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NJ HMFA

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.

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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. The Summary of Public Comments and Agency Responses is posted on the LIHTC Resources and FAQs page https://njhousing.gov/dca/hmfa/media/download/tax/index.shtml

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. Developer Bulletin 2019-7 was circulated on May 6, 2019.

Q: Regarding Developer Bulletin 2019-7, can you please confirm that ALL LIHTC applications (even those not included as part of an inclusionary development) MUST submit and complete Step #1 of the Inclusionary Review process?

A: Confirmed. As stated in the Bulletin, ALL 4% and 9% LIHTC applications must submit and complete Step #1 of the Inclusionary Review process.

Q; Additionally, the Bulletin email does not detail who the information should be submitted to and what is the preferred method of submission?

A: Please email the required documentation (as applicable) to the Tax Credit Division via the LIHTC mailbox: NJHMFAtaxcredits@njhmfa.gov

Q: Can a project submit an application to the Multifamily Division before undergoing the Inclusionary Review?

A: Yes; however it is the responsibility of the applicant to ensure that all applicable steps are completed. Please refer to Bulletin 2019-7 which states, "Applicants are strongly encouraged to complete Step #1 in advance of submitting an application for either Agency financing and/or LIHTC. In the event Step #1 is not completed prior to submission, the Inclusionary Review must be completed as part of the application review."

Q: Please explain the meaning of the following phrase as it pertains to the A500 feasibility analysis: "certified to the Agency"

A: The report must identify NJHMFA as an intended user of the report.

Q: Can you share with us contact information for developers that are seeking independent third-party consultants skilled in market and financial analysis?

A: Developers seeking a third party consultant are encouraged to check the LIHTC Resources and FAQs webpage in the near future for a list of third party consultants.

Q: Are you providing to developers a list of independent third-party consultants skilled in market and financial analysis? If so, how can we be placed on that list?

A: The Agency will be publish a list of third party consultants on the LIHTC Resources and FAQs webpage. Any consultants that wish to be placed on the list can send their contact information to the LIHTC mailbox: NJHMFAtaxcredits@njhmfa.gov. Please note the list is not all inclusive, does not constitute an endorsement by the Agency, and the Agency is not responsible for the work performed by any of the listed professionals.

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Q: If a firm prepares an A500 analysis for an inclusionary project, is that firm conflicted out of preparing the market analysis if the project proceeds?

A: Preparation of an A500 analysis in and of itself would not preclude a firm from subsequently preparing a market analysis for the same project.

Q. Please confirm that Trenton is not subject to the inclusionary policy.

A: All new construction projects must submit Step 1 of the Inclusionary Review process, even those located in municipalities defined by the Agency as a Targeted Urban Municipality (TUM). Please refer to the Inclusionary Bulletins for more information - https://njhousing.gov/dca/hmfa/developers/credits/inclusionary/

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
10 units at 57.5%	1 unit at 37.5% AMI
= 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
5 units at 47.5% AMI	2 units at 20% AMI
= 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: Although the QAP allows for the use of 80% AMI units in underwriting, the Public Comment Responses seem to imply that during the tax credit application process, 80% AMI units cannot be included in the underwriting. The max AMI underwritten during the application process can only be 60%. Can you please confirm this understanding is accurate?

A: Correct, 9% Applicants will NOT be permitted to underwrite assuming the new "Average Income" or "Income Averaging" federal minimum set-aside election in 2019 applications. All 2019 applicants must select either the 20% at 50% or 40% at 60% minimum set aside and adhere to current underwriting parameters (units underwritten above 60% of Area Median Income will be treated as market rate or unrestricted). After award, owners should notify the Agency of any substantive changes to the project, including a requested change in minimum set aside by no later than carryover/ binding commitment.

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.

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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.

Q: With respect to the mixed income reserve is the 55% affordability limit applicable only based on units or is it also based on square footage? Is the 55% limit applicable to each bedroom size?

A: The 55% affordability is calculated based on units only and the Mixed-Income Reserve does not address bedroom size.

Q: Now that the Mixed Income Projects compete in the "Family Cycle", is there a requirement for 3BR units? Normally such projects do not have such bedroom types.

A: Please refer to N.J.A.C. 5:80-33.4(a), which permits deviations from the standard bedroom distributions due to market area demographics and/or financial feasibility.

