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NJHMFA HOUSING & MORTGAGE FINANCE AGENCY

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 2025 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 unit of the Multifamily Supportive Housing and Lending 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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<u>2025</u>

<u>Cost Containment</u>

Q: Will there be any increase to the cost caps in effect for the 2025 9% rounds?

A: The cost caps will remain as follows, as approved at the March 28, 2024 Agency Board Meeting:

$350K/ unit, 1-4 stories

$380K/ unit, 5-6 stories

$410K/ unit, 6+ stories

Q: Do the cost caps apply to the Supportive Housing Cycle?

A: Yes. As per 5:80-33.6(a), the Supportive Housing Cycle must adhere to the cost containment limits.

<u>Preservation Set-Aside</u>

Q: For projects at risk of losing their affordability controls, a project with a deed restriction that expires within 5 years of the date of the new tax credit award. Can a project whose LIHTC deed restriction has already expired be eligible for the set aside? Does the deed restriction refer to the LIHTC deed restriction only? Or does it refer to any deed restriction that might exist?

A: The project wouldn't qualify for the preservation set-aside if the deed restriction has already expired. As per the QAP, "At risk of losing its affordability controls" means a project with a deed restriction that expires within five years of the date of the new tax credit allocation that is "likely" to convert to market rate…"

The deed restriction refers to any rent restriction, by way of deed, that would cause a project to lose its affordability controls.

Q: For projects at risk of losing their affordability controls, a project with project-based assistance that expires within 5 years of the date of the new tax credit award. Does the project-based assistance have to be for the entire project? Or can projects with project-based assistance for a portion of the units also be eligible for the set aside?

A: Projects with project-based assistance for a portion of the project's units are eligible for the preservation set-aside and documentation must evidence the property is at risk of losing its level of affordability.

Q: For projects at risk of losing their affordability, what kind of documentation or evidence is to be submitted in support of this designation? I am referring to the defined term at 5:80-33.2 "At risk of losing its level of affordability" and its use in the definition of "Preservation project", which states that the application shall include "Documentation that the property is at risk of losing its affordability controls *or level of affordability*".

A: Documentation should illustrate that without an award of tax credits, the project's only solution is a high rent increase to cover the operating expenses and needed capital repairs. Documents may include, but are not limited to a current rent roll, NOI, 15-year forecast, expiring or expired project-based rental assistance contract, market study, work order report, physical inspection report, etc.

Q: Is there anything in NJHMFA rules or policies (either QAP, Multifamily, etc.) that would prevent the funding of a 9% project in the preservation round or other agency financing vehicles, if the buildings are raised out of the flood plain and meet NJDEP requirements.

A: If the project meets the definition of 'Preservation project' as described at N.J.A.C. 5:80-33.2, and meets all requirements, including but not limited to the eligibility requirements, as described at N.J.A.C 5:80-33.12(c), without exceeding the cost containment parameters in doing so, then raising a building out of a flood plain is eligible under the preservation set-aside, provided the project meets all state and local code, and all necessary NJDEP regulatory and permitting requirements.

Q: A question for acquisition/rehab projects seeking 9% credits. Does the maximum allocation of credits per project include acquisition credits?

A: Yes, the maximum annual allocation of credits to any one development is inclusive of acquisition credits.

Q: If a project applies to a preservation set-aside but is not awarded an allocation under the set-aside, does the project still compete in its respective Cycle?

A: Yes, if a project is not awarded within the preservation set-aside, it is released back into the respective cycle to compete.

Q: There were no Preservation set aside applicants in the May application round. Can additional project(s) be awarded in the September round?

A: No. Each of the 2025 rounds will award a maximum of two projects by way of the preservation set-aside.

Q: If two Preservation Set aside projects have been filled, can you confirm how a preservation project would be scored if it moves to the open Family cycle?

A: Projects not awarded in the set-aside would then compete in the Family Cycle, and be awarded based on the highest-ranking eligible projects under the scoring and ranking criteria.

Q: As an existing project submitted under the preservation set aside, would the inclusionary review be required?

A: No, existing projects do not require an inclusionary review submission.

QAP Applicable to 2025 Rounds

Q: The link to the "2024/2025 Qualified Allocation Plan" that this bulletin says will be applicable to the 2025 rounds as provided below takes you to a copy of the 2023-2024 Qualified Allocation Plan published in the New Jersey Register on March 4, 2024.

