

### The Department's Proposed Changes to the Qualified Allocation Plan

PRIORITY PROJECT CATEGORIES				
Existing Section	Existing Language	Proposed Language	Action	RATIONALE
C.1 Application Process	Same language.	<u>Projects with 50% or more of their development and acquisition costs financed with the proceeds of tax-exempt bonds may receive LIHTC on the entire Qualified Tax Credit Basis outside the State's LIHTC authority. Projects with less than 50% of their costs financed with the proceeds of tax-exempt bonds may receive LIHTC on the appropriate portion of the Eligible Tax Credit Basis so financed without requiring an allocation.</u>	New language added.	Language removed from Guide and added to QAP to eliminate redundancy.
C.3 Fees: Tax-exempt Bond Financed Projects	Projects that have 50% or more of the development and acquisition costs financed with the proceeds of tax-exempt bonds may receive LIHTC on their entire qualified LIHTC basis outside the State's annual allocation of tax credits. Projects with less than 50% of their costs financed with the proceeds of tax-exempt bonds may receive LIHTC on the appropriate portion of their eligible LIHTC basis so financed without requiring an allocation. In either case, an allocation fee of 5% of the estimated LIHTC shall be paid at the time CDA	Old language removed. New language: <u>For tax-exempt bond financed projects, sponsors must pay a nonrefundable allocation fee of 5% of the estimated LIHTC at the time CDA issues the eligibility letter pursuant to §§42(m)(1) and (2) of the Internal Revenue Code (the Code). All tax-exempt bond financed projects are subject to an additional allocation fee equal to the difference between the fee paid at the issuance of the eligibility letter and the actual LIHTC allocated on the final IRS Form(s) 8609.</u>	Old language removed. New language added.	Language removed from Guide and added to QAP to eliminate redundancy.

	issues the eligibility letter pursuant to §§42(m)(1) and (2) of the Code. All tax-exempt bond financed projects are subject to an additional allocation fee equal to the difference between the fee paid at the issuance of the eligibility letter and the actual LIHTC allocated on the final IRS Form(s) 8609.			
C.3 Fees: Extension of Reservation Fee	All sponsors must pay a nonrefundable extension fee of \$1,000 for each project for which an extension of the reservation is requested. The fee must be paid at the time the extension request is submitted.	<del>Extension of Reservation Fee. All sponsors must pay a nonrefundable extension fee of \$1,000 for each project for which an extension of the reservation is requested. The fee must be paid at the time the extension request is submitted.</del>	Language Removed.	Eliminate redundancy. This is the same fee as the fee for extension of the 10% Expenditure Test.
C.4 Extensions of Reservation	<p>“Sponsors unable to meet the requirements to receive an allocation of LIHTC within the time period specified in their reservations may request an extension of the deadline for meeting the reservation requirements. All sponsors must pay a nonrefundable extension of reservation fee as described in C.3 above.</p> <p>Extension of Time to Satisfy Requirements for Carryover Allocation. Sponsors unable to meet the deadline</p>	<p><del>“Sponsors unable to meet the requirements to receive an allocation of LIHTC within the time period specified in their reservations may request an extension of the deadline for meeting the reservation requirements. All sponsors must pay a nonrefundable extension of reservation fee as described in C.3 above.</del></p> <p><del>Extension of Time to Satisfy Requirements for Carryover Allocation. Sponsors unable to meet the deadline for meeting the requirements for a Carryover Allocation (see Section E, Allocations below) may request an extension of the deadline up</del></p>	Language Removed	Eliminate redundancy. This is the same fee as the fee for extension of the 10% Expenditure Test.

	<p>for meeting the requirements for a Carryover Allocation (see Section E, Allocations below) may request an extension of the deadline up to the maximum deadline prescribed by CDA. All sponsors must pay a nonrefundable extension fee as described in C.3 above. All extension requests must be approved by the Director of Multifamily Housing for CDA.”</p>	<p><del>to the maximum deadline prescribed by CDA. All sponsors must pay a nonrefundable extension fee as described in C.3 above. All extension requests must be approved by the Director of Multifamily Housing for CDA.”</del></p>		
D.1 General	<p>Same Language.</p>	<p>Following approval, sponsors will receive either LIHTC reservation letters or allocations, depending on the timing of the funding round. Reservation letters are conditional commitments to allocate LIHTC. Reservations or allocations are for only the amount of LIHTC, in the sole determination of DHCD, necessary for the financial feasibility of projects and their viability as a qualified low-income housing project. Each reservation is 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 are also required to verify project costs as a condition of receiving a Carryover Allocation and again when the project is placed in service. Reservations may be cancelled and projects withdrawn from processing for the reasons set forth in the Guide under Section</p>	<p>New language added to General section that came from section 6.1 of the Revised Program Guide.</p>	<p>Language removed from Guide and added to QAP to eliminate redundancy.</p>

