

# SELECTION, UNDERWRITING & FINANCING GUIDELINES & POLICY

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## **Special Needs Housing Trust Fund**

(Construction and/or Permanent Financing)

### **Please Take Notice**

**These underwriting guidelines, policies, procedures, and forms may be amended from time to time due to changes in market conditions and/or changes in the NJ Housing and Mortgage Finance Agency (HMFA) housing policies or initiatives. Such amendments may occur without notice and are applicable to all pending and future applications. Applicants are, therefore, responsible for contacting the HMFA to ascertain whether there have been any changes since the date of these guidelines and for complying with such changes.**

### **Special Needs Housing Trust Fund Overview**

The Special Needs Housing Trust Fund (“Trust Fund”), pursuant to the Special Needs Housing Trust Fund Act, P.L. 2005, c. 163, provides capital financing to create permanent supportive housing and community residences for individuals with special needs, with priority given to individuals with mental illness. The purpose of this special non-lapsing, revolving fund, which is being administered by the New Jersey Housing and Mortgage Finance Agency (“HMFA”), is to develop special needs housing and residential opportunities as alternatives to institutionalization or homelessness for those who would benefit from these programs and to ensure the long-term viability of such housing. The monies in the Trust Fund will be used to enable persons with special needs to live with dignity and independence within communities of their choice by providing capital funding to increase the supply of affordable and quality housing with support services and other residential opportunities.

The Trust Fund provides capital financing in the form of loans to eligible not-for-profit and for-profit developers, as well as government entities at the state, county, and municipal levels, for new housing units. ***Funding for rent and operating subsidies and supportive services is not available through the Trust Fund.***

**Special needs housing Project Sponsors proposing to apply for Low Income Housing Tax Credits, Tax Exempt financing under the Internal Revenue Code, or other HMFA financing must refer to the applicable program guidelines, which will take precedence.**

### **Definitions**

“Climate Resilience” is defined as ‘the capacity of a community, business, or natural environment to prevent, withstand, respond to, and recover from a disruption.’ An example would be siting a project outside of a known flood plain or raising a building and all its’ systems above a future projected base flood elevation.

“Continuum of Care Plan” means a community plan prescribed by HUD to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency and includes action steps to end homelessness and prevent a return to homelessness.

“Individuals with special needs” means:

- individuals with mental illness
  - individuals with physical disabilities
  - individuals with developmental disabilities
  - victims of domestic violence
  - ex-offenders and youth offenders
  - youth aging out of resource family care
  - runaway and homeless youth
  - individuals and families who are homeless
  - disabled and/or homeless veterans
  - individuals with AIDS/HIV
  - individuals in treatment for substance abuse; and
  - Individuals in other emerging special needs groups identified by State agencies.
- “Individuals with mental illness” means individuals with a psychiatric disability or individuals with a mental illness eligible for housing or services funded by the Division of Mental Health and Addiction Services (DMHAS) in the Department of Human Services.
  - “Individuals with a developmental disability” means an individual with a severe, chronic disability, which is attributable to a mental or physical impairment or combination of mental or physical impairments; is manifested before the person attains age 22 and is likely to continue indefinitely. The disability results in substantial functional limitations in three or more of the following areas of major life activity: self-care; receptive and expressive languages; learning; mobility; self-direction; capacity for independent living; and economic sufficiency; and reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment or other services that are of lifelong or extended duration and are individually planned and coordinated.
  - Individuals with a physical disability who need affordable housing with supportive services, including assistance with 3 or more areas of activities of daily living, to live independently in community settings.
  - “Homeless individuals or families” includes the following:
    - Individuals coming out of a state or county psychiatric hospital, a transitional living program, half-way house, jail or correctional facility, with no place to live may be considered homeless;
    - people who lived in a shelter or a place not meant for human habitation prior to temporarily (30 days or more) residing in an institutional care setting;
    - people who will imminently lose their housing and lack the resources and support networks needed to find other housing, including those who are being evicted within 14 days, people living in a hotel or motel and who lack resources to stay for more than 14 days;

- unaccompanied youth and homeless families who have not lived independently for a long time, have experienced persistent instability, and will continue to experience instability because of a disability, health problem, domestic violence, addiction, abuse, or multiple barriers to employment;
  - persons who are fleeing or attempting to flee domestic violence.
- “Individuals in treatment for substance abuse” means individuals that are clients of programs funded and/or licensed by the Department of Human Services, Division of Mental Health and Addiction Services.

