# Multifamily Rental Financing Program Guide

## Attachment to Maryland Qualified Allocation Plan for the Allocation of Federal Low Income Housing Tax Credits

July 2014

Attachment to the July 31, 2013 Qualified Allocation Plan

~~*July 31, 2013*~~

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# TABLE OF CONTENTS

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**OVERVIEW AND POLICY STATEMENT: THE STATE CONTEXT ..... 1**

**1 INTRODUCTION ..... 5**

**2 PROCESS OVERVIEW ..... 6**

2.1 PRE-ROUND COMMUNICATION ..... 6

*2.1.1 Information Session ..... 6*

*2.1.2 Optional Pre-Application Meetings ..... 6*

*2.1.3 Waiver Requests ..... 6*

2.2 APPLICATION REVIEW PROCESS ..... 7~~6~~

2.3 APPLICATION FORM AND FEES ..... 8

*2.3.1 Application Form ..... 8*

*2.3.2 Fees ..... 9~~8~~*

2.3.2.1 Reservation Fee ..... 10~~9~~

2.3.2.2 Extension of Reservation Fee ..... 10~~9~~

2.3.2.3 Allocation Fee ..... 10~~9~~

2.3.2.4 Extension of Time to Meet the Requirements for a Carryover Allocation of LIHTC Fee ..... 11~~10~~

2.3.2.5 8609 Amendment Fee ..... 11~~10~~

2.3.2.6 Compliance Monitoring Fee ..... 11~~10~~

2.4 RELEASE OF APPLICANT INFORMATION ..... 11~~10~~

2.5 COORDINATION WITH OTHER STATE RESOURCES ..... 12~~11~~

2.6 LOAN PROCESSING ..... 12~~11~~

**3 PRIORITY PROJECT CATEGORIES ..... 13~~12~~**

3.1 FAMILY HOUSING IN COMMUNITIES OF OPPORTUNITY ..... 14~~13~~

3.2 COMMUNITY REVITALIZATION AND INVESTMENT AREAS ..... 16~~15~~

3.3 INTEGRATED PERMANENT SUPPORTIVE HOUSING (PSH) OPPORTUNITIES ..... 17~~16~~

3.4 PRESERVATION OF EXISTING AFFORDABLE HOUSING ..... 18~~17~~

**4 THRESHOLD CRITERIA ..... 20~~19~~**

4.1 DEVELOPMENT TEAM REQUIREMENTS ..... 21~~20~~

*4.1.1 Previous Project Performance ..... 22~~21~~*

*4.1.2 Credit History ..... 23~~22~~*

4.2 OCCUPANCY REQUIREMENTS ..... 24~~23~~

*4.2.1 Minimum Income and Rent Restrictions ..... 24~~23~~*

*4.2.2 Definition of Elderly Housing and Elderly Household ..... 24~~23~~*

*4.2.3 Long Term Use Restrictions and Homeownership Opportunities ..... 24~~23~~*

*4.2.4 Relocation and Displacement ..... 25~~24~~*

4.3 MARKETING REQUIREMENTS ..... 25~~24~~

*4.3.1 Public and Assisted Housing Waiting List ..... 25~~24~~*

*4.3.2 Affirmative Fair Housing Marketing ..... 25~~24~~*

4.4 TENANT SERVICES ..... 26~~25~~
4.5 PERSONS WITH DISABILITIES (PWD) ..... 27~~26~~
*4.5.1 Preference for Persons with Physical Disabilities* ..... *27~~26~~*
*4.5.2 Non-Elderly Developments – Units Reserved for Persons with Disabilities* ..... *27~~26~~*
4.6 OTHER FINANCING COMMITMENTS ..... 28~~27~~
4.7 LIHTC AND RHF LIMITS ..... 29~~28~~
*4.7.1 LIHTC Award Limits* ..... *29~~28~~*
*4.7.2 Rental Housing Fund Award Limits and Repayment Requirements* ..... *29~~28~~*
4.8 UNDERWRITING STANDARDS ..... 30~~29~~
*4.8.1 Maximum Rents* ..... *31~~30~~*
*4.8.2 Vacancy* ..... *32~~31~~*
*4.8.3 Operating Expenses* ..... *32~~31~~*
*4.8.4 Replacement Reserves* ..... *32~~31~~*
*4.8.5 Operating Reserves* ..... *32~~31~~*
*4.8.6 Trending* ..... *33~~32~~*
*4.8.7 Debt Service Coverage Ratio* ..... *33~~32~~*
*4.8.8 Development Costs* ..... *33~~32~~*
4.8.8.1 Acquisition ..... 33~~32~~
4.8.8.2 Syndication Costs ..... 35~~34~~
4.8.8.3 Professional Fees ..... 35~~34~~
*4.8.9 Phased Projects* ..... *37~~36~~*
4.9 CONSULTATION AND COOPERATION WITH AND CONTRIBUTION FROM LOCAL GOVERNMENTS ..... 37~~36~~
*4.9.1 Consultation and Cooperation* ..... *37~~36~~*
*4.9.2 Contribution* ..... *40~~39~~*
4.10 READINESS TO PROCESS ..... 42~~41~~
4.11 SITE REQUIREMENTS ..... 43~~42~~
*4.11.1 Site Control* ..... *43~~42~~*
*4.11.2 Utility Availability* ..... *43~~42~~*
*4.11.3 Zoning* ..... *43~~42~~*
*4.11.4 Environmental Assessments* ..... *43~~42~~*
*4.11.5 Scattered Sites* ..... *44~~43~~*
*4.11.6 Exceptions* ..... *44~~43~~*
*4.11.7 New Construction - Priority Funding Areas (Smart Growth)* ..... *44~~43~~*
*4.11.8 Relocation and Displacement* ..... *45~~44~~*
4.12 MARKET STUDY ..... 45~~44~~
*4.12.1 Site and Surrounding Market Area* ..... *46~~45~~*
*4.12.2 Market Analysis* ..... *46~~45~~*
*4.12.3 Capture Rate* ..... *47~~46~~*
*4.12.4 Penetration Rate—New Construction Projects only* ..... *47~~46~~*
*4.12.5 Vacancy Rates* ..... *48~~47~~*
*4.12.6 Income Levels* ..... *48~~47~~*
*4.12.7 Absorption Rate* ..... *48~~47~~*

4.13 DEVELOPMENT QUALITY THRESHOLDS ..... 48~~47~~
*4.13.1 Criteria Applicable to both New Construction and Rehabilitation* ..... *48~~47~~*
*4.13.2 Additional Criteria Applicable Only to New Construction* ..... *50~~48~~*
*4.13.3 Additional Criteria Applicable Only to Rehabilitation* ..... *50~~49~~*
4.13.3.1 Lead Hazard Elimination ..... 50~~49~~

**5 COMPETITIVE SCORING CRITERIA ..... 52~~51~~**

5.1 CAPACITY OF DEVELOPMENT TEAM ..... 55~~54~~
*5.1.1 Development Team Experience (42 maximum points)* ..... *55~~54~~*
*5.1.2 Deductions from Team Experience Score (Negative 10 points maximum)* ..... *56~~55~~*
*5.1.3 Developer Financial Capacity (18 maximum points)* ..... *57~~56~~*
*5.1.4 Nonprofits (NPs), Public Housing Authorities (PHAs) and Minority/Disadvantaged Business Enterprises (MBE/DBEs) (14 maximum points)* ..... *58~~57~~*
5.2 COMMUNITY CONTEXT ..... 61~~60~~
*5.2.1 Community Impact Projects (16 maximum points)* ..... *61~~60~~*
*5.2.2 Communities of Opportunity (16 maximum points)* ..... *61~~60~~*
*5.2.3 Transit Oriented Development (TOD) (8 maximum points)* ..... *61~~60~~*
*5.2.4 Defined Planning Areas (4 points maximum)* ..... *62~~61~~*
5.3 PUBLIC PURPOSE ..... 62~~61~~
*5.3.1 Income Targeting (14 maximum points)* ..... *62~~61~~*
*5.3.2 Targeted Populations: PWD or Special Needs (10 maximum points)* ..... *65~~64~~*
5.3.2.1 Project-based Rental Assistance for Targeted Populations (4 possible points) ..... 66~~65~~
5.3.2.2 Section 811 Project Rental Assistance Demonstration (4 possible points) ..... 66~~65~~
*5.3.3 Family Housing (8 maximum points)* ..... *67~~66~~*
*5.3.4 Tenant Services (8 maximum points)* ..... *67~~66~~*
*5.3.5 Mixed Income Housing (4 maximum points)* ..... *68~~66~~*
*5.3.6 Preservation of Existing Affordable Housing (2 maximum points)* ..... *68~~67~~*
5.4 LEVERAGE AND COST EFFECTIVENESS (20 MAXIMUM POINTS) ..... 68~~67~~
*5.4.1 Direct Leveraging (10 maximum points)* ..... *70~~67~~*
*5.4.2 Operating Subsidies (10 maximum points)* ..... *71~~69~~*
*5.4.3 Construction or Rehabilitation Cost Incentives (Negative 8 points maximum)* ..... *72~~70~~*
5.5 DEVELOPMENT QUALITY STANDARDS (32 MAXIMUM POINTS) ..... 74~~71~~
*5.5.1 Green Features (12 maximum points)* ..... *74~~71~~*
*5.5.2 Site Conditions and Brownfields Redevelopment (1 point)* ..... *77~~74~~*
*5.5.3 Energy and Water Conservation (4 possible points)* ..... *77~~75~~*
*5.5.4 Project Durability and Enhancements (15 possible points)* ..... *78~~75~~*
5.6 STATE BONUS POINTS ..... 79~~77~~

**6 WAIVERS ..... 82~~79~~**

6.1 WAIVERS – GENERAL ..... 82~~79~~
6.2 WAIVERS OF THRESHOLD OR COMPETITIVE CRITERIA ..... 82~~79~~
*6.2.1 Previous Project Performance (see Section 4.1.1)* ..... *82~~79~~*

*6.2.2 Previous Participation (see Section 4.1.1)* ..... 83~~80~~
*6.2.3 Construction or Rehabilitation Costs (see Sections 4.13 and 4.3)* ..... 83~~80~~
*6.2.4 Acquisition of Schools or School Sites (see Section 4.8.8.1)* ..... 83~~80~~
*6.2.5 Builder's Fees (see Section 4.8.8.3)* ..... 83~~80~~
*6.2.6 Architects Fees (see Section 4.8.8.3)* ..... 84~~81~~
*6.2.7 Civil Engineer Fees (see Section 4.8.8.3)* ..... 84~~81~~
*6.2.8 Developer's Fees (see Section 4.8.8.3)* ..... 84~~81~~
*6.2.9 Project Phasing (see Section 4.8.9)* ..... 84~~81~~
*6.2.10 Underwriting Standards (see Section 4.8)* ..... 84~~81~~
*6.2.11 Deductions for Team Experience (see Section 5.1.2)* ..... 85~~82~~
*6.2.12 Definition of Elderly Housing (See Section 4.2.2)* ..... 85~~82~~

**7 LOAN AND TAX CREDIT PROCESSING PROCEDURES** ..... **86~~83~~**

7.1 PROCESSING RHF RESERVATIONS OF FUNDING ..... 86~~83~~
*7.1.1 Loan Reservations* ..... 86~~83~~
*7.1.2 Post Reservation Scheduling* ..... 86~~83~~
*7.1.3 Kick-off Meeting* ..... 87~~84~~
*7.1.4 Underwriting and Construction Review* ..... 87~~84~~
*7.1.5 Viability Review* ..... 88~~85~~
*7.1.6 Commitment Review* ..... 88~~85~~
*7.1.7 Initial Closing* ..... 88~~85~~
*7.1.8 Construction or Rehabilitation Period* ..... 89~~86~~
*7.1.9 Developer Fee Disbursement* ..... 89~~86~~
*7.1.10 Final Closing* ..... 90~~87~~
7.2 PROCESSING TAX CREDIT RESERVATIONS ..... 90~~87~~
*7.2.1 LIHTC Reservations* ..... 90~~87~~
*7.2.2 Limitations on Eligible Basis* ..... 90~~87~~
*7.2.3 LIHTC Allocations* ..... 91~~88~~
7.3 PROCESSING MULTIFAMILY BOND PROGRAM APPLICATIONS ..... 92~~89~~

**APPENDIX A: APPLICATION AND AWARD PROCESS** ..... **I**

**APPENDIX B: UNDERWRITING AND CLOSING PROCESS** ..... **II**

**APPENDIX C: LIHTC AND RHF APPLICATION AND PROCESSING FEES** ..... **III**

**APPENDIX D: BOND APPLICATION AND PROCESSING FEES** ..... **V**

**APPENDIX E: DEVELOPMENT QUALITY BASE LEVEL ENERGY STANDARDS** ..... **VIII**

**APPENDIX F: DEVELOPMENT QUALITY BASE LEVEL GREEN STANDARDS** ..... **XI**

**APPENDIX G: CURRENT PRIORITY FUNDING AREAS** ..... **XIV**

**APPENDIX H: QUALIFIED CENSUS TRACTS** ..... **XV**

# Overview and Policy Statement: The State Context

**Smart, Green & Growing: PlanMaryland and State Development Priorities**

On December 19, 2011, Governor O'Malley signed Executive Order No. 01.01.2011.22, which implemented PlanMaryland[1]. A fundamental element of Maryland's Smart, Green & Growing Initiative[2], PlanMaryland is the state's first strategic plan for long-term sustainability and is a road map for smart growth and development during the coming years when Maryland's population is expected to increase and demographics are expected to change. The following statement from the Executive Order sets forth the purpose of PlanMaryland:

1. PlanMaryland shall be recognized as the State Development Plan for the State of Maryland and shall serve as a guide to the economic and physical development of the State in order to:

   a) Spur economic development, redevelopment, revitalization, and infill development;

   b) Incentivize resources and agricultural based industries; and

   c) Protect the rural, agricultural, natural, environmental, and cultural lands and resources.

2. PlanMaryland shall make State policies on development transparent, so local governments can most efficiently access State resources.

3. State agencies shall review and consider PlanMaryland when making decisions about actions that affect development in the State.

In considering changes for this periodic update of the Maryland Qualified Allocation Plan (QAP) and Multifamily Rental Financing Program Guide (Program Guide), the Department of Housing and Community Development (DHCD) considered and was guided, in part, by PlanMaryland and other State development priorities.

The overarching goals and twelve visions of PlanMaryland are:

- Goal 1: Concentrate development and redevelopment in communities where there is existing and planned infrastructure.

[1] To access "PlanMaryland: A Sustainable Growth Plan for the 21st Century" (2011) and subsequent reports published by the Maryland Department of Planning, go to http://www.plan.maryland.gov.
[2] For more information on Maryland's Smart, Green & Growing Initiative, go to http://www.green.maryland.gov/whatis.html.

- Goal 2: Preserve and protect environmentally sensitive and rural lands and resources from the impacts of development.
- Goal 3: Ensure that a desirable quality of life in Maryland's communities is sustainable.

**Twelve Visions:**

1. **Quality of Life and Sustainability:** A high quality of life is achieved through universal stewardship of the land, water, and air resulting in sustainable communities and protection of the environment.
2. **Public Participation:** Citizens are active partners in the planning and implementation of community initiatives and are sensitive to their responsibilities in achieving community goals.
3. **Growth Areas:** Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers.
4. **Community Design:** Compact, mixed-use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources, preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural and archeological resources.
5. **Infrastructure**: Growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner.
6. **Transportation:** A well-maintained, multimodal transportation system facilitates the safe, convenient, affordable, and efficient movement of people, goods, and services within and between population and business centers.
7. **Housing:** A range of housing densities, types, and sizes provide residential options for citizens of all ages and incomes.
8. **Economic Development:** Economic development and natural resource-based businesses that promote employment opportunities for all income levels within the capacity of the State's natural resources, public services, and public facilities are encouraged.

9. **Environmental Protection:** Land and water resources, including the Chesapeake Bay and its coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems and living resources.

10. **Resource Conservation:** Waterways, forests, agricultural areas, open space, natural systems and scenic areas are conserved.

11. **Stewardship:** Government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection.

12. **Implementation:** Strategies, policies, programs and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, State and interstate levels to achieve these visions.

To advance rental housing development within this Maryland context, DHCD developed a set of major priorities to guide required PlanMaryland implementation strategies. These strategies align DHCD's critical housing mission with PlanMaryland goals and visions and more generally with the Smart, Green & Growing Initiative, which provides sustainable growth information, mapping, and other guidance[3].

**DHCD's major PlanMaryland implementation strategies are:**

1. Prepare and implement a state housing plan

2. Support sustainable homeownership

3. Increase preservation and production of affordable rental housing opportunities

4. Expand opportunities for high-performance, healthy, green homes and businesses

5. Expand housing choice for people with special needs, circumstances, or concerns

6. Advance transit-oriented development to create sustainable communities with access to transportation, schools, jobs, and other shared services and amenities

7. Accelerate the economic revitalization of Sustainable Community areas through coordinated investment and alignment of DHCD resources that leverage significant private investment

[3] To view Smart, Green & Growing information, including GrowthPrint maps that show Sustainable Communities Areas, Priority Funding Areas, and other designated growth areas, go to http://www.green.maryland.gov/growthprint.html.

8. Provide codes training and technical assistance to help local jurisdictions develop Sustainable Community Plans and implement recently adopted building and energy codes

**Balancing State Priorities and Rental Housing Needs**

Therefore, new to this QAP and Program Guide are refinements that reflect Maryland's smart growth priorities and initiatives, which were considered by DHCD staff along with the many suggestions and public comments received from a wide range of housing partners, stakeholders, consultants, housing advocates, and others during the QAP review process.

One of the main refinements is the establishment of Priority Project Categories, which will limit the award of competitive low income housing tax credits (LIHTC) and rental housing funds (as defined on page 5)~~RHF)~~ to proposals that fit within these categories. In the future, at each periodic review and update of the QAP and Program Guide, DHCD will set forth Priority Project Categories that reflect then-current concerns.

For this QAP and Program Guide, the Priority Project Categories are:

1. **Family Housing in Communities of Opportunity**
2. **Community Revitalization and Investment Areas**
3. **Integrated Permanent Supportive Housing (PSH) Opportunities**
4. **Preservation of Existing Affordable Housing**

These categories are explained in more detail in the pages that follow. At all times during the review process, it has been DHCD's intent to ensure that Maryland's affordable housing development resources are fairly deployed in a manner that best serves Maryland residents, including families, seniors and persons with disabilities or special needs, and the continuing demand for quality, affordable rental housing across the state of Maryland. DHCD anticipates that its Multifamily Bond Program (MBP) and Rental Housing Works (RHW) initiative will augment the DHCD resources awarded competitively and that these non-competitive, first-come, first ready-to-proceed financing tools will meet the demand for the development and preservation of quality, affordable housing for Maryland's seniors.

# 1 Introduction

DHCD administers a variety of State and federal programs that finance the development of affordable rental housing. These programs include, but are not limited to, the LIHTC, Rental Housing Fund (RHF, which includes HOME Investment Partnerships Program (HOME) and ~~,~~ Rental Housing Program or RHP), ~~F,~~ and the Multifamily Bond Program (MBP).

While there are variations between these programs based on the underlying source of funds, State and federal requirements applicable to specific funding sources, and State policy goals, DHCD seeks to align many of the administrative processes that accompany these programs. This alignment makes these programs more user-friendly and contributes to operating efficiencies for DHCD and its partners, including owners, investors, and managers of properties financed by DHCD resources.

This Program Guide is explicitly an extension of the QAP and, unless otherwise noted, the requirements herein apply to any transaction seeking allocations of ~~low-income housing tax credits (~~LIHTC~~)~~ from DHCD, whether those come from the State's population-based credit ceiling or from the use of tax-exempt bonds. Additionally, unless otherwise noted, this Program Guide applies to MBP and the RHF allocated to the competitive round.[4] Unless otherwise noted, all references to timeframes in the QAP and Guide refer to calendar days.

[4] ~~RHF allocated through the competitive round may include funds from the Rental Housing Production Program, Elderly Rental Housing Program, Multifamily HOME Program, Maryland Housing Rehabilitation Program, and Nonprofit Rehabilitation Program.~~

# 2 Process Overview

This section provides information on application and funding processes. A flowchart outlining the application process can be found under Appendix A to this Program Guide. For projects requesting MBP financing and non-competitive LIHTC only, some of the following steps may not apply, but more information for these programs may be found in the text boxes throughout this Program Guide and in Section 7.3 below.

Applications for competitive LIHTC and RHF will be solicited by DHCD by Public Notice in one round per year. If needed, additional rounds of competition may be held until all available resources have been reserved.

## 2.1 Pre-Round Communication

### 2.1.1 Information Session

In advance of each competitive round to select projects for financing, DHCD will hold a pre-round information session during which it will discuss resources available for the round, explain any changes to the QAP, Program Guide, or process, provide additional information about how State Bonus Points (described in Section 5.6 below) will be utilized in the round and provide an opportunity for questions and answers. The date, time, and location of the information session will be established in the public notice soliciting applications for LIHTC and RHF (the Public Notice).

### 2.1.2 Optional Pre-Application Meetings

Applicants may request a pre-application meeting to receive preliminary feedback regarding project specifics as well as a meeting to discuss their proposed projects with DHCD staff.

### 2.1.3 Waiver Requests

Chapter 6 provides information on the submission of waiver requests, including appropriate justifications. Certain waivers must be submitted in advance of the application deadline.

## 2.2 Notice and Opportunity to Comment - Local Governments

(1) Upon receipt of an Application Submission Package for LIHTC or for a loan under MBP or RHF, DHCD shall provide written notice of the application and a reasonable opportunity to comment to the political subdivision in which the project is located. If the project is located in a municipal corporation, the notice shall be sent to the municipal corporation and not to the county. The written notice shall be sent to the political subdivision's highest elected public official and to the head or president of the political subdivision's legislative body. The written notice shall include the following information about the project:

(a) Date of application;

(b) Name and description of the project;

(c) Address of the project;

(d) Developer of the project and the Developer's contact information;

(e) Amount of funding and/or LIHTC requested;

(f) Amount, type, and provider for other sources of financing;

(g) Total number of units;

(h) Number of units reserved for families of limited income, including the income and rent limits; and

(i) Such other information as DHCD deems relevant.

(2) The political subdivision shall have forty-five (45) calendar days from the date the written notice is sent to review the project and DHCD's proposed financing for the project and provide comments, if any.

(3) If a political subdivision provides comments under paragraph (2) above, DHCD will consider the comments in its review of the application

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### ~~2.2~~2.3 Application Review Process

Projects will be considered for an allocation of LIHTC and RHF upon DHCD's receipt of a complete application by the application deadline. Applications will be evaluated against the Project Priority Categories described in Chapter 3. Projects passing the Priority Project Category review will be evaluated against the Threshold Criteria described in Chapter 4. Projects passing the threshold review will be evaluated against the Competitive Scoring Criteria described in Chapter 5 of this Program Guide.

These criteria are intended to select viable projects that meet DHCD's identified priorities as well as all federal and State requirements. Except for requirements of the programs' governing statutes, the Threshold Criteria may be waived by the Secretary for compelling reasons or in an emergency situation provided such a waiver is not inconsistent with the applicable statute. See Chapter 6 of this Program Guide for waiver provisions and requirements.

If an application is incomplete or does not meet the Threshold Criteria it will be rejected and the applicant will be notified in writing by DHCD. The rejection notice shall state the reason the application has been rejected. A sponsor may request reconsideration of a rejection within

seven (7) calendar days of the date of the notice of rejection. The request for reconsideration shall be in writing and submitted to the Director of Multifamily Housing. The request may not include new or additional information and must establish that DHCD has made a mistake or error in its initial decision. DHCD will review the request and respond within seven (7) calendar days. If DHCD determines that its initial decision was incorrect, the project will be re-entered into processing. If DHCD upholds the initial decision, the applicant will be notified and the application will be withdrawn from processing. Rejected applications may be strengthened and resubmitted in a subsequent round. An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01

**Multifamily Bond Program Threshold Requirements**

Projects requesting MBP financing, with or without non-competitive LIHTC, must also meet all of Threshold Criteria unless specified otherwise. Projects requesting MBP financing that do not meet all Threshold Criteria or have incomplete applications also will be withdrawn from processing. Requests for reconsideration may be filed in accordance with COMAR 05.05.02.08. See Section 7.3 for additional information on MBP.