		6.1 of the Revised Program Guide.		
D.5 Extension of Reservation	Sponsors unable to meet the requirements to receive an allocation of LIHTC within the period specified in their reservations may request an extension of the deadline for meeting the reservation requirements. All sponsors must pay a nonrefundable extension of reservation fee as described in C.3 above.	<del>Sponsors unable to meet the requirements to receive an allocation of LIHTC within the period specified in their reservations may request an extension of the deadline for meeting the reservation requirements. All sponsors must pay a nonrefundable extension of reservation fee as described in C.3 above.</del>	Language has been removed.	Eliminate redundancy. This is the same fee as the fee for extension of the 10% Expenditure Test.
D.6 Tax Credit Rates: Competitively Allocated Tax Credits	For projects receiving competitively allocated LIHTC, the sponsor may execute and file a Binding Agreement and Election Statement in accordance with §42 of the Code. The Binding Agreement and Election Statement must be notarized and filed with CDA no later than the 25th day of the month in which the election is taken. A project sponsor may elect (or “lock-in”) the applicable percentage in the month in which the reservation letter is executed by the project sponsor and CDA, up to the month in which the Carryover Allocation is issued by CDA to the project owner.	<del>For projects receiving competitively allocated LIHTC, the sponsor may execute and file a Binding Agreement and Election Statement in accordance with §42 of the Code. The Binding Agreement and Election Statement must be notarized and filed with CDA no later than the 25th day of the month in which the election is taken. A project sponsor may elect (or “lock-in”) the applicable percentage in the month in which the reservation letter is executed by the project sponsor and CDA, up to the month in which the Carryover Allocation is issued by CDA to the project owner.</del>	First paragraph of this section has been removed.	Revised this section to reflect the Binding Agreement is not needed for new construction or substantially rehabilitated competitively allocated projects due to the fixed 9% rate for projects placed in service after January 1, 2015.
D.6 Tax Credit Rates: Competitively Allocated Tax Credits	The Binding Agreement and Election Statement must be submitted if the sponsor wishes to elect (or “lock-in”) the	The Binding Agreement and Election Statement must be submitted if the sponsor wishes to elect (or “lock-in”) the applicable percentage for the <u>4%</u>	New language added	Provided clarification that the Binding Agreement and Election Statement is still needed to lock in the 4%

	<p>applicable percentage for the acquisition of existing buildings. The statement must be notarized and filed with CDA no later than the 25th day of the month in which the election under §42(b)(1)(A)(ii)(I) of the Code for the applicable percentage is taken.</p> <p>In accordance with the Code, if a sponsor does not file a Binding Agreement and Election Statement the applicable percentage will be determined by the month each building in the project is placed in service.</p>	<p>acquisition <u>credit rate for</u> of existing buildings. <u>A sponsor may elect (or lock-in) the applicable percentage anytime from the month in which the reservation letter is fully executed by the project sponsor and CDA, up to the month in which the Carryover Allocation is issued by CDA to the project owner.</u> The statement must be notarized and filed with CDA no later than the 25th day of the month in which the election under §42(b)(1)(A)(ii)(I) of the Code for the applicable percentage is taken.</p> <p>In accordance with the Code, if a sponsor does not file a Binding Agreement and Election Statement <u>to lock-in the applicable 4% credit rate for the acquisition of existing buildings,</u> the applicable percentage will be determined by the month each building in the project is placed in service.</p>		<p>acquisition credit rate for existing buildings.</p>
<p>D.6 Tax Credit Rates: Non-Competitive Tax-Exempt Bond Financed Projects</p>	<p>For CDA tax-exempt bonds, an Election Statement may be filed with CDA within the month the bonds are sold or in the first 5 days of the following month. The applicable percentage elected is limited to the month in which the bonds are sold.</p>	<p><del>For CDA tax-exempt bonds,</del> <u>The “LOW-INCOME HOUSING CREDIT - ELECTION UNDER SECTION 42(b) (2) (A) (ii) (II) TO USE AS THE APPLICABLE PERCENTAGE THE APPROPRIATE PERCENTAGE FOR THE MONTH IN WHICH TAX-EXEMPT OBLIGATIONS ARE ISSUED” (the Election Statement) an Election Statement</u> is used to lock-in the credit rate for non-competitive tax-exempt bond financed projects. The Election Statement may be filed with CDA within the month the bonds are sold or in the first 5 days of the following month. The applicable</p>		<p>Provided full name for the Election Statement used to lock in the credit rate for non-competitive tax-exempt bond financed projects and clarified language.</p>

