
- Verifiable, higher quality and more thermally and draft efficient windows and doors are specified. Maximum points awarded to windows with an AAMA 101 Section 3 “Optimal Performance Class” rating. Aluminum windows are preferable.
- Thicker insulation which has an R-rating at least 20 percent above that required by code is utilized in wall, crawlspace and ceiling areas is specified.
- A barrier membrane wrap or other recognized method is used to minimize air infiltration is specified.
- Energy saving light and plumbing fixtures, water heaters, and Energy Star rated appliances are specified.
- Special features such as additional attic venting, water use limiting devices or other verifiable cost effective energy improvements are specified.
- Building design features minimize energy consumption (site orientation, overhangs, solar features, etc.)

**6. The site is suitable for the proposed development and limited or no extraordinary or unanticipated geotechnical, environmental or utility infrastructure costs are indicated.**

- Site improvement costs are reasonable (no more than 15% of the net construction cost unless the land acquisition cost was proportionally discounted to reflect the increased site development cost) with required development costs included in the budget. All necessary investigative reports do not reveal any significant issues at the site, and CDA’s experience indicates limited risk of unanticipated costs in the construction budget. (5-7 points)
- Site improvement costs exceed the reasonable standard (more than 15% of the net construction cost), and all necessary investigative reports and CDA’s experience indicates moderate risk of unanticipated costs in the construction budget. (2-4 points)

- The site improvement costs exceed the reasonable standard and limited investigative reports are submitted with the application, or the submitted reports or CDA's experience indicates considerable risk of unanticipated costs unaddressed in the construction budget. (0 points)*

Depending on the severity of the condition and its potential for construction period risk, deductions of 1-3 points will be made for each potential condition. There is a significant potential for unbudgeted site costs related to the following:

- Unsuitable soils;
- Extensive haul-in/haul-off changes for earth removal related to an unbalanced site;
- Steep slopes;
- Rock removal;
- Wet conditions, dewatering;
- Asbestos or lead removal;
- Oil or chemical contamination;
- Unidentified utility expenditures; or
- Other site specific conditions.

**7. *The building and the project site, including the nearby surroundings, provide opportunities for recreation, education and community activities. (6 points)***

- Ample opportunities for recreation, education and community activities are available on the project site and nearby vicinity. (6 points)*
- Moderate opportunities for recreation, education and community activities are available on the project site and nearby vicinity. (4-5 points)*
- Limited opportunities for recreation, education and community activities are available on the project site or nearby vicinity. (2-3 points)*
- Rrecreational, educational and community activities are unavailable on the project site or are minimal or nonexistent in the vicinity. (0 points)*

*Please consider the following in assessing points in this category:*

- The proximity of parks, schools, cultural centers and other public facilities use by the residents.
- Shopping is convenient to the project. Basic services such as a grocery store and drug stores are located nearby.
- Public transportation is located near the project. Regularly scheduled public transportation is available at the site or within a short walking distance.
- Depending on whether it is a family or elderly project, there are recreational, educational and medical facilities within a short distance.
- The project is not located in a high traffic or congested area; or an area which is non residential in character.
- The on-site community space is adequate for the size and nature of the project.

**8. *Unit amenities are consistent with or better than amenities in other similar projects in the market area. (7 points)***

- Varieties of unit amenities are available which are substantially better than the amenities provided by comparable projects in the competitive market area. (6-7 points)*
- Unit amenities are moderate and either retained or replaced, but are somewhat better than the amenities provided in the similar projects in the competitive market area. (4-5 points)*
- Unit amenities are moderate and either retained or replaced, which are about the same or similar to the amenities provided in the similar projects in the competitive market area. (2-3 points)*
- Unit amenities are limited or none, either retained or replaced, and are less than the amenities provided in the similar projects in the competitive market area. (0 points)*

*The following should be considered unit amenities in scoring this category:*

- Central air conditioning;
- Appliances including refrigerator, range, dishwasher, disposal, microwave, laundry equipment, bathroom heater, call station, internet connection;
- Walk-in closet or additional storage area;
- Ceramic tile bath;
- Upgraded flooring;
- Upgraded trim, hardware panel doors;
- Upgraded plumbing, electric fixtures;
- Upgraded cabinetry;
- Window treatments;
- Balconies or patios; and
- Voice and data transmission systems.