SELECTION, UNDERWRITING & FINANCING GUIDELINES & POLICY

Multifamily Programs and Lending
(Construction and/or Permanent)

Please Take Notice

These Multifamily Policies have been amended to include requirements for the allocation of Sandy Disaster Recovery Program subsidies as provided in the 2014 "Voluntary Compliance Agreement and Conciliation Agreement" (VCA) with HUD. In order to equitably prioritize projects to serve renters displaced by Superstorm Sandy, new policies are outlined below for "Eligible Projects" and "Marketing Plans" to reflect the Agency's guidelines for subsidies through the Fund for Restoration of Multifamily Housing (FRM). General HUD Disaster Recovery funding policies also have been added.

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 HMFA's 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 or not there have been any changes since the date of these guidelines and for complying with such changes.

Note: These guidelines pertain only to the HMFA Multifamily Programs stated herein. Requirements for other funding sources (including Low Income Housing Tax Credits) may differ. It is recommended that project underwriting adhere to the most restrictive requirements of all funding sources to ensure the requirements of all programs are complied with.

Eligible Sponsors/ Borrowers

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

Sponsoring entity must be formed for the sole purpose of owning and operating the project and shall own no other assets unrelated to the project.

NOTE: HMFA will not consider any new/additional financings to developers/sponsors or their principals who currently have an outstanding HMFA mortgage loan(s) and who: (1) are more than twelve (12) months delinquent on said mortgage loans(s) unless

the developer/sponsor develops and provides a workout plan that is acceptable to the HMFA Executive Director and Chief Financing Officer and is compliant therewith, or (2) have been served with a notice of default, monetary or otherwise pursuant to the mortgage loan documents, unless and until (a) such default has been cured by the developer/sponsor to the satisfaction of the Executive Director or, if applicable, the HMFA Board, or (b) developer/sponsor develops and provides a workout plan that is acceptable to the HMFA Executive Director and Chief Financing Officer or, if applicable, the HMFA Board, and is compliant therewith.

Nothing in the foregoing is intended to limit the rights of the Agency to exercise its remedies under the mortgage loan documents at any time.

Types of Rental Housing — **Family, Senior, Preservation, Supported Housing, and Special Needs.**

Loan Options — **Construction only, Construction and Permanent, and Permanent only.**

Types of Financing Structures — **Tax exempt financing, Taxable financing, Mixed use, and Mixed income, Conduit only financing and Conduit financing in conjunction with Funds for Restoration of Multifamily Housing (FRM) financing.**

Eligible Projects — The Sponsor must obtain a resolution from the municipality in which the project will be located reciting that there is a need for the particular housing project in that municipality.

"Scattered site project" means a project that consists of buildings which are not all proximate to one another but located within the same municipality. The entire project must be included within a municipally approved redevelopment area. The Agency must determine that a scattered site project would be a compliment to the municipality's overall redevelopment plan. A project that is complementary to an overall redevelopment plan will be found to have a positive impact on the neighborhood by improving the health, safety and welfare of the residents. To be considered an eligible project, each building must meet one or both of the following criteria: (1) be within ½ mile of a rail, light rail, subway, ferry, or major bus corridor station (2) within an approximate ½ mile radius of the most central project building. Additionally, each building must be underwritten as self supporting and the developer will be responsible for providing personal guarantees or other acceptable credit enhancement on each building as security against the aggregate loan. The developer must also demonstrate that

management and operations of these scattered properties is possible and efficient.

Sandy Disaster Recovery FRM Program

Geographic targeting: The total amount allocated for FRM from all CDBG-DR funds shall be allocated to the nine most affected counties in accordance with the general proportion of storm damage to each county across all three rounds of FRM funding. The following minimum percentages of funds will be set-aside: Monmouth and Ocean Counties (52%) and Atlantic County (20%). In addition, the most-impacted communities within each county, based on the degree of major and severe damage to renters, will receive priority. Further, at least 60 percent of the total amount allocated for FRM from all CDBG-DR funds will be set aside for developments outside of Targeted Urban Municipalities (per rule adopted by NJHMFA at 45 N.J.R. 1511(a)).

Families with children: Of the total FRM funds, a minimum of 60 percent of the total amount allocated for FRM from all CDBG-DR funds shall be dedicated to units that are open to families with children, and affirmatively marketed to those "least likely to apply."

Sufficient funds shall be reserved to meet the targeting prescribed in the VCA; however, if the targets have not been met after two subsequent funding rounds following the September 8, 2014 funding round, FRM funds may be allocated as required to generally meet the needs of low and moderate income households.

Affordability: At least 50 percent of units of each bedroom size in FRM-funded projects shall be affordable to households at or below 50 percent of Area Median Income (AMI), including that at least 10 percent of units of each bedroom size shall be affordable at or below 30 percent AMI. FRM units shall be occupied by low and moderate income households for the greater of 15 years or the length of affordability and/or extended use period required by any non-FRM source of funding used in the project.

Sandy Disaster Recovery Funds for Public and Assisted Housing and Special Needs Housing

HUD Disaster Recovery Funds will be made available for public housing, assisted multifamily housing, and special needs housing according to a detailed needs survey conducted by the Agency. Funding allocations are not subject to the FRM guidelines above but rather will reflect the most reasonable program to mitigate damage and displacement from the storm. Funding will be

prioritized to rehabilitate or reconstruct units such that municipalities will return to the same number of units and bedrooms as before the storm.

Tax Abatement

The developer should 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 the HMFA's statute, N.J.S.A. 55:14K-37, during the mortgage term. Furthermore, it is beneficial to the project if a tax abatement is obtained pursuant to the HMFA's 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 has trouble demonstrating financial feasibility. Lack of a tax abatement pursuant to the HMFA's statute may raise the risk to the HMFA and therefore may require additional security in the form of increased debt service coverage and/or the escrow of additional funds.

Financing Options

Projects Using Federal Funds, Including Sandy Disaster Recovery FRM

For all projects using federal funds: The project sponsor shall ensure that the project complies with all applicable federal and/or State statutory and regulatory requirements concerning, but not limited to, environmental review, fair housing, Uniform Relocation Act, Section 3 of the Housing and Urban Development Act of 1968 compliance, compliance with the Davis-Bacon Act as well as all other labor standards provisions, and equal opportunity requirements and compliance with the Office of Management and Budget (“OMB”) Circular A-87, program income, and other CDBG-DR financial requirements.

For Sandy Disaster Recovery FRM projects: Particular federal requirements apply to disaster recovery projects. HMFA follows New Jersey Sandy Disaster Recovery policies and procedures. All FRM applications must demonstrate compliance with the following federal eligibility, budget, and relocation policies:

- **National Flood Insurance Program**: Properties that received federal assistance of any kind as a result of a previously declared disaster were required to maintain flood insurance since that time. Such insurance must be documented in order for a project under the same

ownership to be eligible for assistance from Sandy Disaster Recovery funds. FRM projects will be required to maintain flood insurance on an ongoing basis.

- **Non-duplication of Benefits**: FRM subsidy amounts will be approved only after other sources of funding, including other storm-related assistance, have been identified and documented.
- **Tenant Relocation**: While requirements of the federal Uniform Relocation Act will be followed where a rental project is occupied at the time of application for FRM assistance. Requirements of Sec. 414 of the federal Stafford Act will be applied to units which were vacated due to the storm and now are under consideration for FRM funding. These include search, notification and right to return for tenants occupying units as of October 29, 2012.

Tax Exempt Bonds

Projects using tax-exempt financing are subject to restrictions under the Internal Revenue Code, which requires that either a minimum of 20% of the units must be occupied by persons earning 50% or less of median income or a minimum of 40% of the units must be occupied by persons earning 60% or less of median income.