Q: Can you confirm if tax credits for mixed income projects are generated by eligible basis OR by up to 30,000 per eligible tax credit unit?

A: The Agency cannot award tax credits in excess of the credits generated by eligible costs/ basis. To confirm, no more than $30,000 in tax credits will be awarded per tax credit unit for mixed income projects, even if the project generates additional eligible basis.

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.

Q: N.J.A.C. 5:80-33.12(c)17 sets forth criteria for non-preservation projects located in census tracts wherein 30% or more of existing housing units are LIHTC. N.J.A.C. 5:80-33.12(c)17(ii) says that a project can be eligible if it does not add more low-income units to the census tract. In this instance is the use of “low-income units” meant to describe units at or below 50% AMI specifically or LIHTC units in general? For the criteria at N.J.A.C. 5:80-33.12(c)17(iii), what relocation options to higher opportunity areas are eligible to be included in a project plan?

A: The term “low-income units” means LIHTC units in general, not only those under 50% of AMI. Relocation options means providing the existing tenants bona fide housing choices. An example of this is providing tenant-based vouchers to allow relocation to other properties in high opportunity areas.

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 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.

Q: For Senior Cycle points under Age Friendly Housing, would a project located next to a pharmacy on an immediately adjacent, abutting parcel qualify for 2 points in this section?

A: No points in this category shall be awarded for existing services. The Agency expects that the "wellness clinic," "pharmacy" or "partnership with hospital or managed care organization" would be a new on-site service provided to residents. However, a pharmacy located next to the proposed project would be eligible for one point under N.J.A.C. 5:80-33.15(a)11i for proximity to positive land uses.

Q: What evidence do we need to show as participation in the SIL program? Do we need HMFA approval prior to submission?

A: The application needs only to include a statement that the project will be participating in the SIL program.

Q: For the On-site health provider, do we need to have a contract in place with an on-site health provider at the time of application? If not is there anything we need to include to show that an on-site health provider will be provided?

A: Yes, the contract should be in place at the time of application which specifies frequency of service and evidence of funding. Please refer to page 18 of the Summary of Public Comments and Agency Responses for more guidance.

Q: This question pertains to senior housing, specifically the on-site health provider with a private room. Does the Agency have a preference on the amount of hours a Wellness Nurse should spend per visit on-site?

A: The Agency recommends that the on-site health provider be available to residents (at a minimum) for the equivalent of two full working days per month, depending on preferences and needs of the residents. For example, this can be achieved by offering services ½ day every week or 1 full day every other week, at the discretion of the owner and availability of the health provider.

Q: We will participate in the SIL Program. Is the hiring of a ½ time social services coordinator (20 hours per week) sufficient? My approved Form 10 does not reflect the budget line.

A: Please refer to the LIHTC Application which states, "A social service coordinator must be dedicated to the project for a minimum of 20 hours per week. An extended vacancy of the social service coordinator position (longer than 2 months) may result in non-compliance." Evidence of funding must be submitted.

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.shtm

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.

Q: Will NJHMFA use a 5% vacancy rate in its underwriting of a senior project if it is supported in the market study?

A: The Tax Credit division evaluates a project's operations during the 15-year compliance period utilizing a 7% vacancy rate.

Applications

Q: Are 2 copies of the tax credit application required to be submitted?

A: Please submit 1 complete paper copy and 1 complete electronic copy on a flash drive or CD. Submit 1 additional bound copy of the market study for a total of 2 market studies.

FHLB applications

Q: Since FHLBNY applications are due in April 2019 and NJHMFA tax credit applications are due in September 2019, are applicants who intend to utilize both sources of funding required to apply to both FHLBNY and NJHMFA in 2019? When does FHLBNY funding need to be committed?

A: Please refer to N.J.A.C. 5:80-33.12(c)6viii for more information.

> *Federal Home Loan Bank (FHLB): Applicants applying for tax credits and the FHLB Affordable Housing Program shall not be required to submit a commitment letter from FHLB by the application deadline. If a project fails to receive FHLB funding, the project may be declared infeasible unless there is an alternate source of financing, such as a deferred developer fee, identified in the tax credit application and commitment of the alternate funding is received by issuance of the carryover allocation/binding agreement.*

Q. It is my understanding that I can include AHP in sources without an AHP commitment. I will apply in the next FHLB NY round (project April 2020). Is there a limit as to the amount I can include in sources? Please confirm that I can include any amount as long as whether or not I receive award I bring down the deferred fee to under 50% prior to carryover which I presume to be December 2020.

