



# 2019

## LOW INCOME HOUSING TAX CREDIT QUALIFIED ALLOCATION PLAN

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GOVERNMENT OF THE  
DISTRICT OF COLUMBIA  
MURIEL BOWSER, MAYOR

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## Introduction and Authority

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The Tax Reform Act of 1986 established the Federal Low Income Housing Tax Credit (LIHTC) Program. The LIHTC Program was subsequently made permanent by the Revenue Reconciliation Act of 1993 as further amended by The Community Renewal Tax Relief Act of 2000, the Housing and Economic Recovery Act of 2008, the American Taxpayer Relief Act of 2012, and Protecting Americans from Tax Hikes (PATH) Act of 2015, and the Consolidated Appropriations Act of 2018, among others.

The LIHTC Program was created to encourage the private sector to invest in the construction and rehabilitation of housing for low and moderate-income individuals and families. Project owner/investors can claim the LIHTC on their federal income tax return each year for a period of 10 full years. However, projects generally must meet certain requirements for low-income use for at least 30 years.

Pursuant to Internal Revenue Code (IRC) Section 42(h)(8)(A), the Mayor delegated the authority and assigned the responsibility of administering the LIHTC Program to the District of Columbia Department of Housing and Community Development (DHCD or the Department) in Mayor's Order 87-72.

## Qualified Allocation Plan

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Federal law requires the District of Columbia to adopt a plan to allocate the LIHTC to projects based on federally mandated requirements and priority needs determined by the District. The District's LIHTC Qualified Allocation Plan (QAP) is intended to ensure the selection of only those projects that comply with federal law and address, on a priority basis, the District's housing needs.

These allocation procedures govern the award of the District's LIHTC and apply to residential rental housing financed in conjunction with: (1) private lenders; (2) tax-exempt bonds; and (3) local or federal loan programs. These procedures are automatically renewed annually, unless amended or replaced. In the event that federal law changes after the QAP is adopted, or additional regulatory guidance or clarifications regarding the LIHTC program become available, DHCD reserves the right to modify, to supplement or to make conforming amendments to this QAP and all related documents without undergoing a formal amendment process, including additional public hearings. In addition to notifying affected tax credit program applicants, information about such subsequent changes will be posted on DHCD's website at [www.dhcd.dc.gov](http://www.dhcd.dc.gov).

### Determining the LIHTC

The tax credits are generally provided to project owners in equal annual installments over a 10-year period. The tax credits may not exceed the applicable percentage of the qualified basis of each low income building in the project as defined in IRC Section 42(d):

- New construction and rehabilitation projects are eligible for a fixed tax credit of not less than 9% if placed in service after July 30, 2008.
- Projects financed with tax exempt bonds under IRC Section 103 or involving the acquisition of existing buildings (when combined with substantial rehabilitation) are eligible for the 30% present value tax credit.
- Projects located in Qualified Census Tracts, or other tracts as defined in this QAP, are eligible for a boost to their eligible basis of up to 30% as needed to guarantee the project's financial feasibility.

A reservation of tax credits is made after DHCD does an initial review of the development budget sources-and-uses statement to determine the project's feasibility and is conditioned upon the development's sponsor meeting certain requirements, described in this QAP. Those applicants satisfying the requirements will be given an allocation of tax credits. If the development is placed in service in the year of allocation, it qualifies for an allocation for that year and IRS Form(s) 8609 will be issued on or before December 31. If the development is not placed in service in the year of allocation, the Sponsor/Developer can request a Carryover Allocation (see Carryover Allocation Application section below). Upon this request, DHCD will review the development budget for continued feasibility to reflect any changes in the development's cost and/or financial structure, before granting a carryover allocation.

After a building has been placed in service (that is the building rehabilitation is substantially complete and/or Certificates of Occupancy are received), the Sponsor/Developer will request IRS Form(s) 8609 to begin claiming the Tax Credit on its federal tax return. A final analysis will be performed at the time of placement in service to determine the final Tax Credit Allocation Amount, which is the lesser of: (1) the tax credits necessary to make the development feasible; or (2) the amount of the earlier carryover allocation.

### **Tax Credits Available**

The amount of 9% Tax Credits available for the District to allocate in each calendar year reflects the sum of the amounts allowed as the per-capita State Ceiling under IRC Section 42(h)(3)(C). This amount may be increased by: (1) returned tax credits from prior years; (2) tax credits allocated to the District from the national tax credit pool; or (3) new legislation increasing the amount of tax credits distributed to each state.

Any unallocated or recovered tax credits or a combination of both may be: (1) awarded as part of the current year cycle(s) of awards for tax credits; or (2) carried over to the next year's cycle(s) of awards at DHCD's discretion.

## DHCD Program Overview

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### Eligibility

Experienced for-profit and non-profit Sponsor/Developers that are in good standing with the District (as defined in the Development Team Thresholds section of the Threshold Eligibility Requirements) are eligible to apply for a reservation of LIHTC to fund residential rental property located in the District that is affordable to households earning 60% of the Area Median Gross Income (AMGI) or less, or 80% AMGI or less if the Average Income minimum set-aside election is used as described further on page 14. Project eligibility requirements—are defined in the Threshold Eligibility Requirements section of the QAP.

### Types of Federal Low Income Housing Tax Credits

There are two types of federal LIHTCs: 9% Tax Credits from the District's per-capita State Ceiling; and non-competitive 4% Tax Credits issued to qualifying projects financed with tax-exempt bonds.