“Permanent supportive housing“ means a range of permanent housing options such as apartments, condominiums, townhouses, single and multi-family homes, shared living and supportive living arrangements that provide access to on-site or off-site supportive services for individuals and families who can benefit from housing with services. Permanent supportive housing has as its primary purpose assisting the individual or family to live independently in the community and meet the obligations of tenancy. Tenants may have individual or shared apartments and there is no limitation for length of tenancy. Participation in services is not a condition of tenancy.

“Community residences” means group homes, supervised apartments, and other types of shared living environments that are primarily for occupancy by individuals with special needs who shall occupy such housing as their usual and permanent residence. Typically, community residences provide 24 hour/7 days a week on-site staffing and supervision. For purposes of the Trust Fund, community residences do not include treatment facilities, assisted living facilities, nursing homes, transitional housing facilities, half-way houses, boarding homes or shelters.

A special needs housing project may contain “units” and/or “beds”. A unit refers to a single living unit/apartment in a rental property, condominium, townhouse or a multi-family or single-family home that contains at a minimum a bedroom with a bathroom and cooking facilities. A “unit” may contain one or more “beds”. A “bed” is for a single individual receiving housing and services. Each unrelated adult must have his or her own bedroom with access to shared living space including kitchen facilities and leisure space.

## **Trust Fund Policy Priorities**

The Trust Fund represents a limited resource with a large mandate. To ensure that Trust Fund proceeds are expended in the most efficient manner that most positively impacts the intended beneficiaries, the HMFA has established the following list of policy priorities. Projects not meeting an appropriate number or combination of the following priorities may be rejected by the HMFA or remitted back to the sponsor for modification. The policy priorities are as follows:

1. Providing permanent supportive housing and residential opportunities for persons with mental illness. The priority for serving persons with mental illness is stated in the Special Needs Housing Trust Fund Act, P.L. 2005 c. 163.

2. Leverage Trust Fund capital financing. Priority will be given to projects that require less than 50% of the total development cost to come from the Trust Fund. Projects Sponsors shall not anticipate the Trust Fund paying for more than 80% of total development costs. Leveraged funds may come from local, county, state, federal, and private sources.
3. Address the needs of very low-income people with special needs. The goal of the HMFA is to use at least 75% of Trust Fund proceeds for the benefit of persons with special needs whose gross incomes do not exceed 20% of the area median income. It is not the intent of the HMFA to finance projects where the gross income of the population exceeds 80% of the area median income.
4. Meet locally determined priorities described in the Continuum of Care Plan. Wherever a Continuum of Care Plan exists, the project shall specifically show how it responds to the plan.
5. Meet State of New Jersey determined priorities for underserved populations in the State Consolidated Plan. The project shall specifically show how it responds to the State Plan.
6. Maximize long-term affordability. Projects shall demonstrate a financial and legal structure that ensures affordability for the intended population for at least thirty (30) years. Additional years of affordability are desirable.
7. Minimize temporary or permanent displacement. Projects shall not displace one population with the proposed special needs population whereby causing zero net gain in affordable housing units.
8. Demonstrate good and appropriate project location, siting and design. The following items will ensure that the project is accepted by the community, has reduced operating and maintenance costs, and provides for a healthier environment for residents:
  - a. Locate projects near jobs, transportation, and community resources and services.
  - b. Design the site and the building to be an appropriate and positive community asset.
  - c. Design for passive solar gain, summer shading, and natural ventilation and light.
  - d. Provide Energy Star Certification.
  - e. Use materials and finishes that require less maintenance.
  - f. Use ceramic tile, wood, cork or other environmentally friendly alternatives to carpet.
  - g. Maintain healthy indoor air quality by minimizing products and materials that release toxins, instead use low VOC paints, adhesives, sealers and finishes; non-vinyl-based materials; formaldehyde free laminates and insulation products; automatic ventilation to each unit and common areas.
  - h. Incorporate high-quality building science and moisture management practices.
  - i. Landscape with native plants and drip irrigation; use water catchments.
  - j. Incorporate universal design and visibility features.
  - k. Maximize the adaptive reuse of existing buildings and the use of existing infrastructure.