A: Please review the answer above. There is no limit to the amount of FHLB that can be assumed as a source but applicants are cautioned that, if unsuccessful, the source must be replaced by carryover/ binding commitment.

FAQs

Q: Kindly advise if you will be sending out notices when the FAQ's get updated or do we just need to check back regularly?

A: The Agency will not be sending out notices when the FAQs are updated, but intends to post updates as questions are submitted. Applicants are encouraged to check back periodically.

Ready to Grow

Q: We have an unusual 'Ready to Grow' situation for a site in Princeton. I think we're still smart growth based on the fact that we have sewer and water capacity and the planner has confirmed that it has been designated a 'regional center' but it was designated in 1995. Can you please take a look and let me know if you agree that it qualifies as 'Ready to Grow'?

A: As noted in the UNIAP LIHTC Application, please contact the Office of Planning Advocacy for confirmation that the project meets the Ready to Grow definition at N.J.A.C. 5:80-33.2.

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Cap on Soft Costs

Q: The definition of Soft Costs, on page 13 of the Draft 2019-2020 QAP, stipulates the various costs that are defined as such and, in parenthesis, states at application stage only. If the developer incurs an unforeseen utility or municipal impact fee charge or perhaps an esoteric environmental issue arises that creates additional environmental engineering and legal costs during the construction of the project and, as such, soft costs at 8609 exceed 30% of the project cost; can we demonstrate that the additional costs are paid with sources outside of tax credit equity to work through these unforeseen but mandated costs to complete the project and not violate the 30% soft cost cap.

A: ~~The QAP has not yet been adopted by the HMFA Board. Once the QAP has been approved by the Board, more information on the approved changes in the 2019/20 QAP will be distributed on the "LIHTC Resources and FAQs" webpage.~~ The Agency has withdrawn the proposed change to impose a 30% cap on soft costs, which was approved by the HMFA Board at the April 18, 2019 meeting.

QAP Workshop

Q. Will there be formal, in-person training on the 2019 QAP? We are hearing rumors that there won't be, and are not sure why that would be the case. There are many new items in the QAP, and those trainings go a long way to answer many of our questions. If the answer to number 1 is a "no", will the Agency consider a webinar style training, such as the FHLB provides? Webinar trainings allow many more people to access the training at once.

A: The Agency received extensive comments to the proposed QAP and will be publishing a summary of the comments and responses after Board approval. It is expected that those responses will clarify outstanding questions that applicants have, in particular those regarding the changes in the 2019/ 2020 QAP.

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Utility Allowances

Q. If our construction drawings are far enough along to allow a utility analysis be conducted, are we allowed to use those utility allowances from the study instead of the DCA utility allowance, at application?

A: Yes, a utility allowance study may be submitted for approval to the Technical Services division (and Multifamily division, if applicable) if the project is new construction and once approved, may be utilized for underwriting utility allowances in tax credit applications. Please refer to the LIHTC Appendix for more information on the approved methods for calculating utility allowances. If the project involves rehabilitation, the DCA utility allowances must be utilized for underwriting in tax credit applications.

Market Study Analysts

Q: What credentials under the QAP are required of the market analyst who conducts the required Market Study? Must he or she be a state certified Real Estate Appraiser?

A: Please refer to N.J.A.C. 5:80-33.12(c)1ii(10), which states the following requirements:

A statement of the competency of the analyst conducting the study. The market analyst shall certify that:

(A) He or she is an independent, third party professional with no financial interest in the project other than in the practice of his or her profession (for example, his or her fee for preparing the report is not contingent upon project completion and/or an award of tax credits);

(B) He or she has the requisite knowledge to proceed with the study;

(C) He or she has personally inspected the subject property and the comparable properties analyzed in the report; and

(D) He or she has conducted the study in accordance with the Model Content Standards for Market Studies for Rental Housing of the National Council of Housing Market Analysts (NCHMA), 1400 16th Street NW, Suite 420, Washington, DC 20036, which Market Content Standards are available at http://www.housingonline.com/resources.aspx, incorporated herein by reference, as amended and supplemented.

Low Density/ Large Family Units

Q: Does a 5 story building with 25% family sized units qualify for 5 points?