Tax Exempt Rules for Residential Rental Property

Section 142(d) of the IRS code and the applicable regulations there under defines a residential rental project as a building or structure, together with any functional related and subordinate facilities, containing one or more similarly constructed units which (i) are to be used on other than a transient basis, (ii) are available to the general public and (iii) satisfy the continuous rental and low or moderate income occupancy requirements. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, nursing homes, retirement homes, sanitariums, rest homes, and trailer parks are not residential rental projects.

A residential project should also be composed of qualifying units, together with facilities functionally related and subordinate thereto. Buildings and structures which have similar constructed units are treated as part of the same residential rental project if they are in proximity to one another (located on a parcel or parcels of land which are contiguous except for the interposition of a road, street, stream or similar property), are owned by the same person for Federal tax purposes, and are financed pursuant to a common plan (i.e., by bonds issued under the same indenture).

Tax Exempt Rules for Complete Living Units

Section 142(d) of the IRS code and the applicable regulations there under defines a complete unit as any accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation, which may be served by centrally located equipment such as air conditioning or heating. The Regulations provide as an example of a "unit" an apartment containing a living area, a sleeping area, bath and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator and sink, all separate and apart from other apartments.

Tax Exempt Bonds Volume Cap Tax Credit

The HMFA may finance projects utilizing tax-exempt bonds with the intention of being eligible for credits on 100% of the projects' eligible basis by satisfying the requirements established by the Internal Revenue Service 50% (the HMFA uses 55% as a safe harbor) of aggregate basis test.

Meeting the 55% test is often achieved through the provision of two first mortgage notes. The first note is sized based upon the amount of debt that can be amortized in accordance with the HMFA's underwriting standards. The second note is sized based upon the difference between the first note and that amount of funding needed to achieve 55% coverage of the aggregate costs. The sponsor must demonstrate a source of funds to pay off the second note, which must be collateralized in a form satisfactory to the HMFA. The determination that a project meets the 55% test and the term of the debt to be retired is subject to HMFA bond counsel opinion.

See Typical HMFA Fee and Transaction Cost section

Taxable Bonds

The HMFA can issue bonds that are not exempt from federal taxation and utilize the proceeds to fund mortgages.

Maximum Loan Amount

For nonprofit developers, the maximum loan amount may not exceed the lesser of (a) 100% of the total project costs, (b) the amount that can be amortized by the project, as determined by the HMFA.

For profit-motivated developers, the maximum loan amount may not exceed the lesser of (a) 90% of the total project costs, (b) the actual appraised value at completion and/or (c) the amount that can be amortized by the project, as determined by the HMFA. The 90/10 ratio of loan amount to project cost must be maintained on a cumulative basis for each construction draw when using HMFA construction financing.

For all loans, whether to nonprofit or profit-motivated developers, the HMFA reserves the right to set the actual loan amount in accordance with the HMFA's overall program goals, and determination of acceptable risk. Accordingly, the actual loan amount may be less than the maximum amount permitted above.

HMFA Subordinate Loans

In no event shall the sum of HMFA's total mortgage financing, inclusive of subordinate HMFA mortgages, exceed the "as completed" appraised value.

The aggregate of HMFA's first and subordinate loan amounts may not exceed the "as completed" appraised value.

Debt Service Coverage Ratio

The debt service coverage ratio is the relative cash flow available to meet the annual interest, principal and HMFA servicing fee payments on debt. A project's cash flow analysis must achieve and maintain a projected minimum debt service coverage ratio of 1.15 for the initial 15 years of the loan to be eligible for financing. The establishment of an Operating Deficit Escrow Account (ODEA) account may be required if a project negatively trends below a 1.15 debt service coverage ratio for the term of the mortgage.

Debt Service Coverage Ratio Calculation is as follows:

$$\frac{\text{Net Operating Income}}{\text{Agency Debt Service + Servicing Fee*}} = \text{Debt Service Coverage Ratio}$$

*See servicing fee at Typical HMFA Fee and Transaction Cost

Risk Analysis

Projects with expiring rental assistance or rental assistance subject to annual appropriations and/or funding approvals may be underwritten subject, but not limited, to the following assumptions:

- Flat rental income subsidy stream for the term of the mortgage;
- Shorter mortgage term coterminous with the expiring rental assistance;
- Fully funded Operating Deficit Escrow Account; and/or
- Another form of insurance acceptable to HMFA underwriting staff.

Projects may also be subject to additional credit enhancement obligations based upon the HMFA's assessment of the associated risk involved in providing a mortgage for construction only, construction and permanent or permanent only financing. Such

enhancement obligations may include but are not limited to mortgage insurance, recourse loans, an operating deficit reserve account, permanent take out after the project has reached 95% occupancy and sustainability over a 6 month period, an increase in debt coverage ratio, a guaranty of the principal owner of the project's ownership entity for repayment of the Agency financing and/or any other credit enhancement that may be deemed acceptable to Agency underwriting staff.

In addition to the aforementioned enhancements, HMFA may recommend that developers, with little or no experience in housing development and/or with the HMFA, should partner with a successful developer that has developed and operated at least two other developments of similar size and scope to the subject development. Successful developers are defined but are not limited to, (1) those that have completed projects on time and on budget with no outstanding issues, (2) being current with debt service payment obligations, (3) being in good standing with federal, State and municipal governments, (4) having no issues of non-compliance housing issues of any kind and (5) those that have completed projects that are occupied and sustainable and are maintaining an acceptable debt service coverage ratio for six consecutive months as of the submission of application to HMFA.

If the HMFA is providing construction financing, HMFA will add an additional 6 months to the construction term and may require experienced general contractors only. Experienced general contractors are defined, but not limited to: 1) having successfully completed at least two other projects similar in size and scope 2) completing the projects on time and on budget 3) being in good standing with federal, state and municipal government and the Better Business Bureau 4) having no issues of non-compliance of any kind.

Not applicable to Conduit only financing.

Term

Standard term is 30 years. Developers may request a term of less than 30 years or may request a term of more than 30 years; however, the Agency reserves the right to request mortgage insurance and/or credit enhancements upon HMFA's assessment associated with the risk of providing a mortgage in excess of 30 years.

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, the 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 at a minimum be for the term of the Agency's first mortgage, and affordability restrictions and be in all respects satisfactory to the HMFA. To further protect the Agency's interests, the parties shall enter into a non-disturbance agreement with the HMFA wherein the lessor will promise, among other things, not to terminate the ground lease during the term of the Agency's mortgage(s) and affordability restrictions except by reason of default of the borrower, and in no event without first giving the Agency notice and opportunity to cure that default, and, if required by the HMFA and/or the Attorney General's Office, amending the ground lease when curing a default by the borrower. An additional processing and review fee will be charged at time of application, to any project sponsor, which seeks Agency financing to be secured by a leasehold mortgage.

See Typical HMFA Fee and Transaction Cost section

The form and substance of the non-disturbance agreement must be acceptable to the HMFA and the Attorney General's Office.

Junior Financing

The HMFA may permit junior financing. This financing may be in the form of an amortizing loan, subject to HMFA consent, provided the project is able to maintain a minimum of a 1.15 debt service coverage ratio including the junior financing. The junior financing may not cause an acceleration of the HMFA's first mortgage loan unless approved by HMFA.

Security/Collateral

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

For Conduit financing Security/Collateral will depend on the type of Credit Enhancement.