1. Contain development costs. Projects shall strive to keep the special needs housing project cost per unit as low as possible while not compromising the quality and sustainability of the proposed housing.

## **Underwriting Guidelines and Financing Policy**

The HMFA shall approve Trust Fund loans in the form of cash flow loans as deemed financially feasible by HMFA. The Trust Fund will not be used to finance more than 80% of the total development cost of any single project, regardless of the combination of funding sources. HMFA will base its determination of the financial feasibility of the proposed special needs housing project based on whether the rental housing or community residence will have cash flow to support the loan. In making this determination, the Agency will require a detailed operating budget reflecting revenues and standard housing expenses. Sponsors are also expected to have a separate budget for social services pursuant to the Social Services Plan described in these guidelines. HMFA will require evidence of operating subsidy or rental assistance and services capacity before providing a financing commitment. Any loan made for eligible program purposes is subject to deed restrictions as determined by HMFA.

### **Eligible Sponsors/ Borrowers**

Qualified housing sponsors are defined as qualified for-profit and non-profit housing sponsors, preferably with experience in providing housing; or, associations of persons organized under the New Jersey Statutes; or any corporation having as one of its purposes the improvement of realistic opportunities for low- and moderate-income housing by virtue of past activities, qualifications of staff or board, or other features, to develop and operate housing projects.

### **Eligible Projects**

Permanent supportive housing or community residences.

### **Eligible Uses**

Eligible uses include capital financing for the acquisition of land and/or building(s), acquisition and rehabilitation of existing building (s) or new construction, conversion of building(s) as rental apartments/units and community residences for an identified target population(s). HMFA may, through the Agency, make acquisition loans, construction, and permanent loans to qualified Project Sponsors for the costs of special needs housing projects. Construction only loans are not eligible uses. All required approvals, licenses, or permits for a proposed special needs housing project must be obtained and maintained by the Project Sponsor. Rehabilitation or refinancing of existing special needs housing is not an eligible use.

If a project is seeking acquisition only financing then HMFA will require documentation including but not limited to: Certificate of Occupancy, a Final Building Inspection by a NJ licensed architect or engineer, As-Built drawings and a certification from the Architect of Record stating that all work was completed in accordance with the

plans and specifications. These items will be reviewed to ensure the goals of the Trust Fund are met.

Sponsors seeking construction and permanent financing shall not begin construction until closing on Agency financing. Sponsors seeking permanent-only financing are expected to begin construction after commitment on Agency financing. Should extraordinary circumstances occur the Sponsor must provide justification explaining why construction must begin prior to Agency commitment. The Sponsor will be required to notify the Agency immediately and provide additional documentation as requested at that time. The Agency reserves the right to require that the Borrower provide justification that is satisfactory to the Agency and failure to comply may result in the project becoming ineligible for HMFA financing.

**Eligible Tenants/Residents** Individuals with mental illness, individuals with physical or developmental disabilities, homeless individuals and families and individuals in other emerging special need groups identified by State agencies. (See under Definitions for “individuals with special needs”) Written documentation from either a Commissioner of a State Department or the Executive Director of a State Agency identifying a special needs group, or an emerging special needs group is acceptable. Units financed by the Trust Fund may not be age-restricted to individual’s age 55 and older.

**Vacancies** Projects receiving Low Income Housing Tax Credits must fill units in special needs set aside units within 60 days of a vacancy. Notice of vacancy must be provided 30 days prior to a unit becoming vacant to the service provider entity. If the unit is not filled within 60 days, the next available tenant from the project’s waiting list may fill the unit and the next comparable size unit vacancy will be made available for a special needs tenant.

**Cash Flow Loans** Cash flow loan payments will be in an amount equal to 25 percent of the project’s available cash flow after the payment of operating expenses and the funding of all escrows, as determined by HMFA. To the extent that interest and principal are not covered by cash flow payments, the payment of principal and interest will be deferred until the end of the cash flow mortgage loan term.

Project owners are required to submit annually within three (3) months of the end of the project’s fiscal year either an audit or a compilation report, as determined applicable by HMFA, in form and substance meeting HMFA requirements covering such audits/compilation reports.

If after review of a final annual audit/compilation report submitted by the Borrower to HMFA, it is determined that the balance of the mortgage note cannot be repaid on the maturity date and provided all conditions of the original loan documents have been satisfied and maintained, HMFA may extend the term of the mortgage note or consent to a refinance of the mortgage loan in accordance with HMFA policies and procedures. Extension or refinance of a mortgage will require that all terms and conditions of the existing mortgage loan documents continue through any new mortgage term.

