

**Maryland
Department of
Housing and
Community
Development**

MULTIFAMILY RENTAL FINANCING PROGRAM GUIDE

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Attachment to the 2007 Qualified Allocation Plan



Maryland Department of Housing
and Community Development

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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 its partners to revitalize communities, and expand homeownership and affordable housing opportunities.

Multifamily Housing Programs

Working with partners, Multifamily Housing Development Programs expands quality, affordable rental and transitional housing opportunities for Marylanders by financing the development, rehabilitation, and preservation of quality rental communities and transitional 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. Multifamily Housing Programs (Multifamily Housing) which includes Housing Development Programs (HDP) and the Maryland Low Income Housing Tax Credit Program is part of the Community Development Administration (CDA) and 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.

The Department promotes the production and preservation of affordable housing by providing financial assistance that is complementary to funds available in the private sector. The Department administers a variety of homeownership, rental, and neighborhood revitalization programs. A major component of its effort is the financing of affordable rental housing. The Department has structured its threshold and evaluation criteria for rental housing to target projects that meet the objectives set forth in the *Vision for Affordable Housing in Maryland* (see 1.2 below).

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. 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: Waivers
- 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);
- Competitively Awarded Rental Housing Funds (RHF) including the Rental Housing Production (RHPP) and Elderly Rental Housing Programs (ERHP), and Multifamily HOME Program; and
- Federal Low-income Housing Tax Credit Program (Tax Credits).

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 a competitive RHF award. Resources for the Tax Credits and competitive RHF awards are allocated to projects during scheduled rounds of competition.

Applicants requesting only 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. This requirement applies as well to projects financed through locally-issued tax exempt bonds and requesting non-competitive Tax Credits. Additional information on Bond Financing is provided in highlighted boxes throughout the Guide.

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

Multifamily Housing administers programs not covered by this Guide including:

- Maryland Housing Rehabilitation Program (MHRP);
- Nonprofit Rehabilitation Program (NRP);
- Office and Commercial Space Conversion (OCSC) Program;
- Partnership Rental Housing Program; and
- Emergency Shelter and Transitional Housing Grant (THG) Program.

With the exception of OCSC which is inactive and closed to new applications, separate guidance on these programs is available through the Department's website or by contacting Multifamily Housing at 410.514.7446 or rentalhousing@mdhousing.org.

1.2. Vision for Affordable Housing in Maryland

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, energy efficiency, 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 and relief for severely rent-burdened households. 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 new construction 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 various scoring categories for projects in designated revitalization areas, Qualified Census Tracts/Difficult Development Areas or neighborhoods with community revitalization plans involving new construction or rehabilitation of existing structures.

2.0 Overview of the Funding Process

A flowchart outlining the funding process can be found under Exhibit B to the Guide. 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 applicants, and that have complete applications submitted no later than the application deadline will be rated and ranked in any competitive round.

Applicants 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 Multifamily Housing at 410.514.7446 to schedule a meeting.

Applications must be submitted using 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 RHF, Tax Credits, and Bond Financing, are available through the Department's website at:

<http://www.mdhousing.org/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 evaluation criteria. Incomplete applications or projects that do not meet the threshold requirements will not be rated against the project evaluation 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 Evaluation Review

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

Department staff will then present their evaluations to an internal Department committee for further review and evaluation. Recommendations for reservations of loan funds or Tax Credits will be based on the rating and ranking of the projects by the internal committee 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. Under certain circumstances reservations may be contingent on the approval of the State of Maryland Board of Public Works (BPW).

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 change resulting in a score reduction of the lesser of 3% or a reduction sufficient to drop the score below the cut-off score for the round in which the project was approved;
 - 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 Post Reservation Scheduling

The Department must approve any significant deviations from the project schedule set forth in the application. In these cases, sponsors must submit updated schedules, including an explanation for the change, 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 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. Please refer to the Qualified Allocation Plan (QAP) and Section 2.5 below for more information on processing of Tax Credit reservations and allocations.

2.4.3 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 also should be present at this meeting. Other Department staff that may need to attend the kick-off meeting include the Director or Deputy Director for Multifamily Housing, 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.

2.4.4 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. An initial phase, preliminary review, may be added before viability review at the discretion of the Department for particularly complicated new construction or rehabilitation projects. In its discretion, the Department may permit the submission of a combined viability and commitment package for projects requesting RHF.

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.

2.4.4.1 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.

2.4.4.2 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 viability review.

2.4.4.3 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 Department's goal is to complete any last minute adjustments to the draft commitment letter within 15 days of issuing the commitment report and to issue the commitment letter not later than 70 days after the sponsor submits the commitment review package. Once all adjustments are made, the Department's attorney will finalize the commitment letter and begin preparing the loan documents.

Bond Program: Review Process

In its discretion for Bond Financing, the Department may combine any of the review stages described in section 2.4.4 above. A conditional recommendation by the Department's Housing Finance Review Committee (HFRC) also is required prior to issuance of an inducement resolution.

2.4.5 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 usually is scheduled within two weeks of receipt, in acceptable form, of all closing documents. **However, the initial draw must be submitted to Multifamily Housing 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.

2.4.6 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 Multifamily Housing construction staff responsible for the project 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 Multifamily Housing. 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.

2.4.7 Developer Fee Disbursement

For transactions involving RHF, twenty-five percent (25%) of the total allowable developer's fee will be deemed "overhead" and disbursed as follows:

- Twenty-five percent (25%) of the "overhead" amount may be disbursed at initial closing with no other disbursements until the project reaches twenty-five percent completion as measured by the expenditure of gross construction dollars approved.
- After the twenty-five percent completion, the "overhead" should be disbursed in proportion to the work in place. When the project is one hundred percent complete, one hundred percent of the "overhead" should be disbursed.

The remainder of the total developer's fee available from capital sources, equal to seventy-five percent of the total, will be disbursed after the project is 100 percent complete, and cost certified unless the Department approves an alternative disbursement schedule.

The developer's fee, including the "overhead", may only be paid from equity, cash flow or other non-CDA sources of funds and may only be paid if the loan is not in default and the developer continues to perform in a satisfactory manner.

Deferred developer fees will be disbursed after all must pay debt and cash flow payments are met from net operating income. Payment of an investor service's fee will be restricted to \$2,500 annually prior to payment of any Department's loan payment.

2.4.8 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 Multifamily Housing staff within 90 days of receipt provided all construction close 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 remaining 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 Limitations on Eligible Basis

CDA will exercise its discretion under §42(m)(2)(A) and (B) of the Internal Revenue Code to limit eligible basis to an amount it determines to be reasonable and necessary for the long term viability of the project as affordable housing. This is not a limitation on the amount of eligible basis allowable to a project under the Code, and a project whose eligible basis allowable under the Code exceeds the feasibility limit imposed by CDA may still be eligible for Tax Credits. However, the maximum amount of Tax Credits allocated to the project by CDA will be calculated based the eligible basis limit applicable to that project as determined by the cost limitations and other restrictions contained in Section 3.0 of this Guide.

2.5.3 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 either:

- Meet all conditions in the reservation; and
- Incur at least 10% of the reasonably expected basis upon the later of December 1 of the year the Carryover Allocation is made or within five months of the date of the Carryover Allocation; or
- For sponsors receiving a tax credit reservation for the current calendar year, sponsors must submit a certification of expenditures to date and an estimate of the project's total reasonably expected basis by December 1 of the year the Carryover Allocation is executed by the Department.