- **9% Tax Credit:** The 9% Tax Credit is competitively awarded to eligible projects based on the selection criteria in this QAP, as may be clarified by the most recent Consolidated Request for Proposals for Affordable Housing Projects (Affordable Housing RFP). The 9% Tax Credit is based on a 10 year present value calculation of 70% of the qualified basis of each building in the project. For those non-federally subsidized new buildings placed in service after July 30, 2008, the applicable percentage must be no less than 9%. The maximum LIHTC amount allocated to a Project is determined by a formula that considers the amount of eligible costs and the percentage of qualified tenants. Projects must include either new construction, or substantial rehabilitation totaling the greater of \$7,000 per unit for calendar year 2019 (subject to annual increase) or 20% of the adjusted basis of the building(s).
- **4% Tax Credit:** Projects financed with certain tax-exempt bonds may be eligible to receive a 4% Tax Credit without regard to the District's per capita State Ceiling. The 4% Tax Credit is based on a 10 year present value calculation of 30% of the qualified basis of each building in the project. The applicable percentage for the 4% Tax Credit is a rate published by the Internal Revenue Service (IRS) for:
  - the month in which the building is placed in service; or
  - at the election of the project owner, the month in which the tax-exempt bond obligations are issued.

Although tax-exempt bond financed projects need not compete for an allocation through the competitive process, they must be evaluated against the Threshold Eligibility Requirements. Further, they must comply with the monitoring procedures in DHCD's LIHTC Program Compliance and Monitoring Reference Guide, which is incorporated by reference in this QAP, and available here:

<https://dhcd.dc.gov/service/project-monitoring>.

Projects that meet the substantial rehabilitation requirements under IRC Section 42(e)(3) also may be eligible for a tax credit based on the acquisition of the building. In this case, the Applicable Percentage is the rate applicable to the 4% Tax Credit for:

- the month in which the acquisition occurs; or
- at the election of the project owner, the month in which the project owner and DHCD enter into a binding agreement as to the amount of LIHTC allocated to the building.

### **Combining the 9% and 4% Credit**

While generally a qualified project is awarded only 9% Tax Credits or 4% Tax Credits, it may be possible, under specific facts and circumstances, for a qualified project to receive both types of Tax Credits.

### **Authorization of the Director**

This QAP contains the general dates for application, carryover and monitoring. However, the DHCD Director maintains program discretion.

### **Fees**

The following fees are assessed to a Project: (1) Issuance Cost, which includes application, reservation, and allocation fees; and (2) Compliance Cost, which includes all compliance, monitoring, and inspection fees. Full and timely payment of all fees is a requirement of every allocation. All issuance and compliance costs are non-refundable. See the table for more details on fees.

<b>FEES</b>		
<b>Fee Name</b>	<b>Amount</b>	<b>Applicability</b>
Application Fee (Non-profit)	\$500.00	9%
Application Fee (For Profit)	\$750.00	9%
Reservation Fee: Assessed at the time a reservation is given to a Sponsor/Developer. The amount is due in full when the Sponsor/Developer accepts the reservation. No reservation will be valid if not accompanied by the reservation fee.	50% of 1% of the total 10-year allocation for the project	9%
Allocation Fee on per capita Projects: Assessed when DHCD issues the carryover allocation.	50% of 1 percent of the value of the total 10-year allocation for the project	9%
Allocation Fee for tax exempt bond funded projects.	40% of 1% of the total 10-year allocation (60% of 1% is paid to the DC Housing Finance Agency (DCHFA)) in two installments: 15% of 1% at application and the remaining 25% when DHCD issues the IRS Form(s) 8609.	4%
Compliance Monitoring Fee: All projects that received an IRS Form 8609. The fee will be due each year on February 15.	\$45 per unit per year for the first 15 years of the Compliance Period, or \$55 per unit per year for projects selecting the Average Income minimum set-aside.  \$25 per tax credit unit per year (including employee units) starting from the 16th year of compliance or \$30 per tax credit unit per year for projects selecting the Average Income minimum set-aside (not to exceed \$3,500 per project after the initial 15 years of the Compliance Period).	9% and 4%
Re-inspection Fee: Projects failing an inspection that are issued an IRS Form 8823 must have a re-inspection.	\$50 per hour (\$50 minimum) to re-inspect deficiencies as observed. Additional \$50 per hour (\$50 minimum) to review tenant files on site and any document forwarded to DHCD to correct noncompliance.	9% and 4%
Extension Fee: Sponsors/Developers unable to meet the deadline for a carryover allocation application may request an extension and pay a fee at the time the request is submitted.	A late charge of \$500 per day will be assessed for each calendar day past the due date that the Carryover Allocation application is not returned to DHCD.	9% and 4%
Allocation Modification Fee: Sponsor/Developers requesting modifications to the IRS Form 8609 where the modification is not the result of administrative error.	\$1,000	9% and 4%

## 9% Tax Credits

Reservation applications for the 9% Tax Credit will be accepted and reviewed as part of DHCD's competitive Affordable Housing RFP process. DHCD will notify the public concerning the exact schedule of the competitive round(s) for the reservation of LIHTC, which generally will follow the timeline described below in this QAP. All applications must be submitted through DHCD's Online Application System. Additional information, including access to the online application, is available at DHCD's website: [www.dhcd.dc.gov](http://www.dhcd.dc.gov) or (202) 442-7200. If the project receives an award of 9% Tax Credits, and is not placed in service by the end of the tax credit allocation year, IRC Section 42 allows the project to receive a carryover allocation. This will allow the project to be placed in service no later than the end of the second year following the carryover allocation year. Treasury Regulation Section 1.42 requires that an owner must document that 10 percent of the reasonably expected basis of the project has been spent within 12 months of the carryover allocation date (the 10% Test).

