

TAX CREDIT PROGRAMS

A. LOW-INCOME HOUSING TAX CREDIT

The Connecticut Housing Finance Authority (the “Authority”) administers the federal Low-Income Housing Tax Credit (“LIHTC”) Program for the State of Connecticut (the “State”). The LIHTC Program is a housing program authorized under Section 42 of the Internal Revenue Code (the “Code”), and is administered by the U.S. Department of Treasury. These procedures govern the allocation, reservation and the compliance monitoring required by LIHTC Program. The LIHTC allocation, reservation and compliance process is also governed by the Qualified Allocation Plan (the “QAP”), the CHFA-DECD Consolidated Application, the LIHTC General Information, and the CHFA Standards of Construction and Design. The Authority’s Board of Directors may reject any LIHTC application which, in its independent determination, fails to meet the requirements of the Code or these Procedures.

A-1. Qualified Allocation Plan

The LIHTC Program requires the agency in each state responsible for allocating the LIHTCs to adopt a plan for the allocation of the credits that is relevant to that state’s housing needs and consistent with that state’s housing priorities. The QAP is the plan for the State. The QAP establishes the guidelines and procedures for the acceptance, scoring and competitive ranking of LIHTC applications for each funding round.

The QAP is reviewed and modified annually to ensure that it continues to meet the affordable housing needs and the priorities of the State as articulated in the State of Connecticut Consolidated Plan for Housing and Community Development (the “CONPLAN”) and Conservation and Development Plan (the “C&D Plan ”). The QAP is also modified annually to incorporate any revisions to the Code, State regulations, and relevant industry best practices.

Each year the Authority publishes the Draft QAP and conducts hearings to allow for public review and comment. After consideration of all comments received during the public review period, the Authority’s staff submits a recommended Draft QAP to the Authority’s Board of Directors for its consideration and approval. After the QAP is approved by the Authority’s Board of Director’s, the QAP is forwarded to the Governor for approval.

A-2. Submission and Eligibility

Unless otherwise specified herein, reference to a “LIHTC Application” shall mean 4% and 9% LIHTC applications. Each LIHTC application shall be evaluated pursuant to the QAP in effect and the Code. The completed application package must satisfy all Application Criteria established in the QAP and the policy objectives and administrative requirements of the Authority. Each applicant shall submit to the Authority’s Tax Credit unit a complete LIHTC

application package, which includes a completed CHFA/DECD Consolidated Application, all required attachments, and an application fee.

A complete LIHTC application must include and/or address:

- (1) A credible financing plan, which at a minimum must include the following:
 - (a) The total projected development cost, including any land acquisition cost.
 - (b) Clear identification of each financing source, including the terms of any proposed financing and the financing source(s) from which the applicant expects to receive funding.
 - (c) A copy of a commitment letter(s) acceptable to the Authority. A commitment letter must be provided from each proposed financing source.
- (2) Development costs for construction, soft costs, developer fees, land, customary capitalized reserves, and equity syndication must be reasonable, as determined in the sole discretion of the Authority. In making this determination the Authority shall utilize typical industry data and standards as may be appropriate for each development, given size, complexity, difficulty and location.
- (3) The applicant must be part of a "qualified development team" with previous experience in developing multifamily housing. A Qualified Development Team consists of the following team members:
 - (a) Developer/Owner: Three years relevant experience or three successful developments;
 - (b) Architect: Five years relevant experience;
 - (c) General Contractor: Five years relevant experience;
 - (d) Management Agent: One year relevant experience; and
 - (e) Consultant (optional qualified development team member): three years relevant experience or three successful developments.

Applications for developments containing 15 units or less may be exempt from requirements (a), (b), (c), (d) and/or (e).

- (4) Without the specific approval of the Authority's Board of Directors, LIHTC applications may not be filed by parties, who have as development team members companies or principals, with non-performing loans with DECD or the Authority, by parties who have failed to comply with the terms of an Extended Low Income Housing Commitment

("ELIHC") for a development they have previously sponsored or developed, or by parties who have been found to have misused such funds.