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. Once a project is placed in service, the sponsor shall request the IRS Form 8609 from the Department no later than 3 months after the first year the credit is claimed for the first building receiving the allocation. If the sponsor elects to defer the first year of the credit period until the succeeding tax year, the Department must be notified in writing no later than 3 months after the original required placed in service deadline for the project.

At the time buildings are placed in service and all required post-completion documentation is received and reviewed and upon receipt of the request described above, 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 approve the following:

- Organizational documents for the owner;
- A recorded extended low-income housing covenant in form and substance determined by the Department;
- Additional documentation concerning placed-in-service dates;
- Cost certification;
- Agreed Upon Procedures Report;
- An executed final determination of mortgage proceeds; and
- HUD 1 settlement sheet, if applicable.

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 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 the Department 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 Multifamily Housing 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 on the project evaluation criteria as described in Section 4 of this Guide. MBP processing is subject to certain fees that are subject to change. For current fee information, please consult Exhibit A of this Guide and, for more current updates, the Department's website at www.mdhousing.org.

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 may 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 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: 20% of all units to be rented to households with incomes at 50% or less of area median income or 40% of all units to be rented to households with incomes at 60% or less of area median income. The Department reserves the right to impose an additional State income targeting requirement for bond projects. The Department also continues to modify the Bond Financing Program to meet customer needs. Specific enhancements to the Bond Financing Program include:

Multifamily Development 4 Less (MD4L)

Multifamily Development 4 Less (MD4L) is a new tax-exempt bond financing product which offers a range of low interest rates to ensure a range of financing options to address the need for quality affordable rental housing. MD4L allows DHCD to tailor its financial assistance with maximum flexibility while simplifying the borrowing process. It is an additional financing option and does not replace the current CDA multifamily lending products which include financings directly tied to the issuance of tax-exempt bonds, and the option for a 90-day interest rate lock. MD4L offers many new features, including: the lowest available interest rates; long permanent loan rate lock; and no CDA fees, negative arbitrage or interest rate overrides. MD4L is designed to simulate the process associated with closing a private multifamily bank loan because CDA will be able to close and fund the loans based on borrower needs and not the CDA bond schedule. The bonds will be issued outside of the regular financing schedule, with funds being available within 30 to 45 days of official borrower notification.

Bond Program: Processing Applications (Continued)

90-Day Rate Lock

Sponsors will be given the opportunity to exercise a 90-day Rate Lock for loans up to \$15 million. Eligible projects include loans financed with taxable and tax-exempt bonds with a maximum term of 40 years. Projects with loans in excess of \$15 million are ineligible for a Rate Lock. Only multifamily bond loans financed under the Department's 1996 parity resolution are eligible for a Rate Lock. The Department will post to its web site the interest rates for which a Rate Lock is offered. The Department will review the Rate Lock at least weekly and more often at its discretion. Generally, changes to the available interest rate will be posted on Thursday but may be changed more often as determined by the Department. The Department will close and fund loans within the rate lock period provided all due diligence materials are submitted and approved. Additional information, instructions and Rate Lock forms are available at our web site listed below.

<http://www.mdhousing.org/mbp/ratelock.asp>

Expedited Processing

Eligible projects requesting Bond Financing with or without other noncompetitive funds may be processed under an expedited system. To be eligible, applications must request tax exempt financing without competitive funding, meet threshold review or receive a waiver in accordance with Section 5.0 of this Guide, 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, for new construction, 45 points for Development Quality. For rehabilitation projects, the Department may permit expedited processing for projects with Development Quality scores of less than 45 points in its sole discretion. If these requirements are met and subject to conditional HFRC recommendation, the project can expect to receive its inducement approval 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).

The Department is committed to the continued enhancement of the Bond Financing Program. Updates to the Program will be highlighted periodically at the following website:

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

3.0 Project Threshold Criteria

To be evaluated against the project evaluation 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 programs' 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.

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. 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 or non-managing members);
- Architect;
- General Contractor;
- Management Agent; or
- Consultant.

3.2.2 Financial Capacity

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 any of the following which are unacceptable to the Department:

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

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. Failure to disclose required information on the application may subject the applicant to penalties under Maryland law.

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 five 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;
- Received a Carryover Allocation or other Allocation but could not place their projects in service within the time required by the tax credit program; or
- Demonstrate a history or pattern of non-corrected serious health and safety issues as documented by IRS 8823 forms.

For RHF and Bond Financing, this includes entities that received a reservation or commitment of loan funds but were unable to close the financing. However, this Section does not apply to cases of the voluntary return of a Tax Credit or RHF loan reservation by a development team member based on a determination that the project as originally proposed is no longer feasible. In such cases, the Department also must be willing to accept the return, and there is no loss to the Department of State resources.

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 either a final resolution or letter of support from the highest elected official of the local jurisdiction and evidence of a local contribution for the project. To receive funding, the project sponsor must submit a resolution supporting the project in a form acceptable to the Department from the governing body of the local jurisdiction and highest elected official of the jurisdiction. The resolution must indicate its support of the project in the current round of competition, and the intent to provide a local contribution that satisfies the Department's policy. A letter of support must indicate the highest elected 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. Local contributions should be made from local resources and assets.

If the project is located within a municipality, the resolution or letter of support as well as the local contribution must be made by the municipality. If the municipality, because of limited

resources, is unable to make a local contribution to the project, the county in which the municipality is located may make a contribution to the project “on behalf of” the municipality. In such cases, a letter or agreement between the county and municipality must be submitted regarding the contribution along with evidence of the contribution.

Acceptable forms of contributions include but are not limited to:

- The donation or long term leasing of land or improvements;
- Capital funds for acquisitions, construction, rehabilitation, or development costs;
- Locally installed infrastructure or site improvements which reduce off-site costs attributable to the project;
- Waiver of local fees for permits, tap fees, impact fees and other fees and charges;
- Real estate tax abatement, or payment in lieu of taxes;
- Operating or rent subsidies for the project; and
- Long-term agreements for a political subdivision to provide services at no cost to a project such as trash collection, road or grounds maintenance.

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 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, a letter of support from the highest elected official dated within 90 days of the bond application must be included in the original submission for funding and a local resolution supporting the project must be provided prior to initial closing of the loan or issuance of the §42(m) eligibility letter. In addition, for projects receiving Tax Credits, Multifamily Housing 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 Scattered Sites

Projects located in a revitalization area as described in Section 4.2.1 of this Guide and involving either the rehabilitation of existing scattered site homes or new construction on non-contiguous vacant infill lots whether as a stand alone project or as part of a larger scattered site redevelopment project must include in the application a current revitalization plan for the community. The revitalization plan must be prepared in accord with the requirements of Section 4.2.1 of this Guide. No targeted unit in a scattered site project may be adjacent to a vacant unit that is not part of the project or specifically targeted for redevelopment in the revitalization plan.

3.4.6 Exceptions

The requirements for site control, availability of utilities, environmental and zoning compliance, and scattered sites 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 Department's Neighborhood BusinessWorks Program;

- Federal and State enterprise zones;
- 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 applicant must obtain from the Maryland Department of Planning and include in the application a copy of the map illustrating the priority areas certified by the local government. 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 maps from the Department of Planning.