A complete application evaluation consists of a review of the application and supporting documentation as well as a preliminary site visit. DHCD staff will present their evaluations to an internal DHCD committee for further review and evaluation. Recommendations for reservations of RHF and/or LIHTC will be based on the evaluation of projects by the internal committee, the award of State Bonus Points under Section 5.6, and on the availability of resources. These recommendations will be made to DHCD's Housing Finance Review Committee (HFRC) for review. After evaluating the recommendations, HFRC will make final recommendations to the Secretary of DHCD who will, in his or her discretion, approve projects for a reservation of RHF or LIHTC and further processing. Under certain circumstances reservations may be contingent on the approval of Maryland's Board of Public Works (BPW). After a reservation has been issued, projects that do not continue to meet all Threshold Criteria outlined in this Program Guide will be withdrawn from processing.

For information on RHF and LIHTC processing information after receipt of a reservation, please see Chapter 7 below.

## 2.32.4 Application Form and Fees

### 2.3.12.4.1 Application Form

Competitive applications must be submitted by the deadlines provided in the Public Notice for Application Submission using DHCD's separately published Application Submission Package, which contains more detailed instructions regarding many of the requirements in this Program

Guide. Information in the Application Submission Package supplements this Program Guide and should be reviewed carefully to ensure compliance with these requirements. The Submission Packages are available through DHCD's website at:

http://www.mdhousing.org/Website/programs/rhf/application.aspx

Applicants must submit two complete copies of the application form including all attachments and exhibits. Application forms shall not be re-typed, changed, or modified in any manner. DHCD reserves the right to require electronic submission of applications. All information on the application must be completed or marked as not applicable. All required exhibits must be included and all required documentation must meet the criteria specified in the Application Submission Package. Incomplete or late applications will not be considered.

For projects seeking competitive financing, applicants may not submit new application material concerning the project after the application deadline date unless DHCD, in its discretion, has requested applicants to submit clarifying information.

Generally, with the exception of market studies which must be less than six (6) months old, all documents submitted with applications, including environmental assessments, must be less than twelve months old.

### ~~2.3.2~~2.4.2 Fees

Unless advised otherwise by official DHCD notices, all fees must be made payable to the Community Development Administration or CDA and remitted directly to the attention of:

DHCD Central Cashier
Post Office Box 500
Crownsville, MD 21032-2023

Appendices C and D summarize the fee requirements.

**Multifamily Bond Program**

Projects requesting MBP financing, with or without non-competitive LIHTC, may submit an application at any time. Processing is subject to certain fees that are subject to change. The current fees are described in Appendix D of this Program Guide. See Section 7.3 for additional information on MBP. Updates to fees are provided on DHCD's website at www.mdhousing.org.

All sponsors must pay a nonrefundable fee of $2,500 for each application requesting a reservation(s) of LIHTC and/or RHF. Only one application fee is required for each project, regardless of the number of funding resources requested. The application fee must be paid

simultaneously with or before submission of an application. Application fees must be sent under separate cover to the above address, with a copy of the check included with the application.

All application submissions, including repeat submissions, must include evidence that the application fee has been paid. Applications received without the required fee will not be evaluated. The application fee is retained by DHCD even if the application is unsuccessful. Projects failing to receive a reservation of LIHTC or RHF may reapply in another round, but a new application fee will be required.

#### ~~2.3.2.1~~2.4.2.1 *Reservation Fee*

All sponsors must pay a nonrefundable reservation fee of $5,000 upon receipt of a reservation letter(s) for LIHTC and/or RHF for each project. Only one reservation fee is required for each project, regardless of the number of funding resources reserved. Failure to pay the reservation fee, in the amount and at the time required, will result in the cancellation of the reservation. DHCD will not issue an allocation of LIHTC or IRS Form(s) 8609 needed to claim the LIHTC unless all required fees have been paid.

#### ~~2.3.2.2~~2.4.2.2 *Extension of Reservation Fee*[5]

Sponsors unable to meet the requirements to receive an allocation of LIHTC within the period specified in their reservation may request an extension of the deadline for meeting the reservation requirements. All sponsors must pay a nonrefundable extension fee of $1,000 for each project for which an extension of the reservation is requested. The fee must be paid at the time the extension request is submitted.

#### ~~2.3.2.3~~2.4.2.3 *Allocation Fee*

For competitively allocated LIHTC, sponsors must pay a nonrefundable allocation fee equal to 5% of the annual LIHTC reserved for the project upon the earlier of the filing of a request for a Carryover Allocation or the date the project is placed in service.

For tax-exempt bond financed projects, sponsors must pay a nonrefundable allocation fee of 5% of the estimated LIHTC at the time DHCD issues the eligibility letter pursuant to §§42(m)(1) and (2) of the Internal Revenue Code (the Code). Projects with 50% or more of their development and acquisition costs financed with the proceeds of tax-exempt bonds may receive LIHTC on the entire Qualified Tax Credit Basis outside the State's LIHTC authority. Projects with less than 50% of their costs financed with the proceeds of tax-exempt bonds may receive LIHTC on the appropriate portion of the Eligible Tax Credit Basis so financed without requiring an allocation. All tax-exempt bond financed projects are subject to an additional

[5] Extensions of Reservations or Carryover Allocations cannot be granted for deadlines that are applicable under §42 of the Code and sponsors are responsible for understanding and meeting all such deadlines.

allocation fee equal to the difference between the fee paid at the issuance of the eligibility letter and the actual LIHTC allocated on the final IRS Form(s) 8609.

#### ~~2.3.2.4~~2.4.2.4 *Extension of Time to Meet the Requirements for a Carryover Allocation of LIHTC Fee*

Sponsors unable to meet the deadline for meeting the requirements for a Carryover Allocation (see Section 6.3.3 LIHTC Allocations below) may request an extension of the deadline up to the maximum deadline prescribed by the Code. All sponsors must pay a nonrefundable extension fee of $1,000 for each month, and project, for which an extension of time to meet this deadline is requested. The fee must be paid at the time the extension request is submitted. All extension requests must be approved by the Director of Multifamily Housing for DHCD.

#### ~~2.3.2.5~~2.4.2.5 *8609 Amendment Fee*

Sponsors requesting amendments to the IRS Form(s) 8609 already issued by DHCD, where the requested amendment is not the result of an administrative error by DHCD, must pay a non-refundable 8609 Amendment fee of $4,000 with the request.

#### ~~2.3.2.6~~2.4.2.6 *Compliance Monitoring Fee*

Sponsors must pay a nonrefundable annual compliance monitoring fee of $30.00 for each LIHTC unit.

### ~~2.4~~2.5 Release of Applicant Information

DHCD will release information on all projects seeking competitive LIHTC and/or RHF within thirty (30) calendar days of announcing awards. The information will be published on DHCD's website along with a notice that, at a minimum, summarizes the distribution of LIHTC and RHF to projects, discloses all waivers granted to applicants, and identifies which projects received the State Bonus Points pursuant to Section 5.6 along with a rationale for why these points were awarded. The project information to be released for all applications, including those that did not receive an award of funding, will include:

- Name of applicant;
- Project sponsor;
- Site location and address;
- Priority Project category;
- Primary population served (general occupancy or elderly);
- Number of units reserved for persons with disabilities(PWD) or specials needs tenants;
- Total project cost; and
- Amount of funds approved.

## ~~2.5~~2.6 Coordination with Other State Resources

DHCD will coordinate the allocation of LIHTC and RHF with the decision to allocate other State resources under the control of DHCD.

## ~~2.6~~2.7 Loan Processing

If projects include RHF loan financing provided by DHCD, the processing requirements outlined in Section 7.1 apply. If projects include LIHTC, the processing requirements described in Section 7.2 will apply.

# 3 Priority Project Categories

DHCD will limit applications for competitive LIHTC awards and RHF to proposals that fit within certain Priority Project Categories.

As described in more detail in the Overview and Policy Statement, these Priority Project Categories are based on and consistent with State policies and priorities that are set forth in Maryland's Smart Green and Growing Initiatives and PlanMaryland. Thus, all projects involving any new construction must be located in a Priority Funding Area (PFA). PFAs include:

- All incorporated municipalities including Baltimore City, with some exceptions related to water, sewer and density for areas annexed after January 1, 1997;
- All areas between the Baltimore beltway and the Baltimore City limits and the Washington, DC beltway and the Washington, DC boundary;
- All areas designated as Sustainable Communities, as defined by the Maryland Annotated Code, Housing and Community Development Article, Section 6-201(l) (see Section 3.2 above);
- Federal and State enterprise zones;
- All areas designated by county governments as PFAs, including rural villages designated in county comprehensive plans as of July 1, 1998; and
- Certified heritage areas within locally designated growth areas.

The Priority Project Categories will be reviewed, and may be revised, at each update of the QAP and Program Guide.

- Applications that meet at least one of the Priority Project Categories will be evaluated against the Threshold Criteria.
- Projects that meet all Threshold Criteria will be evaluated under the Competitive Scoring Criteria.

DHCD reserves the right to redirect a project from the competition to the MBP if DHCD, in its sole discretion, determines that the project would be financially feasible using tax-exempt bond proceeds with or without other DHCD resources. Loans provided under the MBP need not meet a Priority Project Category, which apply only to competitive applications. See Section 7.3 for additional information on MBP.

For this QAP and Guide, there are four Priority Project Categories. They are:

1. **Family Housing in Communities of Opportunity**
2. **Community Revitalization and Investment Areas**

3. **Integrated Permanent Supportive Housing (PSH) Opportunities**
4. **Preservation of Existing Affordable Housing**

| **Multifamily Bond Program** |
| --- |
| Loans provided under the MBP need not meet a Priority Project Category, which apply only to competitive applications. However, all MBP financed projects involving any new construction must be in a PFA. See Section 7.3 for additional information on MBP. |

## 3.1 Family Housing in Communities of Opportunity

To meet this priority , the project must be general occupancy housing with reasonable access to jobs, quality schools, and other economic and social benefits, as demonstrated by meeting at least one of the following two criteria:

1. Be located in a "Community of Opportunity" as shown on the Maryland QAP Comprehensive Opportunity Maps posted to the DHCD Web site at http://www.mdhousing.org/website/DHCDmapper.aspx

   The Communities of Opportunity designated on the Maryland QAP Comprehensive Opportunity Maps are based on a "Composite Opportunity Index" developed by DHCD. The Composite Opportunity Index uses publicly-available data and is based on three major factors: community health, economic opportunity, and educational opportunity. To be designated a Community of Opportunity, and mapped as such to the Maryland QAP Comprehensive Opportunity Maps, the community must have a Composite Opportunity Index that it is above the statewide average.

   The three major indicators that comprise the Composite Opportunity Index are:

   - *Community Health*: The community health indicator represents the wealth and quality of life in a community relative to the State average. The community health indicator has six components, as follows:

     - Median household income obtained from the U.S. Census' American Community Survey (ACS) 2007-2011, five-year estimate. Household income is positively correlated with community health. Higher household incomes support a more diversified economic base and enhance the tax basis and services of its local government.

- Ratio of owner-occupied to all occupied housing units (a proxy for homeownership rate) obtained from the ACS 2007-2011, five-year estimate. A higher homeownership rate indicates the economic stability of a community, which is positively correlated with community health.

- Median value of owner-occupied housing units obtained from the ACS 2007-2011, five-year estimate. This statistic indicates the strength of a community's real estate market relative to the average statewide market condition and is highly correlated with community health.

- Population growth between 2010 and 2012 obtained from the Economic and Social Research Institute (ESRI) 2012 community profile. A component of population growth is the number of people relocating to a community so this measures the quality of life in a community and is positively correlated with community health.

- Poverty rate, obtained from the ACS 2007-2011, five-year estimate. The poverty rate highlights the detrimental impact of concentrated poverty on quality of life in a community. This variable is inversely correlated with community health.

- Property vacancy rate obtained from the ESRI 2012 community profile. An elevated property vacancy rate negatively impacts community health. Vacant property is often correlated with higher crime and depreciation of property values in a community.

- *Economic Opportunity*: Economic opportunity measures the extent to which a community provides employment opportunity and mobility to its residents. Employment opportunity is measured by the following variables:

  - Prevailing unemployment rate obtained from the ACS 2007-2011, five-year estimate. This variable, which measures employment opportunity in a community, is inversely related with economic opportunity.

  - Median commute time to work obtained from the ACS 2007-2011, five-year estimate. The commute time measures proximity to regional employment opportunities and is inversely related with economic opportunity.

- *Educational Opportunity*: Educational opportunity measures the outcomes of student performance and educational attainment in the community. This indicator is measured by the following variables:

  - Maryland School Assessment (MSA) scores, proficient and advanced, for elementary, middle, and high school students obtained from Maryland Department of Education for the 2011/2012 academic year. These scores play a key role in determining educational advancement as well as opportunities available to students. The MSA scores are positively correlated with educational opportunity.

  - Percent of population with a college degree (both undergraduate and graduate degrees) obtained from the ACS 2007-2011, five-year estimate. This variable is positively related to educational opportunity.

  - Percent of population with no high school diploma, obtained from the ACS 2007-2011, five-year estimate. This variable is inversely related with educational opportunity.

2. Be located in a geographic area defined by applicable law as a community of opportunity for affordable family housing or identified as such by an order or consent decree entered by a federal or State court of competent jurisdiction or by a settlement agreement to which DHCD or a local government in Maryland is a party. As of the publication of this Program Guide, DHCD is aware of one such settlement, in the case of *Thompson v. HUD*. The following link provides information on census tracts designated as communities of opportunity in the *Thompson* case: http://www.mbquadel.com/Portals/0/Downloads/Allowable%20Census%20Tract.pdf

## 3.2 Community Revitalization and Investment Areas

To meet this priority, the project must meet at least one of the following criteria:

1. Be located in a Qualified Census Tract (QCT) or federally designated Difficult to Develop Area (DDA), both as defined by §42(d)(5)(B) of the Code and contribute to a concerted community revitalization plan.

   To qualify as a concerted community revitalization plan, the plan must be consistent with Maryland's Smart Green and Growing Initiatives and PlanMaryland. The community revitalization plan must be established to prevent or reverse the decline or disinvestment in the community. The plan must be local in nature with defined geographic boundaries. To

be acceptable, a plan also should include evidence of a concerted planning process including consultation with and input from major stakeholders, particularly community residents and businesses. The community revitalization plan must have been developed and approved in accordance with local planning requirements. The application must include either a) a current community revitalization plan for the neighborhood or b) a current letter from the local planning department or zoning board confirming the project's location in a revitalization area and that the project contributes to the current community revitalization plan in place for the area.

2. Be located in a Transit Oriented Development (TOD), which means an area that involves property any part of which is located within one-half mile of the passenger boarding and alighting location of: (a) a planned or existing transit rail stop or station; or (b) a transit node that brings at least two bus lines or other forms of transit (excluding cars) together.

3. The proposed project involves a public housing authority and the production or preservation of public housing; or housing involving the U.S. Department of Housing and Urban Development's (HUD) Choice Neighborhoods/HOPE VI programs, mixed-finance programs, or the Rental Assistance Demonstration (RAD) program; or

4. Be located in a Sustainable Community, which is defined in Maryland Annotated Code, Housing and Community Development Article, Section 6-201 (l), as the part of a Priority Funding Area (PFA)[6] that is:
   - Designated by the Smart Growth Subcabinet as a Sustainable Community;
   - A BRAC Revitalization and Incentive Zone designated by Maryland Department of Business and Economic Development (DBED); or
   - A TOD designated by the Maryland Department of Transportation (MDOT).

## 3.3 Integrated Permanent Supportive Housing (PSH) Opportunities

To meet this priority, the project must provide at least 10% and not more than 25% of its total units to households with incomes at or below 30% of area median income and headed by one of the following:

- For general occupancy projects:
  - Non-elderly person with disabilities (PWD), including persons referred by the Maryland Department of Disabilities (MDOD) or Maryland Department of Health and Mental Hygiene (DHMH);
  - Youth aging out of foster care;

[6] See the 1997 Priority Funding Areas Act (PFA Act). The PFA Act is codified in §5-7B of the State Finance and Procurement Article of the Annotated Code of Maryland.

  - Persons transitioning from correctional facilities; or
  - Veterans.
- For Elderly Projects:
  - Elderly persons with disabilities (PWD);
  - Elderly persons with special needs;
  - Elderly persons who are homeless;
  - Elderly persons transitioning from correctional facilities or other State facilities or institutions ; or
  - Elderly veterans.

To meet this priority, units must be reserved exclusively for the targeted population and applications must include a letter from or memorandum of understanding or other agreement with an entity that will assist the applicant in marketing the units to the targeted population. Additionally, projects with non-elderly PWD units must agree to provide notice of unit availability to and accept referrals from MDOD and/or DHMH, in addition to any other marketing and referrals the project chooses to do.

If a project is unable to fill a unit with the targeted population after a ninety (90) calendar day referral period, the unit may be leased to another household with income at 30% AMI or below. The next available 30% AMI unit in the Project shall be marketed to the Project's original targeted population until the project is in compliance with its targeted percentage (i.e., 10-25%). The ninety (90) calendar day period at lease-up will be measured from the date upon which the project achieves 80% occupancy and at turnover will be measured from the date upon which the unit is determined ready for occupancy following move-out by the prior tenants and completion of any unit turn cleaning, repairs, or maintenance.

## 3.4 Preservation of Existing Affordable Housing

To meet this priority, the project must involve the acquisition and rehabilitation of an existing multifamily rental housing development, whether or not it has existing rent or income restrictions, provided the project:

1. Agrees to affordability restrictions for at least thirty (30) years; and

2. Is not financially feasible using tax-exempt bond financing, as determined by DHCD.

For the purpose of qualifying for this priority, rehabilitation means repair of or alterations to an existing building, or buildings, where a majority of the structural elements of the original building or buildings, at a minimum, is incorporated into the finished project. In its discretion, DHCD may permit a project to meet this priority if the project involves the demolition and

replacement of an existing occupied housing project if rehabilitation of the existing building or buildings is infeasible or impractical. The replacement project must comply with DHCD's policies concerning displacement and relocation of existing tenants.

# 4 Threshold Criteria

Projects must meet all of the following Threshold Criteria to ensure basic program guidelines are met and DHCD resources are reserved for projects that are viable and ready to proceed. Projects meeting all criteria listed in this section, or successfully obtaining waivers for such criteria, will be evaluated against the Competitive Scoring Criteria in Chapter 5.

| Threshold Summary Table | |
|---|---|
| **4.1 Development Team Requirements** | |
| | 4.1.1 Previous Project Performance |
| | 4.1.2 Credit History |
| **4.2 Occupancy Requirements** | |
| | 4.2.1 Minimum Income and Rent Restrictions |
| | 4.2.2 Definition of Elderly Housing and Elderly Household |
| | 4.2.3 Long Term Use Restrictions and Homeownership Opportunities |
| | 4.2.4 Relocation and Displacement |
| **4.3 Marketing Requirements** | |
| | 4.3.1 Public and Assisted Housing Waiting List |
| | 4.3.2 Affirmative Fair Housing Marketing |
| **4.4 Tenant Services** | |
| **4.5 Persons with Disabilities (PWD) or Special Needs Provisions** | |
| | 4.5.1 Preference for Persons with Physical Disabilities |
| | 4.5.2 Non-Elderly Developments: Units Reserved for Persons with Disabilities |
| **4.6 Other Financing Commitments** | |
| **4.7 LIHTC and RHF Limits** | |
| | 4.7.1 LIHTC Award Limits |
| | 4.7.2 Rental Housing Fund |
| **4.8 Underwriting Standards** | |
| | 4.8.1 Maximum Rents |
| | 4.8.2 Vacancy |
| | 4.8.3 Operating Expenses |
| | 4.8.4 Replacement Reserves |
| | 4.8.5 Operating Reserves |
| | 4.8.6 Trending |
| | 4.8.7 Debt Service Coverage Ratio |
| | 4.8.8 Development Costs<br>- 4.8.8.1 Acquisition |

- 4.8.8.2 Syndication Costs
- 4.8.8.3 Professional Fees

4.8.9 Phased Projects

~~4.9 Consultation and Cooperation with and Contribution from Local Governments~~

~~4.9.1 Consultation and Cooperation~~

~~4.9.2 Contribution~~

**4.9~~10~~ Readiness to Process**

**4.10~~1~~ Site Requirements**

4.10~~1~~.1 Site Control

4.10~~1~~.2 Utility Availability

4.10~~1~~.3 Zoning

4.10~~1~~.4 Environmental Assessments

4.10~~1~~.5 Scattered Sites

4.10~~1~~.6 Exceptions

4.10~~1~~.7 New Construction-Priority Funding Areas (Smart Growth)

4.10~~1~~.8 Relocation and Displacement

**4.11~~2~~ Market Study**

4.11~~2~~.1 Site and Surrounding Market Area

4.11~~2~~.2 Market Analysis

4.11~~2~~.3 Capture Rate

4.11~~2~~.4 Penetration Rate-New Construction Projects Only

4.11~~2~~.5 Vacancy Rates

4.11~~2~~.6 Income Levels

4.11~~2~~.7 Absorption Rate

**4.12~~3~~ Development Quality Thresholds**

4.12~~3~~.1 Criteria Applicable to both New Construction and Rehabilitation

4.12~~3~~.2 Additional Criteria Applicable Only to New Construction

4.12~~3~~.3 Additional Criteria Applicable Only to Rehabilitation

- 4.12~~3~~.3.1 Lead Hazard Elimination


**Comment [SP2]:** Renumber sections

## 4.1 Development Team Requirements

As used within this Program Guide, the term Developer refers inclusively to the project sponsor, guarantor, and general partner/managing member with an ownership interest in the project's ownership entity whether such roles are held by individuals, corporate entities, partnerships or limited liability companies. The term Developer specifically excludes the investor/syndicator partner(s) or member(s) of the ownership entity.

The Development Team refers inclusively to the Developer and the team of professionals under contract to the Developer to assist with the overall development of a project. The Primary Development Team consists of the Developer and the project's general contractor, architect, and property manager. The Secondary Development Team includes the project's civil engineer, attorney, accountant, and/or other specialized professional service providers.

Unless a waiver is requested and approved, all corporations, limited liability companies or partnerships that make up the Developer or that will provide guarantees to the transaction must submit audited financial statements, compiled statements, and interim statements acceptable to DHCD and prepared according to Generally Accepted Accounting Principles (GAAP). Any individuals providing guarantees or who will be a managing member or general partner in the Developer must submit personal financial statements, including certifications as outlined in Exhibit A of the application package, acceptable to DHCD. The required financial statements must include calculations of total assets, total liabilities, current assets, and current liabilities.

If an audit, including associated management letters, raises concerns about material misstatements, lack of internal controls, or doubts about an entity's ability to remain a going concern, the application may, in the sole discretion of DHCD, be rejected on a threshold basis.

### 4.1.1 Previous Project Performance

Members of the Primary Development Team may not have previously received a reservation or commitment of funding from DHCD within five years prior to the application date for a project that was not carried out for any of the following reasons:

- For LIHTC, entities that (1) received a reservation but were unable to place the project in service in the year of the reservation or unable to meet the requirements to receive a Carryover Allocation; (2) received a Carryover Allocation but could not meet the 10% expenditure test deadline necessary to keep a Carryover Allocation; (3) received a Carryover Allocation or other Allocation but could not place the project in service within the time required by the LIHTC Program; or (4) demonstrate a history or pattern of non-corrected serious health and safety issues as documented by IRS form(s) 8823.
- For RHF and MBP, entities that received a reservation or commitment of loan funds but were unable to close the financing.

This criterion does not apply to the voluntary return of a LIHTC or RHF loan by a Developer based on a determination that the project as originally proposed is no longer feasible, provided that DHCD was willing to accept the return and there was no loss to DHCD of State resources. Additionally, DHCD will evaluate the role of Primary Development Team members relative to their role. For example, an architect would not be prevented from participating in a new

transaction simply because they had been the architect on a project where the developer subsequently developed a pattern of noncompliance leading to issuance of IRS form 8823.

In addition, Primary Development Team members may not:

- Have participated as an owner or manager in the development or operation of a project that has defaulted on a DHCD or other government or private sector loan in the previous five years;
- Have consistently failed to provide documentation required by DHCD in connection with other loan applications or the management and operation of other existing projects;
- Have been involuntarily removed within the previous five years as a general partner or managing member from any affordable housing project whether or not financed or subsidized by the programs of DHCD;
- Have a current limited denial of participation from the U. S. Department of Housing and Urban Development (HUD);
- Be debarred, suspended, or voluntarily excluded from participation in any federal or state program;
- Have been directly involved with any project placed on DHCD's defaulted loans watch list due to actions which, in the opinion of DHCD, are attributable to the sponsor or the Development Team member; or
- Have unpaid fees, loan arrearages, or other obligations due to DHCD on other projects.
- Have been found by any state or federal agency or court of competent jurisdiction to have acted in violation of the Fair Housing Act, the Civil Rights Act or any other state or federal law prohibiting discrimination within the previous five years.