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		percentage elected is limited to the month in which the bonds are sold		
E.1 Allocations: In General	“As set forth below, CDA requires a more stringent timeline for compliance with the 10% Expenditure Test (i.e. 10 months after the date the Carryover Allocation is made) than that in the Code. The actual date for 10% Expenditure Test compliance will be set in the reservation document based on the schedule supplied by the sponsor in the project application. The Project Sponsor will only be allowed to re-set the date for submission of the 10% Expenditure Test one time within 24 hours of the Kick-Off Meeting”	<del>As set forth below, CDA requires a more stringent timeline for compliance with the 10% Expenditure Test (i.e. 10 months after the date the Carryover Allocation is made) than that in the Code.</del> “The actual date for 10% Expenditure Test compliance will be set in the reservation document based on the schedule supplied by the sponsor in the project application. <u>The Project Sponsor will only be allowed to re-set the date for submission of the 10% Expenditure Test one time within 24 hours of the Kick-Off Meeting.</u> ”	Language deleted and language added.	Removed CDA more stringent requirement to meet 10% Test within 10 months of the carryover allocation.
E.1 Allocations: State 30% Basis Boost (See revised section E.3 of the QAP)	As authorized by and to the extent permitted by §42(d)(5)(B)(v) of the Code, CDA may increase the eligible basis of projects by up to 30% (a Basis Boost) if CDA determines that the project or a building in the project needs the Basis Boost to be financially feasible. In making this determination, CDA will consider the following: <ul style="list-style-type: none"> <li>The impact of the additional Basis Boost on a project’s need for RHF</li> </ul>	<u>All family projects located within Communities of Opportunity that request competitive tax credits are qualified for the State 30% Basis boost without prior CDA approval.</u>  <u>For all other projects and as</u> authorized by and to the extent permitted by §42(d)(5)(B)(v) of the Code, CDA may increase the eligible basis of projects by up to 30% (a Basis Boost) if CDA determines that the project or a building in the project needs the Basis Boost to be financially feasible.	Language deleted and language added.	Added automatic State 30% Basis Boost for family projects located within Communities of Opportunity.  Added language to clarify that basis boost is not applicable to projects financed with 4% tax-exempt bonds.  Language removed for clarity purposes and to conform with preferences for projects located in Communities of Opportunity.