3.5.2 Market Study

Applications must include a market study prepared by an independent professional who has experience with multifamily rental housing and/or tax credit housing in Maryland and whose firm appears either on the list of acceptable market analysts maintained by the Department or on the list of firms who have undergone peer review by the National Council of Affordable Housing Market Analysts ([NCAHMA](http://www.ncahma.org)). 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 from CDA's approved list of appraisers and market analysts is on the Department's website at:

<http://www.mdhousing.org/Website/programs/lihtc/lihtc.aspx>.

3.6 Occupancy and Rent Restrictions

3.6.1 Minimum Occupancy Restrictions

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

3.6.2 Preference for Individuals with Physical Disabilities

All projects funded pursuant to this Guide must ensure that individuals with physical disabilities have priority for occupancy of any units qualified under the *Uniform Federal Accessibility Standards (UFAS)*. However, in ensuring that individuals with disabilities receive priority for UFAS qualified housing, owners are not required to disregard occupancy restrictions imposed by any applicable financing program, State or federal law or lease.

3.6.3 Relocation and Displacement

For existing occupied buildings, the applicant must submit a draft of the relocation plan if the project will 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 and the rights of affected tenants may be found on the Internet at:

<http://www.hud.gov/offices/cpd/library/relocation/publications/>

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. Letters of intent from the intended first mortgagee also must include the lender’s acknowledgement of the Department’s financing regulations and policies and the lender’s agreement to cooperate with the applicable RHF and Tax Credit processes as appropriate.

In addition to the requirements outlined in the paragraph above, if financing will be subsidized or insured, 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 an FHA-insured first mortgage and an RHF loan, the lender must acknowledge in its letter of intent that it will accept the use of the FHA/CDA Intercreditor Agreement without modification. Lenders for FHA-insured first mortgages must also detail the 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, pay-in schedule and willingness to comply with the Department’s regulations.

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 RHF loan per project should not exceed \$1.5 million. For projects demonstrating high public purpose, RHF

funding requests in excess of \$1.5 million up to \$2.0 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 or other subordinate lenders. All cash flow loans must be repaid at the end of the loan term.

Bond Program: Terms and Conditions

Loans provided under the MBP must be amortized at an interest rate set by the Department. The term of the loan may be up to 40 years for either taxable or 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 that reflects market conditions (see the MBP Box following Section 2.5 above).

3.7.3 Prepayment Requirements

In addition, loans derived from the Department's RHF and MBP are, by regulation, subject to restrictions on prepayment, tenant notice and relocation requirements of COMAR 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

A competitive 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. Allocations of Tax Credits pursuant to otherwise qualified §42(h)(4)(B) tax exempt transactions are limited only by the amount required, at the sole determination of CDA, necessary for the long term feasibility of the project. 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.mdhousing.org/Website/programs/lihtc/lihtc.aspx>. Financing from the Transitional Housing Grant Program under IRS Section 42 is considered a grant and may not be included in eligible basis if competitively allocated Tax Credits are used. *Please contact Multifamily Housing before submitting an application for Tax Credits involving this program.*

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.

Maximum Construction Costs per Gross Square Foot		
Type of Building	New Construction	Rehabilitation
Townhouses	\$100	\$104
Cottage, Single Family and Semi-detached Dwellings	100	104
Garden Apartments	85	65
Units Stacked – no elevators	92	75
Elevator Buildings (<=4 floors with frame construction)	92	75
Elevator Buildings (>=5 floors with concrete construction)	100	79

The Department at its discretion, at least 30 days in advance of funding round deadlines, may review these cost limits and revise them in accord with the Construction Cost Index published by McGraw-Hill's Construction Engineering News Record. This index may be accessed at:

<http://enr.construction.com/features/coneco/subs/recentindexes.asp>

3.7.6 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.

Bond Program: Rehabilitation

For projects financed by MBP, the Department will consider construction costs less than \$15,000 per unit based on scope of work, reasonableness and affordable housing production.

3.7.7 Internet Access

The Department requires the installation of hard wired or wireless data transmission technology for high-speed Internet access for each unit or community space for all newly constructed and rehabilitated projects. Internet service provided in each unit may be the responsibility of the tenant. If service is to be provided in community spaces, the services provided must include any necessary computer hardware and software as well as connections and allow reasonable accommodation during evenings and weekends for tenant work and academic schedules. Project owners are encouraged take advantage of their economies of scale to subsidize internet service to the tenant's unit. For more information on preference points, please refer to Section 4.2.6, *Tenant Services*.

3.7.8 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 voluntarily 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/LandPrograms/LeadCoordination/rentalOwners/index.asp>

3.8 Development Budget

3.8.1 Acquisition Price

For all projects, the acquisition price to be included in the CDA-approved development budget may not exceed the following standards:

- For an arms length transaction, the maximum acquisition price may not exceed the lesser of the contract sales price or the "as is" appraised value of the property.
- For transactions involving a change in use, appraisals must 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 "as is"

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 “as is” appraised value of the property.
- Department loan funds may not be used to purchase schools or school sites owned by local governments or religious institutions for conversion to housing. Requests for waivers of this policy should be submitted in advance of application deadlines in accord with Section 5.0 of this Guide.

Any portion of the acquisition price in excess of the "as is" value will not be considered an eligible development cost and may not be financed or reimbursed by any RHF funds or tax credit equity. Any developer's fee used to offset costs in excess of the “as is” appraised value will not be considered in evaluating an applicant’s request under Section 3.7.2 of this Guide to share project cash flow. If there are any project cost savings, the savings may not be applied to reimburse the developer for costs in excess of the “as is” appraised value. Exceptions to the acquisition price standards may be submitted to the Department on a case by case basis. See Section 5.0, Waivers, for general information on program waivers.

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. For Tax Credit transactions involving acquisition credits, the Department, as a condition of a reservation, may at its discretion request an opinion from an independent CPA or tax attorney confirming that the planned acquisition conforms with Section 42(d)(2)(B) of the Internal Revenue Code (i.e. the Ten-Year Rule).

3.8.2 Syndication Equity Rates and 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 as approved by CDA 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"> • 15% on first \$10,000,000 • 10% on amount over \$10,000,000 	<ul style="list-style-type: none"> • 10% on first \$10,000,000 • 5% on amounts over \$10,000,000

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. Further guidance on the disbursement of developer's fee can be found in Section 2.4.7 above.

3.9.8 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.

The owner's share of the ongoing monthly costs of high-speed Internet access may be included in the project's operating budget.

3.9.9 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.

3.9.10 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. Multifamily Housing 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.

3.10 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.

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)

<i>Capacity of Development Team</i>	<i>Total 100 Points</i>	<i>Application Package Exhibit(s)1</i>
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
<i>Public Purpose</i>	<i>Total 75 Points</i>	
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
Housing for Individuals with Disabilities	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
Sustainable Development	5 points	Exhibits Y, Z, and AA

1 See *Application Submission Package*, current version.

<i>Location and Marketability</i>	<i>Total 55 Points</i>	<i>Application Package Exhibit(s)</i>
Market Study	40 points	Exhibit T
Other Investment in Community	5 points	Exhibit U
Projects in Rural Areas or Communities with Indicators above Statewide Averages	10 points	Exhibit A, T, Form 202
<i>Development Quality</i>	<i>Total 55 Points</i>	Exhibits Y, Z, and AA
Building Design and Use Are Compatible	7 points	
Site Layout Well Thought Out	7 points	
Units are Spacious and Well Designed	7 points	
Material Selections Are of Better Quality	7 points	
Design Features Promote Comfort and Energy Efficiency	7 points	
Site is Suitable for Proposed Development	7 points	
Opportunities for Recreation, Education, etc.	6 points	
Unit Amenities Are Consistent with Market	7 points	
<i>Leveraging and Long Term Subsidies</i>	<i>Total 30 Points</i>	
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 general partner or managing member (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.