This evaluation will be based on mandatory disclosures by Primary Development Team members, including submission of financial statements meeting the criteria specified in the Application Submission Package, as well as a review of DHCD records, personal credit histories, commercial credit reports, and other available information. Knowingly providing false information to DHCD on the application or otherwise may subject the applicant to penalties under Maryland law.

### 4.1.2 Credit History

Members of the Development Team acting in the role of Developer, general contractor, or property manager will not be considered for funding if they have unpaid state or federal income, payroll, or other taxes as of the application date or a record within the past five (5) years of any of the following that are unacceptable to DHCD:

- Chronic past due accounts;
- Substantial liens or judgments;

- Three or more instances of unpaid taxes (even if cured prior to the application date);
- Foreclosures or bankruptcies; or
- Deeds in lieu of foreclosure.

This evaluation will be based on mandatory disclosures by Development Team members, including submission of financial statements meeting the criteria specified in the Application Submission Package, as well as a review of DHCD records, personal credit histories, commercial credit reports, and other available information. Knowingly providing false information to DHCD on the application or otherwise may subject the applicant to penalties under Maryland law.

## 4.2 Occupancy Requirements

### 4.2.1 Minimum Income and Rent Restrictions

At a minimum, applicants must agree that low-income units in the projects will be rented to households with incomes and at rents that do not exceed the levels required under the proposed funding source.

### 4.2.2 Definition of Elderly Housing and Elderly Household

Any application for funding that proposes one or more of its units will be reserved for elderly housing must meet DHCD's definition of elderly household or must request a waiver.

DHCD defines elderly housing as any project that proposes to restrict occupancy to one or more of the units in the project based on age. DHCD defines an elderly household as one in which at least one household member is age sixty-two (62) or over. These definitions apply to all projects applying for LIHTC, RHF, or MBP financing as elderly housing.

**FHA Risk Sharing Insurance Threshold Requirement**

For projects financed under the FHA Risk Sharing Insurance program, DHCD will follow the risk sharing regulation 24 CFR 266.200(g) and Chapter 3-2H of Handbook 4590.1 – Elderly Projects which defines elderly housing as: *"An elderly family means any household where the head or spouse is 62 years of age or older, and also any single person who is 62 years of age or older."*

The Market Study provided in accordance with Section 4.11~~2~~ below must demonstrate demand for the project among the elderly population proposed. In all cases, elderly housing must comply with all applicable federal laws, including the Fair Housing Act.

### 4.2.3 Long Term Use Restrictions and Homeownership Opportunities

All projects requesting competitive LIHTC and/or RHF must agree to at least forty (40) years of low-income occupancy restrictions, unless a structured fifteen (15) year transition to homeownership is presented and accepted. All projects requesting non-competitive LIHTC

and/or MBP loan funds must agree to at least thirty (30) years of low-income occupancy restrictions.

Properties intended for eventual homeownership must be physically designed to facilitate marketing for and conversion to homeownership. At application submission, projects must present a strategy that shows how funding will be made available from the project or other dedicated sources to prepare and assist residents for the transition of the project to homeownership at the close of the initial fifteen (15) year compliance period.

### 4.2.4 Relocation and Displacement

Generally, DHCD will not participate in a project if it results in the permanent displacement of more than 5% of elderly or disabled residents or 10% of general occupancy residents dwelling on the site of the proposed project. If the project will result in the relocation of any residential tenants,[7] DHCD expects the applicant will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4601) (URA) and §104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. §5304(d)) regarding resident notice and compensation. These requirements apply to all funding requests regardless of the ultimate source of the funds.

All applicants should make themselves familiar with URA and §104(d) requirements, including notices from both the purchaser and seller that may apply to their project. DHCD will consider waivers to its cap on permanent displacement only to the extent that the displacement complies with URA and leverages substantial federal investment. Information on federal relocation requirements and the rights of affected tenants may be found at:

http://www.hud.gov/offices/cpd/library/relocation/publications

## 4.3 Marketing Requirements

### 4.3.1 Public and Assisted Housing Waiting List

All projects must establish a priority for households on waiting lists for public housing or other federal or State assisted low-income housing. The applicant also must demonstrate that the entity maintaining the waiting list is willing to refer tenants to the project.

### 4.3.2 Affirmative Fair Housing Marketing

The State of Maryland has a compelling interest in creating fair and open access to affordable housing and promoting compliance with state and federal civil rights obligations. Fair Housing requirements apply to the full spectrum of housing activities including but not limited to outreach and marketing, the qualification and selection of residents, and occupancy. This

[7] In projects with federal funding that formally triggers URA, commercial tenants are also entitled to certain protections and benefits.

Program Guide and the QAP continue DHCD's long-standing commitment to affirmatively furthering fair housing.

All applications must include a certification that the project will develop and implement an Affirmative Fair Housing Marketing Plan (AFHMP) using form HUD-935.2A available online at:

http://portal.hud.gov/hudportal/documents/huddoc?id=935-2a.pdf

To provide the greatest access to housing opportunities by Maryland's residents, all AFHMPs also must include, at a minimum, the following provisions:

- prohibit income requirements for prospective tenants with Housing Choice Vouchers or similar vouchers;
- eliminate local residency preferences;
- ensure access to leasing offices for persons with disabilities;
- provide flexible application and office hours to permit working families and individuals to apply; and
- encourage credit references and testing that take into account the needs of persons with disabilities or special needs.

In the event HUD updates form HUD-935.2A or DHCD later publishes additional AFHMP requirements, applicants will be required to use the newest versions of such forms and/or criteria available.

DHCD will review the AFHMP to ensure the AFHMP is in conformance with all HUD and DHCD requirements, and will reject any AFHMP not in conformance. Failure to comply with an approved AFHMP will result in negative points in future applications as described in Section 5.1.2.

## 4.4 Tenant Services

All projects funded pursuant to this Program Guide must provide services appropriate to the population served by the project. To be considered for financing, an application must include a certification by the applicant that it will provide appropriate services throughout the compliance period or loan term, as applicable, that address the following based on the population of the property:

- General occupancy projects must deliver or coordinate services that improve building and unit maintenance, stabilize occupancy by improving residents' abilities to uphold their lease obligations, and enhance quality of life and self-sufficiency for residents, including children;
- Elderly occupancy projects should deliver or coordinate services that stabilize occupancy by improving residents' abilities to uphold their lease obligations throughout the aging

process and enhance quality of life through improved access to or information concerning services and benefits, health promotion, community building, and socialization; and

- Projects that include populations with disabilities or special needs should ensure that the targeted population served is able to benefit and access the services provided to the general population at the property.

For general occupancy and elderly projects, applicants must, at a minimum, provide passive links to appropriate community services for tenants. The Competitive Scoring Criteria below provides incentives for sponsors providing active services or service linkages to tenants. Services for persons with disabilities or special needs populations must, at a minimum, include clear linkages with agencies referring their clients to the project.

## 4.5 Persons with Disabilities (PWD)

### 4.5.1 Preference for Persons with Physical Disabilities

All projects funded pursuant to this Program Guide must ensure that persons with physical disabilities have priority for occupancy of any units qualified under the Uniform Federal Accessibility Standards (UFAS). To ensure that persons with disabilities who require the features of a UFAS unit receive priority for UFAS qualified housing, when a UFAS unit becomes available, it must be offered first to a prospective tenant whose disabilities require such a unit even if other applicants who do not require accessible units have higher placement on the general waiting list. However, owners are not required to disregard occupancy restrictions imposed by any applicable financing program, State or federal law, or lease. Additionally, when renting UFAS units to households that do not require an accessible unit, owners are encouraged to include provisions in the lease that require the household to move to another comparable unit within the project in order to make the UFAS unit available for a household that requires such a unit.

### 4.5.2 Non-Elderly Developments – Units Reserved for Persons with Disabilities

Except for projects that meet the requirements for Integrated Permanent Supportive Housing Opportunities under Section 3.3 above, all non-elderly projects must reserve at least five percent of proposed units for households at or below 60% AMI and headed by a non-elderly PWD. Non-elderly disabled units provided under the Bailey Consent decree in Baltimore City will satisfy this requirement. However, this requirement is also satisfied by serving non-elderly PWD who do not meet the City's non-elderly disabled definition. Projects that exceed the requirements of this section may qualify to receive points under the Competitive Scoring Criteria detailed in Section 5.3.2.

Units reserved under this threshold requirement must be reserved exclusively for targeted populations for a period of not less than sixty (60) calendar days both at initial lease-up and upon turnover. The sixty (60) calendar day period at lease-up will be measured from the date upon which the project achieves 80% occupancy and at turnover will be measured from the date upon which the unit is determined ready for occupancy following move-out by the prior tenants and completion of any unit turn cleaning, repairs, or maintenance. In addition to other marketing or referrals for the units, projects with non-elderly PWD units must agree to provide notice of unit availability to and accept referrals from MDOD and/or DHMH.

## 4.6 Other Financing Commitments

Letters of intent to provide financing must be furnished for all funding sources identified in the application. At a minimum, letters of intent must state that the project appears feasible and must show the amount of anticipated funding, general repayment terms, and any conditions. Letters of intent from the intended first mortgagee also must include the lender's acknowledgement of DHCD's financing regulations and policies and the lender's agreement to cooperate with the applicable RHF, LIHTC, and MBP processes, as appropriate.

In addition, if financing will be subsidized or insured, evidence must be provided that the appropriate applications have been prepared and have been or are ready to be filed. For projects proposing financing with an FHA-insured first mortgage and an RHF loan, the lender must acknowledge in its letter of intent that it will accept the use of the FHA/DHCD Intercreditor Agreement without modification. Lenders for FHA-insured first mortgages must also detail the proposed schedule for Multifamily Accelerated Processing (MAP). This schedule must correspond with the Developer's schedule as set forth in the application.

For projects applying for LIHTC, applicants must provide a proposal from at least one syndication firm showing the amount of expected LIHTC, the investor type, expected net proceeds, syndication costs, pay-in schedule, and willingness to comply with DHCD's regulations. The syndicator's letter must provide a proposed schedule for completing its due diligence and indicate the current status of its review of the application and project, including whether a site visit has been completed.

Letters that fail to explicitly include the acknowledgements and information listed above will be rejected as incomplete and will result in the application failing threshold review and being removed from processing.

## 4.7 LIHTC and RHF Limits

### 4.7.1 LIHTC Award Limits

The maximum amount of a competitive LIHTC reservation or allocation will be limited to not more than $1.5 million to any single project. Reservations and/or allocations may be split over two (2) or more calendar years.

Allocations of LIHTC pursuant to §42(h)(4)(B) of the Code (federally subsidized tax-exempt bond transactions) are limited only by the amount required, at the sole determination of DHCD, necessary for the long term feasibility of the project.

### 4.7.2 Rental Housing Fund Award Limits and Repayment Requirements

The maximum RHF loan per project may not exceed $2 million except as permitted in COMAR. In addition, loans derived from RHF are, by regulation, subject to certain restrictions upon prepayment, including but not limited to, continuing occupancy restrictions, tenant notices and relocation requirements pursuant to COMAR.

DHCD expects repayment of its RHF loans on an amortizing basis from surplus cash and reserves the right to adjust loan terms based on its underwriting and subsidy layering reviews. It will generally provide RHF loans under the following terms:

- Loans will be provided with a 40 year term but will be due on sale, refinancing, any voluntary or involuntary transfer of the property or the occurrence of an event of default;
- 2% simple interest will be charged; and
- Payments to DHCD will be limited to 75% of annual cash flow.

In the alternative and effective for applications subject to the~~is~~ 2013 or 2014 Program Guide, DHCD has developed an alternate method of repayment of its RHF loans or other DHCD loans awarded through the competitive round as described below. DHCD reserves the right to adjust these loan terms based on its underwriting and subsidy layering reviews. DHCD will not apply these terms retroactively to loans approved and processed under prior Program Guides. The project sponsor may choose whether to follow the alternate repayment method described below to repay its RHF or other DHCD loans awarded through the competitive round. This choice generally must occur prior to DHCD's issuance of a commitment letter for the loan.

The alternative RHF loan terms include the following provisions:

- Loans will be provided with a 40 year term but will be due on sale, refinancing, and any voluntary or involuntary transfer of the property or the occurrence of an event of default.

- 0% interest will be charged.
- DHCD surplus cash splits will generally be between 50% and 75% of annual surplus cash, depending on outstanding deferred developer fees and soft debt participation by the local government.
  - Borrower's surplus cash split will be a minimum of 25% and will range between 25% and 50%.
  - Local government surplus cash split will vary based on the amount and terms of the local capital contribution. If the local government's capital contribution equals or exceeds $250,000 and is on the same or better terms than DHCD's loan terms, the local government will share cash flow proportionately with DHCD up to a maximum of 25%. If the local government's capital contribution (share of soft debt) is greater than 60% of the project's total public subordinate debt, DHCD will share the available surplus cash on a 50/50 basis with the local government.
  - Until deferred developer fees are paid, DHCD will take only 50% of surplus cash and the remaining surplus cash (portion not paid to local government) will be paid to the borrower.
  - The surplus cash payments to DHCD and the local governments will not be limited to the annual amounts which would be due had the loan been a fully amortizing loan and additional payments will be applied to the principal outstanding.
- DHCD and local governments may require equity participation or contingent interest agreements with borrowers to share in the proceeds generated by the sale, refinancing or other disposition of assets of the project.

**Multifamily Bond Program Terms and Conditions**

Loans provided under the MBP must be amortized at an interest rate set by DHCD. The term of the loan may be up to forty (40) years for either taxable or tax-exempt bond funded loans. All projects must be credit-enhanced so that the bonds sold to fund the loans can receive a rating of "AA" or better from DHCD's rating services. See Section 7.3 for additional information on MBP.

## 4.8 Underwriting Standards

Consistent with its obligations under §42(m)(2) of the Code, which requires that LIHTC allocations not exceed what is necessary for financial feasibility, and in consideration of best practices promoted by the National Council of State Housing Agencies, DHCD will underwrite all applications for LIHTC. In so doing, DHCD must balance the efficient use of resources with the need to develop housing that is viable and sustainable for the compliance period.

Projects without project-based Section 8 assistance that are subject to federal subsidy layering requirements under §911 of the Housing and Community Development Act of 1992 are subject to the Memorandum of Understanding between DHCD and HUD. Additionally, projects with project-based housing choice vouchers must comply with the standards in the HUD Administrative Guidelines: Subsidy Layering Review for Proposed Section 8 Project-Based Voucher Housing Assistance Payments Contracts, as published in the Federal Register, July 9, 2010.

To pass threshold, all applications must be submitted meeting the underwriting standards listed in 4.8.1 - 4.8.9 below. DHCD will also consider more stringent underwriting requirements imposed by other lenders, equity providers, or the credit enhancer.

### 4.8.1 Maximum Rents

Low-income units in a project must be rent restricted as required by the most restrictive funding source. Applications that anticipate the use of project-based rental assistance must show a breakdown of the actual rent to be paid by tenants and the estimated rental subsidy that will be received by the project owner.

In all cases, the Market Study and appraisal must demonstrate the proposed rents are achievable. Rents must allow for a reasonable affordability window so that tenants below the maximum income for targeted units are not paying a disproportionate percentage of their income for rent (i.e. in excess of 30% for general occupancy projects or 35% for elderly projects).

For purposes of the LIHTC, maximum unit rents (inclusive of tenant paid utilities) may not exceed 30% of the imputed gross income limit applicable to each unit based on an assumption of 1.5 persons per bedroom for units with one or more bedrooms and 1.0 persons per bedroom for efficiency or Single Room Occupancy (SRO) units. For example, the maximum rent calculation for a two-bedroom unit targeted to households at 40% the area median income would be calculated by dividing 40% of the area median income for a three (3) person household by twelve (12) and multiplying by 30%.

For units restricted to elderly households, the imputed household size may not exceed three persons regardless of the number of bedrooms. For example, in a non-age restricted unit, the rent for a three-bedroom unit would be based on a 4.5 person household, but if designated as an elderly unit the maximum rent must be calculated based on a household of three people.

Area Median Income charts, including adjustments for household size, are published annually by HUD and posted by DHCD. The current charts can be accessed on DHCD's website at:

http://www.dhcd.state.md.us/website/programs/LIHTC/documents/2013_LIHTC_Income%20_Rent_Limits.pdf

### 4.8.2 Vacancy

All projects will be underwritten with a minimum vacancy rate of 5%. Additionally, the Market Study must fully support the proposed vacancy level. DHCD reserves the right to reject as infeasible any project that requires a vacancy rate of 10% or more.

**Multifamily Bond Program Terms and Conditions**

Loans financed using the FHA Risk Sharing Program generally will be underwritten using a 7% vacancy rate. See Section 7.3 for additional information on MBP.

### 4.8.3 Operating Expenses

Annual operating expenses, including all real estate taxes but excluding replacement reserve deposits and debt service, should be no less than $4,000 per unit per year and no more than $6,500 per unit per year. Waivers may be requested for small projects of up to forty (40) units and for projects with master-metered (i.e. project paid) utilities.

### 4.8.4 Replacement Reserves

All projects must budget at least $300 per unit per year in reserves for replacement (RFR) deposits. Additionally, RFR deposits must be adequate to support the project as determined by a capital needs assessment (CNA) prepared by a qualified third party. DHCD reserves the right, in its sole discretion, to require a new CNA every five to ten years and adjust RFR deposits based upon such new CNA.

### 4.8.5 Operating Reserves

As part of the development budget, each project must establish an operating reserve equal to between three and six months of underwritten operating expenses, debt service payments, and required deposits to reserves. At a minimum, capitalized operating reserves must remain in place until the project has achieved a minimum 1.15 debt service coverage ratio, economic break-even operations for one complete fiscal year as confirmed by the project's annual audit, and reached and sustained 90% occupancy for twelve (12) consecutive months. In the discretion of DHCD, the operating reserve may be released over the next three (3) years provided the project continues to achieve economic break-even operations and sustains 90% occupancy.

Upon release, operating reserves generally may be used to pay any outstanding deferred developer's fee, reduce any State loan, fund other reserves, fund project betterments, or otherwise be applied as approved by DHCD.

### 4.8.6 Trending

In evaluating the long term viability of the project, DHCD requires that rents and other revenue from the project be projected to increase by no more than 2% annually. Operating expenses (including property taxes) must be projected to increase by not less than 3% annually.

### 4.8.7 Debt Service Coverage Ratio

All projects must be underwritten to a minimum debt service coverage ratio (DSCR) of 1.15 in the first year of stabilized operations. The DSCR will be calculated including all must-pay debt service payments. For projects with amortizing debt service on a RHF loan, the minimum DSCR is 1.1.

### 4.8.8 Development Costs

Consistent with §42(m)(2) of the Code and industry best practices, DHCD limits the award of LIHTC and other State controlled resources to the funding gap necessary to make a transaction viable. Even if a specific line item is not being paid with LIHTC equity or DHCD funds, any excessive cost, regardless of the source of financing, increases the gap and affects the public subsidy needed by a transaction. As a result, DHCD reserves the right to require any applicant to provide a justification of any development cost line item. Furthermore, the following standards will be applied to specific cost items.

#### *4.8.8.1 Acquisition*

In all cases and regardless of which proposed funding source will pay for the acquisition price, an appraisal will be used to assess the reasonableness of the acquisition price in the project budget. In most cases, independent professional appraisers under contract with DHCD will perform the appraisal and the applicant will pay the costs of any required appraisals. However, DHCD, in its sole discretion, may accept an appraisal that is required by another lender and prepared by an independent professional appraiser for that lender. For LIHTC transactions involving acquisition credits, DHCD may, as a condition of a reservation, and at its discretion, request an opinion from an independent CPA or tax attorney confirming that the planned acquisition conforms with §42(d)(2)(B) of the Code (i.e. the Ten-Year Rule).

The acquisition price is defined as the consideration offered for the transfer of title and legal ownership. The acquisition price does not include:

- Reasonable and necessary soft costs related to the acquisition, such as legal expenses associated with zoning, title expenses, relocation costs, and engineering fees; or
- Off-site improvements, such as extensions of infrastructure necessary to prepare the site for its intended use, provided that the absence of such improvements is clearly noted and accounted for within the appraisal's estimate of "as is" value.

For purposes of this section, an Arms-Length Transaction is one between parties made freely and independently of each other, and without a special relationship such as family relationship, other business relationship, or the existence of a controlling interest between the parties. In contrast, a Related Party Transaction includes one between parties where familial, business, controlling interests, or other close ties exist prior to the transaction.

In general, the acquisition price must meet the following requirements:

- In the case of an Arms-Length Transaction, the acquisition price must be less than or equal to the "as is" appraised value of the property.
- In the case of a transaction involving a change of use, the acquisition price must not exceed the lesser of the "as is" appraised value or the "as completed" appraised value based on the project's projected end use. In the case of a Related Party Transaction where the property was acquired less than two years before the application date, the acquisition price must not exceed the lesser of the "as is" appraised value or the applicant's original acquisition price plus carrying costs acceptable to DHCD.
- In the case of a Related Party Transaction where the property was acquired two or more years before the application date, the acquisition price does not exceed the "as is" appraised value of the property.

Any portion of the acquisition price in excess of the "as is" value may not be financed or reimbursed by RHF or other project sources, may not be used in calculating the developer fee, and may not be reimbursed from cost savings at final closing. The excess must be paid with non-project sources such as proceeds of the developer fee.

Exceptions to the acquisition price standards may be submitted to DHCD on a case by case basis under the waiver process described in Section 6.2.10. Waivers to the acquisition price limitations will be in DHCD's sole discretion, and DHCD expects the approval of such excess acquisition prices to be extremely limited.

Additionally, DHCD loan funds may not be used directly to purchase schools or school sites owned by local governments or religious institutions for conversion to housing, except as permitted by waiver as provided in Section 6.2.4.

With prior approval, DHCD will allow real estate taxes and other carrying costs associated with owning the site during the period after acquisition and application to be counted towards the acquisition of the property for the purpose of meeting the 10% expenditure tests associated with awards of LIHTC.

#### *4.8.8.2 Syndication Costs*

For projects seeking LIHTC awards, the projected net equity from syndication should be based on current market conditions. Net equity will take into account syndication and partnership fees included in the project budget. When analyzing the LIHTC market, DHCD may adjust the equity rate for purposes of determining the appropriate award of credits.

Because the market for LIHTC equity is variable, DHCD intends to provide notice ahead of each funding round about its current assumptions for equity pricing and reserves the right to establish both minimum and maximum pricing. Further, DHCD reserves the right to require an applicant to submit documentation from equity providers justifying the reasonableness of the applicant's equity pricing assumptions.

#### *4.8.8.3 Professional Fees*

Applicants may request waivers to the professional fee limitations described below for small projects (those with up to forty (40) units) and/or projects that require specialized consultants or services. Waivers must be requested in accordance with Chapter 6 and will be granted at the sole discretion of DHCD and upon a determination that the increased costs are necessary and reasonable given unique features of the proposed project.