For these projects, DHCD requires the owner to submit:

1. an allocation application, which includes an itemized list of project expenditures;
2. an owner's certification; and
3. a Certified Public Accountant (CPA)'s opinion documenting that the project has met the 10% Test within 12 months of the date of the allocation of tax credits.

After construction is completed and the project is placed in service, the Sponsor/Developer submits an application to DHCD requesting that IRS Form(s) 8609 be issued to allocate the tax credits to the project. The application for the IRS Form(s) 8609 must consist of:

- a revised development budget and operating pro forma, adjusted to reflect the final development cost reflected on the cost certification prepared by the project's CPA, and including a statement of the computation of the project's development costs that qualify as eligible costs per IRC Section 42;
- a copy of the cost certification
- a draft of the IRS Form 8609 for each building in the project;
- copies of the required DC licenses (for example, a basic business license) for the owner and management agent;
- a copy of the certificate of occupancy for each building;
- a copy of the recorded Land Use Restrictive Covenants (that is the Indenture of Restrictive Covenants (Extended Use Agreement) for LIHTCs); and
- a copy of the executed owner's partnership or operating agreement, including all attachments and exhibits.

The schedule of milestones and deadlines for the 9% Tax Credit application and award process can be found in the current Affordable Housing RFP. Further details can be found in the QAP Underwriting Guidelines section.

## **Underwriting Process**

Underwriting will be performed on a Project at three stages: (1) before a reservation is awarded; (2) at carryover allocation; and (3) before an IRS Form(s) 8609 is issued evidencing the LIHTC allocation.

### ***Before a Reservation Is Awarded***

The Reservation is a conditional commitment of LIHTC and, therefore, does not meet the definition of a binding allocation as stated in IRC Section 42. If the project is not placed in service during the same calendar year as the Reservation Letter, then DHCD will issue a binding carryover allocation to the Sponsor/Developer if all of the requirements are met.

### ***Surplus Reservations***

In the event that the supply of LIHTC, in a given year, exceeds the demand in the initial round, those surplus tax credits may, at the sole discretion of the DHCD Director, be reserved in the following order of priority, without the need for an additional advertised competitive round:

- To projects that: (1) received a reservation from a prior year LIHTC; (2) have sufficient eligible basis to qualify for additional tax credits; and (3) need additional tax credits in order to complete the project's funding in a manner that creates financial feasibility and economic viability.
- For projects that: (1) are in a high state of readiness; (2) have sufficient eligible basis; and (3) need LIHTC in order to complete the project's funding in a manner that creates financial feasibility and economic viability, provided the projects have been approved through the competitive process.
- For projects that: (1) have sufficient eligible basis; (2) are located in a strategic development zone; and (3) need LIHTCs in order to complete the project's funding in a manner that creates financial feasibility and economic viability.

### ***Forward Reservation***

Under certain conditions, a project may be eligible to receive a Reservation of LIHTC from the District's per capita State Ceiling for future years (known as a Forward Reservation). To receive a Forward Reservation, the Sponsor/Developer must agree to comply with all conditions imposed by DHCD and the IRS. The following types of projects may receive Forward Reservations from future years' LIHTCs:

- **Insufficient LIHTC:** A Forward Reservation may be approved for a project that ranked high enough in a round of competition for an award, but for which there is insufficient remaining LIHTCs that can be allocated in the current year.  
**Multiple Year Reservations:** For projects that require more than \$400,000 of annual LIHTC and/or reservations would be more appropriately staged over two or more years, DHCD may agree to reserve, subject to availability, LIHTCs from a future year(s). DHCD will determine if the benefits to the District are sufficient to warrant

the issuance of a Forward Reservation. In most cases this determination will rely most heavily on the following factors:

1. whether the Sponsor's/Developer's LIHTC request is large enough to require being split because an award in a single year would eliminate the availability of LIHTC to other competitive applicants; and
2. if the scope of the rehabilitation or construction is such that it is unlikely that the entire project can be "placed in service" within the time frame required by the IRC.

### *Projects Unable to Meet Deadlines*

Some project(s) that have already received Reservations are not able to meet time schedules of the Reservation for reasons outside of the control of the Developer, but the DHCD Director may deem them to be essential to DHCD's strategic plan or mission. In this event, the previous Reservation may be returned and, at the sole discretion of the DHCD Director, a Reservation from one future calendar year may be substituted for the LIHTC reserved under the voided Reservation.

### ***At the Carryover Allocation***

Sponsors/Developers that meet the requirements of the Reservation Letter shall receive a binding allocation agreement that meets all qualifications required under IRC Section 42. The Sponsor/Developer must incur more than 10% of the reasonably anticipated basis within 12 months of tax credit carryover allocation and then place the project in service no later than the end of the second year following the year of the binding allocation. Failure to meet these requirements will result in the loss of the LIHTC for the project.

