

Guidelines for Requesting Additional Funding Related to Decreases in Low-Income Housing Credit Equity Contributions

Subject to the availability of funds, the New York State Housing Trust Fund Corporation (“HTFC”) will consider requests for additional subsidy to address the loss of tax credit equity attributable to market conditions beyond the control of project awardees. Under the terms outlined below, HTFC will seek to work collaboratively with awardees and other partners to enable projects to move forward to completion. Awardees are strongly encouraged to discuss their request for additional funding with their DHCR Project Manager prior to submission of the request.

I. Submission Requirements

Requests for additional funding must be submitted in writing and must include the following:

- A cover letter explaining the nature and extent of the current gap in financing associated with the decrease in credit equity contribution proposed by the syndicator/credit equity investor, as well as a narrative clearly describing each action taken by the awardee to resolve the financing gap;
- Updated Development Budget (Exhibit 3) reflecting the new funding being requested and any changed, or new, financing sources;
- If applicable, Updated Unit Rents/Maintenance Fees & Affordability (Exhibit 4);
- If applicable, Updated Project Income & Operating Budget (Exhibit 5);
- If applicable, Updated Tax Credit exhibits, (LIHC/SLIHC Qualified Building Information, Exhibit 9 and LIHC/SLIHC project summary, Exhibit 10);
- Requests that include construction cost saving measures pursuant to the November 2007 Design Handbook must provide updated specifications; and
- If rent increases are requested, a letter from an approved market study firm demonstrating that a market exists for units at requested levels.

Requests for additional financing must meet the following criteria:

- A written request with all required documentation outlined above must be submitted to the DHCR Project Manager not less than 60 days prior to construction closing (earlier submission is highly recommended provided that other criteria have been met). DHCR will make its best effort to accommodate those projects facing more immediate funding commitment and/or reservation deadlines;
- The request must include correspondence and other documentation (e.g., application cover letter, declination letter) evidencing that additional funding sources have been requested. Such evidence must clearly document the outcome of those requests.

- The request must include evidence that the awardee has sought additional financing and/or improved financing terms from funding sources that were included in the awardee's original plan of financing at the time of credit reservation. Such evidence must clearly document the outcome of those requests;
- The request must include a firm commitment or offer from the credit equity investor with the new equity contribution amount;
- The request must provide evidence that commitments or offers have been obtained for all other sources of construction and permanent financing for the project;
- Based on the option which would contribute more toward resolution of the project's financing gap, the request must, at a minimum, either (1) provide that any developer fees in excess of 10% of the total development cost, as defined in the commitment letter or as established at the time of reservation acceptance, be contributed back to the project by the awardee, or (2) provide a deferral of no less than one-third of the developer's fee, provided that repayment is supportable by the project's fifteen year cash flow;
- Awardees must explore construction cost saving measures based on the updated specification requirements in the November 2007 Design Handbook and apply savings toward reducing the construction cost of the project (See Section 4: Design & Specification Requirements [<http://www.dhcr.state.ny.us/ocd/pubs/html/dsuman08.htm>]);
- The request must include correspondence and other documentation (e.g., application cover letter, declination letter) evidencing that the awardee has sought improved terms from builders and other members of the development team;
- In projects in which an identity of interest exists between parties (e.g., owner and general contractor, purchaser and seller of the project site or building[s]), the request must demonstrate that development and operating cost savings resulting from these relationships have been maximized and contribute to the resolution of the project's financing gap.

II. Preferences for Determination of Additional Funding

In addition to the submission requirements set forth above, the following represent HTFC's specific preferences in considering requests for additional funding:

- Projects which avert the loss of affordable housing currently serving the housing needs of a population whose housing need would justify the replacement of the housing if it ceased to be available to that population;
- Projects which request lower amounts of additional funding per unit;

- Projects which have successfully obtained and documented the receipt of additional funds and/or improved financing terms from funding sources included in the awardees' original plan of financing at the time of reservation;
- Projects which have successfully obtained and documented the receipt of additional financing from new funding sources;
- Requests that include documentation demonstrating that all local governmental approvals necessary for the project to obtain a building permit and to proceed to construction are fully in place;
- Projects which have successfully obtained better terms from builders and other members of the development team;
- Projects which have obtained enforceable commitments from the credit equity investor and/or other financing sources;
- Projects which identify additional development and operating cost saving measures consistent with the DHCR Capital Programs Manual and Design Handbook; and
- Projects that have been identified as a priority by other governmental agencies as evidenced by a commitment for capital financing and/or rental/operating subsidies. This will include a consideration of the potential loss of such leveraged monies.

III. Additional Considerations

In considering requests for additional funding, the Division of Housing and Community Renewal (DHCR) and HTFC reserve the right to adjust the funding amounts provided through the Housing Trust Fund, HOME, SLIHC, and LIHC programs as deemed necessary, as well as the overall amount of additional funds based on its review of project need and the project's construction and operating feasibility.

To help ensure the economic viability of selected projects, DHCR and HTFC will consider requests from awardees for rent increases, provided the increases are justified and contribute to the resolution of the funding gap, and provided further that rents will still be affordable (based on the most recent HUD income limits) to the income groups that were originally intended to be served by the project. DHCR and HTFC may also consider additional underwriting solutions in order to facilitate project completion.

DHCR may consider requests for Section 8 project based vouchers. Such requests will be subject to the availability of vouchers at the time of the request and compliance with all applicable requirements, including successful completion of a HUD subsidy layering

review. Preference in the consideration of requests for vouchers will be given to those projects providing deep income targeting of units.

Notwithstanding the criteria set forth above, DHCR and HTFC reserves the right to deny or authorize the provision of additional financing in a manner which is consistent with the furtherance of the State's housing goals and determined by the Commissioner of DHCR to be in the interests of the citizens of the State.