Subject to the further definitions and restrictions below, the following limits on professional fees will apply to all projects:

| **Summary of Professional Fee Limitations** | | |
|---|---|---|
| | ***Large Projects*** | ***Small Projects*** |
| Builder's Fees—Aggregate limit<br>% of net construction costs | New construction: 15% Rehabilitation: 17% | 20% |
| Builder's Profit | 5-10% | |
| Builder's Overheard | 2-3% | |
| General Requirements | 5-10% | |
| Civil Engineering<br>% of net construction costs | 5% | 7% |
| Architect—Design<br>% of construction contract | 2%-5% | 2%-7% |
| Architect—Administration<br>% of construction contract | 1%-3% | 1%-4% |

| | |
|---|---|
| Developer Fee<br>% of aggregate basis | 10-15% as further defined below<br>Absolute maximum of $2.5M |

- **Builder's Fees** – Builder's fees, including profit, overhead, and general conditions, are subject to both aggregate and individual limits. In all cases, these limitations are described as a percentage of Net Construction Costs. Net Construction Costs are equal to the construction contract amount less any allowances for Builder's Profit, Overhead, and General Conditions.
    - Individual Limitations – Builder's Profit may not be less than 5% or more than 10% of Net Construction Costs; Builder's Overhead may not be less than 2% or more than 3% of Net Construction Costs; and General Requirements may not be less than 5% or more than 10% of Net Construction Costs.
    - Aggregate Limitations – For new construction projects of more than forty (40) units, the combined total of Builders Profit, Overhead, and General Requirements cannot exceed 15%; for rehabilitation projects (including adaptive reuse of existing structures being converted to residential use) of more than forty (40) units, the combined total of Builders Profit, Overhead, and General Requirements cannot exceed 17%; and for new construction or rehabilitation projects of forty (40) units or less, the combined total of Builders Profit, Overhead, and General Requirements cannot exceed 20%.
- **Engineering Fees** – The allowable civil engineer's fee for projects of more than forty (40) units may not exceed 5% of Net Construction Costs. For projects of forty (40) units or less, the civil engineering fee may not exceed 7% of Net Construction Costs.
- **Architect's Fees** – For projects of more than forty (40) units, the allowable architect's fee for project design may range from 2% to 5% of the construction contract amount; for architectural administration, the allowable fee may range from 1% to 3%. For projects of forty (40) units or less, the architect's fee may not exceed 7% for design and 4% for administration.
- **Developer's Fee** – The Developer's Fee is inclusive of all fees paid to the Developer, processing agents, and development consultants, and includes deferred fee. The range of allowable developer's fees is from 10% to 15% of total development costs as approved by DHCD based on the table below. For purposes of this calculation, total development costs include the following: expenses related to the actual construction or rehabilitation of the project; fees related to the construction or rehabilitation such as architecture, engineering and legal expenses; financing fees and charges such as

construction interest, taxes, insurance and lender fees; and acquisition related costs which may include master planning costs. Total development costs do not include the following: hard or soft cost contingencies; syndication related costs; funded guarantee and reserve accounts that are required by lenders or investors; and the Developer's Fee.

The Developer's Fee may not exceed $2.5 million and is further limited on a percentage basis as follows:

| Developer's Fee Limits | | |
|---|---|---|
| | ***Fee on Development Costs*** | ***Fee on Acquisition Costs*** |
| First $10 million | 15% | 10% |
| Amount in excess of $10 million | 10% | 5% |

Note that while this section describes the limits on the allowable Developer's Fee, Section 6.2.8 addresses expectations on the disbursement of the Developer's Fee.

### 4.8.9 Phased Projects

Applications for subsequent phases of projects already in receipt of a reservation of RHF or LIHTC allocations must show evidence that the original phase(s) of the project has achieved Sustaining Occupancy. For this purpose, Sustaining Occupancy means a minimum of three (3) months of break-even operations and occupancy at 90% or greater.

## ~~4.9 Consultation and Cooperation with and Contribution from Local Governments~~

### ~~4.9.1 Consultation and Cooperation~~

~~A. This Section 4.9.1 A applies to all applications requesting financing through LIHTC, MBP, and HOME. *See Section 4.9.1 B for applications requesting financing through the Rental Housing Production Program. For applications requesting financing through the Maryland Housing Rehabilitation Program, the Nonprofit Rehabilitation Program, and the Elderly Rental Housing Program no local government consultation or cooperation is required.*~~

~~(1) Except as provided in subsection (5) of this Section 4.9.1 A, upon receipt of an Application Submission Package for LIHTC or for a loan under any of the programs subject to this Section 4.9.1 A, DHCD shall provide written notice of the application to the political subdivision in which the project is located. If the project is located in a municipal corporation, the notice shall be sent to the municipal corporation and not to the county. The written notice~~

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~~shall be sent to the political subdivision's highest elected public official and to the head or president of the political subdivision's legislative body. The written notice shall include the following information about the project:~~

~~(a) Date of application;~~

~~(b) Name and description of the project;~~

~~(c) Address of the project;~~

~~(d) Developer of the project and the Developer's contact information;~~

~~(e) Amount of funding and/or LIHTC requested;~~

~~(f) Amount, type, and provider for other sources of financing;~~

~~(g) Total number of units;~~

~~(h) Number of units reserved for families of limited income, including the income and rent limits; and~~

~~(i) Such other information as DHCD deems relevant.~~

~~(2) The political subdivision shall have forty-five (45) calendar days from the date the written notice is sent to review the project and DHCD's proposed financing for the project. The forty-five (45) calendar day review period shall be computed in the manner described in subsection (7) of this Section 4.9.1 A.~~

~~(3) During the forty-five (45) calendar day review period, the political subdivision shall~~

~~either~~

~~(a) Write a letter of support for the project signed by its highest elected public official;~~

~~(b) Take no action with respect to the project; or~~

~~(c) Adopt a resolution disapproving the project, which resolution shall include the reason or reasons for the disapproval.~~

~~(4) Except as provided in subsection (6)(b) of this Section 4.9.1 A, if the political subdivision writes a letter of support for the project signed by its highest elected public official or takes no action with respect to the project, DHCD may provide financing to the project. The political subdivision shall provide a copy of any letter of support for a project to DHCD.~~

~~(5) If, prior to submission of an application for LIHTC or for a loan from any of the programs subject to this Section 4.9.1 A, a political subdivision has adopted a resolution approving a project that is endorsed by its highest elected public official, then~~

~~(a) The sponsor shall provide a certified copy of the resolution to DHCD;~~

~~(b) DHCD is not required to send the notice under subsection (1) of this Section 4.9.1 A; and~~

~~(c) DHCD may provide financing to the project.~~

~~(6) (a) If the political subdivision adopts a resolution disapproving a project,~~

~~i. A certified copy of the resolution shall be provided to DHCD;~~
~~ii. DHCD shall provide a copy of the certified resolution to the sponsor; and~~
~~iii. The application shall be rejected.~~

~~(b) If the political subdivision adopts a resolution disapproving a project, but also provides a letter of support for the project signed by its highest elected official, the application shall be rejected.~~

~~(7) The written notice shall include the date by which the political subdivision must adopt a resolution of disapproval under subsection (3)(c) of this Section 4.9.1 A. In computing the forty-five (45) day period, the day that the written notice is sent by DHCD will not be included, however intermediate Saturdays, Sundays and State holidays will be counted. The last day of the forty-five (45) day period will be included unless it is a Saturday, Sunday, or State holiday, in which event the period will run until the end of the next day that is not a Saturday, Sunday, or State holiday.~~

~~B. This Section 4.9.1 B applies to all applications requesting financing from the Rental Housing Production Program.~~

~~(1) The political subdivision in which the proposed project is situated shall approve the project. If the project is in a municipal corporation, the local approval shall be from the municipal corporation, not the surrounding county.~~

~~(2) Evidence of Approval~~

~~(a) Evidence of political subdivision approval for Threshold review shall contain the information provided in subsection 2(c) of this Section 4.9.1 B and shall be in the form of either~~

~~i. a certified copy of a resolution duly adopted by the appropriate governing body of the political subdivision that is endorsed by its highest elected public official, if any;~~

~~ii. a written letter of approval from the political subdivision's highest elected public official or its legislative body; or~~

~~iii. written documentation that a new or existing mechanism established by the political subdivision for approval of a project has been met.~~

~~(b) If a political subdivision approval letter or documentation that a mechanism for approving a project has been met is submitted for Threshold review under subsection (a)(ii) or (iii) of this Section 4.9.1 B(2), then, prior to closing, the sponsor shall provide either~~

~~i. a resolution of approval in the form required under subsection (a)(i) of this Section 4.9.1 B(2); or~~

~~ii. a legal opinion acceptable to DHCD from the political subdivision's counsel stating that the approval letter or the actions taken under the mechanism for approval constitute valid approval of the project by the political subdivision under its charter and by-laws, or other governing documents.~~

~~(c) The resolution, approval letter or documentation that a mechanism for approving a project has been met under this Section 4.9.1 B shall be for the current round of competition and shall set forth:~~

~~i. The identity of the sponsor;~~

~~ii. The location and nature of the project; and~~

~~iii. Approval of the project.~~

**~~4.9.2 Contribution~~**

~~A. For applications requesting financing through LIHTC, MBP, HOME, the Maryland Housing Rehabilitation Program, the Nonprofit Rehabilitation Program, and the Elderly Rental Housing Program, the political subdivision in which the proposed project is situated *may* make a contribution to the project in one of the forms described in Section 4.9.2 D.~~

~~B. For applications requesting financing through the Rental Housing Production Program, the political subdivision in which the proposed project is situated *shall* make a contribution to the project in one of the forms described in subsection 4.9.2 D.~~

~~C. Evidence of an anticipated political subdivision contribution under either Section 4.9.2 A or B above shall be in the form of a letter from an authorized political subdivision official and shall indicate the type and amount of the contribution that the political subdivision anticipates making.~~

~~D. Requirements for contributions~~

~~(1) The contribution in Section 4.9.2 A or B shall be a contribution which is not contingent upon completion of tasks or improvements that are not related to the project and which:~~

~~(a) Reduces development costs, such as:~~

~~i. The donation or long-term leasing of land or improvements;~~

~~ii. Capital funds for acquisition, construction, rehabilitation, or development costs;~~

~~iii. Locally installed infrastructure or site improvements which reduce off-site costs attributable to the project; or~~

~~iv. Waiver of local fees for permits, tap fees, impact fees, and other fees and charges;~~

~~(b) Reduces operating expenses, such as:~~

~~i. Real estate tax abatement or a payment in lieu of taxes (PILOT);~~

~~ii. Operating or rent subsidies for the project; or~~

~~iii. Long-term agreements for a political subdivision to provide services at no cost to a project such as trash collection, road or grounds maintenance, or grounds care; or~~

~~(c) Otherwise supports a project such as:~~

~~i. Allocation of rent subsidies;~~

~~ii. Guarantees of deficits or completion of construction; or~~

~~iii. Long-term provision of needed social services for special use projects.~~

~~(d) Sponsorship or solicitation of local, private, philanthropic, or community services, materials, or funds which benefit the project and make a material impact on the feasibility of a project may, in some cases, be acceptable local contributions.~~

~~(2) Sources for Contributions.~~

~~(a) Except as otherwise provided below, local contributions shall be made from local resources and assets.~~

~~(b) Federal funds which are awarded at the federal level for a specific project are not eligible to be used as a local contribution unless the political subdivision is instrumental in the application for and administration of the federal funds.~~

~~(c) Funds from non-governmental sources for a specific project may be used as a local contribution if the political subdivision is instrumental in the application for or administration of the non-governmental funds.~~

~~(d) Local contributions which are made in conjunction with grants from DHCD's Small Cities and Community Development Block Grant Programs may be counted toward or may satisfy the local contribution requirement if the grant is used for the project in a manner consistent with Section 4.9.2 D(1).~~

~~(e) Other State funds are not permitted as a local contribution even if the political subdivision has discretion in allocating the funds.~~

~~(3) DHCD shall consider the political subdivision's contribution to the project in relation to the political subdivision's ability to contribute.~~

~~(4) Local contributions may:~~

~~(a) include terms which require repayment of the contribution if the project is sold or no longer provides low income housing; and~~

~~(b) be in the form of loans with interest rates acceptable to DHCD.~~

~~(5) If a project is located in a municipal corporation, the contribution shall be from the municipal corporation, not the surrounding county, except that a county in which a municipal corporation is located may make a contribution on behalf of the municipal corporation, subject to approval by DHCD.~~

## ~~4.10~~4.9 Readiness to Process

As part of the Application Submission Package, sponsors must complete the Anticipated Development Schedule in CDA Form 202. This schedule should be consistent with DHCD's underwriting and construction review process as outlined in Appendix B of this Program Guide

as well as LIHTC requirements. If a project is approved for a LIHTC and/or RHF reservation, it is expected to meet the development schedule as proposed. In cases where a zoning change, variance, or exception is necessary, schedules must be consistent with the analysis provided by the Development Team's zoning attorney or engineer. In all cases, the Anticipated Development Schedule should reflect the project's readiness to use current calendar year LIHTC and current fiscal year RHF funds. If a project envisions utilizing other than current calendar year LIHTC and/or current fiscal year RHF loan funds, the application must provide sufficient explanation and supporting information for the alternate development schedule.

## ~~4.11~~4.10 Site Requirements

### ~~4.11.1~~4.10.1 Site Control

Sponsors must have sufficient site control to allow projects to move forward if they receive a reservation of funds. At the time of application, site control should extend for at least three hundred and sixty (360) calendar days after the application deadline date (including extension options). Acceptable evidence of site control includes deeds, contracts of sale, leases, purchase options, or other evidence at DHCD's discretion.

### ~~4.11.2~~4.10.2 Utility Availability

Evidence that public water, sewer, electric, gas, telephone, internet, cable and other utility services are at project sites or will be available during the construction or rehabilitation period must be provided. Acceptable evidence of utility availability may include a letter from the Development Team's civil engineer, the utility company providing the service, a responsible local official or, for existing buildings, copies of recent utility bills. Alternately, the applicant may provide a certification in the form provided in the Application Submission Package.

### ~~4.11.3~~4.10.3 Zoning

Sites must be properly zoned for their intended use. If a zoning change, variance, or exception is required, sponsors must provide the following information in the application:

- Documentation illustrating the present status of the proposed zoning change, the local planning and zoning process;
- Contact information for a local official familiar with the project and responsible for the approval process; and
- A detailed schedule with projected dates for obtaining the required approvals corresponding to the project schedule in the Application Submission Package.

### ~~4.11.4~~4.10.4 Environmental Assessments

Each project must comply with applicable requirements of local, state and federal environmental laws and regulations. As part of the Application Submission Package, an

environmental assessment checklist or environmental report, if available, must be included. Environmental Assessments should not be more than one year old as dated from application submission.

### ~~4.11.5~~4.10.5 Scattered Sites

Except for projects that meet the Priority Project Category "Family Housing in Communities of Opportunity", projects which involve either the rehabilitation of existing scattered site homes or new construction on non-contiguous vacant infill lots, whether as a stand-alone project or as part of a larger scattered site redevelopment project, must include in the application a current community revitalization plan. The community revitalization plan must be prepared in accord with the requirements of Section 3.2 of this Program Guide.

No targeted unit in any scattered site project may be adjacent to a vacant unit that is not part of the project or otherwise specifically targeted for redevelopment in a community revitalization plan.

### ~~4.11.6~~4.10.6 Exceptions

The requirements for site control, availability of utilities, environmental, and zoning compliance, and scattered sites are not applicable to projects that involve the purchase of completed residential units constructed under a density bonus, affordable zone, or other comparable program. Additionally, a sponsor of a scattered site family project in a community of opportunity may request a waiver under Section 6.1 of the Program Guide of the site control requirement if the project involves the purchase of completed residential units. Instead, sponsors of these types of projects must provide a detailed proposal for identifying specific sites and indicating how and when they will obtain site control.

### ~~4.11.7~~4.10.7 New Construction - Priority Funding Areas (Smart Growth)

All projects involving any new construction must be located in a Priority Funding Area (PFA) under Maryland's Smart Green and Growing Initiative. PFAs include:

- All incorporated municipalities including Baltimore City, with some exceptions related to water, sewer and density for areas annexed after January 1, 1997;
- All areas between the Baltimore beltway and the Baltimore City limits and the Washington, DC beltway and the Washington, DC boundary;
- All areas designated as Sustainable Communities, as defined by the Maryland Annotated Code, Housing and Community Development Article, Section 6-201(l) (see Section 3.2 above);
- Federal and State enterprise zones;
- All areas designated by county governments as PFAs, including rural villages designated in county comprehensive plans as of July 1, 1998; and

- Certified heritage areas within locally designated growth areas.

All applications for projects involving any new construction must include a letter from the local government that certifies the project is located in a PFA.

### ~~4.11.8~~4.10.8 Relocation and Displacement

Sites with existing tenants must meet or obtain a waiver of the requirements of Section 4.2.4 above.

## ~~4.12~~4.11 Market Study

To pass threshold, applications must provide a Market Study commissioned by the applicant that must demonstrate the need for affordable rental housing in the local market and must meet the following criteria:

1. The Market Study must be prepared by an independent professional who has experience with multifamily rental housing and/or LIHTC housing in Maryland and whose firm appears either on the list of acceptable market analysts maintained by DHCD or on the list of firms who have undergone peer review by the National Council of Housing Market Analysts (NCHMA), formerly the National Council of Affordable Housing Market Analysts. Additional information on recommended practices for market studies and standard terminology as well as the NCHMA-approved list of analysts is available through the NCHMA website. DHCD's list of acceptable market analysts may be obtained by calling DHCD or from the DHCD website at:

   http://www.mdhousing.org/Website/programs/rhf/document/appraiserlist1.pdf

2. The Market Study shall be no more than six months old as dated from application submission;

3. The Market Study must provide a concise executive summary of the data, analysis, and conclusions of the report covering the items listed below, with easy references to find the detailed information provided in the summary; and

4. The Market Study must address and satisfy the standards described below in Sections 4.12.1 through 4.12.7. In addressing these criteria and to the extent the NCHMA standards are consistent with LIHTC standards and information provided elsewhere in this Program Guide, DHCD expects sponsors to direct their market analyst to produce a Market Study consistent with the most recent version of the NCHMA Model Content Standards for Rental Housing Market Studies, which is available on the NCHMA website at:

   http://www.housingonline.com/NCHMAModelContent.aspx

### ~~4.12.1~~4.11.1 Site and Surrounding Market Area

The Market Study must provide:

- A detailed project description including the proposed number of units by number of bedrooms, unit size in square feet, utility allowances for tenant-paid utilities, and rents. This project description must match the information provided on the CDA Form 202 submitted with the Application;
- A geographic definition (other than a simple radius) of the primary market area (PMA) and secondary market area (SMA) including maps of the PMA and SMA; and
- A complete and accurate description of the site and the immediate surrounding area, including:
    - Information and statistics pertaining to school performance including Maryland School Assessment (MSA) test results compared to the State's average; graduation rates compared to the State's average; and an analysis of how this information might affect the market performance of the project.
    - Information about opportunities for recreation, education, convenient access to mass transit or rail systems and community activities for the building, project site, and nearby surroundings. A chart and map that shows proximity to public services, grocery, medical facilities, and public transportation must be included.
    - Information and/or statistics on crime in the PMA relative to data for the overall area. Where the data on crime is limited, information for the broader jurisdiction may be provided.

### ~~4.12.2~~4.11.2 Market Analysis

The Market Study must:

- Provide a summary of market-related strengths and/or weaknesses that may influence the project's marketability, including:
    - Quantifying and discussing market advantage of the subject and impact on marketability;
    - Projecting and explaining any future changes in the housing stock within the PMA; and
    - Identifying risks (i.e. competitive properties which may come on line at the same time as the subject property, declining population in the PMA), unusual conditions, and mitigating circumstances.
- Provide an opinion of the market analyst of market feasibility including the prospect for long-term performance of the property given housing and demographic trends and economic factors;

- For properties with project-based Section 8 or USDA Rural Housing assistance, provide a marketability opinion, including capture rates overall, by bedroom count and targeted income band-, in the event the Section 8 Housing Assistance Payments (HAP) or USDA Rural Housing rental assistance contract is not renewed or expires;
- Derive a market rent and an achievable rent and then compare them to the proposed rent;
- Evaluate the need for voucher support or HUD contracts;
- Provide an estimate of the number of renter households qualified by income and, if appropriate, age for the targeted program(s) (using the definition of Elderly Household in Section 4.2.2 of this Program Guide) and persons with disabilities or special needs set-asides, if any, in the PMA;
- Provide rent levels, operating expenses, comparative amenity study, turnover rates, waiting lists, and vacancy rates of comparable projects in the market area with an analysis of the competitive advantages offered by the applicant's proposed project;
- Support the applicant's proposed vacancy rate and the income targeting of the project; and
- Provide a summary of the project's positive and negative attributes and impact on existing projects already in DHCD's portfolio and projects in DHCD's current processing pipeline. To ensure that the Market Study addresses all the relevant properties, the market analyst should use the DHCD website to generate a proximity report identifying properties within up to 5 miles of the project site (http://statestat.maryland.gov/gallery/?p=321 ).

### ~~4.12.3~~4.11.3 Capture Rate

- The Market Study must provide a capture rate for the proposed project overall, as well as capture rates for each targeted income band, and bedroom count (i.e., 1 bedroom units, 2 bedroom units, etc.);
- Rent burdens (rent plus utility allowance, if any) may not exceed 30% of gross income except in elderly projects where rent burdens may not exceed 35% of gross income; and
- The overall capture rate for a project must not exceed 10%, and the maximum capture rate for individual income bands and bedroom counts must not exceed 20%.

### ~~4.12.4~~4.11.4 Penetration Rate—New Construction Projects only

- The Market Study must provide the penetration rate for the proposed project overall, as well as for each targeted income band in accordance with NCHMA guidelines;
- For those new construction projects located in counties with MD-BRAC market studies, the Market Study must explain any differences between the penetration rates noted in the MD-BRAC study and the ones provided for the project; and

- The penetration rate for a project must not exceed 100% for the overall project and for each individual income band.

### ~~4.12.5~~4.11.5 Vacancy Rates

- The Market Study must demonstrate that the overall vacancy rate in the PMA for the type of project proposed (i.e. family/elderly) does not exceed 15% and the vacancy rate among affordable rental properties of the same type in the PMA does not exceed 10%.

### ~~4.12.6~~4.11.6 Income Levels

- The Market Study must provide a detailed analysis of the income levels of the potential tenants for the proposed units; and
- The Market Study must state and support the minimum household income used for total housing expenses to set the lower limit of the targeted household income range.

### ~~4.12.7~~4.11.7 Absorption Rate

- The Market Study must provide an absorption rate for the proposed project; and
- The Market Study must define and justify the absorption period and absorption rate for the subject property, which includes documentation and descriptions that show the methodology for calculations in the analysis section and relate the conclusions to the data.

## ~~4.13~~4.12 Development Quality Thresholds

DHCD has refined and streamlined its approach to quality development. Since publication of the prior QAP and related Program Guide, green building practices, and other forward-thinking design and development practices such as universal design, have become common. Developers of affordable rental housing projects have made great strides in energy efficiency, water conservation, healthy environments, and other safe and accessible building design, development, and operational practices. It is the intent of this updated version of the Program Guide to recognize these achievements and to encourage further creativity and performance by rewarding quality design from the beginning of the development process through to successful occupancy over the long-term.

The following development quality thresholds are minimum mandatory standards and must be provided for a project to pass threshold.

### ~~4.13.1~~4.12.1 Criteria Applicable to both New Construction and Rehabilitation

1. All projects must demonstrate compliance with all applicable local building codes, which will be understood to include the latest version of the energy code and the accessibility code

adopted by the Maryland Codes Administration into the Maryland Building Performance Standards (MBPS)8.

2. Provide a certification that the applicant, if funded, will employ a RESNET~~/BPI~~ rater or BPI Certified Professional (Multifamily Building Analyst or Envelope Professional) to work with the development team using accepted practices and levels of professional care to achieve applicant- stated energy goals, DHCD energy requirements and the State of Maryland adopted energy codes. If the project is funded, the certified RESNET/BPI rater must be engaged to review and verify the design, provide construction quality assurance and perform necessary performance testing and evaluation.
3. The Base Level Energy Standards Certification (Appendix E) must be signed and incorporated into the project design and final work product.
4. The Base Level Green Standards Certification (Appendix F) must be signed and incorporated into the project design and final work product.
5. Integrated Pest Management – The project must implement an integrated pest management program equivalent to the HUD Healthy Homes Initiative.
6. High performance roofing specified for durability. Warranties must equal or exceed twenty (20) years for flat roofs and thirty (30) years for pitched shingled roofs.
7. Heavy (i.e. eighteen (18) to twenty (20)) gauge metal, solid core wood, or top quality foam filled fiberglass entry doors, unit entrance doors with durable frames and hardware for exterior entry or unit entry doors (twenty-two (22) gauge for interior unit entry doors).
8. Laundry facilities must be adequate for the project and are located for safe, convenient access. Provide a minimum of 1 washer and dryer for every fourteen (14) units in family projects and one (1) washer and dryer for every twenty-five (25) units in elderly projects. A common or shared laundry room should include, at a minimum, a utility sink, folding table, and seating. Additionally the common laundry room should have a means to drain should an overflow occur, dryers vented to the exterior and meet all ADA requirements.
9. All projects must have the capacity to access technology for high-speed Internet in each unit or in a community space. Internet service provided in each unit may be the responsibility of the tenant. If service is to be provided in community spaces, the services provided must include any necessary computer hardware and software as well as connections and allow reasonable accommodation during evenings and weekends for tenant work and academic schedules. Although not a threshold requirement, project owners are encouraged to take advantage of their economies of scale to subsidize internet service to the tenant's unit.