Reservation Letters will identify a date certain by which Sponsors/Developers must certify that: (1) projects have been placed in service; or (2) at a minimum, that more than 10 percent of the reasonably anticipated basis of the project has been incurred. If the Sponsor/Developer has not met either of these requirements, the Reservation may be cancelled. Any LIHTC available from cancelled Reservations will be awarded to other projects or carried forward in the District's unallocated pool.

### ***Before an IRS Form(s) 8609 Is Issued***

When buildings are placed in service, DHCD will complete a final evaluation of the project to determine the LIHTC amount needed to make the development feasible. Only the amount needed for financial feasibility and economic viability will be allocated. Any additional LIHTC previously allocated to projects, above and beyond this amount, will be returned to DHCD.

Before the IRS Form(s) 8609 can be issued, DHCD must receive, review and approve the documentation described above, which includes a revised, updated application that:

- adjusts the development budget to the sources and uses reflected on the cost certification;

- incorporates all changes in the development team and management group; and
- includes all of the additional requirements described above.

#### **4% Tax Credits**

If 50% or more of the aggregate basis of any building and its underlying land is financed with the proceeds of tax-exempt bonds (the 50% Test) issued by the DC Housing Finance Agency (DCHFA), Sponsors/Developers qualify to apply for noncompetitive 4% Tax Credits. If the 50% Test is not met, Sponsors/Developers may be eligible to receive LIHTC on the portion of the qualified basis financed with the bonds.

To receive 4% Tax Credits, Sponsors/Developers must first apply to DCHFA. Consistent with an inter-agency agreement between DHCD and DCHFA, before the project closes on the tax-exempt bonds, DCHFA submits the application to DHCD for the allocation of tax credits. DHCD oversees the determination that the project complies with the QAP's Threshold Eligibility Requirements and is awarded tax credits in the minimum amount necessary for the project's financial feasibility, but relies on the DCHFA underwriting of tax-exempt bond projects and accepts DCHFA's determinations. Applications are accepted on a rolling basis and should be submitted directly to DCHFA:

District of Columbia Housing Finance Agency  
815 Florida Avenue, NW  
Washington, DC 20001  
Phone: 202-777-1600

ATTN: Senior Vice President, Multifamily Lending and Neighborhood Investment

After the project is placed in service, the owner submits an application to DCHFA for the IRS Form(s) 8609. DCHFA evaluates the request and transmits the request for IRS Form(s) 8609 to DHCD for final review and issuance. The submission package for an IRS Form(s) 8609 for 4% Tax Credits must include a 50% Test prepared by the project's CPA.

## Set Aside

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### Non-Profit Set-Aside

As required by federal law, a minimum of 10% of the per capita State Ceiling must be set-aside exclusively for projects developed by qualified non-profit Sponsor/Developers. To be eligible to receive a reservation from this set-aside, Sponsor/Developers must show that they will meet the following federal requirements throughout the Compliance Period:

1. must be an organization described under IRC Sections 501(c)(3) or 501(c)(4) and exempt from tax under IRC Section 501(a) or be a wholly owned subsidiary of a qualified non-profit organization;
2. must have as one of its tax-exempt purposes the fostering of low income housing;
3. must own a controlling interest in the project either directly or through a partnership;
4. must materially participate in the project's development and operation through regular, continuous, and substantial actions; and
5. must not be affiliated with or controlled by a for-profit organization.

Reservations from the non-profit set-aside are permitted when a partnership between non-profit and for-profit entities exists, only if each organization is independently controlled and operated, the non-profit materially participates in the project's development and operations, and the non-profit maintains a controlling interest in the project through the partnership structure (e.g. non-profit or an affiliate of the non-profit is the managing member of the general partner of the limited partnership, or the managing member of the limited liability company, as applicable, that owns the project).

Eligible LIHTC projects under non-profit control are eligible for property tax and recordation tax exemption pursuant to the Nonprofit Affordable Housing Developer Tax Relief program under DC Code section 47-1005.02 ("Tax Relief Program") and, specifically subsection (b)(1), as amended by the Tax Clarification Amendment Act of 2013, subject to final determination by the DC Office of Tax and Revenue. Applications for the aforesaid tax exemption should be made to DHCD.

### Director's Special Initiatives Program

The DHCD Director may use up to 25% of any annual per capita allocation and 25% of any unallocated carryover of a prior year allocation as a Director's Special Initiatives program for stimulating development in any targeted area including economic opportunity targeting, or other special initiatives in line with Department priorities as outlined in the Affordable Housing RFP, the Consolidated Plan, and the Annual Action Plan.

## Threshold Eligibility Requirements

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Projects for both the 9% Tax Credit and the 4% Tax Credit must meet all of the Threshold Eligibility Requirements defined in this QAP, and as clarified in the current Affordable Housing RFP. The Threshold Eligibility Requirements are intended to eliminate projects that do not meet basic program guidelines and to ensure that LIHTC are reserved for projects that are viable and in compliance with District and federal requirements.

Projects that do not meet the Threshold Eligibility Requirements, as evidenced by a fully completed application with accompanying attachments, will not be rated and ranked during competitive rounds. Projects applying for non-competitive 4% Tax Credits with no additional DHCD gap financing must also meet Threshold Eligibility Requirements. In addition, all projects must fully comply with all requirements in IRC Section 42, and all 4% Tax Credit projects must comply with DCHFA's Mortgage Revenue Bond Program (MMRB) guidelines. For more information on MMRB guidelines visit [www.dchfa.org](http://www.dchfa.org).