A scattered site project requires all members of the development team to have prior experience with similar sized scattered site rental properties and the ability to provide evidence of this

experience. Projects may lose points if a scattered site development is submitted without documentation of previous performance with similar scattered site properties. For maximum points, all team members including those with controlling interests in the developer and the owner should have previous experience with scattered site development and operations.

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, general partner or managing member 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, general partner or managing member or property manager) that have a record of any of the following:

Compliance Issues:

Consistent failure to promptly resolve compliance matters as evidenced by outstanding IRS 8823's with continuing non-compliance issued by the Department or other compliance enforcement action by the Department for the following:

- Failure to maintain income targeting as required under the loan or Tax Credit allocation agreements;
- Failure to maintain adequate documentation of tenant eligibility or qualified basis;
- Failure to timely recertify tenant incomes; or
- Continued occupancy by unqualified households.

Asset Management Issues:

- 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”;
- After the HUD inspection and cure period, consistent history or pattern of failing REAC scores;
- Failure to maintain a current Management Agreement on file with the Department’s Division of Credit Assurance; and
- Late payments of any type 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 all family projects, a minimum annual deposit of \$300 per unit;
- For new construction and substantially rehabilitated age-restricted projects, a minimum annual deposit of \$250 per unit; and
- For moderate rehabilitation age-restricted projects, a minimum annual deposit of \$300 per unit.

For rehabilitation projects, a capital needs assessment from a qualified third party professional 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 one 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 may be applied to reduce any State loan, fund other reserves, fund project betterments or otherwise be applied as approved by the Department.

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.

Annual Operating Expenses Per Unit - including real estate taxes and excluding reserve for replacement deposits, should range from \$3,000 to \$5,500 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.

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 as well as rent limit will be based on 1.5 persons per bedroom for units with one or more bedrooms and 1.0 person for efficiency or Single Room Occupancy (SRO) units. Rent levels including tenant paid utilities must be supported by the market study. Rents also should 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 proposed rents. For age-restricted projects, the imputed household size may not exceed three persons regardless of the number of bedrooms. Current area median income limits adjusted for household size may be found on the Department's website at:

<http://www.mdhousing.org/Website/programs/rhf/rhf.aspx>

Annual changes to income limits will be posted on the Department's website when available.

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. Audited financial statements, compiled statements and interim statements submitted for determination of financial capacity of the development entities and guarantors will be reviewed utilizing standard Generally Accepted Accounting Principles (GAAP). 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:

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

Liquid Assets As Percentage of Total Development Cost	
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 (PHA). 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 throughout the compliance period, and
2. As determined by the Department, is neither controlled by nor affiliated with any for-profit entity, and
3. Has as one of its exempt purposes the fostering of low-income housing.

Alternatively, up to 15 points may be awarded if the entity is (1) a PHA with a controlling ownership interest in the project or (2) a community based nonprofit organization and is a member of the development team or is the tenant service provider with a significant and clearly defined role. A controlling ownership interest means a greater than 50% 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 or the tenant service

provider with a significant and clearly defined role or (2) is a community based nonprofit organization and has another important role.

Up to 5 points may be awarded for other important roles for nonprofit organizations 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 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 a letter of intent from the organization that documents the specific services or products to be provided to the project. For a local advisory board, the application must 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%20Program%20Updated/Indext.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. A controlling ownership interest means a greater than 50% 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 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 or tenant service provider with a significant and clearly defined role. Up to 10 points also may be awarded for MDOT or locally certified minority-owned or

women-owned civil engineering firms on new construction or replacement projects where the civil engineer is directly contracted by the development entity. 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. Points for a lesser interest in the ownership entity will be awarded based on the extent of the risks and rewards of ownership and participation 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, either rehabilitation or new construction, 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.

For projects not located in either a QCT or DDA, 10 points may be awarded under this category for rehabilitation or replacement projects, or 5 points for new construction projects, in neighborhoods that have existing community revitalizations plans or are officially designated as:

- Certified Heritage Areas within county designated growth areas;
- Community Legacy Areas;
- Designated Neighborhoods under the Neighborhood BusinessWorks Program of the Department;
- Empowerment Zones;
- Federal or Maryland Enterprise Zones;
- Hotspot Communities;
- Main Street Maryland Communities; or
- Rural villages designated in county comprehensive plans as of July 1, 1998.

Projects located in neighborhoods not listed above may still qualify for the 10 points for rehabilitation or replacement housing or the 5 points for new construction under this category if the application includes either *a)* a community revitalization plan for the neighborhood or *b)* a current letter from the local planning department or zoning board confirming the project's location in a revitalization area and that the project contributes to the community revitalization plan in place for the area.

For a listing of Qualified Census Tracts and Difficult Development Areas, please consult the HUD user website at:

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

For the purpose of qualifying projects for scoring under this category, rehabilitation means repair of 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 should 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.

In lieu of including a plan in the application, the Department may accept in the application a current letter from the local planning department or zoning board confirming the project's location in a locally-designated revitalization area and that the project contributes to the community revitalization plan in place for the area.

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 category 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. Each efficiency or SRO unit will be counted as 0.67 bedrooms for income targeting scoring purposes.

Income Targeting					
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 = 600

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 ÷ 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 also may 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 category, 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 Individuals with Disabilities (5 maximum points)

Projects that provide integrated independent housing opportunities for individuals with disabilities, particularly those living on Supplemental Security Income (SSI) or Supplemental Security Disability Income (SSDI), may be awarded points in this category. Transitional housing or other facilities with limits on the term of occupancy or leases by tenants are not eligible to receive points under this category. Properties developed pursuant to a common development plan along with the applicant's property but that are not subject to the Department's RHF, Tax Credit or MBP use or occupancy restrictions also are not eligible to be scored under this category.

To receive points, the units must be made available only to individuals with disabilities and held for individuals with disabilities including SSI/SSDI recipients until the prescribed percentage of resident individuals with disabilities is achieved but no longer than 60 days beyond 80% of initial occupancy for new construction projects. Points will be awarded to occupied rehabilitation projects that will market and hold units for individuals with disabilities including those who are income-qualified or SSI/SSDI recipients upon turnover for at least 60 days after vacancy. Points will be awarded based on the percentage of total units within the project whether or not rent- or income-restricted targeted to individuals with disabilities, including those at SSI/SSDI income levels, according to the following table:

Percent of Units for Individuals with Disabilities	
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

To receive points, an application should include a letter from or a memorandum of understanding or other agreement with an entity that will assist the applicant in marketing the units to individuals with disabilities. The sponsor also must include with the application a marketing plan for meeting its targeting commitments.

Sponsors should contact the Maryland Department of Disabilities (MDOD), the Mental Hygiene Administration (MHA), the Developmental Disabilities Administration (DDA), the Centers for Independent Living (CIL), and the Maryland Developmental Disabilities Council (MDDC) for more information about serving individuals with disabilities seeking affordable rental housing. The following links may be used to learn more about these agencies:

MCIL: <http://www.mcil-md.org/>

MDDC: <http://www.md-council.org>

MDOD: <http://www.mdtdap.org/oid.html>

MHA and DDA (part of the Maryland Department of Health and Mental Hygiene):
<http://www.dhmh.state.md.us/>

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:

Percent of Units for Family Housing	
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 (18 maximum points + 2 points for high speed internet services)

Up to 18 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, including AA or NA;

- 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; and
- Transportation services.