[8] Information on Maryland state and local building codes is available at the Maryland Codes Administration at DHCD and online at http://mdcodes2.umbc.edu/dhcd/mbps.html.

### ~~4.13.2~~4.12.2 Additional Criteria Applicable Only to New Construction

1. The project must be certified under the current version of Energy Star New Homes for all new construction under three (3) stories or Energy Star for Multifamily High Rise Buildings rating system.
2. Site improvement costs must be reasonable (no more than 20% of the Net Construction Cost unless the land acquisition cost was proportionally discounted to reflect the increased site development cost) with required development costs included in the budget.
3. The project must provide resident comfort and convenience through installation of an Energy Star central or split HVAC systems for community area(s) and units. At a minimum packaged thru the wall HVAC units must have duct work serving all major rooms and providing adequate air return capacity.
4. Paving at the dumpster pad, the access drive to the dumpster, and any turns or return path of the garbage truck route must equal local requirements for standard duty residential roadway or provide specifications which indicate a stone base of eight (8) inches or greater with the combination thickness of the asphalt base and top coat being at least five (5) inches.
5. Bi-fold doors will not be used unless space requirements mandate.

### ~~4.13.3~~4.12.3 Additional Criteria Applicable Only to Rehabilitation

1. Total hard construction costs (exclusive of fees or overhead items) of rehabilitation for projects must be at least $15,000 per unit and supported by a building evaluation report performed by an engineer or other qualified professional.
2. An energy audit must be provided that shows energy conservation measures (ECM) that result in an overall energy savings of 15% or greater over pre-retrofit levels as verified by a RESNET/BPI rater, or inclusion in the project scope of work including all ECMs that have a Savings to Investment Ratio of 2.0 or greater..
3. The scope of work must include exterior renewal by providing any needed repairs and cleaning of finishes to provide an improved visual impact on the neighborhood.
4. Project designs must include complete replacing or upgrading of aging finishes, fixtures, equipment or systems and site conditions that are nearing the end of their useful life or show signs of excessive wear, deterioration, are in need of repair, are obsolete or inefficient.

#### *~~4.13.3.1~~4.12.3.1 Lead Hazard Elimination*

Upon completion of any rehabilitation, all existing buildings must be certified by the Maryland Department of the Environment (MDE) as lead-safe and meet HUD/EPA clearance standards. All abatement and clean-up must be carried out in accordance with MDE requirements (COMAR 26.02.07, Procedures for Abating Lead Containing Substances in Buildings). All abatement contractors or subcontractors must be certified and accredited by MDE.

All projects originally constructed before 1950 must also register with MDE's lead poisoning prevention program. Projects originally constructed before 1978 may voluntarily register with MDE's lead poisoning prevention program to obtain certain limited liability from lead-related claims. DHCD strongly recommends this voluntarily participation.

Additionally, all contractors and subcontractors engaging in the following activities on projects built before 1978 must be Lead-Safe Certified, as mandated by the US EPA Lead-Based Paint Renovation, Repair and Painting (RRP) Rule:

- Remodeling and repair/maintenance;
- Electrical;
- Plumbing;
- Painting;
- Carpentry; and
- Window Replacement.

For more information regarding licensing procedures and guidelines please contact the EPA Lead Safe Hotline, 1-800-424-5323 or refer to:

http://www.epa.gov/getleadsafe.

For information on abatement contractors or subcontractors, registration forms, requirements, and fees for the MDE lead poisoning prevention program contact the MDE Lead Hotline, 1-800-776-2706 or refer to:

http://www.mde.state.md.us/programs/Land/LeadPoisoningPrevention/Pages/Programs/LandPrograms/LeadCoordination/index.aspx.

# 5 Competitive Scoring Criteria

Projects that meet all Threshold Criteria will be evaluated against the Competitive Scoring Criteria. The results of this competitive scoring process will determine the award of competitive LIHTC and RHF within a funding round.

The scoring criteria are designed to ensure that awards are made to project proposals that have strong sponsors, serve critical housing needs for households with very low income and persons with disabilities or special needs, contribute positively to their communities, leverage non-state resources, and achieve balance between costs and development quality, sustainability, and durability.

**Multifamily Bond Program Terms and Conditions**

Applicants seeking only MBP financing and associated non-competitive LIHTC must meet all Threshold Criteria in Chapter 4. Such projects are not required to compete with others but will be scored using the Competitive Scoring criteria below and **must achieve a minimum total score of ninety-two (92) points** to be awarded MBP funds and non-competitive LIHTC. Additionally, projects must achieve **at least 30 points within the Team Experience category** in **Section 5.1.1** below, **at least twelve (12) points within the Developer Financial Capacity category** outlined in **Section 5.1.3** below, and **at least 10 points within the Development Quality Standards** in Section 5.5 below.

**Projects seeking FHA Risk Sharing Insurance** must, unless otherwise noted, meet all Threshold Criteria above. Such projects are not required to compete with others but will be scored using the Competitive Scoring criteria below and **must achieve a minimum total score of ninety-two (92) points including at least 32 points in the Team Experience category in Section 5.1.1 below (with no individual team member earning less than three (3) points below the respective maximum score), at least fourteen (14) points within the Developer Financial Capacity category outlined in Section 5.1.3 below, and at least 12 points within the Development Quality Standards in Section 5.5 below.**

See Section 7.3 for additional information on MBP.

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| Scoring Summary Table | Maximum Possible Points | Application Submission Package Exhibit(s) |
|---|---|---|
| 5.1 Capacity of Development Team | **74 Total Points** | |
| 5.1.1 Development Team Experience | 42 points | |
| 5.1.2 Deductions from Team Experience Score | Negative10 points | |
| 5.1.3 Developer Financial Capacity | 18 points | |
| 5.1.4 Nonprofits (NPs), Public Housing Authorities (PHAs) and Minority/Disadvantaged Business Enterprises (MBE/DBEs) | 14 points | |
| 5.2 Community Context | **28 Total Points** | |
| 5.2.1 Community Impact Projects | 16 points* | |
| 5.2.2 Communities of Opportunity | 16 points* | |
| 5.2.3 Transit Oriented Development | 8 points | |
| 5.2.4 BRAC, Rural, Sustainable, Other Specified Communities | 4 points | |
| 5.3 Public Purpose | **46 Total Points** | |
| 5.3.1 Income Targeting | 14 points | |
| 5.3.2 Targeted Populations: Non-Elderly PWD or Special Needs | 10 points | |
| 5.3.3 Family Housing | 8 points | |
| 5.3.4 Tenant Services | 8 points | |
| 5.3.5 Mixed Income Housing | 4 points | |
| 5.3.6 Preservation of Existing Affordable Housing | 2 points | |
| 5.4 Leveraging and Cost-Effectiveness | **20 Total Points** | |
| 5.4.1 Direct Leveraging | 10 points | |
| 5.4.2 Operating Subsidies | 10 points | |
| 5.4.3 Construction or Rehabilitation Cost Incentives | Negative 8 points | |
| 5.5 Development Quality | **32 Total Points** | |
| 5.5.1 Green Features | 12 points | |
| 5.5.2 Brownfields Redevelopment | 1 point | |
| 5.5.3 Energy and Water Conservation | 4 points | |
| 5.5.4 Site and Building Design | 15 points | |

| | | |
|---|---|---|
| 5.6 State Bonus Points (maximum of10 points)[#] | **See note** | |
| Total | **200** | |
| *Project cannot receive points under both Community Impact and Communities of Opportunity categories.<br><br>[#]State Bonus Points may be awarded outside of the 200 point scale | | |

## 5.1 Capacity of Development Team

To balance the value of experience and the importance of providing opportunities for participation by community based organizations and historically disadvantaged businesses, DHCD considers both the capacity and the composition of the Development Team that will undertake a project.

### 5.1.1 Development Team Experience (42 maximum points)

DHCD will award up to forty-two (42) points based on an assessment of Development Team capacity as further described below. Capacity will be based on the demonstrated relevant experience and qualifications of the primary members of the Development Team. DHCD will evaluate the primary members of the Development Team (see Section 4.1 for Primary Development Team members) based on their record of accomplishment during the past five years with projects that are similar in size, scope, and complexity to the proposed project. Primary Development Team members without appropriate experience should establish partnerships with experienced entities. In the case of a joint venture, points will be awarded based on the capacity and experience of the controlling member of the joint venture.

Points will be available on the following rubric:

| **Development Team Capacity** | | | | |
|---|---|---|---|---|
| ***Criteria*** | ***Developer*** | ***General Contractor*** | ***Architect*** | ***Property Manager*** |
| The entity(s) has a consistent and successful track record during the past five years with projects that are similar to the proposed project and has shown the ability to remedy problems. | 14-18 points | 6-9 points | 5-6 points | 6-9 points |
| The entity(s) has an overall successful track record during the past five years but may not have sufficient experience, has not always promptly addressed problems, or | 9-13 points | 3-5 points | 3-4 points | 3-5 points |

| | | | | |
|---|---|---|---|---|
| may not have sufficient experience with similar projects. | | | | |
| The entity(s) has an inconsistent track record during the past five years, may not have sufficient experience, has not promptly addressed some problems, or may not have sufficient experience with similar projects. | 4-8 points | 1-2 points | 1-2 points | 1-2 points |
| The entity(s) has limited or no experience, has a record of problems that were not promptly addressed, or has limited or no experience with similar projects. | 0-3 points | 0 points | 0 points | 0 points |

### 5.1.2 Deductions from Team Experience Score (Negative 10 points maximum)

Points will be deducted from the Development Team Capacity score for any Developer (up to six (6) points) or property manager (up to four (4) points) with a record of the following within the past five years:

Processing Timeframes:

- For projects currently in DHCD's pipeline, failure to meet DHCD's loan processing schedules, construction progress or completion timeframes

Compliance Issues:

Consistent failure to promptly resolve compliance matters as evidenced by outstanding IRS Form 8823's or other compliance enforcement action by DHCD, including but not limited to the following:

- Failure to maintain income targeting as required under any MBP, HOME, RHF, or LIHTC agreements;
- Failure to maintain adequate documentation of tenant eligibility or qualified basis;
- Failure to timely recertify tenant incomes or continued occupancy by unqualified households; or
- Failure to promptly resolve compliance matters arising from commitments in prior applications that led to the award of points under a prior QAP, Program Guide, or funding round, including but not limited to failures to:
    - Provide promised tenant services;

- Maintain promised preferences within the set-aside of units or tenant selection criteria for persons with disabilities or special needs populations;
- Obtain non-State leveraged funding as committed in a prior application; or
- Deliver promised development features, amenities, or as-built specifications without prior approval of DHCD.

Asset Management Issues:

- Untimely submission of required DHCD asset management documents (including, but not limited to, annual audits, operating statements, and budgets);
- Properties with annual physical inspection or management performance evaluations with ratings of "Below Average" or "Unsatisfactory";
- Consistent history or pattern of failing REAC scores after the HUD inspection and cure period;
- Failure to maintain a current management agreement on file with DHCD's Division of Credit Assurance;
- Failure to comply with an approved AFHMP; and
- Late payments of any type including cash flow billings.

Construction Management Issues:

- Failure to pay the general contractor (as stipulated in the construction contract) for work-in-place; and
- Inability to resolve construction related issues, which result in an unreasonable delay of project completion.

### 5.1.3 Developer Financial Capacity (18 maximum points)

Up to 18 points may be awarded based on the financial capacity of the Developer, which, as defined in Section 4.1, includes the project sponsor, guarantor, and general partner/managing member with an ownership interest in the project's ownership entity whether such roles are held by individuals, corporate entities, partnerships or limited liability companies. Points will be awarded as described below. The required financial statements must include calculations of Total Asset, Total Liabilities, Current Assets, and Current Liabilities, and DHCD will use these figures to assess the Developer's financial capacity, assessing whether the Developer has access to sufficient working capital to carry the project through pre-development and/or unexpected challenges and net worth sufficient to provide applicable guarantees of project completion and operations

Points will be awarded based on the combined net worth of the Developer (Total Assets less Total Liabilities), as follows:

- Over 25% of Total Development Cost (TDC)..... eight (8) points
- Less than 25% but at least 10% of TDC ..... four (4) points
- Less than 10% of TDC ..... zero (0) points

Points will be awarded based on the combined net liquid assets of the Developer (Current Assets less Current Liabilities), as follows:

- Over 10% of TDC .....ten (10) points
- Over 4% but less than 10% of TDC ..... eight (8) points
- Between 2% and 4% of TDC ..... four (4) points
- Under 2% of TDC ..... zero (0) points

### 5.1.4 Nonprofits (NPs), Public Housing Authorities (PHAs) and Minority/Disadvantaged Business Enterprises (MBE/DBEs) (14 maximum points)

NPs and PHAs exist for charitable and/or mission-driven public purposes, and by their nature bring perspectives on and accountability to the residents they serve. DHCD wants to encourage NP and PHA perspectives in the planning, development, management, ownership, and ongoing oversight of affordable housing. DHCD also wants to encourage MBE/DBE participation and perspectives in the planning, development, management, ownership and ongoing oversight of affordable housing. Therefore, DHCD will award points to project proposals with material and meaningful participation by NPs, PHAs, and/or MBE/DBEs. This participation is expected to reflect the actual capabilities of the entity. Further, DHCD is interested in helping to support and sustain the capacity of a range of NPs, PHAs and MBEs/DBEs by providing opportunities for them to partner with experienced professionals to learn and strengthen their housing development, management, and ownership capabilities.

PHAs perform the unique mission of providing decent, safe rental housing for very low-income families, the elderly, and persons with disabilities. There are over 19,000 public housing units in the state of Maryland housing over 47,000 people. These units are an important resource for some of the state's most vulnerable populations. DHCD wants to support and encourage the preservation, rehabilitation, and transformation of public housing resources and the coordination with such HUD programs as the Choice Neighborhoods/HOPE VI and Rental Assistance Demonstration

The Maryland Department of Transportation (MDOT) is Maryland's official certification agency for the Minority Business Enterprise (MBE) program and the Disadvantaged Business Enterprise

(DBE) program.[9] To qualify for participation as an MBE/DBE, the applicable entity must have been certified as an MBE/DBE by either MDOT pursuant to the MBE/DBE programs or by a comparable certification program operated by another Maryland political jurisdiction.

Points may be awarded for the categories described below when the project involves:

- a NP that is tax-exempt under Section 501(c) (3) or 501(c) (4) of the Internal Revenue Code and independent of any for-profit entity;
- a PHA; or
- A certified MBE/DBE.

The number of points awarded will be determined based on the role of the NP, PHA, or MBE/DBE and its demonstrated capacity to undertake its role in a project of the type and scope proposed.

**Projects shall be eligible for a maximum of fourteen (14) points**. The same entity may receive points in multiple categories. For example an MBE/DBE, community-based NP, or PHA could have a 10% developer/owner role in Category 2 and also receive points in Category 4 as a service provider.

**Category 1:** Eight (8) points will be awarded when the NP, PHA, or MBE/DBE has a controlling ownership interest in the project and, for the Nonprofit entity , is a Qualified Nonprofit within the meaning of Section 42(h)(5)(B) and (C) of the Internal Revenue Code which, among other things, requires that the entity:

1. Materially participate in the development and management of the project throughout the compliance period, and
2. As determined by the Department, is neither controlled by nor affiliated with any for-profit entity, and
3. Has as one of its exempt purposes the fostering of low-income housing.

**Category 2**: Up to eight (8) points will be awarded to a PHA, MBE/DBE, or a community-based NP if the entity is a member of the Primary Development Team as a developer with less than 50% interest (but more than 10% interest) in the general partner or managing member of the ownership entity, whether a partnership or a limited liability company. If a project receives eight (8) points in Category 1 above, only 6 points may be received in this Category 2.

An NP will be considered community-based if it is a:

[9] To become eligible for certification as an MBE/DBE, a business must be at least 51% owned and controlled by one or more socially and economically disadvantaged individuals. If an individual belongs to one of the following groups -- African-American, Hispanic-American, Asian-American, Native-American, Women or Disabled -- he or she is presumed to be socially and economically disadvantaged under current state law.

1. Community Housing Development Organization (CHDO) certified by DHCD or by a participating jurisdiction; or
2. Community Development Corporation (CDC) or a nonprofit or charity organized under Section 501(c)3 or 501(c)4 of the Code, which must be able to demonstrate that: (i) it has at least a one-year history of serving the local community in which the project is located, (ii) it has an existing physical location in the local community other than space that would be provided, if any, in the proposed project, and (iii) the project is within its defined service area.

**Category 3**: Up to six (6) points may be awarded to a project if an NP, PHA, or MBE/DBE is involved as a member of the Primary Development Team as the general contractor, architect, or property management company. A project will receive four (4) points for the first entity involved under this Category 3. A project may receive an additional two (2) points for a second entity involved under this category.

**Category 4**: For a project that received only four (4) points under Category 3 above, an additional two (2) points may be awarded under the category for an NP, PHA or MBE/DBE that :

1. Is a member of the Secondary Development Team as a civil engineer, attorney, accountant, and/or other specialized professional service provider; or
2. performs another important role with the goal of building its capacity to develop, manage, construct, design, or own affordable housing in the future Examples include: (a) providing consulting or tenant services, (b) participating in the project in some other learning role, (c) performing as a joint venture partner with the contractor to perform some defined portion of the contractor role , or (d) entering into a joint venture or subcontracting with the architect to perform some defined portion of the design or supervision work. In the case of contractor or architect joint venture, points for contractor/architect capacity in the previous section shall be based solely on the primary contractor/architect and no points shall be deducted in that category based on the lesser experience of the subcontractor/joint venture partner.

If an NP, PHA, or a MBE/DBE is a member of the Primary Development Team(see Section 4.1) and receives less than 50% of the points under Section 5.1.1 (Development Team Experience) above, no points for participation will be awarded in this Section 5.1.4. Additionally, if the entity's prior performance results in negative points in Section 5.1.2, the same amount of negative points will be applied to the points awarded in this Section 5.1.4. To receive points as a Secondary Development Team member (see Section 4.1), the entity must show sufficient experience to carry out the proposed role. Such experience need not be on previous affordable housing projects. Points will not be awarded under this Section 5.1.4 if DHCD determines that

the role proposed for the entity is not a role that it has the experience or competence to perform.

## 5.2 Community Context

Consistent with the State's housing priorities and the Code requirements, DHCD will award points to projects in certain geographic areas. Ideally, housing opportunities for low income households would be reasonably dispersed across the state, allowing physical mobility based on a household's own needs and preferences and, in so doing, promoting social and economic mobility for those same households. Achieving this end requires that the state invest in improving neighborhoods that already serve low income tenants and providing new housing options in historically less affordable communities that provide residents access to a broad array of jobs, services, and amenities.

Projects may not receive points under both Section 5.2.1 and 5.2.2 below.

### 5.2.1 Community Impact Projects (16 maximum points)

Some projects not only provide needed affordable housing, but provide synergy, contributing to and expanding upon broader State and local community development investments. DHCD recognizes such projects as outlined below.

Sixteen (16) points will be awarded to any elderly or general occupancy project, new construction or rehabilitation, in a QCT or DDA (this does not include any State-designated DDA under the authority granted in §42, more commonly referred to as a "state-designated basis boost") that contributes to a concerted community revitalization plan as described in Section 3.2.

### 5.2.2 Communities of Opportunity (16 maximum points)

Sixteen (16) points will be awarded to general occupancy projects in locations that meet one of the two criteria described in Section 3.1 above.

### 5.2.3 Transit Oriented Development (TOD) (8 maximum points)

DHCD will award up to eight (8) points to TOD projects as follows:

- 8 points to a project that is part of a MDOT-designated TOD. A list of MDOT-designated TODs is available at:

http://www.mdot.maryland.gov/Office_of_Planning_and_Capital_Programming/TOD/Index.html

- 4 points to a project that meet the definition of a TOD in Section 3.2.

### 5.2.4 Defined Planning Areas (4 points maximum)

DHCD supports the development of housing in communities targeted or prioritized by other State initiatives.

Four (4) points may be awarded to projects meeting one or more of the following criteria:

- Family (i.e. general occupancy) projects in communities expected to experience economic growth as a result of federal Base Realignment and Closure (BRAC) consolidations that have brought additional military facilities and personnel to Maryland. There are nine such BRAC impacted areas in Maryland: Baltimore City and Cecil, Harford, Baltimore, Howard, Frederick, Montgomery, Anne Arundel, and Prince George's Counties.
- Elderly or general occupancy projects located in rural communities. For purposes of this section, a rural area includes any area eligible under the U.S. Department of Agriculture's Rural Development programs or any area in Allegheny, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, or Worcester Counties that are not otherwise CDBG entitlement communities or HOME Participating Jurisdictions.
- Elderly or general occupancy projects located in any of the following: Certified Heritage Areas within county designated growth areas; Sustainable Communities; Empowerment Zones; Federal or Maryland Enterprise Zones; Main Street/Maple Street Maryland Communities; or Rural villages designated in county comprehensive plans as of July 1, 1998 and where there is evidence of other recent public investment in the plan area.

Note that projects meeting more than one element will still only receive four (4) points.

## 5.3 Public Purpose

Regardless of project location, DHCD is particularly concerned about the housing needs of tenants with the lowest incomes and those whose needs are particularly ill served by the marketplace, including both low income families with children and households with disabilities or special needs. The Code expects states to provide certain preferences for LIHTC projects meeting these needs.

### 5.3.1 Income Targeting (14 maximum points)

Consistent with the Code, all LIHTC applicants must commit to rent at least 40% of units to households with incomes at or below 60% of the area median or at least 20% of units to households at or below 50% of area median income. Additionally, any unit financed with RHF must be rented to households at or below 60% of area median income. To encourage sponsors to income-restrict additional units and to target units to lower income households, DHCD will award points for income targeting in excess of these minimum requirements.

A project will receive four (4) points if at least 10% of the units will be income-restricted at 30% of the area median or below for the LIHTC compliance period (including the extended use period). These points are available (1) if the project rent restricts those units at the 30% area median income level for the compliance period or (2) for units supported by the award of a project based housing choice voucher contract (or a DHCD approved equivalent form of project based assistance) with a term of fifteen (15) years or more.

Up to ten (10) points will be awarded based on the weighted average of area median income targeting by bedroom in a project. For purposes of this calculation, the lowest income level used will be 30% of area median income. SRO or efficiency units will be counted as 0.67 bedrooms, and all weighted averages will be rounded to the nearest full percentage point. To calculate the weighted average, applicants should use the following process.

- Determine the number of income-restricted bedrooms serving each percentage of area median income by multiplying the number of units of a given size by the number of bedrooms per unit.
- Multiply each income-restricted bedroom by the maximum income target and add the sum of those totals together.
- Divide the result by the total number of income restricted bedrooms and round to the nearest full percentage point to determine the weighted average.

DHCD will award points based on the weighted average as follows:

| Points | Average Area Median Income |
|---|---|
| 10 points | 30-32% |
| 9 points | 33-35% |
| 8 points | 36-38% |
| 7 points | 39-41% |
| 6 points | 42-44% |
| 5 points | 45-47% |
| 4 points | 48-50% |
| 3 points | 51-52% |
| 2 points | 53-54% |
| 1 point | 55% |
| 0 points | >55%+ |

**Example**

A one hundred (100) unit rental housing project consists of twenty-five (25) one-bedroom units, fifty (50) two-bedroom units and twenty-five (25) three-bedroom units. The one-bedroom units will be rented to families with incomes of no more than 50% AMI. Twenty of the two-bedroom units will be rented to families with incomes of no more than 60% AMI, twenty more will be rented to families with incomes of no more than 40% AMI, and ten (10) will be rented to families with incomes of no more than 30% AMI. Ten (10) of the three-bedroom units will be rented to families with income of no more than 50% AMI, and the remaining fifteen (15) three-bedroom units will be rented to families with incomes of no more than 40% AMI.

Step 1. Find the number of bedrooms serving each income level.

60% AMI – 20 2-bedrooms or 40 bedrooms [20 x 2 = 40]
50% AMI – 25 1-bedrooms and 10 3-bedrooms or 55 bedrooms [(25 x 1) + (10 x 3) = 55]
40% AMI – 20 2-bedrooms and 15 3-bedrooms or 85 bedrooms [(20 x 2) + (15 x 3) = 85]
30% AMI – 10 2-bedrooms or 20 bedrooms [10 x 2 = 20]

Step 2. Multiply the number of bedrooms at each income level by the maximum income level for those bedrooms and add the results.