**Interest Rate:**

The Program loan provided during the construction term shall be at 0% interest rate. Program loans during the permanent term shall be at a 1% interest rate. The mortgage interest rate is a fixed rate for the term of the mortgage.

**Maximum Loan Amount**

The Trust Fund will not be used to finance more than 80% of the total development cost of any single project, regardless of the combination of funding sources.

The total maximum loan amount for any single project may not exceed four million dollars (\$4,000,000). The Agency reserves the right to determine reasonable costs and to set a maximum allowable loan for a project.

The Trust Fund cannot be used to fund non-special needs units. For mixed occupancy projects the maximum loan amount for the special needs' units will be determined by Agency staff but will not exceed \$150,000 per unit.

**Determination of Project Cost**

Subject to the maximum loan amounts set forth above, the HMFA may finance project costs as determined by the HMFA and as defined in N.J.S.A. 55:14K-3q. The HMFA must determine that all costs are reasonable and necessary. The HMFA will require the Developer/Sponsor to submit an annual audit of project costs or a compilation report.

**Term**

Standard term is 30 years. The developer/sponsor may request a term of less than 30 years or may request a term of more than 30 years.

At the end of the mortgage term, the project developer/sponsor may repay the balance of the mortgage, may refinance the project if it is financially feasible or may request an extension of the mortgage term as long as the project will continue to promote the purposes of the Trust Fund through any new mortgage term. Consideration of an extension of the mortgage term will include a review of the tenant records, annual financial statements, site inspections and Social

Services Plan implementation. Extension or refinancing of the mortgage will require that all terms and conditions of the existing Mortgage Loan Documents continue through any new mortgage term.

**Lien Status**

All loans will be secured by a first mortgage lien on the land and improvements if the borrower owns both in fee simple. If the borrower occupies the property pursuant to a ground lease, HMFA will require a first leasehold mortgage secured by the borrower's interest in the lease and the improvements. The term of the ground lease must remain until the maturity date of the first mortgage, the affordability period or until all mortgage loans given by the agency have been paid, whichever is later and will be in all respects satisfactory to HMFA. To further protect the Agency's interests, the parties shall enter into a non-disturbance agreement with HMFA wherein the lessor will promise, among other things, not to terminate the ground lease during the term of the mortgage(s) and affordability restrictions except by reason of default of the borrower, and in no event without first giving HMFA notice and opportunity to cure that default, and, if required by HMFA and/or the Attorney General's Office, amending the ground lease when curing a default by the borrower. The form and substance of the non-disturbance agreement must be acceptable to HMFA and the Attorney General's Office.

Whenever a first lien position is determined not to be available, e.g., federal regulations, HMFA will allow its loan to be in a lesser position.

**Security/Collateral**

HMFA loans are secured or collateralized by a lien on the land, improvements, leasehold estate, project revenues and escrows. There is generally no recourse to other assets of the borrower except in the case of fraud or other acts regarding the project.

**Commitment Term**

Construction and permanent loan commitments will expire 180 days after the anticipated construction start date. In the case of permanent only loans, the commitment will expire 90 days after the anticipated construction completion date. The Executive Director is authorized to extend the commitment for two additional consecutive 90-day periods, subject to financial feasibility. Projects that do not close on the Agency loan before the second ninety-day extension expires will be re-underwritten to ensure financial feasibility and will require Board approval. A written request for extensions must be made to the Multifamily/Supportive Housing and Lending Division.

**Determination of  
Project Cost**

Subject to the maximum loan amounts set forth above, the HMFA may finance projects costs as determined by HMFA and as defined in



N.J.S.A. 55:14K-3q. HMFA is required to determine that all special needs housing project costs are reasonable or necessary with regard to the maximum loan amounts. The HMFA will require the Developer/Sponsor to submit a certification of project costs at the end of construction.

## **Sale or Prepayment**

**The HMFA prohibits the sale of the project or any interest therein without prior HMFA written approval.** Secondary financing, representing a portion of the purchase price of the project or interest therein, may be permitted by the HMFA subject to the following limitations: HMFA will review and may restrict all secondary financing particularly where the secondary financing is secured by a lien on the project. Repayment of secondary financing cannot be taken into consideration in determining the rents to be charged tenants. The secondary debt instruments must be subordinate to any existing HMFA mortgage, and in the event of a declaration of default on any existing mortgage held by the Agency, the secondary financing debt and all rights thereunder to rent or any other project income or assets shall be assigned to HMFA.

