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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 2024 competitive 9% application round.

Applicants are encouraged to check the website prior to submitting a question to the LIHTC mailbox, NJHMFAtaxcredits@njhmfa.gov. 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/s. 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.

As a reminder, project-specific questions, including document review and/or confirmation of eligibility for threshold requirements or points, are not permitted.

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Q: In previous years, the suburban mixed income deals were ranked by point score. In reading the 2024 QAP, I interpret that ranking of suburban mixed income deals in the set-aside will be based on tie breaker rather than points. I would appreciate NJHMFA confirmation.

A: According to the 2024 QAP, 5:80-33.4(a)1 (page 17), an eligible Mixed Income deal must meet the minimum 65% of maximum score, and meet the maximum points regarding extended affordability; site selection; proximity to public transportation; and high-performing schools. Should more than one project be deemed eligible in the same 9% Tax Credit round, credits shall be awarded in accordance with the tiebreaker, not points.

Change in Green Point Election

Q: We are reaching out regarding green building point options in the QAP. We have identified which program for 4 points makes the most sense at this time given our proposed development's characteristics, current market conditions, and current program requirements. However, it is conceivable that at a later point in the development process we may find that a different one of the 4-point options will be a better fit.

Will HMFA permit applicants to change their green building program designation post-award, provided the change maintains the same point level? For example, if we elected Enterprise at application (4 points), would HMFA permit us to pursue LEED instead post-award (also 4 points)?

A: In order for the Agency to entertain a change in the building point option, the developer must submit an explanation, to the satisfaction of the Agency, why the change is necessary. The Agency's Technical Services Division will review the submission and complete an evaluation to ensure the 4-points continue to be met, as well as the certification requirements of the newly elected program. If Technical Services finds the explanation to be satisfactory, approving the new election, the point change will then be permitted by the Tax Credit Division, as long as the new election maintains the same number of points and does not affect the overall point score or financial feasibility of the project. If applicable, any cost increases associated with a change in green building program designation shall not be eligible for an award of hardship credits.

Hardship Reserve Credits

Q: Can a project apply for a hardship exemption to the credit cap for 9% in its initial application?

A: No. Hardship credits are specifically reserved for previously awarded projects needing additional credits due to technical errors or cost overruns for unforeseen circumstances beyond the developer's control, thereby jeopardizing the completion of the project.

Q: I see that the cap on hardship is \$150,000. How is that \$150,000 determined? Is that as excess annual credit?

A: If hardship credits are awarded, it is an annual credit amount over and above the initially awarded credit allocation. Provided the hardship is documented to the satisfaction of the Agency, only the credit amount necessary to fill the funding gap, up to \$150,000, will be approved. No more than one hardship award shall be approved with respect to a given project.

Capital Subsidy Programs

Q: Is it possible for a 9% LIHTC project to qualify for a Workforce Housing Program (“WHP”) award prior to going in for the 9% round? In other words, would we be able to seek HMFA program financing independent of the 9% application?

A: Due to the timing of the 9% round awards (December), and the federal requirement that SLFRF program funds (including WHP funds) be obligated before the end of the year, the WHP funds cannot be combined with a new 9% tax credit application as there is not sufficient time for the project to meet the December 31, 2024 obligation deadline.

Affordability

Q: The language in the QAP indicates that **up to** 55% of the units must be affordable in order qualify for credits. I read that as a cap on affordability stating that the affordable units on mixed income projects cannot go **over** 55% of the units. For example, 50% of the units of a project can be LIHTC and the project can still qualify for credits, right?

A: To clarify, a mixed income project is a project that has any combination of affordable and market rate units. Such projects may apply to any cycle. However, in order to apply specifically to the mixed-income set-asides at either N.J.A.C. 5:80-33.4(a)1 or 5:80-33.8(a)2, no more than 55% of the units can be affordable. Therefore, a project where 50% of the units are affordable may apply under the set-asides.