40 bedrooms x 60% of AMI = 2,400
55 bedrooms x 50% of AMI = 2,750
85 bedrooms x 40% of AMI = 3,400
20 bedrooms x 30% of AMI = 600
Total = 9150

Step 3. Divide the result by the total number of rent restricted bedrooms to get the weighted average AMI per bedroom.

9,150 ÷ 200 = 45.75% of AMI, rounds to 46% of AMI.

Step 4. Use chart above to determine number of points for 46% of AMI.

46% AMI results in five (5) points.

### 5.3.2 Targeted Populations: PWD or Special Needs (10 maximum points)

DHCD strongly supports the creation of permanent housing opportunities integrated across the State for targeted populations, particularly those with disabilities who rely primarily on Supplemental Security Income (SSI) or Social Security Disability Income (SSDI). DHCD will award points for projects that set aside up to 25% of units in a project for targeted populations. To qualify as a targeted population set-aside unit, the housing unit must be:

- Permanent housing. Transitional housing or other facilities with limits on the term of occupancy do not qualify as permanent housing; and
- Income and rent restricted at no more than 50% of the area median income.
- Set aside for a household that is headed by one of the following:
  - PWDs,
  - Persons with special needs,
  - Youth aging out of foster care,
  - Elderly homeless persons,
  - Veterans, or
  - Persons transitioning from a correctional facility or other State facility or institution.

To receive points in this category, targeted populations in elderly projects must meet DHCD's age-restrictions. Additionally, the units from the 5% threshold requirement in Section 4.5 may be counted toward the total percentage for scoring in this section, if the threshold units are income and rent restricted at or below 50% AMI (the threshold, at a minimum, only requires targeted at or below 60% AMI). Points will be awarded as follows:

| Points | Set aside for targeted population |
|---|---|
| 6 | 15% to <-25%* |
| 5 | 13% to <15% |
| 4 | 12% to <13% |
| 3 | 10% to <12% |
| 2 | 8% to <10% |
| 1 | 6% to <8% |

- Projects with more than 25% of the units for a targeted population will receive zero points in this category

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Applicants seeking points under this section for PWD must agree to provide notice of unit availability to and accept tenant referrals from DHMH and MDOD. Applicants seeking points under this section for a target population other than PWD must specifically market set-aside units to the targeted population(s) as evidenced by a memorandum of understanding or other formal written agreement between the owner, the property manager, and one or more local public or nonprofit service providers that regularly work with the targeted populations being served by the project.

Units that receive points under this category must be reserved exclusively for the target population. If a project is unable to fill a unit with the targeted population after a ninety (90) calendar day referral period, the unit may be leased to another household with income at 50% AMI or below. The next available 50% AMI unit in the Project shall be marketed to the Project's original targeted population until the project is in compliance with percentage for which it received points. The ninety (90) calendar day period at lease-up will be measured from the date upon which the project achieves 80% occupancy and at turnover will be measured from the date upon which the unit is determined ready for occupancy following move-out by the prior tenants and completion of any unit turn cleaning, repairs, or maintenance.

### *5.3.2.1 Project-based Rental Assistance for Targeted Populations (4 possible points)*

An additional four (4) points shall be awarded to projects with project-based subsidies for **all of** the identified targeted population units so that the units serve extremely low income households (at or below 30% AMI). Documentation must be provided to show that the project-based subsidy will be in place for a minimum of five (5) years. Projects that receive 4 points in this category 5.3.2.1 may not also receive points under 5.3.2.2 below.

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### *5.3.2.2 Section 811 Project Rental Assistance Demonstration (4 possible points)*

In February 2013, DHCD was awarded a $10.97 million grant from HUD under the Section 811 Project Rental Assistance Demonstration Program (PRA Demo). The grant will enable Maryland to provide project-based Section 811 rental assistance for approximately one hundred and fifty (150) units that will be occupied by extremely low income non-elderly PWD referred by DHMH and MDOD.

To support implementation of the PRA Demo grant, projects with non-elderly PWD units that meet the Section 811 requirements (as explained below) will receive 4 points if they agree to accept, if offered by DHCD, the assignment of Section 811 project-based subsidies on their non-elderly PWDs units and to comply with the requirements of the PRA Demo Program. Applicants should note that HUD's Section 811 program represents a federal funding stream and may trigger various federal regulations, including but not limited to Davis-Bacon. Information on Maryland's Section 811 PRA Demonstration Program will be posted to DHCD's website at http://www.mdhousing.org/Website/Programs/Section811/Default.aspx.

Additional information about the Section 811 program can be found at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/grants/section811ptl.

To receive these points, a project must be eligible to receive Section 811 funding and must not already have project-based rental assistance in place for the targeted units. Only non-elderly projects ~~in the following counties~~ with one or two bedroom units for the targeted population are eligible to receive points under this section. As of July 31, 2013, the following counties are eligible for Section 811 PRA units: Baltimore City and Anne Arundel, Baltimore, Calvert, Carroll, Charles, Frederick, Harford, Howard, Montgomery, Prince George's, and Queen Anne's counties. In May 2014, DHCD applied for additional Section 811 funding that could be used statewide. DHCD will update the list of counties eligible for Section 811 funding at the Pre-Information Session as needed to reflect changes in HUD's Section 811 funding awards to DHCD.

### 5.3.3 Family Housing (8 maximum points)

Consistent with the Code, DHCD encourages the development of housing appropriate to the needs of families with children. To qualify for additional points, a project cannot age-restrict its units and will receive points based on the provision of units suitable to larger households.

- Five (5) points will be awarded to projects where at least 50% of units are 2-bedrooms or larger. Alternatively four (4) points will be awarded to projects where at least 40% of the units are 2-bedrooms or larger.
- Three additional (3) points will be awarded to projects where at least 10% of units are 3-bedrooms or larger.

### 5.3.4 Tenant Services (8 maximum points)

While all projects seeking LIHTC and RHF awards must, at a minimum, provide tenants with passive links to community services as outlined in the Threshold Criteria, DHCD recognizes the value that more direct service provision brings to tenants lives and will award additional points as follows.

Up to eight (8) points will be awarded to projects that augment passive community links for services by identifying one or more tenant services providers for services on-site or in the community. The provision of such services must be evidenced by a certification from the applicant detailing the services to be provided. A contract, memorandum of understanding, or other formal written agreement between the Developer, the property management company, and the service provider(s) may also be provided to evidence the tenant services. Failure to provide the tenant services as described in the certification will result in negative points on future applications as described in Section 5.1.2. Points will be awarded based on the

described services, the applicability of the services to the tenant population, and the existence of a mechanism for resident feedback about tenant services at the project.

### 5.3.5 Mixed Income Housing (4 maximum points)

DHCD supports the development of mixed income housing for, families, the elderly, and persons with disabilities. DHCD will award four (4) points to projects that include both affordable and Market Rate Units where the market rate units represent at least 10% of the overall project units. The term Market Rate Unit refers to units without income or rent restrictions. To receive the points, the application must demonstrate that the owner and property manager have experience owning and managing mixed income communities. The lender and tax credit letters of intent included with the application must reference the mixed income nature of the project as described in the market study.

### 5.3.6 Preservation of Existing Affordable Housing (2 maximum points)

Two (2) points will be awarded to a project that involves the acquisition and rehabilitation of an existing multifamily rental housing development, whether or not it has existing rent or income restrictions, provided the project agrees to affordability restrictions for at least thirty (30) years. For purposes of receiving these points, rehabilitation means repair of or alterations to an existing building, or buildings, where a majority of the structural elements of the original building or buildings, at a minimum, is incorporated into the finished project. In its discretion, DHCD may permit a project to receive these points if the project involves the demolition and replacement of an existing occupied housing project if rehabilitation of the existing building or buildings is infeasible or impractical. The replacement project must comply with DHCD's policies concerning displacement and relocation of existing tenants.

## 5.4 Leverage and Cost Effectiveness (20 maximum points)

LIHTC and DHCD's programs are not adequate to address all of Maryland's rental housing needs. Projects that maximize support from other non-state resources, including local contributions, will receive additional consideration. Additionally, increasing development costs limit the number of projects and units produced, resulting in fewer Maryland residents who can be served by this important resource. To encourage development that balances meeting pressing housing needs, ensuring high quality construction that is attractive, efficient, and sustainable, and investing resources in responsible manner, DHCD will adjust scoring to favor cost effective transactions.

**Local Contributions**

A. To receive points under this section for a local contribution, the following conditions must be met:

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(1) .evidence of an anticipated political subdivision contribution shall be in the form of a letter from an authorized political subdivision official and shall indicate the type and amount of the contribution that the political subdivision anticipates making.

(2)A local contribution shall be a contribution which is not contingent upon completion of tasks or improvements that are not related to the project and which:

(a) Reduces development costs, such as:

i. The donation or long-term leasing of land or improvements;
ii. Capital funds for acquisition, construction, rehabilitation, or development costs;
iii. Locally installed infrastructure or site improvements which reduce off-site costs attributable to the project; or
iv. Waiver of local fees for permits, tap fees, impact fees, and other fees and charges;

(b) Reduces operating expenses, such as:

i. Real estate tax abatement or a payment in lieu of taxes (PILOT);
ii. Operating or rent subsidies for the project; or
iii. Long-term agreements for a political subdivision to provide services at no cost to a project such as trash collection, road or grounds maintenance, or grounds care; or

(c) Otherwise supports a project such as:

i. Allocation of rent subsidies;
ii. Guarantees of deficits or completion of construction; or
iii. Long-term provision of needed social services for special use projects.

(3)Local contributions may:

(a) include terms which require repayment of the contribution if the project is sold or no longer provides low income housing; and
(b) be in the form of loans with interest rates acceptable to DHCD.

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### 5.4.1 Direct Leveraging (10 maximum points)

DHCD will award points based on the percentage of total development costs funded by non-state resources. For purposes of this section, State resources include all equity generated from competitive LIHTC awards from the State's LIHTC ceiling except any LIHTC awarded as the result of a federally or state designated basis boost, state HOME funds, and other DHCD-administered rental housing resources including, but not limited to~~,~~ RHF, ~~the Maryland Housing Rehabilitation Program, the Nonprofit Rehabilitation Program,~~ the Community Legacy Program, and the Partnership Rental Housing Program.

Leveraged funding may include other equity from non-competitive 4% LIHTC awards, the proceeds of MBP financing, local contributions as described above, locally-controlled federal resources such as HOME, CDBG, or State Small Cities CDBG, other non-DHCD State funding, private financing, and other private or philanthropic funding. Projected equity from federal Historic Tax Credits (HTC) is also considered leveraged funding provided the applicant provides evidence that the Part 1-Historic Preservation Certification Application has been submitted to the Maryland Historical Trust (MHT); documents that MHT has recommended approval of the Part 1 Application or documents that project building(s) is already listed in the National Register; and certifies that the applicant will complete the HTC application process and diligently pursue HTC equity investment~~.~~

All calculations for this section will be based on DHCD underwriting of a project which may include adjustments to LIHTC equity based on DHCD assumptions about credit pricing as announced prior to a round. Additionally, for projects with market rate (i.e. non-income restricted) units and mixed-use projects, DHCD will consider only leveraged funds applicable to the affordable units by prorating both sources and uses to remove non-residential and market rate components of the project. Residential costs will be prorated based on the project's Applicable Fraction (as defined in the Code) unless DHCD determines that market rate and affordable units are not comparable in which case DHCD, in its sole discretion, may require greater itemization of costs to allocate sources and uses to the affordable portion of the project.

Finally, because projects in rural areas have higher fixed transaction costs due to their relatively smaller size and have less access to locally controlled sources of leverage, DHCD will award leveraging points to rural transactions as defined in Section 5.2.4~~above~~ on a higher scale than for non-rural transactions.

Points will be awarded as follows:

| Points | Leveraged Funding Rural | Leveraged Funding Non-rural |
|---|---|---|
| 10 | 45%+ | 50%+ |
| 9 | 40% to <45% | 45% to < 50% |
| 8 | 35% to <40% | 40% to <45% |
| 7 | 30% to <35% | 36% to <40% |
| 6 | 25% to <30% | 33% to < 36% |
| 5 | 20% to <25% | 30% to <33% |
| 4 | 15% to <20% | 27% to <30% |
| 3 | 10% to <15% | 24% to <27% |
| 2 | 5% to <10% | 22% to <24% |
| 1 | 3% to <5% | 20% to <22% |
| 0 | <3% | < 20% |

### 5.4.2 Operating Subsidies (10 maximum points)

DHCD recognizes that projects may include other local investments not directly included in a project's sources and uses statement but which, nonetheless, represent significant reductions in the State resources needed to achieve feasibility. In particular, locally controlled project-based rental subsidies allow projects to serve lower income households and protect tenants against being rent burdened while sustaining a project's rental revenues. Additionally, local PILOT arrangements that reduce operating costs and other forms of operating assistance may be available.

To receive points for project-based rental assistance, the assistance must be structured to ensure that tenants in project-based units pay no more than 30% of their income towards rent and utilities. The value of project-based assistance will be calculated per the application based on estimates of the typical monthly tenant subsidy and the duration of the contract.

PILOTs and other local operating subsidies will be evaluated on the basis of the per unit impact of the subsidy and awarded points based on the table below. To receive points for a PILOT, the local taxing jurisdiction must provide a letter outlining the first year savings the PILOT represents compared to the projected standard tax assessment and stating the duration of the PILOT. DHCD will multiply that figure by the number of years the PILOT will remain in effect (PILOTs with a term in excess of fifteen (15) years will only be counted for the fifteen (15) year LIHTC compliance period) and divide by the number of affordable units in the project.

To receive points for other operating subsidies, the subsidy must directly fund project operations or be specifically designated to fund services for tenants of the project and have a term of no less than ten (10) years. The application must include documentation of the subsidy, including a written commitment and evidence satisfactory to DHCD that the source of funding is secure. This could include endowments or reserves capitalized from non-project sources, federal obligations subject to appropriations, contracts, or documented awards from other financially secure entities (e.g. a long term commitment from a foundation). Finally, the subsidy cannot be accompanied by repayment terms that diminish its value to the project or result in an effective loan. Agreements with recapture or repayment requirements resulting from noncompliance or nonperformance are acceptable. The provider of the operating subsidy must provide a letter or other documentation outlining its duration and its value to the project on an annual basis from year-one of operations. DHCD will multiply that figure by the duration of the subsidy (not to exceed fifteen (15) years) and divide by the number of affordable units in the project.

The total value, calculated as described herein, of project- based rental assistance, PILOTS or similar tax abatements, and operating subsidies will be totaled by DHCD and divided by ten (10) to determine the average subsidy per affordable unit per year over a ten (10) year period. Points will be awarded points based on the value per affordable unit per year of the subsidy as follows:

| LONG-TERM (10 YEAR) ANNUAL OPERATING SUBSIDIES PER UNIT | | |
|---|---|---|
| **Points** | **Participating Jurisdiction** | **Non-participating Jurisdiction** |
| 10 | Subsidy ≥ $400 | Subsidy ≥ $200 |
| 9 | = $350 to $399 | = $175 to $199 |
| 8 | = $300 to $349 | = $150 to $174 |
| 7 | = $250 to $299 | = $125 to $149 |
| 5 | = $200 to $249 | = $100 to $124 |
| 3 | = $150 to $199 | = $75 to $99 |
| 1 | = $100 to $149 | = $50 to $74 |
| 0 | < $100 | < $50 |

### 5.4.3 Construction or Rehabilitation Cost Incentives (Negative 8 points maximum)

To encourage cost effective construction, DHCD has established limits on the dollar amount of construction costs per square foot. While some unique aspects of a given project may reasonably require greater investment (e.g. redevelopment of an historic building on a

brownfield site), DHCD also wants to encourage selection of projects that achieve various public goals—including taking on challenging sites, building high quality projects, and serving populations with unique needs—while still doing so for competitive costs. To this end, DHCD will deduct points for projects that exceed the cost limits further described below.

DHCD will consider requests from sponsors of projects involving adaptive re-use of previously nonresidential buildings; substantial historic rehabilitation; or redevelopment/reconstruction of housing determined to be beyond repair to be evaluated against new construction cost limits rather than the rehabilitation limits below.

For the purposes of determining the per square foot cost, DHCD includes all on-site and off-site development and the total construction contract less any construction contingencies. This total is then divided by the gross square footage of all buildings being built or renovated. Buildings with parking structures or internal parking will be evaluated on a case-by-case basis. Applications should include area and square foot cost for parking related construction separate from occupiable building on Form 212.

DHCD will review the cost limits before each competitive round and revise them as appropriate based on market conditions and information provided by published cost indices, such as McGraw Hill's Engineering News Record. Changes will be announced at the pre-round information session and posted to DHCD's website at least thirty (30) calendar days before the application deadline.

Unless a waiver has been requested and granted in accordance with Chapter 6 of this Guide, up to eight (8) points will be deducted from any large project, and up to six (6) points deducted from small projects, with construction costs per square foot in excess of the following limits:

| Type of Building | New Construction | Rehabilitation |
|---|---|---|
| Cottage, Single Family, Semi-detached Dwellings, and Townhomes | $135 | $ 139 |
| Garden Apartments | $ 113 | $ 87 |
| Non-elevator Stacked Units and Elevator Buildings with 4 stories or less | $ 123 | $ 101 |
| Elevator Buildings of 5 or more stories | $ 135 | $105 |

## 5.5 Development Quality Standards (32 maximum points)

Up to thirty-two (32) points may be awarded based on features related to a project's physical quality and its impact on the environment, including the surrounding neighborhood and the residents. These points are further broken down as follows:

### 5.5.1 Green Features (12 maximum points)

DHCD will award points based on the inclusion of various "green" features of a project with more points available to projects participating in recognized certification programs. A project can only receive points under one of the following criteria:

- Twelve (12) points will be awarded to projects that complete and receive certification using green building criteria from one of the organizations in the table below. The certifying entity's published scoring checklist must be submitted and be completed by the project architect or a qualified third party demonstrating a sufficient level of scoring to achieve green certification as defined within the program guidelines at the time of application. The certificate must be provided at the completion of the project.

| ***Rating Entity*** | ***Rating system*** | ***WEBSITE*** |
|---|---|---|
| Enterprise Green Communities | 2011 Enterprise Green Communities Criteria, as updated | www.enterprisecommuniy.com |
| U.S. Green Building Council (USGBC) | 2009 LEED (Leadership in Energy and Environmental Design) for building type, as updated | www.usgbc.org |
| National Association of Homebuilders (NAHB) | ICC-700 National Green Building Standard | www.nahb.org |
| Southface | Earthcraft Multifamily 2012, as updated | www.southface.org |
| Green Building Initiative (GBI) | Green Globes | www.greenglobes.com |

- Ten (10) points will be awarded to projects that do not complete the actual certification process as noted above but instead continue to meet the minimum score as indicated in

the application for the certification. The program's published scoring checklist must be submitted and be completed by the project architect or a qualified third party and provide a statement that the checklist will be supported through the process; alternatively

- One (1) point will be awarded, up to a maximum of eight (8) points, for each bulleted feature below that contributes to a sustainable healthy environment over the extended period of the project life:
    - On new construction, through the use of innovative planning, a detailed written statement from a civil engineer shows a 20% or greater reduction in impervious surface area over conventional design through the use of permeable paving, efficient narrower compact road design, reduction in local parking requirements to a level where the project needs will still be met, permeable spill over parking areas, angled parking, shared parking and driveways, narrower sidewalks, and greater permeable open space adjacent to impervious cover. (Please note that implementation of certain listed examples may face local jurisdiction obstacles and must be compliant with accessibility codes and standards. While MDE supports progressive designs which are highly suitable for specific projects, approval from local jurisdictions may require waivers or special processes.)
    - Site Work Management - Utilize the 2007 or current version of the Maryland Stormwater Design Manuals to select Best Management Practices (BMP) for collection and treatment of stormwater captured on site through maximizing permeable surfaces. Identify and utilize low impact treatment methods such as open channel design in conjunction with open section paving, rain gardens (bio retention devices) urban BMP devices, disconnection of roof or non-roof runoff, collection and reuse of water for irrigation or other approved domestic use. Criteria points awarded for projects utilizing methods identified or recognized by the Maryland Water Management Administration as Stormwater Credits for Innovative Planning:
        - Natural area conservation
        - Disconnection of rooftop runoff
        - Disconnection of non-rooftop runoff
        - Sheet flow to buffers
        - Open channel use
        - Environmentally Sensitive Development
    - Recycled Materials – The project uses at least two (2) of the following: recycled paving products, recycled concrete aggregate or binders; recycled framing lumber, trim or deck materials with recycled content; mulch obtained from chipping of trees

removed during on site clearing operations; donations of material from demolition such as kitchen cabinets or appliances to nonprofit organizations or other significant use of recycled materials.

- Renewable and Biodegradable Materials – The project makes significant use of renewable and biodegradable materials such as lumber, plywood flooring/walls and coatings, derived from sustainable forestry and agricultural methods.
- Local Material Procurement – The project makes use of locally available construction materials thereby reducing associated transportation costs. Submit a plan consistent with the local construction material procurement sections of any of the recognized sustainable development programs described in the Green Certification category above.
- Reflective Roofing – Install light colored/high albedo roofing Energy Star rated. On flat roof surfaces application to be at least 75% reflective roofing. On pitched roofs, reflective shingle roofing will be considered if a suitable product showing dirt and stain resistance is selected.
- Reflective Paving – Install light colored/high albedo materials with a minimum solar reflective index of 0.6 (60%) or open grid paving on at least 75% of site paved areas.
- Healthy Flooring – Install non- vinyl, non-carpet hard surface floor coverings in all rooms. Architect to review the need for adding sound attenuation elements where hard surface flooring is selected.
- Innovative Lumber Conserving Practices – Use engineered lumber or manufactured framing methods that conserve materials and do not rely on the use of full dimensional lumber and also reduce site originated waste. Identify systems to be used. Provide documentation that at least 25% (by cost) of the project wood products and materials are certified in accordance with the Forest Stewardship Council (FSC), American Tree Farm System (ATFS), Canadian Standards Association (CSA) and Sustainable Forestry Initiative (SFI). Innovative practices such as Optimal Value Engineering (OVE) or other system conserving materials or increasing energy performance over conventional framing practices also qualifies for receiving points.
- Recycled Water - The project utilizes site run-off water, roof run-off or recycled gray water for irrigation or other code permissible uses. Water is effectively and practically stored and distributed to reduce the need for treated domestic water. This should represent at a minimum of 20% collection of roof area.
- Solar Energy - The project will utilize solar energy for any of the following: water heating; heat and cooling systems; lighting; or electric generation.
- Geothermal Heat Pumps - The project will utilize geothermal heat pumps for common area or apartment HVAC.

- Provide exterior lighting that meets the International Dark-Sky Association (IDA) guidelines for lighting. Provide lighting that discourages Light pollution or lighting that is excessive or inappropriate for outdoor lighting. Provide lighting that is directed toward the ground, is fully shielded and incorporates energy saving features such as timers, dimmers, and motion sensors in all outdoor lighting.

### 5.5.2 Site Conditions and Brownfields Redevelopment (1 point)

One (1) point will be awarded to projects that involve the redevelopment of a "Brownfields" site approved for participation in the Maryland Department of the Environment's Voluntary Cleanup and Remediation Program.

Alternatively, one (1) point will be awarded to a non-Brownfields site if the applicant demonstrates that it has taken into account special construction conditions encountered at the site by identifying funds within the construction budget to complete the additional work. The development team should comment on the likelihood of encountering the following conditions indicated below. The one (1) point will be awarded if the special conditions do not exist at the site or are anticipated and are adequately covered in the construction budget.

- Unsuitable soils;
- Extensive haul-in/haul-off changes for earth removal related to an unbalanced site;
- Steep slopes;
- Rock removal;
- Wet conditions, dewatering;
- Asbestos or lead removal;
- Oil or chemical contamination;
- Unidentified utility expenditures;
- Environmentally sensitive areas; or
- Other site specific conditions.

### 5.5.3 Energy and Water Conservation (4 possible points)

DHCD will award additional points to projects to encourage design features that provide comfort and energy efficiency over the extended period of the project life and that assist DHCD in measuring energy conservation outcomes**.** Points will be based on the implementation of potential energy savings identified in an energy audit.

Three (3) points will be awarded to rehabilitation projects if the energy audit shows energy conservation measures (ECM) that result in an overall energy savings of 30% or greater over pre-retrofit levels as verified by a RESNET/BPI rater, or All of the ECMs identified in the energy audit having an SIR greater than 1.0 will be completed and verified by a RESNET/BPI rater.