- (5) Each applicant and its contractors, subcontractors, and management agents shall agree to comply with:
 - (a) Federal and State executive orders, statutes, regulations, and other requirements of law relating to affirmative action and equal employment opportunity, including (without limitation by reason of enumeration) the requirements that Section 4a-60 of the Connecticut General Statutes imposes on those who enter into contracts to which the State is a party; and
 - (b) the Authority's guidelines, goals and requirements relating to equal employment opportunity, affirmative fair marketing, and other affirmative action programs.
- (6) The sponsors and applicants of the development must evidence commitment to undertake strong affirmative measures to ensure that the activity funded promotes regional economic, social and racial integration and the integration of persons with disabilities.

The determination of whether the applicant has satisfied all eligibility criteria and the policy objectives and administrative requirements of the Authority shall be made by the Authority's President-Executive Director based on the information identified above, or on other information of a similar nature provided by the applicant and acceptable to the President-Executive Director. The Authority's President-Executive Director may require or accept additional or alternative evidence that an application satisfies all eligible criteria when it is in the public interest of the Authority, the LIHTC Program, and the housing plans or policies of the State.

A-3. Processing

- (1) Upon receipt of an 9% LIHTC application submitted on or before the applicable deadline, staff will review the checklist for items submitted and perform an initial review of the 9% LIHTC application to determine if it satisfies the Application Criteria set forth in the QAP and the Authority's policy and administrative requirements. Within 15 days after the 9% LIHTC application deadline, an applicant with a deficient application will be sent a deficiency notice identifying any missing or deficient Application Criteria items and such applicant will have 14 days from the date of such deficiency notice to submit all documentation necessary to remedy any deficiencies. Failure to submit such documentation within such 14-day period shall render the application incomplete, and the application will be rejected for the current round.

Any 9% LIHTC applications received by the Authority after the application deadline shall be rejected and will be ineligible for 9% LIHTCs in such funding round.

- (2) Upon receipt of a 4% LIHTC application submitted on or before the applicable deadline, staff will review the checklist for items submitted and perform an initial review of the 4% LIHTC application to determine if it satisfies the Application Criteria set forth in the QAP and the Authority's policy and administrative requirements. The Authority will send a deficiency notice to any applicant with a deficient application. A deficiency notice will be sent within 30 days of receipt identifying any missing or deficient Application Criteria items. The applicant must submit all documentation necessary to remedy any deficiencies within 30 days. Failure to submit such documentation to the Authority shall render the application incomplete.

A-4. Site Evaluation

Authority's staff shall conduct a site evaluation to determine if the proposed development site is acceptable and satisfies the criteria of the QAP and the policy objectives and administrative requirements of the Authority.

A-5. Project Selection Criteria and Ranking Procedures

- (1) The Authority shall allocate 9% LIHTCs based upon the selection criteria and application ranking set forth in the QAP through the following process:
 - (a) Application Criteria: All applications for LIHTCs shall satisfy the Application Criteria established in the QAP in order to be eligible. Applications failing to meet all Application Criteria established in the QAP shall be rejected.
 - (b) Application Classification and Scoring:
 - (i) Applications for the 9% LIHTC are grouped in an Application Classification for evaluation. The classifications are used for allocation within the competitive round only. The Authority's Board of Directors may provide consideration for any additional classification pursuant to the QAP and allocations for this purpose may be given at other times other than during a competitive round.
 - (ii) Applications will be evaluated, rated and ranked against the other applications in their respective classifications based on the scoring criteria established in the applicable QAP.
 - (iii) In accordance with the Code, not more than 90% of the State Housing credit ceiling for any calendar year shall be allocated to projects other than those involving nonprofits, as defined in the Section 42(h)(5)(b) of the Code:

Credits are allocated in accordance with the QAP to the highest scoring non-profit applicants to satisfy the non-profit requirement pursuant to Section 42(h)(5) of the Code. Applicants applying as non-profit sponsored developments will be evaluated, rated and ranked against other non-profit applicants. The non-profit designation is available to those applicants meeting the following criteria as defined in Section 42(h)(5)(c) of the Code:

The non-profit organization must be a general partner in the partnership or a managing member of the limited liability company that owns the development and participate materially in the development and operation of the development throughout the compliance period. A joint venture between non-profit and for-profit sponsors will be treated as a non-profit organization if such organization is not affiliated with or controlled by a for-profit as defined in Section 42 (h)(5)(c) of the Code:

- (v) The results of the final evaluation and ranking shall be determined by the Authority.