Mortgage Interest Rate

The mortgage interest rate is a fixed rate for the term of the mortgage and will be determined based upon the HMFA's actual cost of funds and allowable spread. The rate will be locked at the earlier of, loan closing or one week prior to bond pricing. For current rates you may call the Multifamily Supportive Housing and Lending Division or visit our website at: https://www.nj.gov/dca/hmfa/developers/

The rate is locked one week prior to the pricing of bonds that will fund the loan and will be fixed for the term of the loan assuming no rate lock is executed and project has not closed, developers are responsible for the interest rate risk prior to that period as the

positive or negative change in the interest rate will have the effect of increasing or decreasing the mortgage that the project can support and remain in compliance with the HMFA's Underwriting criteria.

For Conduit financing Mortgage Interest Rate will be determine by the Credit Enhancer or Direct Purchaser.

Commitment Term

Construction and permanent loan commitments will expire 90 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 project costs as determined by the HMFA and as defined in NJSA 55:14K-3q. The HMFA is required to determine that all costs are reasonable or necessary. The HMFA will require the Developer to submit an audit of projects costs.

Cost Containment

Total development costs shall not exceed $275,000 per unit for buildings of one to four residential stories, $300,000 per unit for buildings with five or six residential stories, and $325,000 per unit for buildings with over six residential stories, excluding capitalized permanent reserves, non-basis eligible off-site improvements and required deferred developer fee, if any.

Projects seeking CDBG-DR funds the total development costs shall not exceed $300,000 per unit for buildings of one to four residential stories, $333,000 per unit for buildings with five or six residential stories, and $365,000 per unit for buildings with over six residential stories, excluding capitalized permanent reserves, non-basis eligible off-site improvements and required deferred developer fee, if any.

In the event the per unit cost exceeds the per unit cap amount, or if the Agency deems the cost to be excessive, the Agency will require that the Borrower provide quantitative analysis and justification of the costs; and/or the Agency will commission an independent analysis to confirm the cost, with the Sponsor paying for that analysis.

Acquisition Cost Containment

For preservation projects involving the acquisition and rehabilitation of currently occupied units seeking tax-exempt bond financing

Acquisition shall not exceed approximately 60% of Total Development Cost.

Rehabilitation shall equal at least $30,000 per unit, with such expenditures justified by a Capital Needs Assessment.

In order to ensure rehabilitation needs are adequately addressed, HMFA encourages and reserves the right to additionally request a more detailed unit-by-unit analysis conducted by the project architect and may reject the funding of any replacement item that is in good or better condition and/or has a significant remaining useful life of 50% or more. In the event the above parameters are not met, the Agency reserves the right to reject the financing application.

Return on Investment

The HMFA limits the return on investment that owners may receive annually and upon sale of a project, pursuant to N.J.A.C. 5:80-3. Return on investment is payable on a cumulative but not compounded basis. The base amount of the investment will be determined after the project costs are audited and thereafter periodically adjusted. The rate of return on the base amount of the investment will be determined by, the percentage of low (50% of median and below), moderate (50% to 80% of median) and market rate units in the project. The following rates of return shall apply. The base rate is the 30-year Treasury bond rate at the time of the mortgage closing.

Base rate + 6% for percentage of low-income units
Base rate + 4% for percentage of moderate-income units
Base rate + 2% for percentage of market rate units

For Conduit financing, owners may receive a return on investment at an annual rate of 12%.

For assisted living residences, owners may receive a return on investment calculated in accordance with N.J.A.C. 5:80-3.3(g).

Distributions of return on investment are subject to projects meeting the HMFA's required conditions for distribution. Additionally, HMFA permitted return on investment limitations may be subject to such more restrictive limitations as mandated by HUD or other governing program or authority, where applicable.

Sale or Prepayment

The HMFA prohibits the sale of the project or any interest therein without prior HMFA approval. Secondary financing, representing a portion of the purchase price of the project or interest therein, may be permitted by the HMFA as set forth in its regulations at N.J.A.C. 5:80—5.7. 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 under N.J.A.C. 5:80-5.8(b). 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.

If the project's mortgage term exceeds 20 years, it may be prepaid after year 20; however, the low-income housing and other HMFA restrictions remain in place through the original mortgage term pursuant to N.J.A.C. 5:80-5.10.

Tax Credits

All tax credit projects will need to comply with all tax credit rules and fulfill the requirements of their tax credit reservations and allocation. Projects receiving HMFA financing are not subject to the annual tax credit-monitoring fee.

Underwriting Analysis

Site Acceptance

The HMFA will visit the site to determine that the site is suitable for the development's purpose.

Real Estate Valuation

The HMFA recognizes the lesser of the appraised value or the purchase price or lease fee 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 arms 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. The difference between the actual purchase price or lease fee and the appraised value, if the purchase price or lease fee is higher, may be recognized for the purpose of Return on Investment.

NOTE: Arms 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 appraisal, which conforms to the Uniform Standards of Professional Appraisal Practice (USPAP) and in accordance with the HMFA standards, will be commissioned by the HMFA to determine project valuation for both the site and building. Where applicable, the value of the federal low income housing tax credit must be provided. Regardless of whether or not the project has received a tax abatement, the appraisal will also provide the most recent tax assessment on the property. The cost of the appraisal will be passed through to the developer.

See Typical HMFA Fee and Transaction Cost section

NOTE: While the cost of the appraisal is borne by the developer/sponsor, the HMFA will order the appraisal. The process is as follows:

- An appraiser is selected from a computer database that keeps a rotating list of appraisers that have been pre-approved to do business with the HMFA. The appraiser at the top of the list is selected based on the type, size and location of the project to be appraised.
- If for some reason, the selected appraiser cannot complete the requested appraisal, the computer will then provide three alternates. The HMFA will request a bid from those three appraisers and select a qualified bidder to do the required work.
- Once a price has been given and accepted by the HMFA, the developer/sponsor is notified of the cost. At that time, the developer/sponsor is required to send a check for that amount

to the HMFA. **<u>No</u> appraiser will be authorized to begin work until the HMFA has received the check.**

- The developer/sponsor is responsible for providing all information to the Credit Officer that is needed for the appraiser to complete the assignment. **<u>In turn, the Credit Officer will provide that information to the appraiser.</u>**
- **<u>The developer/sponsor is to have no contact with the appraiser</u>** and **<u>the appraiser is to have no contact with the developer/sponsor until the appraisal has been completed, reviewed by staff and approved.</u>**
- Once the appraisal has been approved by the HMFA, the developer/sponsor will be supplied with a copy of the appraisal.

(See Appraisal Standards. For a copy contact the Multifamily Supportive Housing and Lending Division)

<u>For Conduit financing the Credit Enhancer or Direct Purchaser will order appraisal. The Agency will review for accuracies and reasonableness.</u>

Appraisal Updates

All appraisals have a shelf life. Property Values change quickly and are dependent on many different data. The demographics change, as do economic indicators. A supply and demand study can be affected by new construction or a change in purpose. For this and other due diligent reasons, the HMFA requires that appraisals be updated under the following circumstances.

- An appraisal completed for a project that involves New Construction is valid for one year (12 months) after the time of commitment. All commitments for permanent financing of projects involving new construction will be conditioned upon an updated or new appraisal at the time of commitment expiration. The HMFA will assess the time remaining for completion of the project and make a determination as to whether an update or new appraisal will be ordered. An exception to this requirement will be for any loan closing within a 30-day window of the appraisal expiration date.
- An up-date must be ordered if the appraisal is in a Bond issue and the appraisal age exceeds that required by the bond underwriter (6-12 months). The Multifamily Supportive Housing and Lending 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 up-dated are LTV, market area stability and rental structure, project type and status, etc.