One (1) point will be awarded to a rehabilitation project that does not receive the three points above if the energy audit shows energy conservation measures (ECM) that result in an overall energy savings of 20% or greater over pre-retrofit levels as verified by a RESNET/BPI rater.

For new construction or rehabilitation projects, one (1) point will be awarded if "Water Sense" labeled products are installed or retrofitted in all units and any common facilities.

### 5.5.4 Project Durability and Enhancements (15 possible points)

- DHCD will award points for features that add to the long-term durability and enhancement of the project for both its residents and the surrounding community. One (1) point will be awarded, up to a maximum of fifteen (15) points, for each of the following:
  - The building, parking areas, and other improvements are laid out for convenient access by the residents, including those with disabilities, to site and community amenities, including public transportation.
  - Building entrances are designed and located to provide security and weather protection for the targeted resident group and the project includes green space areas, play areas, courtyards or exterior seating areas that provide recreational and social opportunities for the targeted resident community.
  - The building architecture, structure and mass complement the existing neighborhood and the project includes exterior architectural features and design elements that add interest and/or functionality, create unity with nearby architectural style, and generally improve the appearance of the building(s).
  - Architectural accessories such as decorative door surrounds, larger window trim, corner eave, cornice and column details or other special features are provided and are of composite or other durable materials.
  - Paving is provided throughout the project site (parking areas and drive aisles) that equals local requirements for standard duty residential roadway or provide specifications which indicate a stone base of eight (8) inches or greater with the combination thickness of the asphalt base and top coat being at least five (5) inches.
  - Individual units, common areas, and community spaces are well designed for comfortable living and tenant activities. The layouts are efficient, with practical traffic flow and provide adequate space for furniture placement. (600 - 650 net sf. area for predominantly one (1)-bedroom units and 20% more area for each additional bedroom unit, preferably with the primary bedroom not less than 10'x11' in clear size, and in multiple bedroom units the smallest bedroom shall be not less than 9'-0" in one direction with a minimum of ninety (90) net square feet in area). Note the dimensions are for clear area and do not include the closet space.

- Building exterior is at least 75% masonry or other highly durable materials such as cement fiber siding, stucco, stone, etc.
- Storage space is reasonable with a minimum of a four (4) foot clothes closet per person in each bedroom, and at least three of the following: an entry coat closet, linen closet, utility closet, or additional storage for storing seasonal or bulky items.
- A half bath is provided on the living/dining/kitchen level in layouts with more than one (1) story and the bath is visitable.
- The interior doors are solid or panel and hardware is of grade two (2) or better quality hardware, with lever handles.
- Ceiling fans are provided in more than 1~~the~~ bedroom~~s~~ or ~~other~~ living area~~s~~.
- Project has a non-smoking policy applicable to all interior space, including units and common areas
- The project meets visitability standards for at least 25% of its units and incorporates universal design features in its units and common areas.
- The project is not located in an area with nearby non-residential activities or with noise levels in excess of HUD's maximum standards.
- Floor coverings are quality long lasting products. Carpet must be twenty-five (25) oz. high density nylon yarn or heavier with a recognized stain resistance system. Any carpet products must meet the Carpet and Rug Institute's Green Label or Green Label Plus certification for carpet, pad and carpet adhesives. Hard finish flooring must be products with a verifiable ten (10) year or longer warranty
- For general occupancy or elderly projects, the cabinetry is plywood box construction, plywood or solid wood doors and durable finishes and hardware.
- Bathroom floors are sheet goods with a ten (10) year minimum warranty or ceramic tile with sealed grout.
- Tub/shower surrounds are ceramic tile with cementitious backer board or backer board supported by the Tile Council of North America (TCNA) installation or is better than builder grade quality fiberglass surrounds.

## 5.6 State Bonus Points

The QAP and Program Guide outline and implement important State priorities, making difficult choices about how to deploy affordable housing resources and seeking to achieve a reasonable balance among disparate opportunities to serve the housing needs of Maryland's residents. DHCD both recognizes and anticipates that facts on the ground, however, can change more quickly than DHCD can respond through revisions to this QAP and Guide and there can be unintended consequences of any scoring system that could lead to undesirable outcomes. To provide dexterity and an opportunity to course-correct based on changes in the State's needs; DHCD may award State Bonus Points as further described herein to ensure that the award of

resources is balanced and in the State's best interest. Bonus points may be awarded to projects to ensure that the overall award of LIHTC and RHF:

- Represents a balance between the Priority Project Categories outlined in this Program Guide, ensuring that unanticipated aspects of scoring do not systemically and practically prevent a given project type from receiving appropriate LIHTC and RHF resources;
- Represents an equitable regional or geographic distribution of resources, ensuring that unintended consequences of scoring do not systemically and practically prevent a given region from receiving appropriate LIHTC and RHF resources;
- Takes advantage of time sensitive opportunities to leverage substantial resources from the federal government or from other non-DHCD funding sources that may become available to LIHTC and RHF transactions;
- Responds to urgent and recent changes in housing needs resulting from natural disasters, economic crises, market dislocations (such as the foreclosure crisis), acts of war or terrorism, environmental contamination, or other such events;
- Responds to substantial economic development opportunities that have the opportunity to create new jobs in the State (such as investing in workforce housing that supports a major new employer creating new Maryland jobs);
- Responds to dislocations in the equity or debt markets related to LIHTC and the permanent financing sources used to provide mortgage debt to such projects; or
- Responds to other critical policy directives, goals, or priorities identified and articulated by DHCD.
- Affirmatively furthers fair housing or contributes to a concerted fair housing strategy.

DHCD may award State Bonus Points within the following framework.

- Only applications submitted in the round that were scored are eligible to receive State Bonus Points. Additionally, to receive State Bonus Points, a proposal must have scored at least one hundred and twenty (120) points prior to the award of State Bonus Points.
- No more than ten (10) State Bonus Points may be awarded to any project.
- No more than 20% of the State's available LIHTCs may be awarded to projects receiving State Bonus Points and no more than two projects can receive awards due to the State Bonus Points being applied.

- DHCD shall provide a written explanation of the factors leading to the award of State Bonus Points and this explanation will be published along with results of the funding round.

State Bonus Points are optional; they need not be fully awarded in any given funding round. DHCD can choose not to award any State Bonus Points within a round, choose to award fewer than the maximum State Bonus Points available, or choose to award all available State Bonus Points.

# 6 Waivers

## 6.1 Waivers – General

In general and unless specified elsewhere in this section, the Director of Multifamily Housing may grant waivers of the criteria and procedures in this Program Guide based on the factors for considering waivers. In addition, the Code of Maryland Regulations (COMAR) allows the Secretary of DHCD to waive or vary particular program regulations to the extent that the waiver is consistent with the governing statute if, in the determination of the Secretary, the application of a regulation would be inequitable or contrary to the purposes of the governing statute. The standards for each program vary slightly, so applicants should consult COMAR 05.05.01 for the ~~Elderly Rental Housing and the~~ Rental Housing ~~Production~~ Program~~s~~; 05.12.01 for the HOME Program; and 05.05.02 for the Multifamily Bond Program;~~ 05.05.07 for the Maryland Housing Rehabilitation Program; and 05.05.08 for the Nonprofit Rehabilitation Program~~.

DHCD requires applicants seeking a waiver of the Threshold or Competitive Scoring Criteria in this Program Guide to submit such requests in writing to the Deputy Director, Multifamily Housing Development Programs, at least forty-five (45) calendar days in advance of the Round deadline. Requests for waiver of the cost limits of Section 5.4.3 must be submitted within seven (7) calendar days of DHCD's publication of revised cost limits. This provision for waivers applies only to State-funded programs and State-imposed Threshold and Competitive Scoring Criteria for LIHTC, HOME, and MBP. Federal regulations affecting LIHTC, HOME, and MBP may not be waived by the State, and applicants should consult their attorney or tax advisor on the possibility of waivers of federal requirements.

## 6.2 Waivers of Threshold or Competitive Criteria

### 6.2.1 Previous Project Performance (see Section 4.1.1)

For defaults involving loans, waivers of the restriction on participation in funding rounds may be granted for Development Team members that were not involved in the defaulted loan for at least one (1) year prior to the default. In the case of other defaulted loans, waivers may be granted based on the circumstances surrounding the particular default. A waiver under this section must be approved by the Secretary. Among the factors considered in granting a waiver are:

- Reasons for the default;
- The applicant's role in the defaulted property and responsibility for guaranties or operations of the defaulted property; and
- Performance of other properties in the applicant's portfolio.

### 6.2.2 Previous Participation (see Section 4.1.1)

DHCD may grant waivers for Development Team members unable to meet DHCD processing requirements based on the circumstances surrounding the particular delays or failures, including the reasons for the delays, the applicant's role in the processing delays, and the performance of the applicant in meeting processing timeframes for other projects. A waiver under this section must be approved by the Secretary.

### 6.2.3 Construction or Rehabilitation Costs (see Sections 4.13 and 4.3)

DHCD may grant waivers of the per square foot maximum new construction or rehabilitation costs based on staff evaluation of the project's conformance with other application criteria, extenuating circumstance of the adaptive reuse of existing structures, the need to meet the Secretary of the Interior's Standards for Historic Rehabilitation (if applicable), the amount of equity and other financial resources leveraged, unusual site conditions, public infrastructure requirements, and the experience of the design professionals and the general contractor for the proposed project.

Requests for waivers of the $15,000 per unit cost minimum for rehabilitation projects may be submitted to DHCD for projects that can demonstrate:

- A strong need for preservation of affordable housing in the market area;
- Affordable housing units will be lost if the project is not financed using DHCD resources; and
- Adequate reserves based on a capital needs assessment performed by an engineer or other qualified professional will be available to the project.

### 6.2.4 Acquisition of Schools or School Sites (see Section 4.8.8.1)

Waivers of this policy may be granted only if the following conditions exist:

- All other potential sources of funds have been sought and are clearly unavailable, and it is not feasible to undertake the project without benefit of DHCD funds for acquisition; and
- The project has particularly high public purpose such as serving an unusually high percentage of disabled or special needs persons, serving an unusually high percentage of very low income persons, or location in a market area not otherwise served by DHCD programs.

### 6.2.5 Builder's Fees (see Section 4.8.8.3)

Waivers may be requested for small projects and/or projects with specialized services or consultants with proposed builder's fees in excess of the defined cap. Applicants must include a detailed explanation of the reasons for the increased builder's fee with the request for a waiver. DHCD will evaluate waiver requests for reasonableness on a case-by-case basis to

determine compliance with the threshold requirements. Increasing the fee to increase the LIHTC eligible basis is not a valid justification for a waiver.

### 6.2.6 Architects Fees (see Section 4.8.8.3)

Waivers may be requested for small projects and/or projects with specialized services or consultants with proposed architect fees in excess of the defined cap. Applicants must include a detailed explanation of the reasons for the increased architect's fee with the request for a waiver. DHCD will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements. Increasing the fee to increase the LIHTC eligible basis is not a valid justification for a waiver.

### 6.2.7 Civil Engineer Fees (see Section 4.8.8.3)

Waivers may be requested for small projects and/or projects with specialized services or consultants with proposed civil engineer fee in excess of the defined cap. Applicants must include a detailed explanation of the reasons for the increased civil engineer's fee with the request for a waiver. DHCD will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements. Increasing the fee to increase the LIHTC eligible basis is not a valid justification for a waiver.

### 6.2.8 Developer's Fees (see Section 4.8.8.3)

Applicants with proposed developer fees in excess of the $2.5 million limit must include a detailed explanation of the reasons for the increased developer's fee with the request for a waiver. DHCD will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements, which may include factors such as large, complex projects involving relocation or substantial rehabilitation. Increasing the fee to increase the LIHTC eligible basis is not a valid justification for a waiver.

### 6.2.9 Project Phasing (see Section 4.8.9)

A request for a waiver of this restriction may be submitted provided that such requests include a Market Study meeting the criteria of this Program Guide and demonstrating that the subsequent phase(s) will not adversely affect the leasing and operations of the initial phase.

### 6.2.10 Underwriting Standards (see Section 4.8)

Applicants seeking waivers of other underwriting standards in Section 4.8 must provide a detailed written request including, if necessary, independent studies or analyses by qualified professionals (market analyses, capital needs assessments, etc.) that support their request. DHCD will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the evaluation requirements.

### 6.2.11 Deductions for Team Experience (see Section 5.1.2)

Applicants seeking waivers of the provisions for negative points in Section 5.1.2 must provide a detailed written request consistent with the standards outlined in Section 6.2.1 above.

### 6.2.12 Definition of Elderly Housing (See Section 4.2.2)

Applicants seeking waivers of this definition must include: (a) a discussion demonstrating the public purpose of the waiver request and why the project is most feasible with the targeted elderly population; and (b) a Market Study meeting the criteria of this Program Guide.

# 7 Loan and Tax Credit Processing Procedures

## 7.1 Processing RHF Reservations of Funding

If projects include RHF loan financing, the following processes and requirements apply. If projects also include LIHTC, additional procedures, described later in this section, apply as well.

### 7.1.1 Loan Reservations

Following approval of recommended reservations, sponsors will receive funding reservation letters. These reservation letters include preliminary terms and conditions for the commitment of loan funds. They also specify requirements that must be met for projects to be approved for a commitment letter to be issued, including processing documentation and timeframes. The reservation is not a commitment to make a loan and DHCD is not obligated to make a loan until all conditions in the commitment letter are satisfied. DHCD reserves the right in making a reservation to substitute sources of funds, if, in DHCD's sole determination, this substitution provides for a more efficient use of DHCD's resources.

A reservation may be canceled and an application withdrawn from processing if any of the following occur:

- The loan processing and submission kit requirements as described in this section are not met. This includes a failure to meet the timeframes established in each kit.
- The project changes substantially from the initial submission. A substantial change includes: (1) a change resulting in a score reduction of the lesser of 3% or an amount sufficient to lower the score below the cut-off score for the round in which the project was approved; (2) a significant change in the project's design, financing, or amenities; (3) a material reduction in the project's income targeting or unit count; (4) a change of the project's sponsor or other member of the development team without the prior written approval of the Director of CDA; or (5) a change of the project's site.
- The project is changed so that it no longer meets all Threshold Criteria.
- The project's Developer, sponsor, owner, or its general partner(s) or managing member(s) files for bankruptcy or is the subject of an involuntary bankruptcy.
- The project is, for any reason, no longer feasible.
- The project's Developer, sponsor, or owner submits false, misleading, or incomplete information to DHCD.

### 7.1.2 Post Reservation Scheduling

DHCD must approve any significant deviations from the project schedule set forth in the application. In these cases, sponsors must submit updated schedules, including an explanation for the change, to DHCD for review. Sponsors must promptly notify DHCD if for any reason projects that receive reservations become infeasible.

DHCD monitors the progress of projects to ensure timely completion. LIHTC and RHF Reservations and LIHTC Carryover Allocations will be canceled if a project falls too far behind its schedule, in DHCD's determination, or if it is determined that DHCD resources are in jeopardy of being lost to the State due to nonperformance by the sponsor. Failure to meet DHCD processing schedules may also affect future scoring (see also Section 5.1 – Capacity of Development Team).

For projects requesting RHF, the applicant's processing schedule must be consistent with DHCD's loan submission kit process. For projects requesting allocations of current year LIHTC, sponsors must demonstrate that projects will meet the requirements for allocation of current year LIHTC. Please refer to the QAP and Section 7.2 below for more information on processing LIHTC reservations and allocations.

### 7.1.3 Kick-off Meeting

Following its issuance of reservation letters, DHCD schedules "kick-off" meetings with sponsors. The multifamily lending team assigned to each project, which includes underwriting, construction, LIHTC, and finance staff, will be present at the meetings. Sponsors should require representatives of their contractor, architect, and management agent to attend. If any project financing requires mortgage insurance, a representative of the insurer also should be present at this meeting. Other DHCD staff members that may need to attend the kick-off meeting include the Director or Deputy Director of Multifamily Housing, DHCD's Equal Opportunity Officer, DHCD's attorney, and compliance and asset management staff.

The purpose of these meetings is to review reservation letters to gain a common understanding of their requirements, terms, and provisions for further processing of applications. At the kick-off meetings, assigned team members review the requirements and timeframes of the loan processing schedule and submission kit processing in detail. At this time, the assigned team members may elect to schedule subsequent meetings with sponsors to conduct detailed site visits.

### 7.1.4 Underwriting and Construction Review

After reservation letters are issued, loan applications are underwritten and detailed construction plans and documents reviewed before issuance of commitment letters. The review process is generally divided into two phases, viability and commitment reviews. In its discretion, DHCD may permit the submission of a combined viability and commitment package (fast track). Specific milestone dates for completing these reviews and issuing commitment letters are discussed at kick-off meetings and set in conformance with DHCD's submission kit loan process.

Detailed guidance is provided to sponsors throughout this process to assist the Development Team in the preparation of construction plans and underwriting documentation. The

architectural requirements for each stage of this review are those defined in the American Institute of Architect's (AIA) publication The Architect's Handbook of Professional Practice.

Additionally, other underwriting requirements will be detailed and made clear to all parties early in the process. Projects in the advanced stages of pre-development will be able to proceed at much quicker paces. In any event, DHCD and sponsors should make every attempt to complete all review requirements within the timeframes outlined in reservation letters and during kick-off meetings.

### 7.1.5 Viability Review

During this phase of the review process, sponsors submit updated application forms along with more detailed construction and underwriting documentation, all as specified in the viability submission kit supplied at kick-off meetings. DHCD staff reviews the material and issues viability reports to sponsors. Viability reports include DHCD's underwriting pro-forma and a term sheet showing any changes in anticipated loan terms and conditions based on findings during the viability review.

### 7.1.6 Commitment Review

At this stage of review, sponsors submit final application forms and complete construction and underwriting documentation. After DHCD staff has reviewed the materials, a commitment report, including a final underwriting pro-forma and updated term sheet, are prepared. The commitment report is sent to sponsors and the term sheet to DHCD's attorney. Based on the findings in the commitment report and the viability report, a draft commitment letter is prepared and sent to the sponsor. DHCD's goal is to complete any adjustments to the draft commitment letter within fifteen (15) calendar days of issuing the commitment report and to issue the commitment letter not later than seventy (70) calendar days after the sponsor submits the commitment review package. Once all adjustments are made, DHCD's attorney finalizes the commitment letter and begins preparing loan documents.

### 7.1.7 Initial Closing

Along with the commitment letter, sponsors receive a loan closing checklist. The checklist specifies closing documents that sponsors must provide before the financing will be closed.

DHCD's standard loan conditions are detailed in the commitment letter. Sponsors should also review and understand DHCD's draw and requisition requirements, particularly those affecting the initial draw. Staff is available to meet and review the draw procedures. Copies of the draw procedures also are available on DHCD's website at:

http://www.dhcd.state.md.us/Website/programs/rhf/draw.aspx

DHCD will move expeditiously to initial closing; however, initial draw requests must be submitted to DHCD at least fifteen (15) business days prior to initial closing. Accepting DHCD's form closing documents without modification expedites the closing process.

Following the closing, DHCD staff schedule a servicing meeting with sponsors to review the terms and conditions of the loan. This meeting is intended to ensure all parties fully understand how the loan will be repaid and that other conditions of the loan documents are met.

### 7.1.8 Construction or Rehabilitation Period

Construction or rehabilitation of projects normally commences once initial closing is complete. Prior to the start of construction or rehabilitation, sponsors and their general contractor must participate in a pre-construction conference with the Multifamily Housing construction staff and Finance Manager responsible for the project. The purpose of the meeting is to fully review all construction period procedures such as inspections by DHCD staff, draw requisition and disbursement procedures, and change order procedures and requirements. All other project lenders should be present at this meeting to ensure a smooth inspection and draw process.

At a sponsor's request, DHCD may permit work on projects to begin prior to closing of DHCD's financing. An "Early Start" of the construction or rehabilitation may be authorized only after issuance of the commitment letter. Approval for an Early Start is evidenced by a written approval issued by DHCD. Work may begin when the conditions of the Early Start letter are met and the pre-construction conference has been held. DHCD will not fund any costs incurred for work performed under an Early Start unless the loan is eventually closed.

### 7.1.9 Developer Fee Disbursement

For transactions involving RHF, DHCD may allow up to 25% of the projected non-deferred portion of the budgeted developer's fee to be disbursed at initial closing or through substantial completion, as evidenced by the issuance of an acceptable certification of substantial completion by the project architect. At substantial completion, DHCD may allow an additional 25% of the projected non-deferred portion of the budgeted developer's fee to be disbursed. The remaining non-deferred developer's fee is disbursed only after the project is 100% complete, a cost certification is accepted by DHCD, and DHCD's final closing requirements have been completed.

Developer's fees may be paid only from equity, cash flow, or other non-DHCD sources of funds, if DHCD loans are not in default, and if Developers continually perform satisfactorily.

Deferred developer fees are disbursed only after all must-pay debt and cash flow payments are made from net operating income. Payment of an investor service's fee will be restricted to $3,000 annually prior to payment of any Department loan payment.

### 7.1.10 Final Closing

After the completion of construction or rehabilitation, sponsors must complete a certification of costs incurred prepared by an independent certified public accountant. The cost certifications will be reviewed within ninety (90) calendar days of receipt provided all construction close-out documents and change order requests have been submitted before or at the same time that the cost certification is received. A final determination of mortgage proceeds letter will be prepared and sent to the sponsor for signature.

## 7.2 Processing Tax Credit Reservations

For projects that include LIHTC and other financing provided by DHCD, the following requirements apply in addition to the processing steps previously outlined. If only LIHTC are requested, however, only the following procedures are required. Additional requirements for the LIHTC program are also set forth in the QAP. Applicants are encouraged to review the QAP prior to submitting an application for LIHTC. In the event of any discrepancies between LIHTC requirements and/or processes described in this Program Guide and the QAP, the requirements and/or processes in the QAP prevail.

### 7.2.1 LIHTC Reservations

Following approval, sponsors receive either LIHTC reservation letters or allocations, depending on the timing of the funding round. Reservation letters are conditional commitments to allocate LIHTC. Reservations or allocations are for only the amount of LIHTC, in the sole determination of DHCD, necessary for the financial feasibility of projects and their viability as a qualified low-income housing. Each reservation is further subject to a number of conditions. These conditions include the submission of evidence of timely completion of the project and documentation certifying compliance with federal requirements. Owners are also required to verify project costs as a condition of receiving a Carryover Allocation (as defined below) and again when the project is placed in service. Reservations may be cancelled and projects withdrawn from processing for the same reasons discussed previously in the loan reservation section (see Section 7.1.1).

### 7.2.2 Limitations on Eligible Basis

DHCD exercises its discretion under §42(d)(5)(B)(v) and §42(m)(2)(A) and (B) of the Code to limit eligible basis to an amount it determines to be reasonable and necessary for the long-term viability of projects as affordable housing. This is not a limitation on the amount of eligible basis allowable to projects under the Code, and projects with eligible basis allowable under the Code that exceeds the feasibility limit imposed by DHCD may still be eligible for LIHTC. The maximum amount of LIHTC allocated to projects by DHCD, however, will be calculated based on the eligible basis limit applicable to each project as determined by the cost limitations and other restrictions contained in this Program Guide.

### 7.2.3 LIHTC Allocations

Sponsors either must place projects in service within the year in which LIHTC are allocated or qualify for a binding conditional commitment to carryover LIHTC for up to two (2) years (a Carryover Allocation). To qualify for a Carryover Allocation, sponsors must either:

- Meet all conditions in their reservation and Incur at least 10% of the reasonably expected basis, as defined in §42 of the Code, within ten (10) months of the date of the Carryover Allocation; or
- For sponsors receiving a LIHTC reservation for the current calendar year, submit a certification of expenditures-to-date and an estimate of the project's total reasonably expected basis by December 1st of the year the Carryover Allocation is executed by DHCD.

For projects also receiving a loan from DHCD, DHCD expects sponsors to meet the 10% test by the time DHCD's loan commitment is issued.

To keep Carryover Allocations and receive IRS Form(s) 8609 (as discussed below), projects must be placed in service by the end of the second year following the date of the Carryover Allocation. Once projects are placed in service, the sponsor must request IRS Form(s) 8609 from DHCD no later than ninety (90) calendar days after the first year the credit is claimed for the first building receiving an allocation. If sponsors elect to defer the first year of the credit period until the succeeding tax year, DHCD must be notified in writing no later than ninety (90) calendar days after the original required placed in service deadline for the project.