Up to 2 additional bonus service points may be awarded for projects that provide subsidized high-speed internet services with training and support to each dwelling unit in the project. One point of the bonus will be awarded for the provision of high speed wiring to each unit and 1 additional point will be awarded for a program providing subsidized high-speed internet service and training as an integral part of the tenant service plan.

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 category, letters or agreements documenting a service provider's involvement with the project should be submitted, and the primary service provider must be clearly identified in the submission. 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 maximum points, the applicant also must demonstrate that the entity maintaining the waiting list is willing to refer tenants to the project.

4.2.8 Sustainable Development (5 maximum points)

Points will be awarded to eligible applicants who demonstrate the environmental sustainability of their projects by submitting a development proposal that (1) receives funding from or otherwise meets the criteria of the [Green Communities™ partnership of Enterprise Community Partners](#); or (2) meets the following requirements:

- A. Achieves maximum scores in each of the following Development Quality criteria (Section 4.4 and Exhibit C):
 - Criteria 2 – *The layout of the building(s) and improvements on the site is well thought out and complements the surrounding environment;*

- Criteria 4 - *Material selections are of better quality, and designed for durability and long term performance with reduced maintenance.*
- Criteria 5 – *Design features provide comfort, energy efficiency, and contribute to a healthy environment over the extended period of the project life; and*
- Criteria 7 – *The building and the project site, including the nearby surroundings, provide opportunities for recreation, education, convenient access to mass transit or rail systems and community activities.*

And;

B. Satisfies at least one of the following requirements:

- The applicant demonstrates that the proposed project will be developed using green building criteria from [Earthcraft](#), the [National Association of Homebuilders \(NAHB\) Model Green Home Building Guidelines](#) or other similar program promoting sustainable development practices;
- The applicant demonstrates that the proposed project design will be prepared and presented by a U.S. Green Building Council (LEED) certified design professional;
- The project is part of a locally-approved transit-oriented development plan and is located within 0.25 miles of a mass or public transit station, rail station, or bus depot or stop with scheduled service at intervals of at most 30 minutes between the hours of 6:30 a.m. and 7:00 p.m. and the project's density will exceed 25 units per acre;
- For projects in rural communities as described in Section 4.3.3 on-call or regularly scheduled van service is available to tenants if the costs of acquiring and maintaining a van and its service are included in the project budget; or
- The project involves the redevelopment of a “Brownfields” site approved for participation in the Maryland Department of the Environment’s (MDE’s) [Voluntary Cleanup and Remediation Program](#).

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 provide a concise summary of the data, analysis and conclusions, including but not limited to the following:

- A description of the site and the immediate surrounding area;
- A summary of market related strengths and/or weaknesses which may influence the project's marketability;
- An opinion by the market analyst of market feasibility including the prospect for long term performance of the property given housing and demographic trends and economic factors;
- For properties with project-based Section 8 assistance, a marketability opinion in the event the Section Housing Assistance Payments (HAP) contract is not renewed or expires;
- A detailed project description including the proposed number of units by number of bedrooms, unit size in square feet, utility allowances for tenant-paid utilities, and rents;

- A geographic definition (other than a simple radius) of the primary market area (PMA) and secondary market area (SMA) including maps of the PMA and SMA;
- An estimate of the number of renter households qualified by income and, if appropriate, age for the targeted program(s) and special needs set-asides, if any, in the PMA;
- Rent levels, operating expenses, comparative amenity study, 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 and the income targeting of the project;
- A summary of the project's positive and negative attributes and impact on existing projects already in the Department's portfolio and projects in the Department's current processing pipeline;
- A Capture Rate for the proposed project overall, as well as capture rates for each targeted income band. Rent burdens (rent plus utility allowance, if any) may not exceed 30% of gross income; 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 and is either on the list of acceptable market analysts maintained by the Department on its website or on the list of peer-reviewed analysts maintained by the [National Council of Affordable Housing Market Analysts \(NCAHMA\)](#). The study should be detailed and provide a logical basis for all conclusions.

More points will be awarded to applications for properties with overall capture rates below 10%. While capture rates for targeted income bands may exceed 10%, the analyst must provide a detailed explanation justifying the marketability of these units in order to receive maximum points. Similarly, where the analyst uses rent burdens exceeding 30% in calculating capture rates, the analyst must justify the increased rent burden.

Additional information on recommended practices for market studies and standard terminology as well as the NCAHMA-approved list of analysts is available through the NCAHMA website. The Department's list of acceptable market analysts may be obtained by calling the Department or from the Department website at:

<http://www.dhcd.state.md.us/Website/programs/rhf/document/APPRAISERLIST1.pdf>

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 public or private 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 category, 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 Projects in Rural Areas or Communities with Indicators above Statewide Averages (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 are either 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, Kent, Somerset, Washington, Wicomico and Worcester.

Up to 5 of these 10 points may be available in non-rural areas to family (i.e. non-age restricted) housing located in school or election districts or census tracts with certain key demographic indicators at rates higher than statewide averages. These indicators include, but are not limited to:

- Maryland School Assessment (MSA) scores (elementary and secondary);
- Median home sales prices;
- Educational attainment (high school and bachelor's degrees);
- Employment;
- Personal income;
- Voter participation; and
- Homeownership rates.

To be considered for scoring under this category, the stability of the community must be demonstrated by a majority of the type of above-average demographic indicators described above as evidenced by the market study prepared in accordance with the requirements of Section 4.3.1, *Market Study*, above. The demographic data must be the most current available at the school district, election district or census tract level, as applicable.

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 Exhibit C 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. 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 better quality, environmentally friendly and designed for durability and long term performance with reduced maintenance. *(7 points)*
5. Design features promote comfort, energy efficiency and contribute to a healthy environment over the extended period of the project life. *(7 points)*
6. The site is suitable for the proposed development and limited or no extraordinary or unanticipated geotechnical, environmental or utility infrastructure costs are indicated. *(7 points)*
7. The buildings and the project site, including the nearby surroundings, provide opportunities for recreation, education, convenient access to mass transit or rail systems 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. Recognizing that fixed transactional and other development costs may place smaller projects at a competitive disadvantage for leverage purposes, the Department will score qualified Small Projects using a different point scale from other projects. For this purpose, the Department defines a “Small Project” as one consisting of 30 or fewer dwelling units. Projects that are a phase of larger, multi-phased projects when the phases in combination consist of more than 30 units will not be considered Small Projects unless subsequent phases will not contain income- or rent-restricted units or the subsequent phase or phases will not be submitted for funding until the preceding phase or phases achieve break-even operations for at least one fiscal year and 90% occupancy for at least 12 months.

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. 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.

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.

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, do 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 in the affordable units.