A seller may earn interest on a seller note at a maximum rate of the Prime Rate PLUS 1.50% where the original principal amount of a seller note plus cash or other consideration paid to seller would not violate the maximum allowable return (“MAR”) permissible by the Agency. The Prime Rate can be obtained on the day of closing from the Capital Markets Division. Any payment of interest above Prime + 1.50% will be viewed as being in excess of the MAR. All payments due under seller notes will remain subject to Agency underwriting and feasibility determination as part of the Agency’s underwriting process, whether the sale involves new Agency financing, outside lender financing, or no financing beyond the seller note.

Secondary financing shall be subject to the HMFA’s standard underwriting analysis to determine its impact on project financial feasibility and affordability requirements. In performing its underwriting analysis, the HMFA will take into account any potential non-renewal of or non-appropriation for any governmental subsidies to the project, including, but not necessarily limited to, project-based Section 8. Any sale or prepayment not authorized by the HMFA will result in a default of the mortgage loan. If the project’s mortgage term exceeds 15 years, it may be prepaid after year 15; however, the low-income housing, Trust Fund and other HMFA restrictions remain in place through the original mortgage term.

The requirements for Agency approval of the sale of the project or any interest therein, requirements for a prepayment of the project's Trust Fund mortgage, and determination of the permissible MAR are set forth in Appendix A attached hereto and made a part hereof.

### **Site Inspection and Acceptance**

The HMFA will perform a site inspection to determine if it is suitable for development purpose, as well as assessment for Climate Resilience.

### **Tenant Relocation Plan**

If a site is identified that has an existing tenant population and will result in the displacement of tenants, the applicant must submit a "Tenant Relocation Plan" as part of the application for Trust Fund financing. This Plan must provide a minimum amount of time that is given to the tenants to relocate. The Agency recommends a minimum time period of six (6) months for relocation from date of the notice provided by the property owner to the tenants. The Agency may request that the applicant submit proof of this notice by providing signed Certified Mail receipts to the affected tenants. In addition to the six months' notice as outlined above; the project sponsor is required to file a "Tenant Relocation Plan" which must be approved by the HMFA for Agency financing.

In addition to the notice as outlined above, the responsibilities of Project Sponsors who are applying for monies for relocation under the Trust Fund shall be as follows:

- 1) The applicant must certify and provide assurance that it will comply with the procedures under the Federal Uniform Relocation Act (the regulations at 49CFR part 24, subpart B) and must ensure such compliance notwithstanding any third party's contractual obligation with the Project Sponsor.
- 2) The Project Sponsor must maintain records in sufficient detail to demonstrate compliance with the Uniform Regulatory Agreement and these Guidelines.

### **Real Estate Valuation**

The HMFA recognizes the lesser of the appraised value or the purchase price of the realty and any buildings and improvements thereon, in the most recent arm's length transaction as provided by a "Delineation of Title" history (completed by the appraiser) identifying each party associated with the conveyance for a maximum of 10 years. The appraised value of the real estate may be considered if the arm's length transaction exceeds 10 years.

The total purchase price may include documented carrying costs, expenditures to obtain zoning, environmental or other governmental

approvals necessary or useful for the development of the project, and the costs of improvements erected for the benefit of the project.

**Please Note:** Arm's Length Transaction is defined as a transaction negotiated by unrelated parties, each acting in their own self-interest in arriving at a basis for a fair market value determination.

## **Appraisals**

An independent, third-party appraisal that conforms to the Uniform Standards of Professional Appraisal Practice (USPAP), and in accordance with the HMFA standards, will be commissioned by the developer or other lending institution and submitted to HMFA to determine the as-is value of the site and/or building. Regardless of whether the Project has received a tax abatement, the appraisal should also provide the most recent tax assessment on the property. Upon receipt of an appraisal the Agency will submit the report to one of three contracted third-party appraisers for review of accuracy and reasonableness. The cost of the appraisal review will be passed on to the developer and payment will be required prior to commencement of the review. \*For HUD 811 Supportive Housing Projects, HMFA will accept the HUD approved appraisal.