	<p>and its financial feasibility;</p> <ul style="list-style-type: none"> <li>• Whether the project will receive points under the competitive scoring criteria by committing to rent at least 10% of its housing units to households with incomes at or below 30% of the area median;</li> <li>• Whether the project meets the priority project category “Family Housing in Communities of Opportunity” as described in Section 3.1 of the Program Guide; or</li> <li>• Whether the project will be owned in whole or in part by a public housing authority or a local government.</li> </ul> <p>CDA may make a determination that a project is eligible for a Basis Boost on its own initiative at any time, based upon review of the project’s sources and uses, or upon request of the sponsor. A sponsor’s request should be submitted at least 30 days in advance of the competitive round deadline and include documentation and certification that a Basis Boost is needed for the project to be financially feasible. Limitations on the maximum amount of rental housings funds, RHF and LIHTC continue to apply</p>	<p>CDA may make a determination that a project is eligible for a Basis Boost on its own initiative at any time, based upon review of the project’s sources and uses. Limitations on the maximum amount of rental housings funds, RHF and LIHTC continue to apply to projects receiving a Basis Boost under this section, unless CDA uses its discretion to adjust the amount of RHF and LIHTC to balance the demand for resources as described below in Section E.5.</p> <p>Projects receiving a Basis Boost because of location in a Qualified Census Tract (QCT) or Difficult Development Area (DDA) are not also eligible to receive the State Basis Boost.</p> <p><u>Only projects which receive competitively allocated credits are eligible for the State Basis Boost.</u></p> <p><u>Projects that receive credits outside the State’s annual allocation of tax credits (i.e., tax- exempt bond financed projects) are not eligible for the State Basis Boost.</u></p>		
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	<p>to projects receiving a Basis Boost under this section, unless CDA uses its discretion to adjust the amount of RHF and LIHTC to balance the demand for resources as described below.</p> <p>Projects receiving a Basis Boost because of location in a Qualified Census Tract (QCT) or Difficult Development Area (DDA) are not also eligible to receive the Basis Boost.</p>			
<p>E.1 Allocations: In General: Request for a Carryover Allocation (See Revised QAP section E.6)</p>	<p>Unless ready to be placed in service, a project with a reservation of LIHTC from the current calendar year's LIHTC ceiling must file a request with CDA in order to receive a Carryover Allocation from CDA by December of that year. To qualify for a Carryover Allocation, the sponsor holding a current year reservation must submit a request in the form prescribed by CDA no later than October 1 of that year. The application must be accompanied either by a certification of 10% Expenditure Test compliance or a certification of expenditures to date. The certification of expenditures to date must be submitted if the 10% Expenditure Test will not be met by December 1 and LIHTC are reserved from</p>	<p>Unless ready to be placed in service, a project with a reservation of LIHTC from the current calendar year's LIHTC ceiling will <del>must file a request with CDA in order to receive a Carryover Allocation from CDA by December of that year.</del> To qualify for a Carryover Allocation, the sponsor holding a current year reservation <u>must provide an updated project budget on CDA Form 202 prescribed upon request by CDA submit a request in the form prescribed by CDA no later than October 1 of that year.</u> The application must be accompanied either by a certification of 10% Expenditure Test compliance or a certification of expenditures to date. The certification of expenditures to date must be submitted if the 10% Expenditure Test will not be met by December 1 and LIHTC are reserved from the current calendar year's credit ceiling. The request also must be accompanied by evidence that</p>	<p>Language added and language removed from this section.</p>	<p>Clarified and simplified procedure for issuing a Carryover Allocation.</p>

	<p>the current calendar year’s credit ceiling. The request also must be accompanied by evidence that all required fees as detailed in Section C.3 have been remitted as required.</p>	<p><del>all required fees as detailed in Section C.3 have been remitted as required.</del></p>		
<p>E.1 In General: Placed in Service Evaluation (See Revised section E. 8)</p>	<p>CDA will issue IRS Form(s) 8609, certifying the allocation of LIHTC to a project, at the time the buildings are placed in service. The form is needed for the sponsor to claim LIHTC on the project. Before the IRS Form(s) 8609 is issued and no later than three months after the close of the first year in which LIHTC are taken, CDA must receive from the sponsor the documentation specified below, as well as any additional documentation requested. As required by the Code, CDA will undertake a final evaluation of each project to determine the amount of LIHTC needed to make the project financially feasible. While CDA will use its best efforts to complete this review as soon as possible, sponsors are advised that the review process may take as long as 90 days to complete. Only the amount of LIHTC needed for financial feasibility and viability of the project as a qualified low income housing project</p>	<p><u>To keep Carryover Allocations and receive IRS Form(s) 8609 (as discussed below), projects must be placed in service by the end of the second year following the date of the Carryover Allocation. Once projects are placed in service, the sponsor must request IRS Form(s) 8609 from CDA no later than ninety (90) calendar days after the first year the credit is claimed for the first building receiving an allocation. If sponsors elect to defer the first year of the credit period until the succeeding tax year, CDA must be notified in writing no later than ninety (90) calendar days after the original required placed in service deadline for the project.</u></p> <p>CDA will issue IRS Form(s) 8609, certifying the allocation of LIHTC to a project, at the time the buildings are placed in service. The form is needed for the sponsor to claim LIHTC on the project. Before the IRS Form(s) 8609 is issued and no later than three months after the close of the first year in which LIHTC are taken, CDA must receive from the sponsor the documentation specified below, as well as any additional documentation requested. As</p>	<p>Language added from Program Guide.</p>	<p>Language removed from Guide and added to QAP to reduce redundancy. Additional language provided for clarification.</p>