Percent of Adjusted Net Costs Leveraged	Leverage Points	Small Projects
65% of adjusted net costs	10 points	10 points
61% to 64% of adjusted net costs leveraged	9 points	10 points
56% to 60% of adjusted net costs leveraged	8 points	10 points
52% to 55% of adjusted net costs leveraged	7 points	9 points
49% to 51% of adjusted net costs leveraged	6 points	8 points
45% to 48% of adjusted net costs leveraged	5 points	7 points
40% to 44% of adjusted net costs leveraged	4 points	6 points
35% to 39% of adjusted net costs leveraged	3 points	5 points
30% to 34% of adjusted net costs leveraged	2 points	4 points
25% to 29% of adjusted net costs leveraged	1 point	3 points
0% to 24% of adjusted net costs leveraged	0 points	3 points

Example. (Note: all figures supplied in this example are for illustrative purposes only. In particular, actual equity raise-up rates used in the evaluation may vary based on Multifamily Housing's analysis of the syndication market. Multifamily Housing 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 \$525,000, a second mortgage Rental Housing Production Program loan of \$285,712, a local contribution of \$425,000 and an annual tax credit allocation of \$114,286. The imputed raise-up rate for this example is 91 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. The project also qualifies as a "Small Project."

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

Tax Credit Equity	
Annual Tax Credits	\$114,286
Credit Period	x 10
Total Tax Credits	= 1,142,860
Imputed Raise-up	x .91
Imputed Subsidy (rounding)	= \$1,040,003

Step 2. Calculate the total DHCD subsidy.

Total DHCD Subsidy	
Tax Credit Equity	\$ 1,040,003
DHCD Loans	\$ 285,712
Total Subsidy	\$ 1,325,715

Step 3. Calculate all project costs.

All Project Costs	
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.

Adjusted Costs	
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.

Leverage Evaluation	
Total State Subsidy	\$ 1,325,715
Adjusted Costs	2,325,000
% State Funds	= 57%
Total Funds	100%
Less % State Funds	(57%)
% Leveraged	= 43%

Step 6. Calculate the number of points for the percent leveraged from the chart above. 43% of all costs leveraged equal 6 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 category 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. As with category 4.5.1 above, a project qualifying as a Small Project will receive a minimum of 2 points regardless of actual subsidy under this category.

The lower the amount of all State subsidies per affordable housing bedroom, more points will be awarded.

Total Subsidy per Bedroom	Subsidy Points	Small Projects
Subsidy is \$25,000 or less	10 points	10 points
Subsidy is \$27,500 or less and more than \$25,000	9 points	10 points
Subsidy is \$30,000 or less and more than \$27,500	8 points	10 points
Subsidy is \$32,500 or less and more than \$30,000	7 points	9 points
Subsidy is \$35,000 or less and more than \$32,500	6 points	8 points
Subsidy is \$37,500 or less and more than \$35,000	5 points	7 points
Subsidy is \$40,000 or less and more than \$37,500	4 points	6 points
Subsidy is \$42,500 or less and more than \$40,000	3 points	5 points
Subsidy is \$45,000 or less and more than \$42,500	2 points	4 points
Subsidy is \$50,000 or less and more than \$45,000	1 point	3 points
Subsidy is more than \$50,000	0 points	2 points

Example. Same facts as above.

Step 1. Calculate the State subsidy per affordable bedroom.

State Subsidy	
State Funds (from above)	\$ 285,712
Affordable Bedrooms	÷ 40
State Subsidy Per Bedroom	=\$ 7,143

Step 2. Calculate the tax credit subsidy per bedroom.

Tax Credit Subsidy	
Annual Tax Credits	\$ 114,286
Credit Period	x 10
Total Tax Credits	= 1,142,860
Imputed Raise-up*	x 0.91
Imputed Subsidy (rounding)	=\$1,040,003
Affordable Bedrooms	÷ 40
Tax Credit Per Bedroom	=\$ 26,000

Step 3. Calculate the total subsidy per bedroom.

Total Subsidy	
Tax Credit Per Bedroom	=\$ 26,000
State Subsidy Per Bedroom	+\$ 7,143
Total Subsidy Per Bedroom	=\$ 33,143

Step 4. Calculate the number of points for subsidy per bedroom based on the chart above. \$33,143 per bedroom equals 8 points.

* As determined by the Department in advance of each funding round. Please refer to the Department's website for the most current imputed raise-up.

4.5.3 Long-term Operating Subsidies (10 maximum points)

Points will be awarded to projects that maximize long term operating or rent subsidies derived from non-project resources. The creation of reserve funds to subsidize rents or operations will not be awarded points unless the subsidy is clearly funded from non-project resources.

The subsidies must reduce the operating expenses or rent for the 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 \$400 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 \$200 per

unit, per annum for 10 years. Fewer points will be awarded to the extent that the subsidy per unit per year is below \$400 for HOME participating jurisdictions or \$200 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. Points for per unit annual subsidies less than \$400, or \$200 in HOME non-participating jurisdictions, will be awarded based on the following table:

LONG-TERM (10 YEAR) ANNUAL OPERATING SUBSIDIES PER UNIT		
Points	Participating Jurisdiction	Non-participating Jurisdiction
10	Subsidy => \$400	Subsidy => \$200
9	= \$350 to \$399	= \$175 to \$199
8	= \$ 300 to \$349	= \$150 to \$174
7	= \$250 to \$299	= \$125 to \$149
5	= \$200 to \$249	= \$100 to \$124
3	= \$150 to \$199	= \$75 to \$99
1	= \$100 to \$150	= \$50 to \$74
0	< \$100	< \$50

5.0 Waivers

5.1 Waivers – General

In general and unless specified elsewhere in this Section, Multifamily Housing may grant waivers of the criteria and procedures in this Guide. In addition, the Code of Maryland Regulations (COMAR) allows the Secretary of the Department to waive or vary particular program regulations 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 Regulations .05.01.32 for the Elderly Rental Housing and the Rental Housing Production Programs; 12.01.22D for the HOME Program; and 05.02.16B for the Multifamily Bond Program.

In general and unless specified in Section 5.2 below, Multifamily Housing 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.

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 (“Tax Credits”) Program, HOME Program and MBP. Federal regulations affecting the Tax Credits, 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

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. A waiver under this section must be approved by the Secretary. 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 3.2.3. 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. A waiver under this section must be approved by the Secretary.

Construction or Rehabilitation Costs (see 3.7.5 above) – requests for waivers of this provision may be submitted to the Department with the application. However, prospective applicants considering requests for a waiver of the construction or rehabilitation cost limits are encouraged to submit a waiver as far in advance of the application deadline as possible. 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.

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.

Acquisition of Schools or School Sites (see 3.8.1 above) - waivers of this policy may be granted only if the following conditions exist:

1. All other potential sources of funds have been sought and are clearly unavailable, and it is not feasible to undertake the project without benefit of Department funds for acquisition; and
2. The project has particularly high public purpose such as serving an unusually high percentage of very low income persons or location in a market area not otherwise served by Department programs.

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. Increasing the fee to increase the Tax Credit eligible basis is not a valid justification for a waiver.

Project Phasing (see 3.9.10 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.

Previous Participation and Project Financing and Underwriting (see 4.1.2.1 and 2 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 evaluation requirements.

Exhibit A: LIHTC and RHF 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 remitted as invoiced with the reservation letter regardless of how many programs are involved.		Fee must be remitted to CDA's Trustee per invoice.
Tax Credit Allocation Fee (non-refundable)	4% of the annual tax credit amount allocated	N/A	Varies depending on financing and sponsor type. See QAP for details.
Commitment Fee	N/A	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.	N/A	Payable with application for extension.
Tax Credit Allocation Amendment Fee	\$1,000 per project	N/A	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	N/A	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.
IRS Form 8823 Compliance Re-Review Fee	\$25 per unit per occurrence	N/A	Payable with request from the owner for issuance of an 8823 by CDA

Exhibits

Description	Low-income Housing Tax Credit	Rental Housing Fund	Due Date
			to correct a previous uncorrected 8823.