Could you please confirm that the 2023-2024 Qualified Plan published in the New Jersey Register on March 4, 2024 will be applicable to the 2025 rounds?

A: Yes, the QAP published March 4, 2024 is the QAP that will govern the 2025 rounds other than the increase in cost caps as approved by the Agency Board on March 28, 2024.

TUM / Non-TUM Split

Q: Has the Agency determined the approximate split of credits to be allocated between TUMs and Non-TUM areas for the 2025 rounds given the current status of the Affordable Housing Production Funds?

A: As per the QAP, since the NJHMFA is no longer accepting project applications for the Affordable Housing Production Fund (AHPF), approximately 40% of the credits (inclusive of all set-asides and all credits awarded under the Mixed-Income Reserve established at N.J.A.C. 5:80-33.8(a)3) shall be made available to projects in Targeted Urban Municipalities (TUMs), seeking to maintain a lower constraint of not less than 50 percent, for the 2025 rounds.

UHAC

Q: Based on recent amendments to UHAC, under what circumstances are LIHTC projects required to follow UHAC requirements and which specific requirements (i.e., bedroom distribution, average range of affordability, affirmative marketing, etc.?). Are LIHTC projects not meeting third or fourth round affordable housing obligations exempt from UHAC?

A: LIHTC projects are subject to compliance with the requirements of the Internal Revenue Code and QAP. Minimum bedroom distribution requirements can be found at N.J.A.C 5:80-33.4(a).

For any additional intended funding sources, applicants should contact the respective funding providers directly to determine whether compliance with UHAC is required.

Credit Year

Q: Could you please share the credit year of the allocations you expect to award to projects applying in the May round?

A: The Agency will award credits from the 2026 tax credit authority for both 2025 9% rounds.

Site Control

Q: For projects to be constructed on land donated by a municipality, and such land is scheduled to be conveyed to the municipality from a third-party developer pursuant to a Court-approved Settlement Agreement, is the submission of the Court-approved Settlement Agreement between the third-party developer and the municipality sufficient to demonstrate control on the part of the municipality?

A: Yes, the Court-approved Settlement Agreement between the third-party developer and the municipality sufficiently demonstrates the municipality's future control. For all forms of site control, a copy of the current owner's recorded deed (or equivalent) shall be submitted as supporting documentation.

There shall be no lapse in the chain of site control documentation, such that the applicant's right of site control over the property from the property owner is evidenced. See N.J.A.C. 5:80-33.12(c)2i-2ii.

Redevelopment

Q: I have a question for the FAQ's regarding the one point in the 9% LIHTC scoring available for projects that meet the definition of a Redevelopment project.

If a project is located in a municipally-designated Area in Need of Rehabilitation, but is not also located in an adopted Redevelopment Plan, would the project be eligible for one point in this category? Thanks!

Redevelopment project

The project is located within an area in need of redevelopment or an area in need of rehabilitation as defined at N.J.S.A. 40A:12A-3: The project must be located within the boundary of an area in need of redevelopment or an area in need of rehabilitation. The project must be consistent with the adopted redevelopment plan, and the redevelopment plan must be approved by the municipal governing body no later than the application deadline.

Submit the following documents in the application:

- A copy of the resolution designating the area an Area in Need of Redevelopment or Area in Need of Rehabilitation;
- A copy of the adopted Redevelopment Plan, approved by the municipal governing body or a copy of the Neighborhood Revitalization Plan, approved by the Commissioner of DCA.
- A parcel map that delineates the redevelopment plan boundaries and locates the subject LIHTC project within the boundaries; and provides block and lot information for the project; and
- A letter from the municipality stating that the project is consistent with and further the goals and objectives of the adopted redevelopment plan.

A: No, if a project is located in a municipally-designated Area in Need of Rehabilitation, but is not part of an adopted Redevelopment Plan, the project is not eligible for the point. The project must be able to provide <u>all</u> of the documents listed above, within the application.

<u>Non-Profit Points</u>

Q: If a 100% non-profit owns 100% of the GP interest and has a developer partner that owns 0% interest, and that Development partner has greater than 2 projects with 50% ownership does the project receive both the experience points and the ownership by the 100% non-profit points?