A: Low-density buildings where at least 25 percent of the tax credit units are large- family units shall be eligible for five points. "Low-density" means a building having one to four residential floors or stories.

Q: Would a 5-story building with 4 over 1 (4 floors of residential over 1 story of parking) and 25% of family sized units qualify for the 5 points?

A: Yes, per the definition of "Low-density," as long as the large family unit requirement is met, a building having one to four residential floors or stories is eligible for 5 points.

Q: For projects applying in the Family Cycle, is there a specific exhibit in the Points section where developers should insert information to document that a project is a low density building with at least 25% large family tax credit units?

A: There is no need for applicants to separately provide this information. Agency staff is able to evaluate this point category from the documentation provided in the application.

Cost Caps

Q: Will the increased development cost cap apply to projects that close and/or are placed in service after the 2019-2020 QAP is approved?

A: Yes, after the effective date of the QAP (publication in the NJ Register currently anticipated for June), any project which has not been issued 8609s may utilize the higher per-unit cost caps.

Supportive Service Agreements

Q: This question is regarding supportive service agreements with service providers for services at properties that will have at least a portion of supportive housing units. If an application is a resubmission of a LIHTC application from 2018, are the supportive service agreements to be dated within a certain time period of this year's application (i.e. 6 months of 9/12/19)?

A: The agreements can either be re-dated and initialed by each party or a new agreement can be created with updated dates.

<u>Targeted Urban Municipalities (TUM) list</u>

Q: There are a couple of municipalities in 2018 that are no longer on the TUM listing. Until this year the TUM list had remained virtually the same. We assume this year's changes relate to the new methodology. Given projects must receive preliminary site plan approval well before an application round is announced and that process in NJ is lengthy, shouldn't there be some kind of look back for TUM municipalities like there is for schools points? Meaning if you are applying in 2019 for tax credits, the TUM listing would look back to 2017 and 2018. If there is no lookback, then someone who has been working on a project in a TUM for 12 months could get kicked out because the following year it was not a TUM.

A: As has been the practice since 2013, the QAP does not include a lookback provision for municipalities on a previous TUM list.

<u>Public Transportation</u>

Q: Based on the reading of the QAP in combination with the Public Comment Response (pages 14 and 22) could you please confirm that the following understanding as it relates to bus in a family round. If a municipality agrees to provide a shuttle from the family LIHTC project, at least twice per day M-F (once being morning rush and once being evening rush), to a train station or bus stop that provides public transportation to the general public M-F between the hours of 6:30AM-9:30AM and 3PM-6PM does this scenario meet the definition of public transportation to receive the points under 5:80-33.15 (a)14ii? In this scenario does the municipality need to provide an ordinance as noted on page 22 of the responses? That section seems to only be if the municipality is providing the actual M-F Public Transportation.

A: As outlined in the responses to the public comments, if the public transportation is not in place at the time of application, the Agency will accept, in the tax credit application, an ordinance which firmly commits public transportation, as defined in N.J.A.C. 5:80-33.2 (including all necessary funding) to the project. Resolutions or other forms of governmental approvals will not be accepted.

Q: On May 6th there was a QAP response regarding public transportation that did not answer the entire question. On page 14 of the QAP public comment responses, when asked about shuttle service being used in areas with limited public transportation the response from NJHMFA seemed to state that if you have a municipally operated shuttle from your property, twice daily to another public transportation outlet, such as a park and ride or bus stop or train station, that operated during the required hours as stated in the QAP, then this scenario would count for the public transportation points as defined in 5:80-33.15 (a)14ii.

Can you please confirm that if a municipality provides a shuttle service from the property, twice daily, to another public transportation outlet, such as a park and ride or bus stop or train station, that operated during the required hours as stated in the QAP then this scenario will be eligible for the public transportation points as defined in 5:80-33.15 (a)14ii.

A: The answer provided in the Summary of Public Comments and Agency Responses explained what the Tax Credit Committee has approved in another instance. Further or absolute confirmation cannot be provided until a complete review of the application has been completed and applicants are advised to reference Developer Bulletin 2019-4: Updated Q & A Policy which states "… that project-specific questions, including document review and/or confirmation of eligibility for threshold requirements or points, are no longer permitted."