Green Requirements

Q: In the Post Construction phase, please elaborate if HERS rating is required if the green certification does NOT require HERS testing? (i.e. NGBS Silver Certification via performance pathway does not require HERS testing)

If HERS is indeed required, is does the HERS score or index suffice from a HERS rater suffice? Or does it require documentation from the HERS provider?

A: For 9% projects, new construction, Energy Star certification is required along with achievement of the selected national green building program, so the HERs rating would come with the ES certification. Provide all documentation from the HERS provider, including the HERs rating.

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Q: For a rehab project, does the Signed Energy Star Partnership Agreement refer to “Home Performance with Energy Star”?

A: For rehab projects, an Energy Star Partnership Agreement is not required. In lieu of this, provide verification that the HERS Rater/Provider are in good standing with RESNET.

Q: Interpretation on “latest edition” language: Can we advise projects subject to “latest edition” are the year the program is available and funded through the agency?

A: Yes, that is correct. For 9% deals it would be subject to the edition in place the year of the tax credit award. For 4% projects, it would be subject to the edition in place at the time of project commitment or 42m letter (if there is no Agency financing).

Q: 9% Enterprise Green Criteria: Can we interpret that certification is required for any of the 9% green options. If not, what is required instead?

A: Yes, correct, certification is required.

Q: NJ Zero Energy “Ready” Homes + renewables (latest edition): The NJCEP rebate structure is changing since the original recommendations were made. The Green Points language aligns with and is in reference to a specific rebate program, which will sunset. This may create confusion down the line and HMFA may want to consider modifying (as able) the sections to better align with NJCEPs new residential construction program.

A: We will take that into consideration during the next QAP amendment.

Q: Can you please clarify what the “+ renewables” language intends to accomplish? Meaning, is it HMFAs intent to have projects target common area savings? Whole building or 100% offset of unit + common area usage?

A: At a minimum, the common area usage.

Q: Is HMFA willing to accept Renewable Energy Credits (RECs) or offsite solar if there are site constraints in installing solar on site?

A: Yes, that is acceptable.

Q: In the Healthy Future Section: Are project teams allowed to select options from multiple green building programs?

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A: No, the idea would be to take advantage of criteria within the chosen national green building program.

Q: National Green Building Standard option: Sections 901, 902 and 904 are there any specific practices required under these sections? Is Kitchen ventilation adequate as a climate adaptive selection?

A: Criteria should be selected beyond the mandatory items. Each selection should be discussed with the development team and NJHMFA.

Q: For Rehab projects: Can you please point us to the definition of Rehab? It would be ideal to have this on hand when advising clients.

A: A definition exists in the Multifamily Underwriting Guidelines, in the Building Design Section: https://www.nj.gov/dca/hmfa/developers/docs/multifamily/mf_rental_financing_underwriting_guidelines.pdf.

Q: Can you please confirm whether Level 2 audits must be completed prior to application. Would this earn the project team any merit/credit if completed prior to application?

A: It would make sense to perform audits as early as possible in conjunction with the development of construction documents. The Agency will require a review of the audit during the Commitment phase of a project.

Regarding the new "Site and Risk Assessment Review Report with resiliency recommendations" requirement on page 3 of the 2024 QAP:

Q: Is there a specific template we need to follow when completing this?

A: There is not a specific template. It is expected that a report will be prepared with an executive summary, introduction, site assessment/data of all relevant risk factors, and resiliency recommendations.

Q: Do you have any examples we can view to see exactly what is needed?

A: Not at this time. As a starting point, please refer to all the information sources provided on page 3 of the QAP Green Requirements.

Q: Are the following climate hazard risks sufficient or is there a specific list we need to use?

- Floods
- Wildfires
- Hurricanes & Typhoons
- Sea Level Rise
- Heat stress

- Water stress

A: The list should address all relevant site-specific risks. The list may vary with location. All possible risk factors should be reviewed.