- An up-date must be ordered if the appraisal is more than 6 months old and a re-commitment is needed. Again, the Multifamily Supportive Housing and Lending 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 up-dated are LTV, market area stability and rental structure, project type and comparables, etc. This applies even if Bonds have been sold.

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.

For Conduit financing the Credit Enhancer or Direct Purchaser will order appraisal. The Agency will review for accuracies and reasonableness.

Market Study*

A market study or a supply and demand analysis is generally included in the appraisal. Under certain circumstances, the HMFA may require a more detailed market study to determine the overall vacancy rates, absorption periods, penetration rates, rental comparable, marketing plan, and budget. The HMFA will order the study. The cost will be passed through to the Developer.
(Also see Typical HMFA Fee and Transaction Cost section)

* If at the time of bond sale or recommitment the appraisal and/or market study report are more than 6 months old, an update will be ordered and the cost will be passed on to the sponsor. The reports should demonstrate, to the satisfaction of the HMFA, that the appraised value of the project still meets the HMFA's underwriting requirements and that the rent-up and/or operational feasibility of the project has not been compromised. If the updated appraisal and/or market study demonstrates that the appraised value is reduced or the rent-up and/or operational feasibility of the project has been compromised, the HMFA is not required to extend the mortgage commitment, include the project in its bond sale and/or make the permanent loan. If the HMFA extends the mortgage commitment, and/or includes the project in its bond sale, the HMFA may adjust the amount of its mortgage loan and the other terms and conditions of its commitment, as it deems necessary to address changes arising from the updated appraisal and/or market study.

For Conduit financing the Credit Enhancer or Direct Purchaser will order appraisal. The Agency will review for accuracies and reasonableness.

Marketing Plan

For all projects receiving an HMFA commitment, the sponsor and/or the managing agent must 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 on-going marketing efforts that will be made to keep the project fully occupied. The outline must provide a time line 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 must be submitted prior to closing on the construction loan. Where the HMFA is providing only the take-out financing, the project must submit its marketing plan prior to construction start. In certain cases of rehabilitation where there is an existing occupancy, the sponsor and/or the managing agent should submit documentation that a full marketing plan is not needed and give the reasons the HMFA should accept a lesser marketing analysis.

Once construction has begun, monthly progress reports should be provided to the Director of the Property Management Division of the HMFA or his designee.

Sandy Disaster Recovery FRM Program Marketing

Affirmative marketing of family units: At least 60 percent of FRM funds will go to units open to families with children. An affirmative marketing program is required to reach renters from groups least likely to apply in each particular area.

Set-asides for storm affected tenants: All FRM-funded units shall be made available for the first 90 days of marketing to low-and-moderate income tenants who were displaced by or experienced major or severe damage from Superstorm Sandy, based on FEMA registration or alternative proof as allowed under HMFA policy.

Sandy Disaster Recovery FRM Public and Assisted Housing

Marketing and Lease-up of public or assisted housing assisted by FRM funds: No returning resident qualified for public or assisted housing may be subject to any recertification requirement except a continuing household income qualification. No returning resident may be denied the right to return because of change in household size if the head of household or majority of pre-storm household members apply, except that a returning resident may be required to occupy a unit appropriate to the size of the current household.

Physical Needs Assessment

For Preservation projects, a Physical Needs Assessment may be required to provide an estimated cost and scope of work needed to address major systems, including but not limited to; elevators, roofs, HVAC, electrical, plumbing, security, energy efficiency, and windows. The Assessment should be conducted within 12 months of commitment in accordance with HUD's Electronic Green Physical Needs Assessment Tool or other format acceptable to the HMFA. The Assessment should address the following items:

1. Those items in need of immediate repair or replacement.
2. Those items in need of repair or replacement within a 12-month period.
3. Those items that will need repair, replacement, or significant maintenance over the term of the mortgage.
4. Determine the rehabilitation escrow and repair and replacement account requirement.

<u>For Conduit financing the Credit Enhancer or Direct Purchaser will order the Physical Needs Assessment. The Agency will review for accuracies and reasonableness.</u>

Building Design

The HMFA discourages the use of EIFS (Exterior Insulation Finish Systems such as DRYVIT) and electric heating systems. If the use of either of these systems is contemplated, it must be disclosed at the application stage and written authorization received from the HMFA before engaging professionals to produce Design Development drawings.

The HMFA does not allow the use of air-source heat pump based heating, ventilating, air conditioning (HVAC) systems. Although portable terminal air conditioning (PTAC) units are permitted, the use of electric supplemental heat is discouraged unless there is no available alternative.

The HMFA does not allow the use of thermoplastic polyolefin (TPO), polyvinyl chloride (PVC), or polyurethane foam-based roofing materials.

Unit Standards for gut rehabilitation and new construction units only:

For the most part, HMFA does not dictate the design of the project; however it has set minimum unit sizes for gut rehabilitation and new construction. <u>If the minimum unit sizes cannot be met, justification must be provided and a market study</u>

will be required to evaluate the marketability of the smaller units compared to the comparables in the study. In addition, possible solutions to accept smaller units may include, but may not be limited to discounting the rents, increasing the working capital reserve account, etc.

The sizes listed below are minimums only. Measurements are taken from the inside faces of the perimeter walls of the units.

Minimum unit sizes:
Efficiency/Studio Units – minimum of 550 sq. ft.
One-Bedroom Units – minimum of 600 sq. ft.
Two-Bedroom Units – minimum of 850 sq. ft.
Three-Bedroom Units – minimum 1,150 sq. ft.
Four-Bedroom Units – minimum 1,250 sq. ft.

NOTE:
In addition, units with three bedrooms or more must have at least 1 ½ bathrooms.

Developers are encouraged to make developments as energy efficient as possible by utilizing the standards provided within the EPA's Energy Star Program. In addition, the NJHMFA strongly supports projects that incorporate "green" building concepts; categorized as energy efficiency, renewable energy, and green building best practices. For more information please contact the Technical Services Division.

Developers are also encouraged to install individual metering with direct billing by the utility provider for gas and electric for all new construction projects, all gut and substantial rehabilitation of unoccupied buildings, and all conversions or adaptive reuse of existing structures. Master metering is also permitted, but individual metering is encouraged. NOTE: *NJ ENERGY STAR Homes requires that at least one utility (electric or gas) be individually metered.*

Submetering of gas, electric and/or water and sewer is specifically prohibited for all new construction, all gut and substantial rehabilitation of unoccupied buildings, and all conversions or adaptive reuse of existing structures.

For **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, must be submitted. The HMFA's **GUIDELINES AND CHECKLIST FOR ASSESSING EXISTING BUILDING SYSTEMS** describes issues and offers recommendations to follow in preparing this report.

Definition of Rehabilitation

- Moderate Rehabilitation – replacement of interior finishes/components i.e. flooring, cabinets, etc. that does not impact any other component or system of the existing building.
- Substantial Rehabilitation – replacement of interior finishes/components that involves the removal of any constructed finish i.e. gypsum wall board, subflooring, etc. or affects any system i.e. electrical, plumbing, structural, etc.
    - HUD definition – two or more major building components (roof structure, wall/floor structure)
- Gut Rehabilitation – renovation that includes the removal of entire walls and/or interior systems or major portions thereof.
    - HUD definition – total removal/replacement of all interior (nonstructural) systems, equipment, components, or features.

Not applicable to Conduit only financing.

Trash Chute and Compactor Requirements

In all **multi-story** buildings that contain an elevator, a trash chute and compactor are to be installed.

In **aged restricted buildings** the following items are to be installed:

An emergency alert call system with a central notification location or device.

A grab bar to facilitate entering and exiting a bathtub or shower

Handrails on both sides of common corridors

An emergency generator serving common areas and elevators

Not applicable to Conduit only financing.