The Threshold Eligibility Requirements are summarized in the following table and detailed below. Eligible project types include Production and Preservation, defined as follows:

- **Production projects** are new construction projects or projects that rehabilitate vacant buildings. Five percent of funded units in a Production project, and no less than one unit, must be reserved and operated as Permanent Supportive Housing (PSH).
- **Preservation projects** include the acquisition and rehabilitation or one-for-one, on-site replacement of existing, occupied housing where affordability will be preserved for existing low-income residents. The property may have an existing and expiring affordability deed restriction or operating subsidy, or it may currently be a market-rate project that provides naturally occurring, unsubsidized affordable housing to low-income tenants.

THRESHOLD ELIGIBILITY REQUIREMENTS	Applicable?	
	Production	Preservation
<i>Project Criteria</i>		
Basic Eligibility	✓	✓
Permanent Supportive Housing	✓	NA
Site Control	✓	✓
Entitlements and Development Review	✓	✓
<i>Financial Criteria</i>		
Development Budget and Operating Proforma	✓	✓
Financing Letters	✓	✓
Financial Information for Operational Projects	NA	✓
<i>Applicant Criteria</i>		
Development Team Thresholds	✓	✓
<i>Reports and Plans</i>		
Appraisal	✓	✓
Market Study and Market Demand Analysis	✓	✓
Environmental and Physical Needs Assessments	✓	✓
Architectural Plans and Cost Estimates	✓	✓
<i>Compliance Criteria</i>		
Green Design and Building	✓	✓
Community Engagement	✓	✓
Relocation and Anti-Displacement Strategy	✓	✓
General Compliance	✓	✓
<i>LIHTC-Specific Requirements</i>		
Year 15 Plan	✓	✓

## **Project Criteria**

### **Basic Eligibility**

Projects must involve new construction, acquisition, or rehabilitation. For projects involving rehabilitation, the rehabilitation costs must be the greater of:

- \$7,000 per unit for calendar year 2019 (subject to annual increase); or
- 20% of the adjusted basis of the building(s).

This minimum rehabilitation requirement must be met within the two years preceding the placement in service date. For projects receiving acquisition tax credits for existing projects, DHCD may, as a condition for a reservation of tax credits, require the Sponsor/Developer to provide a legal or Certified Public Accountant's opinion regarding the project's satisfaction of the requirements of IRC Section 42(d)(2)(B)(ii) (that is, the 10-year rule) or exemption thereunder.

Projects also must meet the following minimum occupancy restrictions, restricted rent levels, and project size limitations.

- a. Minimum Occupancy Restrictions: At a minimum, Sponsor/Developers must elect that either:
- 20% of the units in the project or more must be rented to families with incomes at 50% or less of AMGI;
  - 40% of the units in the project or more must be rented to families with incomes at 60% or less of the AMGI; or
  - 40% of the units in the project or more are rent-and-income-restricted to families with incomes at 80% or less of the AMGI, as long as the average does not exceed 60% of AMGI (known as the “Average Income” minimum set-aside, or “Income Averaging”).

The minimum set-aside election is irrevocable once made on IRS Form(s) 8609. Income Averaging will be considered for projects that have not yet requested issuance of IRS Form 8609(s) on a case-by-case basis by DHCD and/or DCHFA, as applicable. Applicants that elect the Income Averaging minimum set-aside shall comply with the following restrictions and requirements:

- 100% of the units are LIHTC-eligible, except for preservation projects with current tenants with documented income above 80% of AMGI.
- Income and rent levels shall be limited to the four following income bands: 30% of AMGI, 50% of AMGI, 60% of AMGI, and 80% of AMGI
- The average income of the units shall be limited to 59% AMGI.
- At least 10% of the units must be restricted at 30% AMGI.
- Applicants must provide reasonable parity between unit size and buildings, as applicable, at each income band.
- All buildings in the project shall be included as one multiple building project, as referenced on line 8b of IRS Form 8609, except on a case-by-case basis.
- 4% Tax Credit projects that elect the Income Averaging minimum set-aside will still be required to meet either the 20/50 or 40/60 minimum applicable to tax-exempt bond financing.

DHCD reserves the right to allow exceptions to these requirements on a case-by-case basis.

- b. Maximum Rent Levels: Low-Income Units in the project must be rent restricted as defined by IRC Section 42(g)(2) for a period of 30 years (the Compliance Period of 15 years and an extended use period of 15 years, for a total period of 30 years). Before DHCD issues the IRS Form(s) 8609, the Sponsor/Developer must provide evidence that the Land Use Restrictive Covenants has been recorded in the land records.

## **Permanent Supportive Housing**

For new construction rental projects—and rental projects that rehabilitate existing, vacant buildings—at least 5% of the units, and no less than one unit, must provide PSH as defined in this QAP.

For projects that preserve existing housing and also add net new units, the PSH set-aside requirement will apply only to the new units created.

Applicants must certify the number of PSH units proposed and acknowledge the District's PSH requirements (in a format specified in the Affordable Housing RFP and Online Application System). PSH units that are used to meet the 5% set-aside requirement must follow the Housing First model and fill vacancies through the Coordinated Entry System (as defined in the Affordable Housing RFP).

## **Site Control**

Applicants must have control of the site proposed for development. This may be in the form of:

- a current deed evidencing fee simple ownership;
- a lease option (lease term must be equal or greater than the proposed financing term);
- a land or property disposition agreement (LDA or PDA) executed with the District of Columbia; or
- a contract of sale.