Exhibit A: Bond Application and Processing Fees

Description	Low Income Housing Tax Credit	Multifamily Bond Program (Traditional)	Multifamily Bond Program (Refinance)	Multifamily Bond Program (with 90 day Rate Lock Agreement)	Multifamily Bond Program (MD4L)	Due Date
Application Fee (non-refundable)	\$1,000	\$0 if included with application for Low Income Housing Tax Credits. Otherwise \$1,000.	Fees range between \$1,000 and \$5,000 or 0.015% of the loan option selected. Consult program staff for more information.	None	None	Fees must accompany application.
Tax Credit Allocation Fee (non-refundable)	4% of the estimated annual tax credit amount allocated.		None if no new allocation of credits sought.	None	None	Due in full upon issuance of the §42(m) letter by CDA.
Commitment or Origination Fee	N/A	1.5% of the first \$10 million of the loan amount plus 1% of the loan amount over \$10 million. May be financed.	Generally 1.5% of outstanding loan amount.	None	None	Due at the earlier of initial loan closing or bond closing.
Assumption Fee	N/A	None	1% of the loan amount assumed	None	None	Payable at initial closing.

Exhibit A: Bond Application and Processing Fees

Costs of Issuance	N/A	For bond issues from the parity indenture, \$100,000 plus 1% of the loan amount, or 2% of the loan amount, whichever is less. All other bond issues, including standalone and conduit financings, pay the actual costs of issuance.	\$100,000 plus 1% of the new loan amount	None	None	Due at initial closing for new loans and at closing for refinance.
Negative Arbitrage	N/A	To be determined on each loan after each draw. It is the difference between bond yield and investment yield on undrawn proceeds. A letter-of-credit may be required to be posted prior to closing for an amount sufficient to cover the maximum amount of negative arbitrage on the loan. Consult program staff for more information.		None	None	Negative arbitrage is billed by CDA Finance after each draw.
Non Usage Fee	N/A	2% of estimated loan amount as a deposit against costs of issuance		None	None	Due before the POS is issued and bonds are priced. This is generally between 30 and 60 days prior to scheduled closing. Credited to costs of issuance at initial closing.

Exhibit A: Bond Application and Processing Fees

Closing Attorney's Fees	N/A	\$20,000 (First Loan) \$1,000 (Each additional DHCD-funded loan)	\$5,000	None	None	Payable at initial loan closing
Deposits	N/A	N/A	N/A	N/A	5% of the principal amount of the loan; refundable per terms of Rate Set Agreement	Payable at execution of Rate Set Agreement
MBP CLC/PLC Extensions Fee	N/A	CDA will bill for costs incurred in connection with extensions of the maturity and/or delivery dates of GNMA securities. These costs may include administrative charges, reasonable costs or expenses incurred by CDA and reasonable reimbursement or fees of all professionals working on the transaction in connection with any requested extension, including costs, fees, reasonable hourly reimbursement, and expenses of bond counsel, other in-house or outside counsel, any rating agency, and any financial advisor to CDA.				At the time of the request.
90 day Rate Lock Agreement Fee	N/A	N/A	1% of the principal loan amount, one half of which may be returned to for-profit borrowers, and all of which may be returned to certain non-profit Borrowers, per the terms of the Rate Lock Agreement.	N/A		At the time the Rate Lock Agreement is signed.
Tax Credit Allocation Amendment Fee	\$1,000	N/A				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.

Exhibit A: Bond Application and Processing Fees

Tax Credit Compliance Monitoring Fee	\$25 per unit per year.	N/A	Payable annually when billed.
MBP Loan Pre-payment	N/A	CDA will bill for costs incurred in connection with redeeming bonds as permitted by the deed of trust note. These costs may include negative arbitrage for 45 days; unamortized costs of issuance and premiums, if any; and administrative charges. Consult CDA Finance staff for more information.	All costs are included in payoff statement sent by CDA Finance to the borrower.
IRS Form 8823 Compliance Re- Review Fee	\$25 per unit per occurrence	N/A	Payable with request from the owner for issuance of an 8823 by CDA to correct a previous uncorrected 8823.

Exhibit B: Underwriting and Construction Review Process

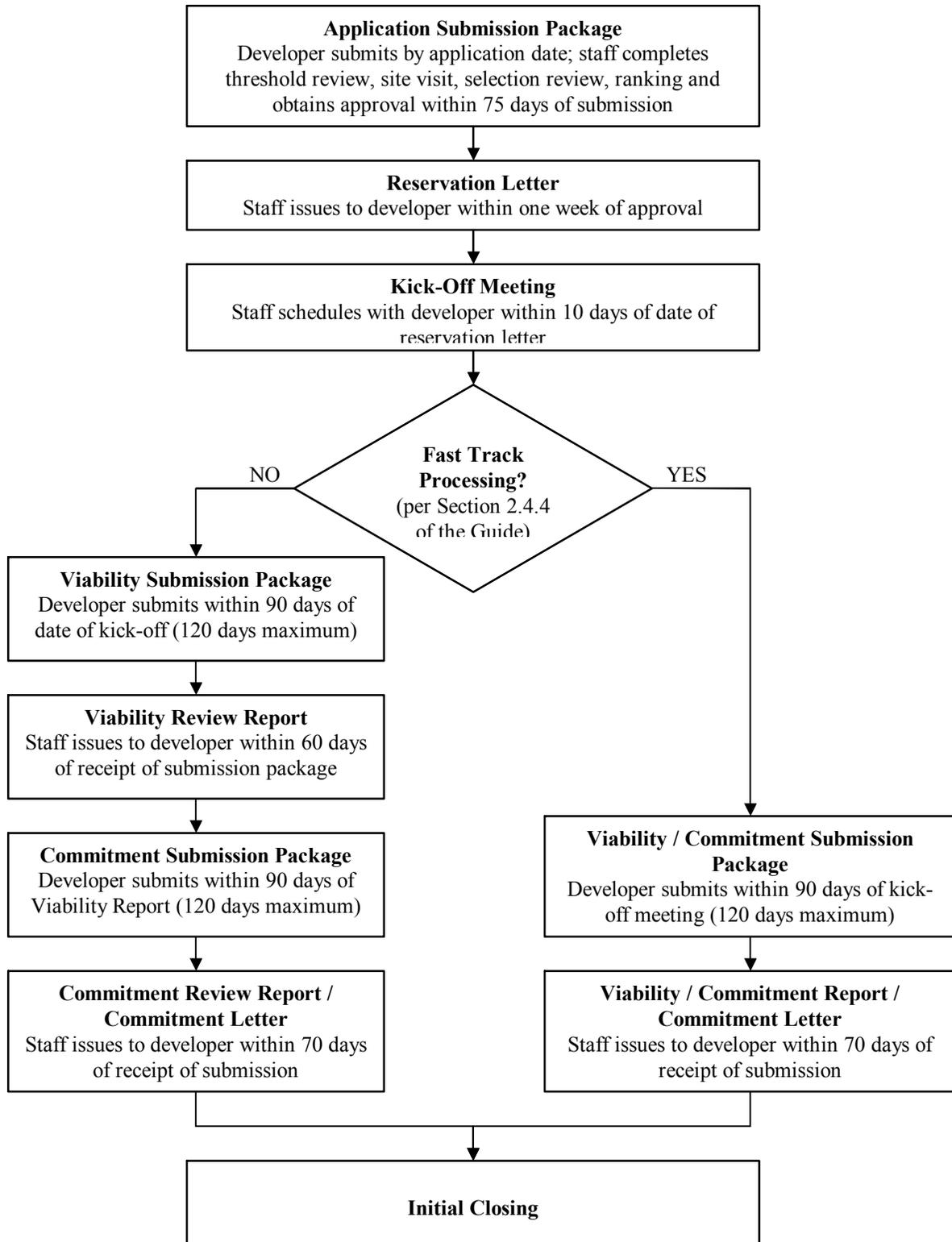


Exhibit C: Development Quality Criteria

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. (0-1 points)*

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

- The architectural design is consistent with or complements 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;
- For rehabilitation projects, 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 is well thought out and complements the surrounding environment. (7 points)*