Q: The document states, “Developers are encouraged to discuss choice selection with NJHMFA” What is the timing for this discussion? Or is this something that the Architect & energy consultant can provide guidance to the client or does the agency want to have a specific conversation with the applicant? Who should we/Developer initiate the conversation with regarding the climate adaptative risk assessment?

A: We expect this to be a collaborative effort. It is always best practice for the Architect and energy consultant to be involved as early as possible in the design process in order to provide guidance on any expected climate risks and possible safeguards. It is expected that once a project is awarded, the sponsor and their team contact Technical Services to have further discussions.

Proximity to Land Uses

Q: What is the definition of 'mile' distances as it applies to 5:80-33.15(11)?
a. Network distance or 'as-the-crow-flies'?

A: The QAP defines “mile” as radial mile. Proximity to the locations at N.J.A.C. 5:80-33.15(a)11i(1) through (20) shall be evidenced in the market analysis as required at N.J.A.C. 5:80-33.12(c)1).

Amenities

Q: Will you please let me know of any unit or project amenities that have been approved in the past but are not listed in the QAP document?

A: No additional amenities were proposed, nor approved.

Q: IREM’s last publication of operating expense data was in 2022. Will NJHMFA accept the 2022 IREM data as a method of confirming operating expense assumptions for Part II Section 7 of the LIHTC Application?

A: Yes, the Agency will accept 2022 data, as this is the most recent IREM publication.

Social Services

Q: Can a social service be provided offsite (i.e. can residents go to a local social services center for seminars rather than holding seminars at the project site); or, may a social

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service only be offsite if it cannot be provided onsite (i.e. access to swimming lessons provided by a project that does not have a pool)? If a social service is provided offsite but can be conveniently reached by public transportation, is that acceptable; or, must a project provide transportation to and from that service as well?

A: Most social services are offered on site to residents. However, if there are services that cannot be provided at the building, then transportation must be available to residents. The transportation must be at no cost to the resident, and must be handicapped accessible. In many cases, if the service cannot be provided on site, then the social services provider offering the service will provide the transportation.

Evidence of Successful Development Experience

Q: I have a question re: options ii. and iii. in scoring category, Successful Development Experience. Can you please clarify the phrase “and has entered into a management agreement with a property management company that has at least five years of experience monitoring LIHTC projects and a tax credit portfolio of no less than 300 units”. How would an applicant document this satisfactorily to qualify for points in the tax credit application?

A: The selection should be circled on the application form and a notarized affidavit from the Property Management Company should be included in the application, stating the number of years of experience monitoring LIHTC projects and the number of LIHTC units currently in their portfolio.

Transportation Points

Q: We are reaching out to clarify the guidance for on-site transportation services in the Senior Cycle published in the LIHTC application. The guidance says “*On-site transportation must be provided at least once a week...it must be a scheduled service at least once a week. The schedule should be provided to the residents in advance for planning purposes.*”

It is not clear to us whether this guidance disqualifies on-demand transportation services (that is, transportation services that are scheduled for individual property residents as it is needed).

A: This category of on-site transportation doesn’t disqualify on-demand transportation services (i.e.: Access Link, Cap services, etc.). On the contrary, having the on-demand transportation services as another option will provide additional transportation assistance to the residents. However, this should be in addition to a regularly scheduled transportation service.

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Q: If on-demand transportation is available to property residents, the frequency and accessibility would be better than a service that, for example, comes once a week at the same day and time.

A: The project must offer on-site transportation at least once a week and proof must be submitted. The on-demand transportation services provided by a third-party company (not related or affiliated nor have a contract or partnership with the project or entity) doesn't replace the on-site transportation requirement which is the project's responsibility (if this election is made).

Q: Do transportation services that are scheduled for residents as it is needed (on demand) qualify as "a scheduled service at least once a week"?

A: No. This category selection must ensure that onsite transportation services are **always** provided at least once every week for **all residents** whether they need it or not, not only when scheduled.