Construction Budget

The construction budget must be supported by a Summary Trade Payment Breakdown signed by the contractor. This document 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. Refer to the Technical Services Requirements attached to the Document Checklist, for the timing of the submission of these documents.

<u>For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.</u>

Off-Site Improvements

If the HMFA Technical Services Division determines an expense is necessary or directly related to the construction of the HMFA project, the line item shall be deemed appropriate to include as part of the total development cost of the project.

If the cost/improvement benefits both the project and other non-project entities unrelated to the project, then HMFA shall only recognize the pro rata share of the cost that is attributable to the HMFA project as part of the project's development budget. The Sponsor shall be required to provide documentation acceptable to our Technical Services Division to determine the project's share of the cost.

Since the balance of the cost for the "shared" off-site improvement will be outside the project budget, the Sponsor will be responsible for determining how the remainder of the off-site improvement would be funded.

Wage Rates

If the HMFA is providing construction financing, the contractor and subcontractors must pay prevailing wages as determined by the N.J. Department of Labor except that prevailing wages determined by the U.S. Department of Labor under the Davis Bacon Act shall be used if the HMFA construction loan is subject to direct or indirect federal assistance.

Sales Tax Exemption

Sales of materials or supplies to housing sponsors utilizing HMFA construction financing 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.

Environmental Review

The 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 DEP environmental remediation measures may also be warranted. Rehabilitation projects must provide a plan for asbestos removal and remediation of lead-based paint and radon. 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.

For Conduit financing the Credit Enhancer or Direct Purchaser will order Phase I Environmental Assessment. The Agency will review for accuracies and reasonableness.

Professional Liability Insurance*

Contractor

- General liability
- Worker's compensation
- Contractor's public liability in the sum of $1,000,000/$3,000,000 and property insurance of $250,000/$500,000

Architect

- Architects must have Errors & Omission Insurance of 10% of the construction costs or $250,000, whichever is greater.

*All insurance must be issued by an insurer currently eligible to write business in the State of New Jersey and have a current AM Best Rating of A- VIII with a Financial Size Category of VIII.

For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.

General Liability Insurance*

All insurance must be issued in accordance with New Jersey Housing and Mortgage Finance Agency Insurance Specifications Minimum Requirements effective April 1, 2013 as may be amended from time to time.

*All insurance must be issued by an insurer currently eligible to write business in the State of New Jersey and have a current AM Best Rating of A- with a Financial Size Category of VIII.

For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.

Construction Completion Guarantees

Construction and Permanent Financing* Where the HMFA provides the construction and permanent financing, a 100% Payment and Performance Bond is required for a term from the HMFA loan closing date through 2 years from the date of issuance of the Certificate of Occupancy or Architect's Certification of Substantial Completion, whichever is the latter.

For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.

Permanent Financing* Where HMFA construction financing is not used, the developer must provide one of the following for a term of 2 years from the date of issuance of the Certificate of Occupancy or Architect's Certification of Substantial Completion, whichever is the latter:

-100% Payment & Performance Bond equal to the construction cost.
-Letter of Credit equal to 10% of the construction cost.
-Warranty Bond equal to 30% of construction cost.

*All bonding companies must be rated with an AM Best Rating of A-with a Financial Size Category of VIII and also be noted on the New Jersey List of Approved Surety Companies as issued by the New Jersey Department of Banking and Insurance.

For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.

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

The budgeted contingency for new construction projects must be at a minimum of 5% of the construction costs.

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

In all cases, 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 fee allowed for eligible rehabilitation or new construction costs is limited to 15.00 percent of total

development cost excluding acquisition (that is land and building), working capital, marketing expenses, escrows, operating deficit reserves, step-in-the-shoes costs and costs associated with syndication as determined by HMFA. However, a developer fee of up to 20.00 percent (of total development costs excluding acquisition, working capital, marketing expenses, escrows, operating deficit reserves, step-in-the-shoes costs and costs associated with syndication) is allowed for 1) scattered sites single-family detached or duplex housing 2) projects of 25 units or less or 3) Supportive Housing Cycle projects.

In addition, the non-deferred portion of the developer fee for all projects shall not exceed 8.00 (13.00 percent for the three types of housing referenced 1, 2 and 3 above) of the total development cost excluding acquisition, working capital, marketing expenses, escrows, operating deficit reserves, step-in-the-shoes costs and costs associated with syndication. The deferred portion of the developer fee shall be achieved from cash flow by way of Return on Equity after payment of debt service, operating expenses and funding of all required escrows and reserves.

A developer fee of up to 4.00 percent shall be permitted for building acquisition costs, but the non-deferred portion shall not exceed 2.00 percent.

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.

Developers may pledge their fee toward meeting the equity requirement. The amount allowable will be determined at the sole discretion of the HMFA. **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's fee is payable only when earned and is earned only after the entire pledged portion has been earned.**

Working Capital

Working capital is funded at the time of construction and/or permanent loan closing and is generally used to cover necessary operating expenses, debt service and HMFA fees until the project has reached sustaining occupancy for a period of six months. For

more information, refer to the Working Capital Funds Policy #2024 in the Management Policies and Procedure Manual. The formula for computing working capital is as follows:

$$\frac{\text{Operating Exp + Debt Service + Agency Fee x 75\%} \times \text{\# of months of rent}}{12}$$

For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.

Operating Expenses

For current minimum you may visit our web site at: http://www.state.nj.us/dca/hmfa/media/download/multi/mf_operating_expenses.pdf

For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.

Vacancy Rate

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

For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.

Escrow Requirements

The escrows listed below must be funded from the capital budget at the time of closing on the initial Agency loan whether a construction and/or permanent loan and must remain in place for the term of the mortgage.

*Insurance -	one-half year's hazard insurance premium
*Taxes-	one-quarter of taxes - this may be on real property and/or a payment in lieu of taxes
Debt Service -	one-month's principal, interest and servicing fee payment.
Risk Share Premium -	one- year's insurance premium plus one-quarter of the following year's premium (if applicable).
Other Credit Enhancements-	as per program requirements

* Additional escrows may be required at closing for the Agency to make the next payment or renewal.

For Conduit financing the Agency will delegate to the Credit Enhancer or Direct Purchaser for review and approvals.

Income Targeting

(All units are subject to income targeting)

Low and Moderate

For marketing purposes the HMFA will underwrite low and moderate-income rents at 47.5% of median income and 57.5% of median income, respectively.

Market Rate

At initial occupancy, the gross aggregate family income of the tenants in each unit may not exceed six times the annual rent or carrying charges, including the value or cost to them of heat, light, water, sewer, parking facilities, and cooking fuel or seven times those charges for tenants with three or more dependents.

Rents

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.

Please be advised that, according to Section 807 (b)(2) of the Federal Housing Act, "housing for older persons" must meet one of the following categories:

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older (100% of the individuals living in the building must be age 62 or older); or

(C) intended and operated for occupancy by persons 55 years of age or older; or

- (i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older; 20% can be non-age restricted;
- (ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
- (iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--
  - (I) provide for verification by reliable surveys and affidavits; and
  - (II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

NOTE: For senior developments, consideration should be given to selecting (c) above (occupancy persons of 55 years or older) which would allow for increased marketability of the development.