(2) Each LIHTC will be reviewed for financial feasibility, including but not limited to the following:

- (a) Reserves: For Developments proposing to carry amortizing debt, operating income must cover expenses, including debt service, during the compliance period and must not be funded by pre-funded reserves. Generally LIHTC proceeds cannot be used to establish operating reserves anticipated to be drawn down on a regular and sustained basis to meet expenses integral to the operation of the proposed real estate development. As such, these reserves are providing protection due to unforeseen circumstances in which rent, rent subsidy programs or other sources cannot pay for expenses and debt service. Reasonable reserves to mitigate real estate risk or to fund possible short-term deficits beyond year 15 maybe acceptable at the discretion of the Authority.

Waivers to this requirement may be considered by the Board of Directors upon request, for developments that meet an extraordinary public benefit through deep income targeting (less than 25% AMI). For the purposes of waiver consideration, an extraordinary public benefit would be for developments committing to deep income targeted for a percentage of total units greater than or equal to 40%.

Waiver requests must provide a detailed demonstration by the Applicant of good faith efforts to secure rental subsidies from all available sources.

A committed source to cover operating reserves from an un-affiliated 3rd party which fully offsets the development budget expense for operating reserve shall not require a waiver.

- (b) The amount of 9% LIHTCs reserved and allocated for any one development may be no greater than 20 percent of the population component of the total State housing credit ceiling, as described in Section 42(h)(3)(C)(ii) of the Code.
- (c) The amount of 9% LIHTCs reserved and allocated for any one development may be no greater than the product of \$25,000 and the number of the qualified units in the development.
- (d) The amount of 9% LIHTCs reserved and allocated for any one development may not exceed the amount estimated by the Authority necessary to fund 50 percent of total development costs. The amount of 9% LIHTCs allocated to developments located in qualified census tracts or difficult development areas, as defined in Section 42(d)(5)(C) of the Code, shall be no greater than the amount estimated by the Authority as necessary to fund 65 percent of total development costs as recognized by the Authority.
- (e) When calculating the amount of LIHTCs necessary to achieve feasibility for transactions proposing to utilize third-part financing, the terms of the proposed financing shall be reviewed for reasonable conventional financing terms acceptable to the Authority.

Applicants may request that the Authority's Board of Director's waive these limitations in cases where extraordinary public benefit is to be realized from the development and the limitation presents an undue hardship. Such public benefit, hardship must be documented in detail by the applicant as a part of its request for such a waiver.

(3) Funding Rounds

- (a) The LIHTC allocation process shall be conducted on the basis of open application and annual funding rounds. Credits will allocated to those LIHTC applications approved by the Authority's Board of Directors.
 - (i) At least annually, the Authority's President-Executive Director shall establish, and the Authority's Board of Directors shall approve a schedule for LIHTC funding rounds.
 - (ii) LIHTC applications will be accepted subject to published deadlines, and rated pursuant to the QAP within the funding round in which the applications are submitted.
- (b) Applicants will compete for 9% LIHTCs in the funding round in which their application is submitted, except as noted in A-5 (3)(a).

- (c) Any 9% applicant whose application is unsuccessful in the current funding round shall be entitled to one, and only one, additional resubmission in a subsequent funding round, provided that the application does not contain, in the sole discretion of the Authority's staff, any material change. The completed resubmitted application must satisfy all Application Criteria established in the current QAP and the policy objectives and administrative requirements of the Authority. Each applicant shall submit a second application fee.
- (d) 4% LIHTC funding allocation process shall be conducted on the basis of an open application process subject to policy objectives and administrative requirements of the Authority.
- (e) 9% LIHTC allocations in any calendar year will be limited to the state housing credit ceiling for the calendar year, as determined in accordance with Section 42(h) (3) (c) of the Code; except that with the approval of the Authority's Board of Directors, the Authority may commit to reserve a portion of the subsequent year's estimated population component of the total housing credit ceiling, as described in Section 42(h) (3) (C) (ii) of the Code.