- The building(s) and the other improvements on the site are located to 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 in such a way that they provide reasonable 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 is (are) not conducive to better living and may contribute to additional costs in long run. (0-3 points)*

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

- The building, parking areas and other improvements thoughtfully utilize the site with a practical layout where transit, 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 slopes or construction of large retaining walls is not anticipated nor is excessive erosion or sedimentation control expected. 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.
- Meets the accessibility needs of individuals with disabilities through integration of universal design standards with the site design.

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. (0-1 points)

Please consider the following in assessing points in this category:

- If the closet space is significantly inadequate but the size and lay-out is 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 from reputable manufacturers offering 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 -1 points)

Projects may be able to satisfy the goals of this category and receive full points in a variety of ways. Points will be awarded based on the number of Criteria Credits present in the Project. A list of the items which are eligible for Criteria Credits and their value is provided below. The first four items in this list will receive additional Criteria Credits.

To score in the top box (i.e. 6-7 points for competitive Development Quality purposes) a project must have a total of at least 12 Criteria Credits. To score in the second box (i.e. 4-5 competitive points) a project must have a total of 9 to 11 Criteria Credits. To score in the third box (i.e. 2-3 competitive points), a project must have a total of 6 to 8 Criteria Credits. To score in the fourth box (i.e. 0-1 competitive points), a project will have a total of 0 to 5 Criteria Credits.

Criteria Credits

Item Description

- 3 Building exterior is at least 75% masonry or other highly durable materials such as cement fiber siding, stucco, stone, etc. For rehabilitation projects, needed repairs and cleaning must be specified for existing finishes.
- 2 Heavy-duty paving selected through-out, specifications provided.
- 2 Improved resident comfort and convenience through installation of central or split HVAC systems for community area(s) and units.
- 2 High performance roofing specified for durability. Warranties should equal or exceed 20 years for flat roofs and 30 years for pitched shingled roofs.
- 1 Exterior trim is upgraded to composite or select materials or exterior trim will be rehabilitated to meet historic standards. Interior finish elements meet historic standards as applicable. Architectural accessories such as decorative door, window, corner eave, cornice and column details or other special features provided.
- 1 Cement fiber siding, stucco, or EIFS selected as an alternative to vinyl siding.
- 1 The plumbing and electric fixture package is upgraded for improved functionality, appearance, low-cost maintenance and durability. Product specifications are provided in the application submission.
- 1 The interior door/trim package has been upgraded to panel doors, better quality hardware, wood trim or additional treatments.
- 1 Heavy (i.e. 18 to 20) gauge metal or solid core wood entrance doors with durable frames and hardware selected.
- 1 The cabinetry is upgraded with plywood boxes and durable finishes and hardware.
- 1 Floor coverings are upgraded to significantly higher quality longer lasting products. Carpet to be 26 oz. nylon or heavier with a recognized stain resistance treatment. Hard finish flooring is upgraded to products with a verifiable 10 year or longer warranty.
- 1 Ceramic tile bathrooms are provided.
- 1 Framing/decking system significantly upgraded over minimum design standards.
- 1 Identifiable, project specific significant upgrades which provide increased performance, better appearance, durability, and lower maintenance.

For rehabilitation projects, failure to completely replace or upgrade aging finishes, fixtures, equipment or systems and site conditions which are nearing the end of their useful life expectancy or show signs of excessive wear, deterioration, are in need of repair, are obsolete or inefficient may result in a deduction of one to four points.

5. Design features provide comfort, energy efficiency, and contribute to a healthy environment over the extended period of the project life. (7 points)

- The design features and the selection of the materials and equipment are clearly specified to maximize energy or resource efficiency, durability and sustained performance while minimizing tenant and property utility costs. (5-7 points)
- The design features and the selection of the materials and 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 and 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 14.5 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. Central systems must have verifiable high efficiency equipment which provides operating efficiencies over conventional systems of comparable output. Energy Star rated equipment with a SEER of 13 or greater, will be considered higher efficiency. A SEER less than 13 will cause Energy Star equipment to be scored at best as “moderately better” in terms of efficiency.
- 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 Star rated light and plumbing fixtures, water heaters, and appliances are specified.
- Special features such as additional attic venting, water use limiting devices or other verifiable cost effective energy improvements which exceed building code requirements are specified.
- Building design features minimize energy and other resource consumption and reduce environmental impact (site orientation, overhangs, solar features, photovoltaic systems, use of recycled content material, water-permeable materials in 25% or more of parking areas and walkways, water-conserving landscaping, dark sky lighting, minimal “heat island” effects from roofs and paving, common area laundries, etc.)
- Project utilizes low-toxic, solvent-free paints or primers, organic compound sealers and adhesives, composite or engineered wood specified to be free of added urea formaldehyde. Installation of Green Label certified carpet approved by the Carpet and Rug Institute. For examples of environmentally friendly materials, refer to the following websites: www.ebuild.com and www.greenspec.co.

6. The site is suitable for the proposed development and limited or no extraordinary or unanticipated geotechnical, environmental or utility infrastructure costs are indicated. (7 points)

- 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 the Department’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 the Department’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 the Department’s experience indicates considerable risk of unanticipated costs unaddressed in the construction budget. (0-1 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, convenient access to mass transit or rail systems and community activities. (6 points)*

- Ample opportunities for recreation, use of public transportation, education and community activities are available on the project site and nearby vicinity. (6 points)*
- Moderate opportunities for recreation, use of public transportation, education and community activities are available on the project site and nearby vicinity. (4-5 points)*
- Limited opportunities for recreation, use of public transportation, education and community activities are available on the project site or nearby vicinity. (2-3 points)*
- Recreational, public transportation, educational and community activities are unavailable on the project site or are minimal or nonexistent in the vicinity. (0-1 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 grocery 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 age-restricted 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 and common areas are suitable for the size and targeted occupancy 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. (0-1 points)*

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

- Central air conditioning;

- Appliances including refrigerator, range, dishwasher, disposal, microwave, laundry equipment;
- Secure electronic building entry features under individual resident control;
- Walk-in closet or additional storage area;
- Ceiling fans;
- Bathroom heaters;
- Upgraded window and door security features including deadbolts, security bars, electronic alarms;
- Reasonable kitchen cabinet and counter space;
- Window and patio door treatments;
- Balconies or patios;
- Incorporates universal design features in common areas and dwelling units in order to better integrate individuals with disabilities into the community.