For a copy of Appraisal Standards please contact the Multifamily Supportive Housing and Lending Division.

## **Appraisal Updates**

All appraisals have a shelf life. Property values change quickly and are dependent on many different data. An appraisal completed for a project is valid for one year (12 months).

The HMFA requires that appraisals be updated under the following circumstances.

- An update must be ordered if the project is in a Bond issue and the appraisal age exceeds that required by the bond underwriter (6-12 months). The Multifamily Division will assess the actual appraisal and the risk to the Agency for each individual project. Some of the determining factors to be used to determine when the appraisal should be updated are Loan to Value (LTV), market area stability and rental structure, project type and status, etc.
- An update must be ordered if the appraisal is more than 6 months old and a re-commitment is needed. Again, the Multifamily Division will assess the actual appraisal and the risk to the Agency for each individual project NOTE: An appraisal can only be updated two times before a new appraisal should be ordered. Additionally, once an acquisition value has been set by the first appraisal, that "as is" value or purchase price (whichever is less) has been determined and will not change.

**Population Needs Analysis** A needs analysis that demonstrates the current and projected need and demand for housing for the targeted population(s) may be

required by the Agency. If applicable a supportive housing population needs analysis shall address the following:

1. The scope of the current and 30-year projected need of the target population(s) for supportive housing;
2. Define the market area, including sources of referrals for supportive housing;
3. Current and estimated population needs assessment for the defined market area. Applicants can obtain this information from Federal, State and local agencies and other sources;
4. Estimated time it will take to fill the units;
5. The estimated income and sources of income for the target population(s); and
6. The number of supportive housing and other types of designated housing serving the target population(s) in the defined market area.

## **Marketing Plan**

For all projects receiving a Trust Fund commitment, depending on the size and scope of the project, the Project Sponsor and/or the Managing Agent may be required to provide a marketing plan for the HMFA's approval and acceptance. This plan must outline all the preliminary marketing to be accomplished prior to opening and thereafter. The plan must also provide for the ongoing marketing efforts that will be made to keep the project fully occupied. The outline must provide a timeline for all anticipated activities and should be tied to benchmarks during construction.

Where the HMFA is making both the construction and permanent loan, the plan (if required) shall be submitted prior to closing on the construction loan. Where the HMFA is providing only the take-out financing, if required, the project shall submit its marketing plan (if required) prior to construction start. In certain cases of rehabilitation where there is an existing occupancy, the Project Sponsor and/or the Managing Agent must submit documentation that a full marketing plan is not needed and give the reasons the HMFA should accept a lesser marketing analysis.

## **Building Design**

The external and internal design of the building is important to meeting the goals of the Trust Fund. The project's sponsor/borrower is encouraged to review the Trust Fund Application's Best Methods Design Questionnaire early in the development of the project concept and preliminary design. The Best Methods Design Questionnaire must be completed prior to HMFA review of final site plans and evidence of design features for special needs units referenced in the Best Methods Design Questionnaire submission must be documented on the Plans. HMFA Technical Services staff will review building plans, consistency with the Best Methods

Design Questionnaire, and is available to assist with meeting these priorities. Failure to meet these priorities may result in a project not receiving financing.

For Design and Technical Services Document Guidance, refer to the Tech Services website page at

<https://nj.gov/dca/hmfa/developers/techservices/>

New construction shall be required to meet Energy Star certification.

For **substantial and gut rehabilitation projects**, a structural engineering report on the existing structure, acceptable to the HMFA, must be submitted. All existing mechanical, plumbing and electric systems must be replaced.

If the degree of rehabilitation to be accomplished is **less than substantial**, an engineer's report describing the condition of these building systems, and listing their recommendations, may be required.

#### **Construction Budget**

The construction budget must be supported by a Summary Trade Payment Breakdown and the HMFA Residential Cost Analysis Form signed by the contractor. These documents and other supporting schedules such as the construction completion schedule and design development drawings must be submitted by the contractor and approved by the Director of Technical Services prior to mortgage commitment. Refer to the Technical Services Requirements document attached to the Document Checklist, for the timing of the submission of these documents.