At the time of application, site control **MUST** extend for at least 180 days beyond the date of the application submission or be demonstrably renewable so site control can extend through the 180-day period.

## **Entitlements and Development Review**

The applicant must demonstrate that the proposed development is matter of right, or that applicable zoning approvals have been applied for. For any proposed project that requires a more substantial zoning decision or design review, the Map Amendment application, Stage 2 Planned Unit Development (PUD) application, Design Review application, or consolidated PUD application is required to have been submitted to the Zoning Commission before application submission.

If a project is in a Historic District or requires approval from the Historic Preservation Review Board (HPRB) for any other reason, HPRB approval of the conceptual design is required before application submission.

## ***Financial Criteria***

### **Development Budget and Operating Proforma**

The financial component of this application will be submitted using the most recent multi-tab

spreadsheet titled “Form 202 – Application for Financing” (Form 202) that will be provided by DHCD (available within the Online Application System). Applicants will use this workbook to present the details of their proposal, such as the development budget, operating pro-forma, tax credit calculations and unit information, including an AMGI designation by unit size, which will be recorded in the Land Use Restrictive Covenant(s). Budgets must comply with the current version of DHCD’s Underwriting Guidelines, which are defined in this QAP and in each Affordable Housing RFP.

Projects that use 4% Tax Credits also must meet DCHFA’s underwriting standards. Applications for DCHFA financing only, without DHCD gap funding, must be submitted directly to DCHFA outside of the Online Application System. DCHFA will provide applicants with more detailed guidance on how to submit an application and what documents to include.

### **Financing Letters**

Applicants must submit letters of interest or letters of commitment from all participating lenders and investors. Applicants intending to utilize the third minimum set-aside for Income Averaging must submit written acknowledgment from the LIHTC investor/syndicator of this intention.

### **Financial Information for Operational Projects**

For existing and occupied buildings/properties ONLY, additional information is required to describe the project’s current status, including;

- the current debt structure;
- any operating subsidies currently available to the project;
- any supportive services currently provided;
- the current occupancy, and
- project financials.

The applicant must provide audited financial statements for the prior three fiscal years of project operations. If audited statements are not available, then three fiscal years of un-audited year-end financial statements AND three corresponding years of certified federal income tax returns of the project must be submitted.

Projects applying through the Affordable Housing RFP must provide documentation of all existing loans secured by the property, including DHCD loans, and a proposed flow of funds for the recapitalization of existing properties.

## ***Applicant Criteria***

### **Development Team Thresholds**

The applicant must have the development team in place and provide complete information and documentation on its members. At a minimum, the following team members must be identified:

- Owner (including all parties involved in the partnership or limited liability company, as applicable)

- Guarantor(s)
- Developer
- Development or Financing Consultants (if applicable)
- Architect
- General Contractor
- Construction Manager (if applicable)
- Management Agent
- Resident/Supportive Services Provider (if applicable)

Applicants may indicate that they have not yet selected a General Contractor or a Management Agent, though doing so will reduce their score in the Development Team Capacity and Experience section of the Selection Criteria.

At least one of the following key team members - Owner, Developer, or Development or Financing Consultant - must have prior experience completing affordable housing projects of a similar type and scope as the project being proposed.

### **Forms and Attachments**

An extensive series of forms and attachments must be completed and submitted for each member of the development team, including corporate documents, qualifications, resumes, references, organizational charts, workload descriptions, AIA documents, and financial statements.

### **Clean Hands Certificate**

Core development team members will be required to submit a Clean Hands Certificate and a Certificate of Good Standing issued by the District of Columbia.

### **Legal/Compliance Issues**

Within the past five years, no member of the development team acting as sponsor, developer, guarantor, or owner may have been debarred, removed as general partner or managing member, as applicable, had chronic past due accounts, substantial liens or judgments, chronic housing code violations, excessive tenant complaints, failed to receive IRS Form(s) 8609 for a completed project, or consistently failed to provide information to DHCD about other loan applications or existing developments. Their history regarding substantial liens, defaults, judgments, foreclosures, and/or bankruptcies must be disclosed and found acceptable to DHCD.

Development team members must be in compliance with all existing and prior agreements with DHCD and/or the District of Columbia, including major health, safety and building codes. Development team members may not have had a tax credit award terminated by DHCD within the past three years, and the proposed property management company must not have received an unsatisfactory rating from DHCD or the U.S. Department of Housing and Urban Development (HUD).

### ***Contract Affidavit***

All development team members must sign and submit a Contract Affidavit certifying that they: (1) are not debarred from participation in any federal program; (2) do not have any unresolved default or noncompliance issues with the District of Columbia; and (3) meet the legal/compliance standards outlined above.

## ***Reports and Plans***

### **Appraisal**

Applicants must submit three valuations, which can be submitted together in a single report or as separate reports. A licensed appraiser must provide the following values:

- The “as-is” value
- The “as-built” or “as-complete” value, assuming restricted rents
- The “as-built” or “as-complete” value, assuming unrestricted, market-rate rents

The “as is” appraisal must provide a value of the land and improvements in their current state. The “as built” appraisals must contain post-construction estimates of value (based on the project concept as proposed to DHCD) under two sets of circumstances: (1) assuming rents restricted to the AMGI limits proposed to DHCD; and (2) assuming market-rate rents (in the event of foreclosure). If the property includes existing improvements that will be demolished as part of the development plan, the appraisal must take the cost of demolition into consideration for an “as vacant” land value.

