



NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Competitive 9% Low Income Housing Tax Credits (LIHTC)

Frequently Asked Questions (FAQs)

The FAQs are an opportunity to provide all applicants and the public with the same information to preserve the competitive integrity of the 9% LIHTC program. Following is a list of questions that have been sent to the LIHTC mailbox with regard to the 2019 competitive 9% application round.

Applicants are encouraged to check the website prior to submitting a question to the LIHTC mailbox. As questions and responses are added, the revision dates will appear at the top of this page and will be included in a different color font. Applicants are encouraged to check back periodically.

Please be advised that it remains the sole responsibility of the Applicant to review carefully and comply with the requirements of QAP regulations and to ensure that any application presented to the NJHMFA Tax Credit division is clear, unambiguous, and complete in all respects at the time of submission. Responses to FAQs are only examples of a theoretical application of a limited set of facts to a rule or rules. They are for guidance purposes only and are not agency regulations. If there is an inconsistency between the adopted Qualified Allocation Plan (QAP) and the responses to FAQs, then the QAP prevails. Until confirmed through final action of the Tax Credit Committee, responses presented in the FAQs are merely an aid and may not be relied upon as a recommendation, counsel, or expectation of an approval.

Pre-Application Meetings

Q: Will the Tax Credit division be scheduling 1 hour pre-application meetings prior to the 9% tax credit deadline, as has been previous practice?

A: The Agency will not be scheduling pre-application meetings but will be responding to written questions sent to the LIHTC mailbox at: NJHMFAtaxcredits@njhmfa.gov. All questions and responses will be posted in the FAQs on the HMFA website so all applicants have the benefit of the same information.

Public Comments to the QAP

Q: When do you expect to release your responses to the public notice questions regarding the new QAP?

A: The Agency anticipates presenting the QAP for adoption to the Board on April 18, 2019. It is expected that the summary of comments and Agency responses will be available after Board approval. Official publication in the NJ Register and effective date of the QAP is expected in June.

Inclusionary Projects

Q: If a developer does not intend to submit a 9% application until any potential round that may be conducted in 2020, but would still like to submit all of the information required for an inclusionary review (including 3rd party feasibility analysis) as soon as possible, would HMFA review this submission and make an eligibility determination in advance of a 2020 9% application?

A: The Agency is planning to issue more guidance on the Inclusionary Policy in the form of a Developer Bulletin.

Income Averaging

Q: Is it the QAP alone that governs the State's average income set-aside requirements for 9% tax credit projects or is there also another Board approved action that governs income averaging guidelines for 9% tax credit projects? Would an 80 unit project with all 1 bedroom units with the ranges of affordability shown below meet HMFA's income averaging underwriting requirements for a 9% tax credit project?

A: The HMFA Board approved on June 28, 2018 the election of the Average Income Federal minimum set aside for certain acquisition & rehabilitation projects financed with 4% tax credits. The eligibility requirements for 9% tax credit projects shall be similar and are outlined below.

Eligible projects must:

1. Receive written confirmation/ approval from all financing sources, including lenders, investors and all applicable divisions in the Agency.
2. Not have formally elected a federal minimum set aside on IRS Form 8609.
3. Have an Average Income of all LIHTC tenants not greater than 57.5% of AMI.
4. Submit a specified income designation for each unit for compliance monitoring purposes.
5. Have no more than 4 income designations (for example, 20%, 50%, 60% and 80% AMI) identified in the Deed of Easement and Restrictive Covenant and the IRS Form 8609.
6. Have a proportionate mix of units at each income designation, unless otherwise required.
7. Not amend any specified unit designations without express written approval from the Agency, even in cases of the Next Available Unit Rule.

Please see below for 2 examples demonstrating the application of the Average Income minimum set-aside.

10-Unit Project, 100% affordable

CURRENT 40% at 60% set aside:	Average Income set aside
	8 units at 57.5% AMI
	1 unit at 77.5% AMI
<u>10 units at 57.5%</u>	<u>1 unit at 37.5% AMI</u>
= 57.5% average AMI	= 57.5% average AMI

CURRENT 40% at 60% set aside:	Average Income set aside
	4 units at 77.5% AMI
	2 units at 57.5% AMI
5 units at 57.5% AMI	2 units at 30% AMI
<u>5 units at 47.5% AMI</u>	<u>2 units at 20% AMI</u>
= 52.5% average AMI	= 52.5% average AMI

Q: If choosing to utilize the Average Income Set-aside, do we have to choose all 7 increments between 20% and 80% AMI? Or could we leave out one or two increments (as long as we still meet the 57.5% average)?

A: No more than 4 income designations may be selected; for example, units can be designated at 30%, 50%, 60% and 80% of AMI. Please note there must be a proportionate mix of units at each income designation, unless otherwise required. Each unit's income designation will be officially selected at the time of 8609 and will be fixed for the initial compliance period. The income designation of units may not change without express Agency approval, even in cases of the Next Available Unit rule.