TYPICAL HMFA FEES AND COSTS ASSOCIATED WITH THE TRANSACTION

Fees and Charges

Application Fee	Developers will be responsible for payment of a non-refundable application fee of $4,000 due at the time of the initial application. This fee must be paid by wire transfer or check payable to the HMFA. For Preservation projects that are currently in the HMFA's portfolio, the application fee will be waived. For a Conduit project, the application fee of $7,500 is non-refundable and due at the time of the initial application. This fee must be paid by wire transfer or check payable to the HMFA.
Commitment Fee	The Developer will be required to pay a commitment fee in an amount equal to one (1) percent of the estimated mortgage amount projected at mortgage commitment but not to exceed $50,000. This fee must be paid wire transfer or check payable to the HMFA. The commitment fee is refundable at the latter of the issuance of bonds or mortgage closing or in the event that the project is not awarded 9% Tax Credits the developer may request a refund of the commitment fee. In the event that the project does not proceed to mortgage and/or bond closing, the fee shall not be refunded. **Not applicable to Conduit financing**.
Commitment Extension Fee	Developers will be responsible for payment of a non-refundable commitment extension fee of $1,000 due at the time of the extension request. The fee must be must be paid by wire transfer or check payable to the HMFA.
Commitment Modification Fee	Developers will be responsible for payment of a non-refundable commitment modification fee of $500 due at the time of modification request. This fee must be paid by wire transfer or check payable to the HMFA. **Not applicable to Conduit financing.**
Re-Commitment Fee (non-refundable)	The HMFA requires a $2,500 re-commitment fee s which is due prior to the Board issuance of a re-commitment. This fee must be paid by wire transfer or check payable to the HMFA.

Pass Through Costs

The HMFA will order the appraisal, market study, and, Physical Needs Assessment. The costs for the aforementioned reports will be passed through to the developer.

For a Conduit financing Credit Enhancer or Direct Purchaser will order the Appraisal, market study and Physical Needs Assessment. The Agency will review for accuracies and reasonableness.

Cost of Bond Issuance

The cost of issuance is the Developer's allocable portion of the costs incurred by the HMFA for the issuance of bonds which include, but are not limited to, underwriter's fee, bond counsel's fee, rating agency's fee, printing costs, trustee and trustee's counsel fee, bond insurance premiums, and auditors' fee. The cost of issuance is included in the mortgage interest rate.

The costs associated with the issuance vary dependent upon the overall size of the bond issue and will be allocated based upon the percentage each participating loan represents to the total bonds issued.

Developers may reduce the interest rate by paying the cost of issuance out-of-pocket, which is presently anticipated to result in an approximate 15-basis point-reduction in rate. This election must be made two weeks prior to the date of the bond pricing. The payment of same must be made one week prior to bond pricing.

For the Conduit financing a 50 basis point is charged on the total bond amount.

Negative Arbitrage Escrow

Borrowers using Multi-Family Mortgage Revenue Bonds will be required to fund a negative arbitrage escrow when the estimated bond rate is greater than the estimated rate to be realized by the HMFA on the investment of the bond proceeds. The amount of the negative arbitrage escrow will be based on the funds not drawn down for the period between the estimated date of the bond closing and the projected final draw of the bond funds based on the draw schedule provided by borrower. The full amount of the estimated escrow must be paid to the HMFA at the earlier of the Borrower confirming the project will be included in a bond sale or one week prior to the pricing of the bonds. The payment of negative arbitrage is an out of pocket cost paid by the Borrower, which may be reimbursed by another funding source other than the bond proceeds. The escrow will be recalculated at the time the financing converts to a permanent loan and in the event the amount escrowed is less than the actual negative arbitrage the difference will be

immediately due and payable to the HMFA. In the event the amount escrowed is more than the actual negative arbitrage the difference will be refunded to the borrower.

For Conduit financing Mortgage Interest Rate will be determine by the Credit Enhancer.

Financing Fees

Construction Servicing Fee

A 50 basis points servicing fee on the principal loan amount must be budgeted. This fee is incurred annually and billed monthly in equal installments throughout the later of actual construction term or the last payoff of the Note II and is based on the original note amount.

Annual Servicing Fees

On all amortized debt, the HMFA servicing fee which is based on the original note amount shall be, at the option of the sponsor, either (a) zero points at loan closing and an annual fee of 65 basis points (55 basis points for projects paying the 2% tax credit allocation fee) or (b) 2 points at loan closing and an annual fee of 50 basis points (40 basis points for projects paying the 2% tax credit allocation fee).

For Conduit financing there is a 50 basis point servicing fee on the declining Principal Balance. The first year's annual administrative fee will be capitalized as part of the construction budget and is due at bond closing.

Financing Fee on Non-Amortizing Debt

If the HMFA is providing tax-exempt financing through the provision of two first mortgage notes in order to meet the 50% aggregate basis test as referenced in the section entitled "Tax Exempt Bond Volume Tax Credit", then the servicing fee for the first note, shall be as determined in accordance with the above section on "Annual Servicing Fees" based on the original amount of the first note. The financing fee, for the non-amortizing second note, which is due at loan closing, is two points based upon the amount of the second note.

A financing fee of two points shall also be due on all other non-amortizing debt provided by the HMFA, including HMFA construction bridge loans. A construction service fee is incurred if non-amortizing debt is used during the construction period. In that case, a 50 basis point servicing fee is charged based upon the principal loan amount.

For Conduit financing a 200 basis point fee will be charge for Non-Amortizing Debt at bond closing.

Sponsor's Predevelopment Loan

Reimbursement of Sponsor's predevelopment loan will be allowable at a rate of Prime plus two points, simple interest.

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 or a condominium regime structure.

New Jersey Housing and Mortgage Finance Agency
Multi-Family Conduit Bond Program Guidelines
Adopted: August 18, 2011
Revised: September 27, 2012, June 6, 2013,
March 24, 2016 & September 20, 2018

These guidelines, policies, procedures and forms may be amended from time to time due to changes in market conditions and/or changes in the Agency's 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 Agency to ascertain whether or not there have been any changes since the date of these guidelines and for complying with such changes.

The New Jersey Housing and Mortgage Finance Agency ("Agency") can assist developers of affordable rental housing by acting as a conduit issuer of tax-exempt multifamily housing revenue bonds in an effort to further its mission to provide safe, decent and affordable housing for all New Jersey residents. A conduit issue is generally defined as "the issuance of municipal securities by a governmental unit (the "conduit issuer") to finance a project to be used by a third party", the security for which is "the credit of the conduit borrower or pledged revenues from the project financed, rather than the credit of the conduit issuer. Such securities do not constitute general obligations of the conduit issuer because the borrower is liable for generating the pledged revenues". The conduit program will be available to projects for which the Agency's traditional loans, funded with tax-exempt bonds of the Agency, are less attractive. The Agency reserves the right to defer a developer's application for inclusion in a conduit issue to a traditional Agency financing program. The bonds shall be limited obligations of the Agency, and will not constitute an indebtedness of the Agency, nor the State of New Jersey. The payment obligation of the bonds issued remains with the ownership entity of the project (the "Applicant"). In addition, the Applicant procures the added security of credit enhancement (except in the case of a direct purchase financing). In this type of transaction, bondholders look to the credit enhancement for security, not the Agency's creditworthiness. In the case of a direct purchase financing, the direct purchaser will look to the creditworthiness of the conduit borrower. These guidelines address the Agency's requirements assuming these structures. These guidelines are intended to be a general guide to the process of conduit bond financing by the Agency.

Bonds can be sold via direct purchase, public offering or private placement. In a public offering, bonds are purchased by an underwriter and sold to private investors in the public marketplace and will be structured with a third party credit enhancement, utilizing a 100% cash collateralized structure, or utilizing a 100% collateralized structure whereby the conduit borrower deposits a security guaranteed by the United States with the bond trustee at or prior to bond closing. In a private placement, the private placement agent will place the bonds with an investor and will be structured with a third party credit enhancement.