A-6. Issuing the Tax Credit Reservation

- (1) Approved 9% LIHTC applications will receive a 9% LIHTC Reservation, which must be executed by the applicant and returned to the Authority within the time period stated therein, along with a portion of the Tax Credit Servicing Fee. A Tax Credit Reservation is not an allocation within the meaning of the Code.
- (2) The 9% Reservation may be subject to other milestones or conditions set forth in the Tax Credit Reservation. Failure to meet such milestones or conditions may result in the Authority's cancellation of the Tax Credit Reservation.
- (3) The Tax Credit Servicing Fee:
 - (a) The Authority's Tax Credit Staff shall annually establish a Schedule of Fees, and applicants must be in compliance and agree to remain in compliance with this Schedule.
 - (b) The amount of the Tax Credit Servicing fee is based on a percentage of the annual tax credit dollar amount and will be stated in the Tax Credit Reservation.
 - (c) The Tax Credit Servicing Fee is non-refundable unless the development fails to be placed in service and the owner enters into an agreement with the Authority to return the credits.
 - (d) The Authority reserves the right to impose additional fees at any time for compliance monitoring or other purposes in implementing the requirements of the

Code, including with respect to developments placed in service prior to the adoption of these procedures.

A-7. Appraisal and Market Study

An appraisal and market study are required for all LIHTC transactions. For 9% LIHTC transactions, a professional appraisal and market study is not required until after a 9% LIHTC Reservation has been executed.

- (a) The Authority staff shall select and commission an appraisal and market study from an approved consultant list developed by the Authority. The applicant shall make payment in advance. Failure to do so within three (3) months of the reservation will result in cancellation of the Tax Credit Reservation. The payment is nonrefundable. The Market Analyst will prepare an analysis based on guidelines and standards established by the Authority.
- (b) The Authority, at its discretion, may accept a market analysis or appraisal prepared by an alternative source, provided the sponsor is a not-for-profit organization and the proposed development contains 15 units or less.

A-8. Reassessment

At the conclusion of the Authority's Board of Director's adoption of resolutions confirming the ranking process, an applicant may petition the Authority to reassess its decisions relating to the acceptance, scoring, or ranking of applications for each funding round. The request for reassessment shall be submitted in writing to the President-Executive Director. The reassessment shall be conducted by the Authority's senior staff who were not directly involved in the evaluation of the application. A request for a reassessment must be accompanied by the applicable fee as noted in the General Information. In the event that the request for reassessment is favorably reevaluated the reassessment fee shall be fully refunded. At the discretion of the Board of Director's, reassessments may result in a forward commitment of 9% LIHTCs in accordance with the current QAP and the policy objectives and administrative requirements of the Authority. A successful reassessment will not result in the cancellation of a previously approved reservation.

A-9. Electing Applicable Credit Percentage

Each development's Applicable Credit Percentage will be established by an irrevocable election by the applicant, based on published rates in effect in either (i) the month the development is placed in service or at the election of the applicant, or (ii) the month in which a binding agreement to allocate the credit is entered into between the applicant and the Authority. This election must be made after a 9% LIHTC Reservation has been issued and must be executed by the fifth day of the month following the month in which the binding agreement is executed.