Q: The FAQ responses and Public QAP comments responses require that a municipality provide an ordinance to show funding for a to-be-created bus stop for example. We have a County that added a bus stop along an already existing public bus route. The county does NOT provide an ordinance but instead provide Resolutions for this type of change. Please confirm that in this instance a resolution is acceptable as this is already an operational bus line.

A: As stated in the Summary of Public Comments and Agency Responses, the Agency will accept for future, to-be-created, public transportation (for example, a bus stop that is not operational at the time of the tax credit application), an ordinance which firmly commits public transportation, as defined in N.J.A.C. 5:80-33.2 (including all necessary funding) to the project. Resolutions or other forms of governmental approvals will not be accepted.

If the public transportation is in place at the time of application, then the availability and proximity to the project shall be confirmed in the project's market analysis and staff must be able to independently verify its availability and frequency.

Age Restricted Properties

Q: I have a scattered sites project I'm submitting for 9% tax credits. 1 building is designated for seniors and the other is for families. Which cycle would I compete under? Family or Senior?

A: Please consult an attorney with experience with fair housing laws and the tax credit program for advice on whether a project including both age restricted and non-age restricted units can be commonly financed.

Homeless Units

Q: Please would you confirm the rent calculation requirement for the five-unit homeless-housing set-aside required to be included in the LIHTC projects? We specifically want to clarify if the rents should be calculated using 30% AMI or 20% AMI.

A: Units set aside for homeless individuals or families must be underwritten at 20% of AMI adjusted for family size. For units that also satisfy the 10% at 30% AMI point category, household incomes of homeless residents can be as high as 30% of AMI.

Q: In reviewing the QAP and the LIHTC application documents there is confusion on the number of supportive service coordinator hours that are required when the project is not a supportive service project but has 5 homeless units required for points as noted on page 54 (item 20) of the QAP. Page 13 of the QAP under "Supportive Service Plan" 1. States that a minimum of 5 hours per weeks is required but that 10 hours is recommended. Page 20 of the LIHTC application states 5 hours per week is required. Page 30 of the LIHTC application #6 does not differentiate between full supportive communities and those only having 5 homeless units and requires 20 hours a week.

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Could you please confirm that when requesting points for general occupancy family communities which elect to include 5 homeless units for points, only 5 hours of a social service coordinator satisfies the Social Service portion of the LIHTC application.

A: Please refer to the definition of "Social services plan" which states, "For projects that have set aside five percent of the units for supportive housing units, a minimum of five hours per week is required (at least 10 hours per week is recommended)."

Limit on Awards per Developer

Q: If hypothetically a sponsor submitted two family deals, a senior deal and a special needs deal and all were funded which one gets knocked out per the 3 deals per developer rule?

A: If all of the hypothetical projects are ranking, the special needs deal would not be funded. Please refer to N.J.A.C. 5:80-33.4(c), which states, "To ensure equitable distribution if there are both excess demand and multiple ranking eligible applications from a single developer, NJHMFA shall fund no more than three projects per year from the same developer/general partner/managing member. Funding of projects shall be prioritized in the following manner: the highest ranking eligible project(s) in the Family Cycle, the Senior Cycle, and lastly, the Final Cycle."

10% of units at 30% AMI

Q: Page 28 of the UNIAP item #2 allows for two affordability options: 20% at 50% federal set aside or 10% of the tax credits units earning less than 30% of AMI. Although this language says less than 30% AMI (as it has done in the past versions) NJHMFA has always allowed for equal to or less than 30% AMI for 10% of the units. Can you please confirm this should read less than or equal to 30% AMI?

A: It is confirmed that the Agency permits rents at 30% of AMI or less to be eligible for this point category.

Credit Years for 2019 Awards

Q. I assume you are allocating 2020 credits or later, please confirm.

A: The Agency is planning to award 2020 and 2021 credits in the 2019 application round.

<u>Mixed-Income Senior Projects</u>

Q: Is a mixed-income senior project an eligible project-type in this year's 9% funding round? It appears that only mixed-income family projects are eligible for funding this year.

A: The Mixed-Income Reserve and Mixed-Income set-aside are for Family projects; however, there is nothing which precludes a senior project with less than 100% applicable fraction from applying in the Senior Cycle.

<u>Tie-Breakers</u>

Q: If a Super's unit is to be income restricted with the Superintendent paying the applicable LIHTC rent, is the unit still excluded from a tiebreaker calculation?