Conduit revenue notes may be issued utilizing a back-back loan structure in which the Agency enters into a funding loan agreement with a bank or financial institution ("Funding Lender")

evidenced by a note of the Agency. Simultaneously, the Agency enters into a project loan agreement with a conduit borrower to loan the proceeds received by the Agency pursuant to the funding loan agreement to the conduit borrower. The conduit borrower will deliver a note to the Agency in equal principal amount to the project loan and the funding loan. The Agency's obligation to make payments pursuant to a funding loan agreement will be solely secured by and payable from revenues pledged to the Agency with respect to the Project pursuant to a project loan agreement, which pledged revenues will secure payment of the principal and interest on the note issued by the Agency to the Funding Lender. The project loan and note will be secured by a mortgage, assignment of rents and security agreement delivered to the Agency, which will be assigned to the trustee or fiscal agent.

In a direct purchase, a financial intermediary, typically a bank, will purchase bonds directly from the Agency. The circumstances under which a direct purchase or conduit revenue note will be permitted shall include the following:

a. Sale of complex or poor credits
b. Sale of complex financing structure, including those transactions that involve simultaneous sale of more than one series with each series structured differently
c. Volatile market conditions
d. Large issue size
e. Instances where a direct placement offers a compelling economic advantage (i.e. debt service savings and/or substantial reduction in costs of issuance) to the borrower compared to a public offering;
f. Programs or financial techniques that are new to investors
g. Variable rate transactions

In addition, these guidelines may not address the various requirements of bond counsel or underwriter's counsel. While in some cases, the requirements of bond counsel and the Agency may coincide, these guidelines are not intended to act as a guide for <u>all</u> the requirements of a conduit transaction. Rather, these guidelines are intended to address those requirements that the Agency will require, either in conjunction with or in addition to bond counsel.

Finally, these guidelines do not address requirements under other Agency programs. If an Applicant intends to seek other sources of financing from another Agency program, it must consult the appropriate guidelines and requirements for those programs. It is anticipated that most Applicants will otherwise qualify for low income housing tax credits. However, participation in the low income tax credit program is not required for participation in the Agency's conduit financing program. Applicants should consult the Agency's Qualified Allocation Plan ("QAP") and/or the Agency's Tax Credit Division for guidance. These guidelines do not address the requirements of the Agency's tax credit program, however, some information required for conduit bond issuance mirrors the requirements of low income housing tax credits and tax exempt financing.

I. General Overview:

It is expected that a conduit bond or note issue will consist of the following steps:

1. Application for project inclusion in a conduit bond or note issuance is submitted to the Agency, including the items listed in Section III. B. below.
2. Agency staff will review the application materials and may present an inducement resolution (Declaration of Intent) to the members of the Agency Board.
3. A bond or note resolution will be drafted by bond counsel.
4. Publication of the TEFRA hearing notice.
5. Agency's counsel reviews bond and closing documents.
6. Public TEFRA hearing is held.
7. The Agency Board approves the bond or note resolution and an indemnification fee will be collected from the applicant.
8. Agency provides approval letter to the Applicant for its project's inclusion in the conduit bond or note issue, and the Agency's commitment to issue bonds or notes.
9. Agency staff works with the applicant to confirm that all aspects of the financing for the project are in place.
10. A preliminary official statement is issued (if applicable), bonds are priced and final amount is set.
11. Applicant closes with construction lender, credit enhancement provider and investor, or the direct purchaser, as applicable, all approved by the Agency in advance of closing.
12. In a conduit revenue note issuance, the funding loan is closed between the Agency and the Funding Lender and simultaneously, the Agency enters into a project loan agreement with a conduit borrower to loan the proceeds received by the Agency pursuant to the funding loan agreement to the conduit borrower.
13. Agency assigns the mortgage and related security documents, and loans bond proceeds to the program Trustee or fiscal agent.
14. Bond or conduit note closing occurs (simultaneously with # 11 and/or #12 above).
15. Confirmation of bond or conduit note issuance is provided to Applicant.
16. Receipt of bond or conduit note closing binder.
17. Post-closing bond or conduit note and post-issuance tax compliance monitoring.

II. Eligibility:

Eligibility requirements will include, but are not limited to, the following:

1. A term not to exceed 50 years;
2. A cap at 90% of the total project cost;
3. First lien mortgage security to HMFA;
4. Limits on developer's fees;
5. Limits on return on investments;
6. Requirements regarding cost certifications;
7. Requirements regarding payment of prevailing wages (Construction financing only)
8. Municipal Resolution of Need pursuant to NJSA 55:14K-6c.

III. Review of Application and Approval Process:

A. Submission of Application:

The Applicant shall submit a complete application to the Agency's Multifamily/Preservation Programs, including all required documentation and a non-refundable application fee in the amount of $7,500.00. An application is required for each development and/or phase proposed by the Applicant.
Eligible applicants include for-profit, non-profit and governmental entities, preferably with experience in providing housing and a development team with adequate financing creditworthiness to support the proposal. Projects may consist of new construction, acquisition or acquisition/rehabilitation.

Applicants are encouraged to obtain a municipal resolution granting real estate tax abatement for payments in lieu of taxes ("PILOT") pursuant to N.J.S.A. 55:14K-17.

B. Application Requirements:

Application documentation required may include, but is not limited to, the following:

1. UNIAP - Low Income Housing Tax Credit Application for Current Year (if applicable)
2. Market Analysis
3. Evidence of Site Control
4. Preliminary Site Plan Approval
5. Environmental Certification
6. Disclosure of all Financing Information
7. Financing Commitments
8. Financial Feasibility (financial statements prepared by an outside source)
9. Evidence of Credit Enhancement
10. Affirmative Fair Housing Marketing Plan
11. Agency Corporate Certification and Questionnaire for Ownership Entity, General Partner or Managing Member
12. Agency Personal Certification and Questionnaire for Directors and Officers of Sponsoring Entity/Borrower, Individuals Serving as General Partner or Managing Member, and any individual owning 10% or greater interest in sponsoring entity, or in the General Partner or Managing Member
13. Criminal background search for all individuals submitting Personal Certification and Questionnaire forms (Agency form)
14. Formation Certificate for Sponsoring Entity and Managing Member/General Partner
15. Certificate of Good Standing for Sponsoring Entity and Managing Member/General Partner
16. New Jersey Division of Taxation Clearance Certificate

Bond counsel or underwriter's counsel may have additional requirements not noted above.

C. Review of Application:
Applications will be reviewed by Agency staff from a due diligence standpoint, and for completeness of information submitted. Notification of approval, or rejection, shall come only in written form from the Agency Executive Director and verbal approvals or rejections shall not be considered valid responses from Agency to the Applicant. The Agency, however, relies primarily upon the provider of credit enhancement's underwriting criteria.

D. Credit Enhancement:
All multifamily tax-exempt bond conduit issuances by the Agency must be credit enhanced by FHA/Freddie Mac mortgage insurance, FNMA securitization, private bank letters of credit, or enhancement as otherwise approved by the Agency. Direct purchase and conduit note financings are exempted from the requirement for credit enhancement.

E. TEFRA Hearing:
A public hearing, known as a TEFRA hearing, is required to be held by the Agency prior to its conduit issuance of any tax-exempt multifamily bond. The Agency Executive Director, in conjunction with bond counsel, will schedule and advertise the place and time of such TEFRA hearing. The Agency will not schedule a bond closing if the TEFRA hearing is not properly conducted.