A: As per Section 5:80-33.17(b)5 of the 2024 / 2025 QAP, Supportive Housing Cycle projects will receive 2 points if the application is submitted by a qualified nonprofit organization with 100% of the general partner interest in the final ownership entity. However, since the developer has less than a 50-percent interest in the general partner/managing member, the application would not qualify for points in the "Successful Development" point category at N.J.A.C. 5:80-33.15(a)20.

<u>On-Site Transportation</u>

Q: I have a question regarding "on-site transportation" which is referenced twice in the QAP and once in the LIHTC Application (QAP References***:*** *5:80-33.16(b)2(i) & 5:80-33.17(a)(1)* and LIHTC Application Reference*: 15.a: On-site transportation)*

Please provide an example of "evidence of existing service" that also meets the criteria in the last sentence of the LIHTC Application: "A letter indicating that the project will be on a bus stop on a general route or a service that is provided free of charge to all residents/ seniors of a county or municipality based solely on residency status shall not qualify for points in this category."

For example, if the project is located on an existing route that charges a fee to ride, is open to the general public and in order to ride the bus, the passenger needs to hail the bus, does that meet the standard for points? If so, would the bus schedule be sufficient to evidence existing service? If this is not acceptable, please provide an example of how points can be scored in this category.

A: "Evidence of existing service" refers to an existing contract or agreement between a third party and the subject project in which transportation services are provided exclusively to the residents of such project. Evidence of existing on-site transportation services would generally apply to a rehabilitation or preservation project.

On-site transportation services must be provided by the project to its residents only, as such, an existing general bus route that has a stop near or next to the property does not satisfy this category, but rather falls under the definition of "public transportation", as defined in the QAP.

<u>Ready to Grow Points</u>

Q: Does the entire site need to be in the Smart Growth area in order to receive points in a 9% application? Would a project be eligible to receive the points if the building footprint was located in Smart Growth, but certain infrastructure, like stormwater and parking were located outside of the designated area? I am happy to provide a more detailed map explaining the situation if that would be helpful.

A: N.J.A.C. 5:80-33.14(c) states that "all units in the project must qualify for a point category in order for the application to receive the points, unless expressly stated otherwise in the point categories described at N.J.A.C. 5:80-33.15 , 33.16, and 33.17". If the building/units are in a smart growth area, the project is eligible for the points.

<u>Available Tax Credit Authority</u>

Q: How much in credits are available in the May and September rounds this year?

A: Approximately $12M in 9% tax credits will be made available during the May round and it is anticipated that approximately $28M in tax credits will be available for the September round.

<u>Form 10</u>

Q: I am working on a fall submission for a preservation deal that will not have HMFA perm or construction debt. Is the full Form 10 required, and, if so, how do I address any variations between the underwriting (differences between conventional lender requirements and HMFA). For instance, replacement reserves, loan fees, etc.?

A: If a project does not have Agency financing, a Form-10 (Schedule A – E) is not required.

Q: Are there any changes between the May 2025 and September 2025 9% rounds?

A: The 9% Spring round was a smaller round, reserving $12M in tax credits for awards. It is anticipated there will be approximately $28M in tax credits available for the Fall 9% round. Other than dates as indicated on the 9% Tax Credit Round Timeline, there are no other changes.

Q: The March 5th Developer Bulletin discussing the May application round required the project development budget be the same for the mortgage application as it is at the time of the 9% tax credit submission. Can you confirm if this requirement will be the same for the September application round and can you also confirm that if this is the case, the development budget can be adjusted between the July mortgage submission and the time of the executed preliminary approval letter.

A: Yes, the development budget submitted to Multifamily for preliminary review must match the budget submitted in the tax credit application.

The Multifamily underwriter assigned to the project will review and may edit certain costs, if necessary, prior to the issuance of a preliminary approval letter.

Negative Land Uses

Q: If a project is within 1 mile (as the crow flies) from a juvenile detention center, is this considered a negative land use (i.e. a jail or prison)?

A: Yes, this would be considered a negative land use.

Q: If a project has a negative land use, can points be made up with additional positive land uses?

A: No, a project may receive a maximum of 6 points for positive land uses. Any negative land uses are then deducted from the score.