A-10. Issuing Tax Credit Allocations

- (1) Developments placed in service during the year of the Tax Credit Reservation will receive a Form 8609.
- (2) Developments that are not placed in service during the year of the Tax Credit Reservation must be eligible to receive a carryover allocation by December 31 of the calendar year of the Tax Credit Reservation, except in the case of a forward commitment of credits, where projects will be allowed additional time to satisfy the requirement. Failure to meet this deadline will preclude issuance of a Carryover Allocation. A Carryover Allocation is an allocation of LIHTCs under the Code. The President-Executive Director, under special circumstances, retains the right to extend the Authority's deadline.
- (3) Projects receiving a Carryover Allocation have up to two years after the end of the year in which the allocation is made to place the building(s) in service in accordance with the Code. Nonetheless, projects must have secured building permits by the end of the first calendar year after the end of the year in which the allocation is made. Failure to do so will result in a rescinded allocation.
- (4) In order to claim credits, the applicant with a Carryover Allocation will need to receive a Form 8609, which will be issued by the Authority after cost certification requirements have been satisfied.
- (5) Applicants for an allocation of 9% LIHTCs that have previously received a reservation or an allocation (but not a Form 8609) are considered additional allocations. Additional allocations may be granted to projects that have reasonable, unforeseen hard cost overruns at the sole discretion of the Authority.
 - (a) Applications shall be placed in their appropriate class and may receive an additional allocation as provided herein.
 - (b) Applicants must submit the following information, as appropriate and applicable:
 - (i) New application;
 - (ii) Application fee;
 - (iii) Detailed narrative describing unforeseen hard costs, signed by the general contractor and certified by the owner;
 - (iv) New trade payment breakdown signed by the general contractor; and/or
 - (v) Additional costs mandated by municipal or third-party entity, evidenced by written documentation describing the additional requirements and submitted by such municipality or third party.
 - (c) Applicants for additional allocations that have previously received a Form 8609 are placed in the appropriate classification, will compete, and will be ranked

against other applicants requesting an additional allocation in that funding round, assuming 9% LIHTCs are available after all first-time applicants have received consideration and a credit reservation is approved by Authority's Board of Directors.

A-11. Cost Certification

- (1) Within 90 days of the Authority's notification to the Applicant that its project has achieved substantial completion, the applicant shall submit a cost certification on the provided form. Developments consisting of more than 15 units must have a cost certification accompanied by a certified public accountant's report in accordance with Section 1.42-17(a)(5) of the Treasury Regulations.
 - (a) All cost certifications shall be accompanied by a General Contractor's cost certification, in a form acceptable to the Authority, including a certified public accountant's audit report.
 - (b) The applicant shall submit Final Certificate(s) of Occupancy, affidavits of financing and such other information as the Authority deems appropriate for purposes of making the financial feasibility and viability determinations under the Code. Staff shall review the cost certification and make a preliminary determination that the amount of the LIHTC is necessary and appropriate, in accordance with the Code. For projects receiving a mortgage loan from the Authority, the cost certification prepared in accordance with this provision may also be used to satisfy the cost certification requirements of the Authority's multifamily mortgage loan program.
- (2) Authority Staff prepares a revised equity gap analysis. If the review indicates that the certified financing gap has decreased, the annual credit amount attributable to the financing gap will be reduced accordingly and the excess credits returned to the Authority.
- (3) Staff will visit the site to confirm that the development has been placed in service.
- (4) The Applicant and its management agent are required to attend a compliance monitoring seminar conducted by the Authority or its designee.

A-12. Compliance Monitoring

- (1) All qualified LIHTC developments are subject to review pursuant to the Authority's compliance monitoring procedures established in the QAP and LIHTC Guidelines.
- (2) Failure to comply with the compliance monitoring procedures is an event of default and treated as noncompliance.

- (3) Owners shall execute an ELIHC with the Authority and record it on the land records prior to the end of the first year of the tax credit period. In the case of projects for which the Authority is providing a mortgage loan, the ELIHC shall be executed at the time of the initial loan closing. The ELIHC will include a provision requiring all liens on the property be subordinate to the low-income use restrictions.

A-13. Potential Conflicts

The Authority's staff responsible for underwriting the financing of Authority-financed projects shall not underwrite the LIHTCs for such projects.

A-14. Information

All processing and award decisions made by the Authority shall be subject to the Code and the Regulations promulgated thereunder, the QAP and these Procedures.

A-15. Subsidy Layering

The Authority shall take into account the combination of LIHTCs with other subsidies of Federal, State and governmental programs, including but not limited to, the Section 8 Project Based Vouchers, Preservation and Recapitalization Program, Low-Income Housing Preservation, Resident Homeownership Act, etc., when allocating LIHTCs. The Authority shall allocate LIHTCs in accordance with Federal law or procedures (e.g., HUD Revised Subsidy Layering Guidelines), where appropriate.