F. Financing Team:
An Applicant will chose the underwriter or private placement agent from the Agency-approved lists of underwriters and private placement agents procured in compliance with the Agency's Conduit Bond Program Executive Order No. 26 Policies and Procedures, subject to the requirement that the underwriter chosen is duly qualified and recognized professionals in their field and approved by the Agency. The Agency selected a program trustee based on a competitive RFP process. The Agency will also assign bond counsel, which bond counsel is procured and retained by the Attorney General's Office.

G. Fees: The Applicant should anticipate payment of the following fees in connection with a conduit bond issuance:

Type of Fee:	**Amount:**	**Due:**
Agency's Application	$7,500	At application submission
Agency's Annual Administrative fee	1. 50 bps of Declining Principal Balance up to and including an outstanding principal balance of $15 million; plus 2. 25 bps of Declining	Annually for the term of the mortgage; however, the first year's annual administrative fee will be capitalized as part of the construction budget and is due at bond closing

	Principal Balance of any outstanding principal balance greater than $15 million up to and including an outstanding principal balance of $35 million: plus 3. 10 bps of Declining Principal Balance of any outstanding principal balance in an amount greater than $35 million.	
Agency Issuance fee	50 bps	Bond closing
Agency's Non-Amortizing Debt Fee	200 bps of the Non-Amortizing Debt	Bond closing
Agency's Bond Counsel Fee	To be determined on a per deal basis	Bond closing

The Applicant shall be responsible for all other costs of issuance including fees of the underwriter, trustee, rating agencies, lender, compliance administrator, all bond counsel, auditor and any other parties required to complete the transaction.

H. Financing Documents

(a) Documents to Evidence Bond Issuance:

Documents to be provided to evidence the issuance of bonds will include, but not be limited to the following:

1. Bond Purchase Agreement, Private Placement Agreement or Direct Purchase Agreement
2. Preliminary and/or Official Statement Provisions
3. Qualified Transferee Letter
4. Bond Resolution
5. Trust Indenture
6. Intercreditor Agreement or Assignment Agreement
7. Tax Regulatory Agreement

Collectively these documents shall be known as the "Bond Documents"

(b) Documents to Evidence Note Issuance:

Documents to be provided to evidence the issuance of conduit revenue notes in a back-to-back loan structure will include, but not be limited to the following:

1. Funding Loan Agreement
2. Project Loan Agreement
3. Continuing Disclosure Agreement
4. Note Resolution
5. Tax Regulatory Agreement

Collectively these documents shall be known as the "Note Documents"

I. Documents to Evidence Loan to Applicant:

Documents evidencing the loan of bond proceeds to the Applicant, shall include, but not be limited to:

1. Mortgage
2. Mortgage Note
3. Assignment of Mortgage
4. Financing, Deed Restriction and Regulatory Agreement
5. For projects receiving 4% federal low-income housing tax credits, a Deed of Easement and Restrictive Covenant for Extended Low Income Occupancy

J. Occupancy Requirements – Tax Exempt Bonds:

Projects using tax-exempt financing are subject to restrictions under the Section 142(d) of the Internal Revenue Code. The development must satisfy the minimum occupancy requirements set by federal law: either 20% of the units must be rented to tenants whose income is 50% of median income or lower, or 40% of the units must be rented to tenants whose income is 60% of median income or lower. The Agency uses the income limits established by the U.S. Department of Housing and Urban Development ("HUD") for the area median income adjusted for family size. The occupancy requirements described herein will be memorialized in the Deed of Easement and Restrictive Covenant for Extended Low-Income Occupancy provided by the Agency's Tax Credit Division and executed by the Applicant.

K. Due Diligence Responsibilities:

The Agency requires that all participants comply with any and all applicable federal and state securities laws, including but not limited to, those requiring full and complete disclosure of material facts to potential investors. Responsibility falls on the participants to determine the appropriate investigations, material facts and required disclosure to prospective purchasers of bonds. The Agency will not take any responsibility for such investigations or disclosures and the Agency and bond counsel specifically disclaim any responsibility for such disclosures in its opinion. The Agency expects that the due diligence process undertaken for Agency conduit issuances will meet the following standards:

1.) Underwriter's counsel, who must be knowledgeable and experienced in securities law matters, is expected to take responsibility for due diligence investigations and distribution of the Preliminary Official Statement and the

Official Statement. With respect to direct purchase financings, bank counsel is expected to take responsibility for due diligence investigations.

2.) Underwriter's counsel is expected to issue an opinion in connection with the transaction and the adequacy of disclosure in the Official Statement. The opinion must comply with the market practice for Rule 10b-5 opinions, without any exceptions considered material by bond counsel or general counsel to the Agency. The Agency considers financial and statistical information and financial statements to be permissible exceptions. With respect to direct purchase financings, bank counsel is expected to issue an opinion in connection with the transaction.

3) Where applicable, the Applicant, at its expense, will provide financial statements for inclusion in the Preliminary Official Statement and/or Official Statement, with the request consent and privity letters addressed to the Agency.

All opinions of counsel must be addressed to the Agency and must be given under New Jersey law, except in certain limited instances.

L. Agency Indemnification:

All conduit bond and note issuances must provide for indemnification of the Agency. The Applicant will be required under the Bond Documents to indemnify the Agency and its members, directors, officers, agents, servants, employees, and attorneys such that they shall not be liable for any action performed under the Bond Documents, and that the Applicant shall hold them harmless from any claim or suit of whatever nature.

Any claims asserted against the Agency shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. (except for N.J.S.A. 59:13-9 thereof). While the New Jersey Contractual Liability Act is not applicable by its terms to claims arising under contracts with the Agency, the Owner agrees that it shall be applicable to claims arising under the Bond Documents. It is acknowledged that the Agency is a public entity covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

IV. <u>Post Bond or Note Closing and Post-Issuance Tax Compliance Monitoring</u>:

The Applicant and other participants are required to cooperate with Agency staff conducting post bond closing and post-issuance tax compliance monitoring tasks.

A. Certificate of Completion:

The Agency requires all Applicants to submit a Certificate of Occupancy issued by the municipality in which the project is located. The Certificate of Occupancy should be delivered to the Agency within thirty (30) days of project completion. Additionally, an Architect's Certificate of Substantial Completion evidencing completion of the project financed through the issuance of bonds by the Agency may be required.

B. Determination of Project Cost:
The Agency shall determine all project costs that are reasonable or necessary, pursuant to NJSA 55:14K-3q.

C. Site Visit:
Prior to, during, or after completion of the project, the Agency, at its discretion, and without obligation, reserves the right to conduct site visits, upon reasonable notice to the Applicant.

D. Reporting Requirements:
At the closing, the Applicant must provide to the Trustee or fiscal agent a written certification as to the scheduled monthly amortization of the Loan and the Bonds, and represent to the Trustee in connection therewith that the Loan and the Bonds will remain in compliance therewith unless and until the Applicant provides a new schedule with respect thereto. On or before July 15th of each year, the Applicant will provide (or cause to be provided) to the Agency a written certification as to the unpaid principal balances of the Loan and the Bonds as of the prior June 30th.

E. Annual Financial Statements:
The Agency requires Applicant to submit audited financial statements annually to the Agency.

F. Tenant Income Certification:
It is the Agency's policy that the housing financed by the issuance of Agency bonds or notes meet the general income and occupancy requirements as set by the Internal Revenue Code and established by HUD. On forms approved by the Agency, Applicant shall obtain from each prospective tenant prior to admission to the development a certification of income and thereafter on an annual basis, a recertification of income.

G. Post-Closing Compliance for other Agency Programs:
Projects utilizing other Agency financing or low income housing tax credits will have additional requirements both in the initial underwriting process and post closing, including post-issuance tax compliance monitoring. Applicants and their counsel should consult these programs and/or the appropriate Agency staff to determine all program post-closing requirements.