Q. Also regarding the Average Income Set-aside, are we required to set the rents 2.5% below each increment for all increments? I am asking because in the past we have not normally underwritten at 17.5% for the 20% AMI, and we also don't typically underwrite at 27.5% for the 30% AMI.

A: Units designated at 20% of AMI and 30% of AMI are excluded from the requirement to underwrite 2.5% less than the income designation.

Mixed-Income Reserve

Q: Mixed Income Reserve for projects within a Targeted Urban Municipality (TUM) - how will this work? Does a project that meets this definition apply in the family cycle first, or just applies to this Reserve?

A: Eligible mixed-income projects located within a TUM may apply to the Mixed Income Reserve in the Family Cycle, checking a box on the UNIAP similar to a set-aside.

Q: Are the projects in the Mixed Income Reserve scored and ranked? Or are they just deemed eligible, and then it goes to the tie-breaker? The language in the QAP is very unclear. Are projects awarded on a first come/first serve basis?

A: As outlined at N.J.A.C. 5:80-33.8(a)3, projects must meet a threshold number of points (65% of the maximum score in the Family Cycle) in order to compete. If multiple projects are deemed eligible, tax credits shall be awarded in accordance with the Family Cycle tiebreaker (least amount of tax credits requested per tax credit bedroom). Mixed Income Reserve projects will not be awarded on a first come/ first serve basis; successful Mixed Income Reserve projects will be awarded until 40% of the Family Cycle credits are exhausted. If additional credits must be awarded in TUMs in order to satisfy the 40%, then 100% affordable projects located within TUMs competing in the general pool shall be ranked and awarded.

Q: Are projects in this reserve eligible for the 130% basis boost?

A: Yes, Mixed Income Reserve projects could be eligible due to designation within a Qualified Census Tract (QCT), a Difficult to Develop Area (DDA) or under the Housing and Economic Recovery Act (HERA), which permits the Agency to grant the 130% basis boost to 9% projects with written justification.

Census Tracts with High Concentration of LIHTC Units

Q. Number 17 under Eligibility, for projects in census tracts with more than 30% LITC units, if a building is already vacant and has been for several years, or if a project is new construction (it was vacant land, or vacated several years ago), how do we meet the requirement to provide a project plan that includes relocation options to higher opportunity areas and mobility counseling? Can 17.iii be waived?

A: N.J.A.C. 5:80-33.12(c)17 requires that no low income units can be added to the census tract. The question appears to suggest that new low income units would be created in a restricted census tract and therefore, they are not eligible for funding per the QAP.

Age Friendly Senior Housing

Q.: Senior Cycle, 2nd additional point category, does "on-site" include an immediately adjacent portion of a building that is technically a separate condo with a separate address/legal description? An example would be a senior building where the ground floor (or a portion of a ground floor) is being developed as a commercial piece but would include doctor's offices, clinics, etc. but if it's a condo it would technically be a separate parcel.

A: On-site means located at the same physical premises or immediately adjacent.

Q: Same point category, does a Podiatrist count as a "health provider"? And is there a definition of "regularly offer", for example is quarterly acceptable?

A: Please refer to the HUD Notice of Funding Availability for "Supportive Services Demonstration for Elderly Households in HUD-Assisted Multifamily Housing" for a better understanding of the type of on-site health provider the Agency is encouraging, specifically the Qualifications and Job Responsibilities of the Wellness Nurse, which can be found here: <https://www.hud.gov/sites/documents/2015SSDEMO-NOFA.PDF>. The Owner should contract with

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a third party agency (Medicare Certified Home Health Provider or similar agency or organization) for this service. The Agency recommends the on-site health provider have regularly scheduled availability at least twice a month.

Proficient Schools

Q: If a project is located in a municipality that has its own schools for grades K-8 but is part of a regional high school district, is the project able to achieve Proficient School District points based upon the regional high school district?

A: The school districts which are eligible for the proficient schools points can be found here:

<https://njhousing.gov/dca/hmfa/media/download/tax/index.shtml>.

Transit Oriented Development

Q: What is the definition of "mixed-use development" in the definition of Transit Oriented Development?

A: Please refer to the State's Department of Transportation website for more information.

<https://www.state.nj.us/transportation/community/village/tod.shtml>

Underwriting

Q: Are we required to set the rents 2.5% below the rent level restriction we are providing. For instance, do the 30% AMI restricted units have to be underwritten at 27.5%?

A: Units designated at 20% of AMI and 30% of AMI are excluded from the requirement to underwrite 2.5% less than the income designation. All other rents should be underwritten at 2.5% lower than the maximum income designation.