Appraisals must have been completed no more than six months prior to the application deadline. For selected projects, the appraisals must not be more than one year old at the time they are submitted to the Office of Program Monitoring (OPM) for compliance review, so an update may be required at that point. For all projects, appraisals (or the most recent update) must be no more than 120 days old at the time of closing. Any updated reports or studies requested by DHCD post-selection must be procured and returned promptly, and applicants should budget for these costs now.

### **Market Study and Market Demand Analysis**

Applications must include a market study prepared by an independent professional who has experience with tax credit housing in the District of Columbia. Market studies should be performed following the requirements of IRC Section 42(m)(1)(A)(iii) and should be no more than six months old at the date of application submission. The market study must adhere to the current National Council of Housing Market Analysts (NCHMA) Model Content Standards. The Applicant must provide documentation that demonstrates sufficient market demand and need for the project.

### **Environmental and Physical Needs Assessments**

Applicants must include a completed Phase I Environmental Site Assessment, which must have been completed no more than two years prior to the application submission deadline. If the property contains existing improvements, the scope of the Phase I Assessment must include the identification of: (1) of possible asbestos containing materials; and (2) potential mold hazards (destructive testing not required).

If the property includes an existing structure that will not be deemed exempt due to age or usage, applicants also must submit a lead assessment. For selected projects, the Phase I must not be more than one year old when they are submitted to OPM for compliance review, so an update may be required at that point. Any updated reports or studies requested by DHCD post-selection must be procured and returned promptly, and applicants should budget for these costs now.

If the Phase I identifies any potential environmental hazards, applicants must include a narrative plan to address the issues and a budget for remediation. If a Phase II has been completed, that document must also be provided.

For projects that involve the rehabilitation of existing buildings, applicants also must provide a Building Evaluation Report, which is a preliminary engineering assessment of the buildings. In rehabilitating properties, developers may encounter unforeseen issues that can delay, increase the cost of, or even halt rehabilitation. To avoid this, DHCD requires that an engineer or other qualified professional complete an assessment of the property. A Capital/Physical Needs Assessment or a Property Conditions Needs Assessment will satisfy this requirement.

For projects that involve the rehabilitation of existing buildings, applicants must submit the Property Code Compliance report from the Department of Consumer and Regulatory Affairs (DCRA) [Property Information Verification System \(PIVS\) website](#).

### **Architectural Plans and Cost Estimates**

Applications must submit final design schematics documents that reflect the general intent of the project, generally delineate the proposed project scope and contain the following:

- Final Schematic scope of work narrative, architectural plans and materials specifications sufficient to create a detailed cost estimate.
- Complete Form 215 detailed estimates of costs based on “take-offs” from those plans, completed and signed by a qualified professional such as an architect, general contractor, engineer or professional construction cost estimator. “Rule of thumb” square foot costs or other non-detailed cost estimates are not acceptable, and a Form 215 completed and signed by the developer will not be accepted.

## ***Compliance Criteria***

### **Green Design and Building**

In accordance with the Green Building Act of 2006, the application must meet certain standards relative to green design and building, which apply to all projects for which public financing constitutes 15 percent or more of Total Project Costs. Public financing includes the private equity raised through the syndication of LIHTCs. Per DHCD requirements, all projects must implement the following green building requirements for new construction, substantial rehabilitation or moderate rehabilitation.

Financed projects must be certified by Enterprise Community Partners using the current edition of the Enterprise Green Communities Criteria. Projects also may pursue a

“substantially similar standard.” Currently, certification with the U.S. Green Building Council using LEED for Homes and LEED for Homes Multifamily Midrise rating systems at the Silver level or above are pre-approved “substantially similar standards.” If a project team would like to use another standard, it must be pre-approved by DCRA’s Green Building Division before submission.

For projects pursuing Green Communities Criteria certification, project teams must hold a Goal Setting and Integrated Design Charrette prior to application to consider the most cost-effective ways to integrate required green design elements. The findings of this charrette must be documented and submitted along with confirmation of Enterprise Green Communities Criteria registration on the online certification portal and an intended methods checklist. As a condition precedent to loan closing, project teams must submit proof of Enterprise Green Communities Step 1 Pre-Build certification. Once construction is complete, projects must demonstrate that they have achieved certification.

All projects must either include solar panels, qualify as a Solar Ready Building as defined by the US Department of Energy, or provide an explanation as to why the project is not pursuing Solar Ready status at this time. Please refer to the Affordable Housing RFP for additional guidance on meeting this requirement.

### **Community Engagement Plan**

The District is committed to the development of affordable housing across all areas of the city in an equitable and transparent manner. DHCD expects applicants to inform the surrounding community about the planned project and develop a community engagement plan (in a format specified in the Affordable Housing RFP and Online Application System). If the planned project includes the preservation of existing housing, the engagement plan should also address communications with current residents. The plan should include the following:

1. A description of the activities and strategies completed to date that demonstrate the applicant's efforts to engage current residents (if applicable).
2. A description of the applicant’s post-selection approach and strategies for engaging residents (if applicable), the local community, and other stakeholders.

Approval or letters of support by the Advisory Neighborhood Commission (ANC) or other community groups will not be considered as part of the application.