#### **Tax Abatement**

The developer/sponsor is encouraged to obtain a municipal resolution granting a real estate tax abatement and authorizing an agreement for payments in lieu of taxes ("P.I.L.O.T.") for the project under HMFA's statute, N.J.S.A. 55:14K-37, during the mortgage or grant term. Furthermore, it is beneficial to the project if tax abatement is obtained pursuant to HMFA statute rather than the Long-Term Tax Exemption Statute.

In general, the HMFA has found that a project without a tax abatement or a project with a tax abatement under the Long-Term Tax Exemption statute may have trouble demonstrating financial feasibility.

#### **Sales Tax Exemption**

Sales of materials or supplies to housing sponsors utilizing HMFA financing during construction are exempt from NJ State sales tax. Sales of materials or supplies to contractors for the purpose of

erecting housing projects which have received HMFA construction financing and other local, state or federal subsidies are exempt from NJ State sales tax.

Sales of materials or supplies to nonprofit project Sponsors utilizing HMFA construction financing may be exempt from NJ State sales tax based on the Sponsor's nonprofit status. An exemption from sales tax is not available for permanent only financing.

#### **Environmental Review**

HMFA requires the submission of a Phase I Environmental Assessment and a Phase II Environmental Assessment should the Phase I call for further investigations.

Should remediation be recommended a Preliminary Assessment Report as described in N.J.A.C. 7:26E-3.2 is required. Additional assessments, such as a Site Investigation described in N.J.A.C. 7:26E-3.3 et seq., or Department of Environmental Protection (DEP) remediation measures may also be warranted. Rehabilitation projects must provide a plan for asbestos removal and remediation of lead-based paint, radon, and underground storage tanks. A letter of "no further action" from DEP may be required.

A transaction update from the consultant, indicating that no further pollutants have been introduced to the site, will be required on all assessments or investigations prepared more than six months prior to construction start.

#### **Insurance Requirements**

All projects must have insurance coverage that fully complies with applicable HMFA insurance requirements and which must be approved by the HMFA. The insurance specifications and minimum requirements for Special Needs projects can be found on the HMFA website at the Quick links section then scrolling down to the Insurance Resources. There you will find tabs for Special Needs Multifamily Residential Properties.

#### **General Contractor in Lieu of Architect**

For those projects that require minor repairs as determined by the HMFA, the HMFA may consider a general contractor's services instead of engaging an architect, so long as municipal requirements such as building permits, write-ups and costs estimates will be obtained from the general contractor in these instances.

#### **Construction Completion Guarantees**

##### **Construction and Permanent Financing\***

Projects with construction costs over \$100,000 shall provide a 100% Payment & Performance Bond naming Sponsor and NJHMFA as

Obligees. For projects with construction costs less than \$1 Million, the Sponsor has the option of providing a 10% Letter of Credit. *Note, a 30% Warranty Bond guarantee on an Agency provided form, or 10% Letter of Credit must remain in force and effect for a period of two years post construction completion, as determined by both the Certificate of Occupancy date and Architect's Letter of Substantial Completion.* Projects with construction costs under \$100,000 may be asked to provide one of the above constructions guarantees at the discretion of the HMFA.

**Permanent Financing\***

In the case of permanent only financing, the developer/sponsor must provide one of the following for a term of 2 years from the date of issuance of both the Certificate of Occupancy and Architect's Certification of Substantial Completion 1) Letter of Credit equal to 10% of the construction cost; 2) Warranty Bond equal to 30% of construction cost; or 3) another form of guarantee which is acceptable to the HMFA. The cost of a Payment and Performance bond construction guarantee is an allowable project cost.

**Construction Contingency**

The contingency may be used to cover increases in both hard and soft costs.

The budgeted contingency for new construction projects is 5% of the construction costs.

The contingency for rehabilitation projects is 10% of the construction costs. This may be adjusted based upon an acceptable engineering report submitted to the HMFA. The budgeted contingency for soft costs must be at a minimum of 1% of the budgeted expenses.

**Developer's Fee**

The amount of the developer's fee allowed for Trust Fund only financing is limited to up to 8% of total development cost excluding working capital, marketing expenses, escrows, and operating deficit reserves. The developer's fee for Low Income Housing Tax Credit projects is determined by the Qualified Allocation Plan and for bond financed projects it is determined by the Multifamily Guidelines.