At the time buildings are placed in service, all required post-completion documentation is received and reviewed, and upon receipt of the request described above, DHCD prepares and issues the IRS Form(s) 8609 (Low-Income Housing Credit Allocation Certification) certifying the final amount of LIHTC allocated to each building in a project. A Form 8609 is needed to claim LIHTC for any building in a project. Before Form(s) 8609 is issued, DHCD must receive and approve certain documents for each project, including the following:

- Organizational documents of the project owner;
- Extended low-income housing covenant in the form determined by DHCD and recorded no later than the end of the first year of the tax credit period;
- Documentation of placed-in-service date(s) and acquisition settlement statement;
- Professionally prepared third-party audit of project sources and uses and statement of eligible LIHTC basis for each building;
- An executed final determination of DHCD mortgage proceeds;
- Full payment of all DHCD loan and LIHTC fees; and
- Registration of the project on www.mdhousingsearch.org.

It is recommended that sponsors obtain from DHCD the most current list of required documents pertaining to each individual project for proper and timely processing of IRS Form(s) 8609.

Prior to issuance of IRS Form(s) 8609, DHCD also undertakes a final evaluation of each project to determine the amount of LIHTC needed to make the project feasible. Only the amount needed for financial feasibility and viability as qualified low-income housing throughout the fifteen (15) year compliance period is allocated. Any additional LIHTC previously allocated to projects will be recaptured.

## 7.3 Processing Multifamily Bond Program Applications

For elderly and general occupancy projects that seeking MBP financing, the following requirements apply:

**Processing Multifamily Bond Program Applications**

Applicants requesting MBP financing and non-competitive LIHTC (not allocated from the State's LIHTC ceiling) should apply using the Application Submission Package available on the DHCD website. All requests for MBP financing are subject to DHCD underwriting and construction reviews.

**Requirements**

Applications for the MBP are subject to an initial review against the Threshold Criteria, as described in Chapter 4 of this Program Guide, and must score at least 46 points on the Competitive Scoring Criteria as described in Chapter 5 of this Program Guide. Processing is subject to certain fees that are subject to change. The current fees are described in Appendix D of this Program Guide. Updates to fees are provided on DHCD's website at www.mdhousing.org.

Projects financed with Multifamily Bonds are eligible for non-competitive LIHTC. DHCD issues letters pursuant to §42(m) of the Code reserving LIHTC to qualified projects prior to initial loan closing. Applicants may elect to lock in the Tax Credit applicable percentage for the month the bonds are issued by completing the DHCD certification form any time during the month the bonds are issued through the fifth day of the following month; otherwise, the LIHTC applicable percentage defaults to the month the building is placed in service (see the Code §42(b) (2) (A) (ii)). Projects receiving either mortgage insurance or subsidies from HUD may also be subject to subsidy layering review under §911 of the Federal Housing and Community Development Act of 1992.

Projects financed with MBP must meet federal income targeting requirements. Minimum income elections for the MBP are identical to the requirements of the LIHTC program: 20% of all units must be rented to households with incomes of 50% or less of area median; or 40% of all units must be rented to households with incomes of 60% or less of area median.

DHCD reserves the right to impose additional State income targeting requirements for MBP financed projects. DHCD continues to modify the MBP to meet customer needs with updates posted to DHCD's website on a regular basis.

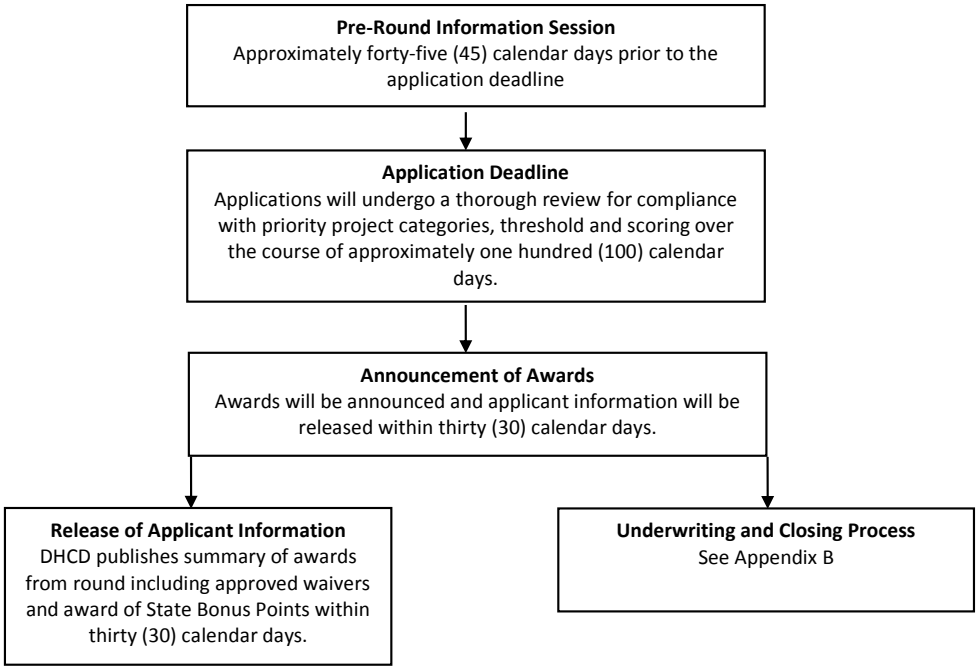
**Expedited Processing**

Eligible projects requesting MBP financing may be processed under an expedited system. To be eligible, applications must request tax exempt financing without other DHCD financing or assistance, meet all Threshold Criteria or receive a waiver in accordance with Section 6.1 of this Program Guide, score at least forty-six (46) total points and meet the additional scoring criteria outlined for FHA Risk Sharing Insurance noted in the call out box at the beginning of Chapter 5. If these requirements are met and subject to conditional HFRC recommendation, projects can expect to receive inducement approvals within ninety (90) calendar days of application submission.

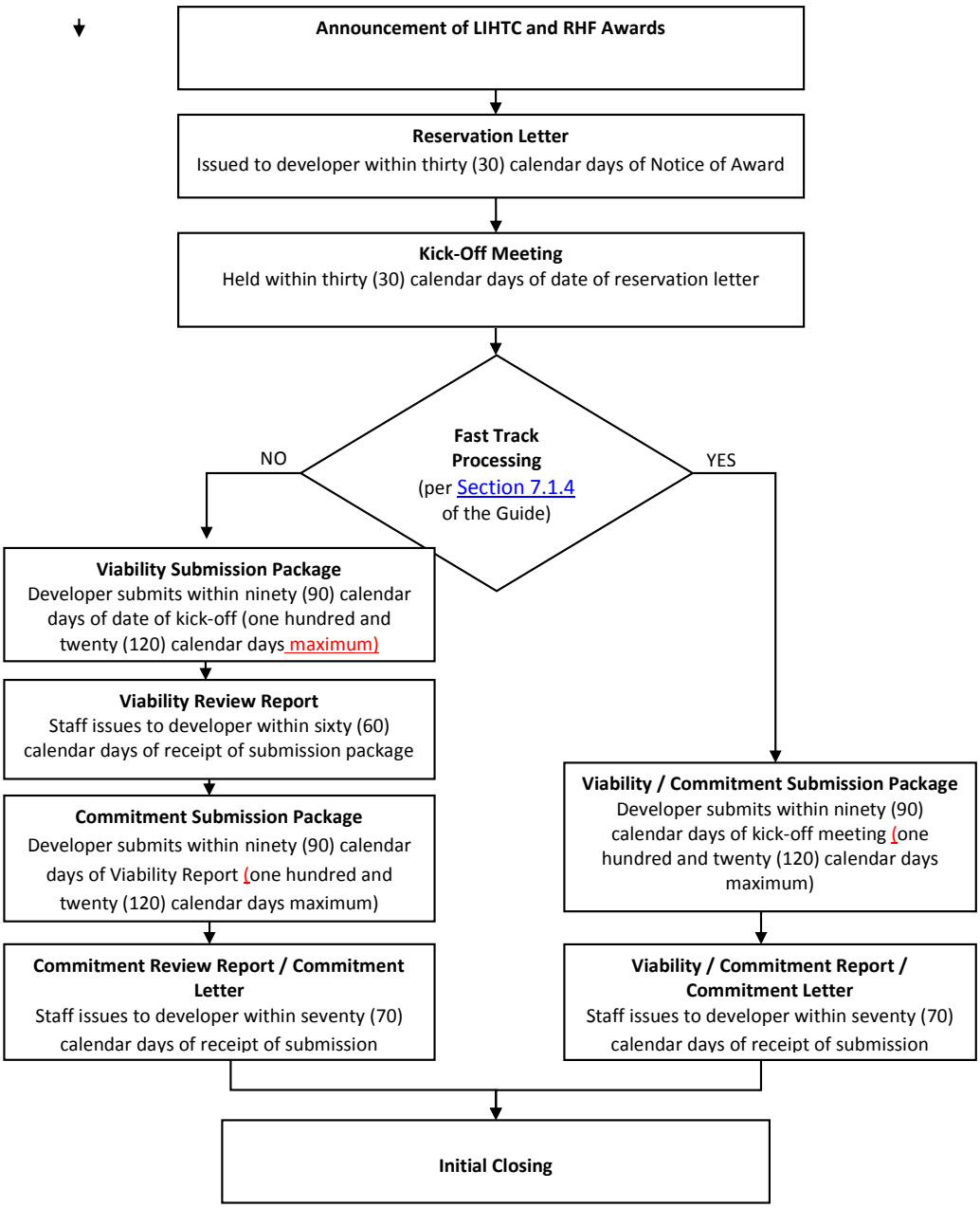
To ensure timely processing, construction and underwriting reviews are limited to an analysis of a project's overall conformity to construction and underwriting standards established by DHCD and conformity to Federal requirements. The primary underwriting responsibilities are delegated to the credit enhancers and their appropriate Delegated Underwriters and Servicers (DUS Lenders).

# Appendix A: Application and Award Process

Comment [SP3]: Footer does not match lettering for Appendices -- fix



# Appendix B: Underwriting and Closing Process



# Appendix C: LIHTC and RHF Application and Processing Fees

| Fee Type | LIHTC | Rental Housing Fund* | When Due |
|---|---|---|---|
| Application Fee | $2,500 per application regardless of the number of funding resources requested. | | Submission of application for funding. |
| Reservation Fee | $5,000 per reservation regardless of the number of funding resources included. | | Remit to CDAs Trustee as invoiced. |
| LIHTC Allocation Fee | 5% of the annual LIHTC amount allocated. | N/A | Varies depending on financing and sponsor type; see QAP for details. |
| Commitment Fee | N/A | 1.5% of the loan amount. | Earlier of initial loan closing or bond closing; may be financed. |
| 10% Expenditure Test Deadline Extension Fee | $1,000 for each month the deadline is extended. | N/A | Submission of application for extension. |
| LIHTC Allocation Amendment Fee | $4,000 per project; waived if amendment results from an administrative error by CDA. | N/A | Submission of a request for an amended IRS Form 8609. |
| Closing Attorney's Fees | N/A | $25,000 for the first loan<br>$5,000 for each additional loan | Initial loan closing. |
| LIHTC Compliance Monitoring Fee | $30 per unit per year. | N/A | Annually as invoiced. |
| IRS Form 8823 Compliance Re-Review Fee | $25 per unit per occurrence. | N/A | Submission of a request for issuance of an 8823 by CDA to correct a previously uncorrected 8823. |
| Assumption Closing Fee | N/A | $5,000 | With request. |

*The RHF application and processing fees apply to any –funds awarded under this Program Guide. For fees applicable to DHCD's other programs, including the Partnership, Rental Housing Program, the Shelter and Transitional Housing Facilities Grant Program, and energy lending programs, please see DHCD's website at www.mdhousing.org

## Appendix D: Bond Application and Processing Fees

| Fee Type | LIHTC | Multifamily Bond Program (Traditional)* | Multifamily Bond Program (Refinance) | When Due |
|---|---|---|---|---|
| Application Fee | $2,500 per application. | | Fees range from $1,000 to $5,000 or 0.015% of the loan option selected; consult program staff for more information. | Submission of application for funding. |
| LIHTC Allocation Fee | 5% of estimated annual tax credit amount allocated. | | None if no new allocation of LIHTC requested. | Issuance of §42(m) letter.<br>Issuance of IRS Form(s) 8609 for any additional fee for actual tax credit allocated over initial estimate. |
| Commitment or Origination Fee | N/A | 1.5% of the first $10 million of loan principal plus 1% of loan principal over $10 million. Fee increased to 3% for Tax/TE financings | Generally 1.5% of outstanding loan principal. | Earlier of initial loan closing or bond closing; may be financed for new loan. |
| Assumption Fee | N/A | None. | 1.5% of the loan principal assumed. | Loan closing. |

| Fee Type | LIHTC | Multifamily Bond Program (Traditional)* | Multifamily Bond Program (Refinance) | When Due |
|---|---|---|---|---|
| Costs of Issuance | N/A | Actual costs of issuance. | $100,000 plus 1% of the new loan principal. | Initial closing for new loans and closing for refinance. |
| Negative Arbitrage[10] | N/A | Amount determined for each loan after each draw. | | After each draw as invoiced. |
| Non Usage Fee | N/A | 2% of estimated loan principal as a deposit against costs of issuance. | None. | Before POS issued and bonds priced (generally thirty (30) to sixty (60) calendar days prior to scheduled initial closing); amount credited to costs of issuance at initial closing. |
| Closing Attorney's Fees | N/A | $25,000 for the first loan.<br>$5,000 for each additional loan. | $5,000 | Initial loan closing. |
| MBP CLC/PLC Extensions Fee[11] | N/A | Actual costs incurred in connection with extensions of maturity and/or delivery dates of GNMA securities. | | As invoiced. |

*For fees applicable to the taxable/tax-exempt financing product, see the DHCD website at: http://www.mdhousing.org/Website/Programs/mbp/documents/Taxable_GNMA_Loans.pdf

[10] Negative arbitrage is the difference between the bond yield and the investment yield on undrawn proceeds. A letter-of-credit may be required to be posted prior to closing for an amount sufficient to cover the maximum amount of negative arbitrage on the loan. Consult program staff for more information.

[11] These costs may include administrative charges, reasonable costs or expenses incurred by CDA, and reasonable reimbursement or fees of all professionals working on the transaction in connection with any requested extension, including costs, fees, reasonable hourly reimbursement, and expenses of bond counsel, other in-house or outside counsel, any rating agency, and any financial advisor to CDA.

| Fee Type | LIHTC | Multifamily Bond Program (Traditional)* | Multifamily Bond Program (Refinance) | When Due |
|---|---|---|---|---|
| LIHTC Allocation Amendment Fee | $4,000 per project; waived if amendment results from an administrative error by CDA. | N/A | | Submission of a request for an amended IRS Form 8609. |
| LIHTC Compliance Monitoring Fee | $30 per unit per year. | N/A | | Annually as invoiced. |
| MBP Loan Pre-payment[12] | N/A | Actual costs incurred in connection with bond redemption. | | Receipt of payoff statement. |
| IRS Form 8823 Compliance Re- Review Fee | $25 per unit per occurrence. | N/A | | Submission of a request for issuance of an 8823 by CDA to correct a previously uncorrected 8823. |
| Equity Redefinition Fee | N/A | 1.50% of outstanding loan principal. | | Upon agreement of redefinition. |

[12] These are costs incurred in connection with redeeming bonds as permitted by the deed of trust note and may include negative arbitrage for forty-five (45) calendar days; unamortized costs of issuance and premiums, if any; and administrative charges. Consult DHCD Finance staff for more information.

# Appendix E: Development Quality Base Level Energy Standards

**CERTIFICATION**

The undersigned applicant hereby makes application to DHCD for a loan and/or tax credits pursuant to one or more of DHCD's Multifamily Rental Financing~~Housing~~ Programs and certifies that the following development Base Level Energy Standards will be incorporated into the project design and final work product:

1. Energy Audit Report submitted for existing buildings that follows the DHCD ~~template for Best Practices and Guidance~~Multifamily Energy Audit Guide ~~for Multifamily Energy Audits~~.
2. Energy Star qualified heat pump, furnace, boiler, air conditioning or ventilation equipment all with Energy Star qualified thermostats for equipment requiring thermostats.
3. Energy Star appliances.
4. Energy Star qualified lighting or Energy Star label compact fluorescent lamps in conventional fixtures the combination of which make up 70% of the interior lighting.
5. A building draft stopping and air sealing scope of work to be included in the project specifications with minimum verification completed by sampling 10% of the units with a blower door tester. See Energy Star or the Department of Energy *Building America Best Practices*, Volume 4.
6. A building duct sealing and insulation scope of work included in the project specifications (for ducts located outside the building envelope) with minimum verification completed by sampling 10% of the units with a duct blaster test. See Energy Star or the Department of Energy *Building America Best Practice*, Volume 4.
7. Energy Star qualified windows in accordance with current Energy Star Standards as appropriate to project location.~~, or windows rated by the National Fenestration Rating Council having a U-factor ≤ .340 and SHGC ≤ .55 except Garrett and Allegany Counties where the U-factor must be ≤ .35 and SHGC ≤ .80 (range is .20 and .80).~~
8. The designs must size heating and cooling equipment in accordance with the Air Conditioning Contractors of America (ACCA) Manuals, Parts J and S, or ASHRAE handbooks.
9. A project specific Operations and Maintenance (O&M) manual will be created to optimize the energy efficiency of the project. THE O&M manual will include: evaluation criteria, operation parameters, maintenance schedule, checklists for systems and equipment on the project. The building maintenance staff will utilize the O&M manual as an operational standard.
10. The project management staff will provide continuing tenant education and reminders on how to conserve energy. Minimal intervals will be at tenant turnover and heating/cooling

changeovers in the spring and fall. Written material containing energy saving tips will be on hand and distributed to tenants.

*The undersigned applicant understands and agrees to the following requirements:*

*Moderate rehabilitation will be subject to the base level energy standards unless the Energy Audit Report determines compliance with the standards is not cost effective as determined by the savings to investment ratio and cost effective ratio (CRE) established as program minimums. All Energy Conversation Measures (ECM) with a SIR of 2 or greater ~~and a CER of 10 or greater~~ are required to be included in the project scope of work unless the ECMs are determined to be unfeasible due to space limitation, access or other valid reason as determined by the energy auditor or project architect.*

*Historic projects will be subject to the base standards except where state or federal renovation standards do not allow or recommend specific work tasks, the energy improvements compromise the historic character of the project, or the work is not cost effective or feasible as listed in the proceeding paragraph.*

*On rehabilitation projects, a qualified energy auditor, RESNET Rater or Building Performance Institute certified ~~rater or other~~ building energy professional skilled in evaluating similar multifamily buildings will submit at least a preliminary analysis of the existing building conditions and identify cost effective energy improvements by preparing a preliminary Energy Audit Report which minimally addresses the predominate building and unit types within the project. The energy audit must include a SIR/Energy Conservation Measure (ECM) schedule. Projects approved for funding that submitted a preliminary audit report will submit a comprehensive Energy Audit Report prepared by a RESNET Rater or BPI Certified Multifamily Energy Auditor with or before the viability submission package. Energy Auditors must be approved by the MEEHA program or MEA. ~~The energy audit must include a SIR and CER calculator schedule.~~*

*The Energy Audit Report will take into account the current and projected energy performance of the building. Energy improvements with a SIR of 2 or greater ~~and a CER of 10 or greater~~ must be included in the project scope of work. The goal is to make existing buildings as energy efficient as possible while taking into account practical financial and construction limitations. Except as otherwise provided in the Guide, THE ENERGY AUDIT REPORT IS A THRESHOLD EVALUATION ITEM FOR REHABILITATION PROJECTS and rehabilitation projects which fail to submit at a minimum a preliminary Energy Audit Report with the application will not be considered for funding.*

IN WITNESS WHEREOF, the applicant has caused this document to be duly executed in its name

**MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

on this _____ day of _____, _____.

| | |
|---|---|
| _____ | _____ |
| (Full legal name of Sponsor) | (Full legal name of Architect) |
| Signature:_____ | Signature:_____ |
| Name:_____ | Name:_____ |
| Title:_____ | Title:_____ |

# Appendix F: Development Quality Base Level Green Standards

**CERTIFICATION**

The undersigned applicant hereby makes application to DHCD for a loan and/or tax credits pursuant to one or more of DHCD's Multifamily Rental Financing~~Housing~~ Programs and certifies that the following development Base Level Green Standards will be incorporated into the project design and final work product:

1. Demolition Plan – On projects where demolition will occur, submit a demolition plan which identifies sound practices for managing waste and hazardous materials. Specify methods which are environmentally sensitive and create less pollution. Identify opportunities for recycling.
2. Site work – Employ MDE 1994 Standards for Soil Erosion and Sediment Control during construction. Limit area of disturbance to immediate work area. Site work anticipated in non-optimum conditions such as wet, freezing or poor drying periods must be completed with the approval and direction of the geotechnical engineer. In addition to reviewing the cost and schedule benefits of such work, the engineer must consider the potential for adverse environmental impact. Limit access to the site when vehicles or construction activity environmentally degrade the site.
3. Landscaping - New plantings shall utilize at least 50% native plantings. Select native, highly suitable, drought /disease tolerant plantings suitable for the project soil and microclimate. Where there are healthy large existing trees, make considerations for preserving mature trees in the site plan. Utilize shade, windbreak and screening benefits of plantings in the project design. Protect trees during construction.
4. Construction Waste Recycling/Deconstruction - The project must implement a construction waste recycling plan in which construction waste materials are collected, separated and recycled instead of being sent to a land fill. The plan shall include a record keeping function that shows the weight, type and disposition materials processed.
5. The project shall make primary use of all of the following Interior Air Quality criteria: Green Label carpeting and low toxic, low volatile organic compound (VOC) paint, primer, sealers and adhesives. The Architect must reference a national standard such as Green Seal, South Coast Air Quality Management District, Bay Area Air Quality Management District, or equivalent standard. In addition, unsealed engineered or composite wood products free of added urea formaldehyde must be used. See ANSI A203. The Architect will verify compliance of green products during the submittal review and construction verification process.

6. Chlorofluorocarbons (CFC) – Where new HVAC equipment is specified, there will be no use of CFC refrigerant. Where CFC refrigerant equipment is being removed, specify standards for capturing and disposal of CFC materials. For retained CFC refrigerant equipment, include a comprehensive inspection, maintenance and phase out or conversion plan.
7. Moisture and Mildew – Correct all observed areas of mold, mildew and moisture infiltration within the building. On existing structures, the Building Evaluation Report or environmental report will identify these areas. Identify remedies and accepted practices for treatment.
8. Radon Gas – For Projects located in EPA Radon Area Zone 1 install a passive radon gas reduction pipe system with vertical venting convertible to mechanical venting unless testing indicates there is no radon gas hazard as determined by EPA standard. This requirement is only for projects where radon gas poses a legitimate hazard.
9. Recycling Plan, post completion – Provide space and containers or site for household recycling. Encourage resident to recycle. Address recycling in management plan.
10. Water Conserving features – Project water fixtures and faucets conserve water. Toilets – 1.6 gallons or less per flush, shower heads – 2.0 GPM. Bath and kitchen faucets 2.0 GPM or less.
11. Smoking Areas – Designate permitted smoking areas. Locate outside smoking areas at least twenty-five (25) ft. away from entry air intakes and residents' windows. No smoking in building interior common areas.
12. Site Location – New Construction projects are not located in FEMA Flood Zone Areas except zones C or X which are minimal risk areas.
13. Habitat Protection – Where development of the project removes prime habitat for a protected or endangered species, the developer must provide an offsite conservation lease or easement for replacement habitat which is a minimum of three times the area of habitat lost in the development of the project or consistent with State or Federal requirements, whichever is greater. The conservation lease or easement shall be perpetual or a minimum of fifty (50) years.

IN WITNESS WHEREOF, the applicant has caused this document to be duly executed in its name on this _____ day of _____, _____.

| | |
|---|---|
| _____ | _____ |
| (Full legal name of Sponsor) | (Full legal name of Architect) |
| Signature:_____ | Signature:_____ |
| Name:_____ | Name:_____ |

Title:_____ Title:_____

# Appendix G: Current Priority Funding Areas

http://www.mdp.state.md.us/OurWork/SmartGrowthTrendsAndAnalysis.shtml

# Appendix H: Qualified Census Tracts

http://www.huduser.org/portal/datasets/qct.html