A: Please refer the N.J.A.C. 5:80-33.19(a)1ii, which states, "In all cycles, superintendent unit(s) shall not be included for purposes of calculating the tiebreaker." The Agency strongly discourages income-restricting any unit which is considered common space, such as superintendents or managers units.

<u>Bonus Point</u>

Q: The bonus point option where at least 20% of units are underwritten at 30% of AMI or less (5:80-33.15(a)24ii), also notes that units with rental assistance do not qualify for this point. Is a unit with a resident with a tenant-based voucher also excluded from this category?

A: Only units with project-based rental assistance are excluded from this category.

Q: Regarding the bonus point option where 1 point is awarded to the project because at least 20 percent of units are set aside for unrestricted, market-rate tenants (5:80-33.15(a)24i). It also notes that applications that select this option are not eligible for discretionary 130% basis boost, authorized under the Housing and Economic Recovery Act (HERA) of 2008. Please clarify that this point would be awarded to a project for incorporating market rate units under the following circumstances. The project does not exist in Qualified Census Tract (QCT) or Difficult

Development Area (DDA) so it is not eligible for a 130% basis boost. Additionally, the project will not be applying for a discretionary HERA basis boost. 80% of the units will be restricted to 60% AMI rents with the remaining 20% of the units leased at market rate rents?

A: This confirms that applications are eligible for the bonus point described at N.J.A.C. 5:80(a)24 only if the discretionary 130% basis boost is not requested.

Scoring

Q: If a proposed project is located in two municipalities that score differently with respect to location-specific categories (such as MRI Ranking, Proficient Schools, Opportunity Zone, etc.), how would the project be scored?

A: Please refer to N.J.A.C. 5:80-33.14(c) which states, "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 through 33.18."

Successful Development Experience

Q: For someone to be able to claim that they successfully developed and operated a LIHTC project, what percentage of the general partner/ managing member do they have to own for each project?

A: Please refer to N.J.A.C. 5:80-33.15(a)19 which specifies that the general partner, voting member, developer, or related party must have at least a 50 percent interest in the general partner/managing member.

Q: For NJHMFA tax credit projects, does the developer need to request a letter confirming our tax credit project experience from HMFA to include in the application?

A: Agency staff will confirm for any NJ projects.

Conditional Mortgage Commitments

Q: If a project received a Conditional Permanent Mortgage Commitment from the NJHMFA but the project was underwritten and approved using 2018 income levels and/or interest rate(s) that preceded the current posted rate/income levels, can the application for 9% tax credits include a proforma that reflects a mortgage amount higher than shown on the commitment as long as it still meets the Agency's underwriting criteria?

A: An applicant can submit a proforma which differs from the NJHMFA conditional mortgage commitment as long as the developer prepares and submits a detailed explanation of all variances in the application. Email confirmation from the Mutlifamily division approving the accuracy of all variances (including any discrepancy in the committed first mortgage amount) and the original signed Form 10 shall also be submitted. Please note that a project will not receive a revised conditional commitment and Multifamily staff will not re-underwrite the project after it is presented to the Board.

Points for Tax Abatement

Q: With respect to a 6.28 Fixed PILOT for the 15 year compliance period, do I receive maximum points if only the affordable units are subject to a 6.28 PILOT?

A: Please refer to N.J.A.C. 5:80-33.15(a)4 which requires that, in order to be eligible for points, the fixed rate tax abatement must apply to the residential component (inclusive of affordable and/or market rate units) for at least 15 years.

Q: If a project qualifies for abatement under the Garden State Growth Zone statute, does this qualify for the 5 abatement points if I demonstrate that it is equal to or less than a fixed rate abatement < 6.28% or 3 abatement points if it is higher?

A: The Tax Credit Committee has approved, for a previous project, points for tax abatement under the Garden State Growth Zone exemption based on a blended rate over the 15 year compliance period. However, applicants are advised that further or absolute confirmation cannot be provided until a complete review of the documentation has been completed.

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Mayor's Letter

Q: Is the Mayor's letter of Support a required submission?

A: No, it is not required. The Internal Revenue Code requires only that the Agency provide the Mayor (the chief executive officer or equivalent) of the local jurisdiction a reasonable opportunity to comment on the project.