	<p>throughout the 15 year compliance period will be allowed. Any additional LIHTC previously allocated to the project will be returned to CDA.</p>	<p>required by the Code, CDA will undertake a final evaluation of each project to determine the amount of LIHTC needed to make the project financially feasible. While CDA will use its best efforts to complete this review as soon as possible, sponsors are advised that the review process may take as long as 90 days to complete. <u>In addition, the IRS Form(s) 8609 will not be issued until the Final Determination of Loan Proceeds has been fully executed for those projects which have other CDA financing.</u> Only the amount of LIHTC needed for financial feasibility and viability of the project as a qualified low income housing project throughout the 15 year compliance period will be allowed. Any additional LIHTC previously allocated to the project will be returned to CDA.</p> <p><u>At the time buildings are placed in service, all required post-completion documentation is received and reviewed, and upon receipt of the request described above, CDA will prepare and issue the IRS Form(s) 8609 (Low-Income Housing Credit Allocation Certification) certifying the final amount of LIHTC allocated to each building in a project. A Form 8609 is needed to claim LIHTC for any building in a project. Before Form(s) 8609 is issued, CDA must receive and approve the following documents:</u></p>		
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<p>E.1 Allocations: In General: Extended Low-Income Housing Covenant (LIHTC Covenant) (See revised QAP section E.8).</p>	<p>Each sponsor must submit a copy of the LIHTC Covenant in the form required by CDA, with evidence that it has been recorded. CDA may require as condition of release of the IRS Form(s) 8609 that projects with more than a single building submit a recorded amendment to the LIHTC Covenant specifying the actual applicable fraction for each building in the project.</p> <p>If the required documentation described above is not submitted by the sponsor within the required timeframe, CDA may cancel all or a portion of LIHTC allocated to the project as provided by the Code and the following section of this Allocation Plan. If the project owner elects to defer the first year of the credit period, CDA must be notified by the sponsor in writing no later than the initial placed in service deadline provided by the Carryover Allocation.</p> <p>Final IRS Form(s) 8609 issuance is subject to the resolution of all outstanding CDA issues and fees including fees owed the Division of Credit Assurance, compliance fees and unresolved compliance issues. It</p>	<p>Each sponsor must submit a copy of the LIHTC Covenant in the form required by CDA, with evidence that it has been recorded. CDA may require as condition of release of the IRS Form(s) 8609 that projects with more than a single building submit a recorded amendment to the LIHTC Covenant specifying the actual applicable fraction for each building in the project.</p> <ul style="list-style-type: none"> <li>• <u>Evidence of full payment of all LIHTC Fees.</u></li> <li>• <u>Evidence of registration of the project on <a href="http://www.mdhousingsearch.org">www.mdhousingsearch.org</a>.</u></li> <li>• <u>An executed final determination of loan proceeds.</u></li> <li>• <u>Satisfaction of all unresolved compliance issues.</u></li> </ul> <p><u>The above list is subject to change and sponsors must obtain from CDA the most current list of required documents pertaining to each individual project for proper and timely processing of IRS Form(s) 8609.</u></p> <p>If the required documentation described above is not submitted by the sponsor within the required timeframe, CDA may cancel all or a portion of LIHTC allocated to the project as provided by the Code and the following section of this Allocation Plan. If the project owner elects to defer the first year of</p>	<p>Language removed and language added.</p>	<p>To clarify and simplify items required to be submitted for Form 8609 issuance.</p>
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	<p>is recommended that the sponsor obtain from CDA an up to date list of the required documents pertaining to the individual project for proper and timely processing of the IRS Form(s) 8609.</p>	<p>the credit period, CDA must be notified by the sponsor in writing no later than the initial placed in service deadline provided by the Carryover Allocation.</p> <p><del>Final IRS Form(s) 8609 issuance is subject to the resolution of all outstanding CDA issues and fees including fees owed the Division of Credit Assurance, compliance fees and unresolved compliance issues. It is recommended that the sponsor obtain from CDA an up to date list of the required documents pertaining to the individual project for proper and timely processing of the IRS Form(s) 8609.</del></p> <p><u>Prior to issuance of IRS Form(s) 8609, CDA will undertake a final evaluation of each project to determine the amount of LIHTC needed to make the project financially feasible. Only the amount needed for financial feasibility and viability as a qualified low-income housing project throughout the fifteen (15) year compliance period will be allocated. Any excess LIHTC previously allocated to the project will be recaptured.</u></p>		
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