The developer fee does not include fees paid to the architect, engineer, lawyer, accountant, surveyor, appraiser, professional planner, historical consultant, and environmental consultant. Executed contracts for these professionals shall be submitted to the HMFA before being recognized as a separate line-item expense. Certain fees are subsumed within the developer fee – such as acquisition fees, compensation to the general partner, financial consultants, employees of the developer, construction managers/monitors, clerk of the works and syndicator-required consultants.

The developer's fee is earned on a pro-rata basis during the construction period based upon the percentage of construction completion. The unpledged portion of the developer fee is payable only when earned and is earned only after the entire pledged portion has been earned.

**Operating Account**

An owner must establish and maintain a separate operating account for all income and expenses specific to each project funded by the Agency. Sponsors may not transfer funds from one Agency project for the use of another housing project or to an umbrella account that may cover many projects or other initiatives of the Sponsor.

**Vacancy Rate**

The vacancy rate used for each project will be determined by the demand analysis and appraisal. At initial application, a minimum of a 5% vacancy rate may be used.

**Acceptable Housing  
Quality Standard**

At a minimum, units must meet the State Uniform Construction Code, local codes, certificate of occupancy requirements, as well as zoning requirements and may be subject to review and approval by HMFA's Technical Services Division.

**Income Targeting**

**Very low and Low Income**

HMFA will underwrite very low and low-income rents at 30% and 47.5% of area median income, respectively. If there is no operating subsidy, rents will be underwritten at 20% of AMI.

**Rents**

To the maximum extent economically feasible, the rents will be set at a level affordable to the targeted income and special needs group(s) to be served and will be determined by a demand analysis or experience and the need to serve very-low-income households.

The restrictions on tenant income and on rents shall be enforced through a deed restriction on the project and land for the term of the HMFA 's mortgage. Projects receiving tax credits shall also be subject to a deed restriction pursuant to the Internal Revenue Code.

Persons with special needs who require twenty-four (24) hour assistance may occupy the home/unit with appropriate caregivers. Parents and/or legal guardians of the resident's property may sign the rental lease agreement on behalf of the eligible resident applicant and may provide security deposits if necessary. The lease agreement shall be in a form acceptable to the appropriate State Agency having oversight of the special needs' population. Initial rents as well as future rental increases should not create a rent burden for tenants. Rents will be reviewed by HMFA and must be acceptable to HMFA and the appropriate State Agency.



**Changes to Project and Sponsor/Ownership**

If the sponsor/owner wishes to change the social services provider or the property management company or if any changes in ownership are needed, permission must first be obtained from the Agency. Please contact the Division of Multifamily/Supportive Housing and Lending.

**Social Services Plan**

Developers/Sponsors proposing a special needs housing project must identify the target population and a service provider agency for the project. In addition, the service provider must provide a Social Services Plan that addresses the needs of the target population and the plan components. The Social Services Plan must meet the guidelines listed below unless it has been developed and approved in accordance with criteria established by either the Department of Human Services or the Department of Children and Families. A description of the required elements and a sample of a Social Service Plan are set forth in Appendix B.

In the event that a Project Owner wishes to transfer to a new service provider, the owner must submit a request for transfer in writing, including the reasons for the request, to the Multifamily/Supportive Housing and Lending Division with a revised Social Services Plan. All transfers must be approved by HMFA in accordance with Appendix A.

Social Services Plans are subject to the HMFA's approval. If the service provider is receiving funding from a State Agency, the appropriate State Department, Division or Agency funding the services must approve the Social Services Plan, any requested transfer of service provider, or comparable requirements, to the satisfaction of the State funding entity and provide evidence of approval to HMFA.

**Fees and Charges****Application Fee**

Developer/sponsors will be responsible for payment of a non-refundable application fee of \$1,000 due at the time of the initial application.

**Re-Commitment Fee (non-refundable)**

A \$500 Trust Fund re-commitment fee will be charged. This fee is due prior to the Board issuance of a re-commitment.

**Pass Through Costs**

Upon receipt of an appraisal, the Agency will submit the report to one of three contracted third-party appraisers for review of accuracy and reasonableness. The cost of the appraisal review will be passed onto the developer and payment will be required prior to commencement of the review.

- One-Time Financing Fee** A three (3%) percent up-front financing fee based on the total amount of HMFA financing, including grants will be payable at the time of project closing.
- Processing and Review Fee** An additional processing and review fee of \$2,000 will be charged at time of application, to any project sponsor, which seeks Agency financing to be secured by a leasehold mortgage.