Preliminary Site Plan Approval

Q: Projects located in the Hackensack Meadowlands District fall under the jurisdiction of the NJSEA for planning and zoning approval. However, the NJSEA does not issue preliminary and final planning approval resolutions. The NJSEA issues one "approval", which is a Zoning Certificate and is the equivalent to final planning approval. The Zoning Certificate is obtained through a two-step process following the submission of a Zoning Certificate application. First, the NJSEA site plan review group issues a letter that the Zoning Certificate application is complete and all site plan submission requirements have been met. Following review by the NJSEA site plan group, complete applications are sent to their Chief Engineer for approval. Public hearings are held only for applications involving variances and are not required for applications that conform to NJSEA regulations. Would a letter from the NJSEA of confirming that a project's Zoning Certificate application is administratively complete and conforms to NJSEA requirements meet the LIHTC threshold requirement of preliminary planning approval?

A: Applicants are advised it is their responsibility to ensure that the project complies with all applicable local land use and zoning ordinances and that nothing at the local or county level will interfere with the project obtaining all necessary permits.   For projects located in the Hackensack Meadowlands District that fall under the jurisdiction of the NJSEA, the Agency will accept a letter that the Zoning Certificate application is complete and all site plan submission requirements have been met.

Q: This question pertains to the Site Plan Approval documentation. Does a letter from the Planning Board Attorney stating that the site(s) received approval demonstrate Preliminary or Final Site Plan approval in the absence of a resolution?

A: Yes, the Agency will accept a letter from the Planning Board attorney or the Planning Board meeting minutes in lieu of the resolution granting preliminary or final site plan approval.

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Preservation Set-Aside

Q: In the Senior Cycle section of the QAP, there seem to be two maximum annual allocations of credits noted, $1.4 million and $1 million. Which of these is correct or do they somehow each apply under different circumstances?

A: $1.4M is the max for a non-preservation set aside senior project. $1M is the max for a preservation set aside senior project.

Multiple-Phase Projects

Q: The development site we are focused on has enough acreage for a second phase. Are there specific rules regarding multi-phased developments? For example, does the first phase need to be complete and leased up before we can apply for credits on the second phase?

A: There is no limitation on phases; however, applicants are precluded from applying for two phases in the same cycle. Please refer to N.J.A.C. 5:80-33.5(c) for the Senior Cycle which states, "NJHMFA will accept only one application per developer/general partner/managing member per municipality in the Senior Cycle."

Energy Benchmarking

Q: For the tax credit applications, do we need to also submit the tenant and building release forms with application?

A: At application, only the Energy Benchmarking Letter of Intent is required to be submitted.

Pre-Review of Application Documents

Q: Will the Tax Credit division review any application documents, such as funding letters, for developers as has been previous practice?

A: Please refer to the Developer Bulletin 2019-4 which states that project-specific questions, including document review and/or confirmation of eligibility for threshold requirements or points, are no longer permitted.

Limits on Applications

Q. Can a general partner apply to two different cycles (ie. the multi-family cycle and the senior cycle) in the same municipality in the same year?

A: Yes, applications are only limited to 1 per municipality per cycle.

Environmental Studies

Q: Part II Section 4 – Does the Phase I Environmental Study need to be dated within a certain time period from the application submission date?

A: No, a Phase I is not required to be submitted in the application and the QAP does not stipulate that the report be completed within a certain timeframe. Please refer to N.J.A.C. 5:80-33.12(c)4 for requirements.

Financial Feasibility

Q: How detailed do the audited comparable operating expenses need to be? Is it sufficient to show only total Administrative, Operating & Maintenance, Utilities, and Taxes & Insurance for the year ending in 2018?

A: Adequate expense categories must be provided so that operating expenses can be compared to the project's.

Successful Development Experience

Q: At what stage can a project can be used for successful development experience?

A: Please refer to N.J.A.C. 5:80-33.15(a)19iii, which outlines the requirements for projects to meet the definition of successfully developed. ("Successfully developed and operated" is defined as a tax credit project with no outstanding issues of noncompliance that has achieved 93 percent occupancy and has maintained a permanent debt service coverage ratio of at least 1.15 percent for six consecutive months during the project's most recent full fiscal year preceding the application deadline.")

Parking

Q: Are there any parking requirements for LIHTC units? Can we charge for on-site parking to market rate units?

A: Owners may not charge for parking if the cost to construct the parking in included in eligible basis.

On-Site Transportation

Q: In the Supportive Housing Cycle, should this transportation be provided to only supportive housing tenants or all tenants? What locations should be offered?

A: The transportation should be made available to all residents and must be accessible. The service should address both individual and group needs. We encourage developers to provide a wide variety of locations for residents that would meet their needs.

Q: If existing transportation service (by appointment and according to a predetermined weekly schedule; evidence of which can be documented) is available to all residents of a supportive housing project and the service does not require an executed agreement, is an agreement necessary?

A: No, if the service is existing and evidence can be provided that it meets the requirements, no agreement is needed.

Senior Resident Points

Q: With respect to the point awarded for creating senior housing or senior supportive housing in localities whose 55 and over population exceeds 25%, the latest data I have founding in Table DP05 (ACS Demographic Housing) is 2017 data. The instructions in Senior Cycle state that you will look to the application year (2019) or the year before (2018).

A: The QAP states that "NJHMFA shall rely upon the data effective in the calendar year of the application deadline as well as in the preceding year." Since the most recent data available is from 2017, NJHMFA will accept 2017 data (the latest data effective in 2019) and 2016 (the preceding year).

Preservation Projects

Q: Would a project be eligible for 9% credits under the preservation set-aside if it is covered by a Section 8 HAP contract?

A: In order for a project to be eligible to apply as a preservation set-aside project, the applicant must demonstrate that the "property is at risk of losing its affordability controls or level of affordability." Projects with an existing HAP contract would not be considered at risk of losing its affordability controls.

Q: Can 9% credits be utilized to purchase a new construction project that is partially completed and has not yet received a certificate of occupancy?

A: Please consult with a CPA regarding step-in-shoes basis, which is permitted provided the project satisfies the requirements at N.J.A.C. 5:80-33.12(c)11, which states, "For all projects that are claiming a prior owner's expenditures in basis, a C.P.A. shall itemize the step-in-the-shoes costs and certify that the amount of the step-in-the-shoes costs shown in the application has indeed been spent and is accurately reflected in eligible basis. Prior owner's developer fees shall not be recognized."

Job Training Points in the Supportive Housing Cycle

Q: In the Supportive Housing Cycle, 2 points are available as follows:

- one point will be awarded to applicants that will provide on-site healthy lifestyles education and programming, consisting of educational workshops and health promotion programs to encourage better physical and emotional health for tenants of the supportive housing units;
- and one point will be awarded to applicants that will provide job training and job search assistance and support to tenants of the supportive housing units.

Please clarify, do the job training and job search assistance and support services need to be provided on site at the project in order to be eligible for 1 point in this category?

A: The job training/job search may be offered off site, if accessible and affordable and meets the needs of the residents requiring such transportation. Provide in the application an MOU between the owner and the service provider which addresses the location of the training and the means to access these services. If the owner is providing transportation to these services, then the owner must provide a statement indicating that transportation is accessible, affordable and meets the needs of the residents.

Site Selection Points for Supportive Housing Cycle

Q: Will an age-restricted (senior) Supportive Housing Cycle project qualify for a Site Selection point if it is within one mile of a Senior Center? Same question, but for a Public School?

A: Please refer to page 36 of the LIHTC Application which outlines the site selection points for Supportive Housing Cycle projects.

Minimum Unit Sizes

Q: We have programmed 4 studio units at 304 square feet. Is this permissible?

A: There are no minimum unit sizes in the QAP.

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Supportive Housing Cycle

Q: Could we reserve units for more than one population?

A: There is nothing in the QAP which prevents multiple special needs populations in the same project.

Enterprise Green Communities

Q: Can a rehab project eligible for the 4 points for Enterprise Green Communities?

A: If a rehab project is attempting to receive 4 QAP green points by utilizing Enterprise Green Communities, additional criteria will need to be added and agreed upon by Technical Services before completion of design. All work will be verified at the completion of construction.

Energy Star Partnership Agreements

Q: In cases where the Partnership Agreement cannot be found, can an email confirmation from Energy Star be submitted in the 9% application in lieu of the agreement?

A: Copies of emails from Energy Star regarding ES Partnership participation are acceptable.

Energy Benchmarking

Q: What documentation is required to be submitted in the 9% application?

A: For the Energy Benchmarking initiative, only the Benchmarking Letter of Intent is required at application. After tax credit award, please contact Technical Services for a review of the steps needed for successful participation.