### **Relocation and Anti-Displacement Strategy**

For existing and occupied buildings/properties that result in the temporary or permanent displacement of current occupants, including commercial tenants, the applicant must submit a Relocation and Anti-Displacement Strategy. This strategy (due with the application) provides the groundwork for the Relocation and Anti-Displacement Plan (due before the issuance of a Letter of Commitment for financing). All projects financed with LIHTCs in the District of Columbia will be held to the standards of the Uniform Relocation Act and the District’s Rental Housing Act.

Instances where a strategy and plan are required include the following, regardless of funding source:

- tenants will be required to move to facilitate the building’s rehabilitation, even if they are moved to other units within the same building or complex;
- demolition of existing dwelling or commercial units or buildings that are occupied at the time of acquisition or at the time the applicant executes a legal instrument that demonstrates site control; or
- tenants will be displaced because the proposed rents are not affordable.

### **General Compliance**

Each applicant must demonstrate that the project is, and will be, in compliance with all applicable federal and local rules and regulations. A more detailed listing of applicable laws and regulations will be provided in the Affordable Housing RFP.

### ***LIHTC-Specific Requirements***

#### **Year 15 Plan**

Each applicant must present a clear plan for the project at the end of the initial 15-year Compliance Period. The plan must include support and rationale for the following decision points:

- The exit strategy for the limited partner or investor member, as applicable, and the anticipated ownership changes.
- Any anticipated refinancing, resyndication, or sale to a third party.
- How affordability will be maintained through the 30-year extended affordability period.

Applicants must agree to maintain the 30-year extended affordability period by waiving their right to seek a qualified contract for the project purchase after the 14th year of the Compliance Period.

## Selection Criteria

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All projects that apply for 9% Tax Credits and meet the Threshold Eligibility Requirements will be competitively evaluated, rated and ranked based on pre-determined selection criteria, established in accordance with federal law and the District's housing priorities and needs. The Selection Criteria is defined in this QAP, and may be further clarified in the Affordable Housing RFP. Selection Criteria is divided into two portions: Underwriting Scoring and Prioritization Scoring.

### Underwriting Scoring

A total of 100 points are available in the Underwriting Scoring portion of the selection criteria. Applications will be evaluated against the criteria in the table below:

SELECTION CRITERIA	
UNDERWRITING SCORING	Potential Points
Financial and Economic Feasibility	35
Development Team Capacity and Experience	30
Site Selection and Design Characteristics	5
Acquisition Cost Reasonableness	5
Compliance with DHCD Cost and Funding Guidelines	15
Leverage	10
<b>Underwriting Scoring Subtotal</b>	<b>100</b>

#### *Financial and Economic Feasibility (Maximum 35 Points)*

The Financial and Economic Feasibility score is a composite of several factors listed below. Applications will be scored on the sub-criteria below, and the scores will be summed.

- **Form 202 - Application for Financing:** Maximum points will be awarded to proposals that submit Form 202 containing a realistic set of sources and uses, development budget, and pro forma operating budget. Budgets and tax credit requests must be based on solid assumptions (operating expenses, development costs, vacancy rate, debt service coverage ratios, LIHTC raise rates, funding levels for reserves, etc.). Form 202 must demonstrate that all uses and financing sources are appropriate for the proposed project. Projects that have proposed uses that are associated with dedicated third-party funding sources must include those sources in the Form 202. For example, all viable green financing/funding sources. Letters of interest with terms and conditions are submitted from multiple lenders and investors (at least two, but no more than three) for each proposed financing source, to demonstrate competitiveness of private loan and syndication terms. If multiple alternative financing scenarios are presented, letters of interest substantiate each.
- **Timeline:** Maximum points will be awarded to projects that have a strong likelihood of proceeding into construction within 180 days of being selected for further underwriting by DHCD, based on the timeline, narrative, and supporting documentation.

- **Architectural Plans:** Maximum points will be awarded to applicants that submit construction plans and documents that are permit-ready and have a construction budget that is aligned with the plans. The plans reflect all design characteristics committed to in this application, such as unit mix, green building and accessibility features. The construction budget has been prepared and signed by the general contractor.
- **Firm Financing Commitments:** Maximum points will be awarded to applicants that submit Final Letters of Commitment from all other participating financial sources. Rates and terms have been locked in and lenders are ready to close as soon as DHCD commits to funding the final gap.

*Development Team Capacity and Experience (Maximum 30 Points)*

Development teams will be evaluated on their experience with and performance on comparable projects, on past performance, and on their capacity to deliver the proposed project and maintain long term viability and compliance. Applications will be scored on the sub-criteria below, and the scores will be summed.

- **Sponsor/Developer/Owner Capacity and Experience:** Maximum points will be awarded to applicants (owner, borrower, sponsor, developer, guarantor) that have the financial and workload capacity to make this project a top priority and execute it on an accelerated timeline. The lead developer (and co-developer and/or development consultant, if applicable) demonstrates an exemplary track record in projects of similar size, scale, type, and complexity to the proposed project.
- **General Contractor Capacity and Experience:** Maximum points will be awarded to applicants that have selected a general contractor that: (1) demonstrates an exemplary track record in projects of similar size, scale, type, and complexity to the proposed project; and (2) has the capacity and experience to deliver the project on time, on budget, and to the highest quality standards, while maintaining compliance with applicable regulations such as Davis-Bacon and the Green Building Act.
- **Management Agent Capacity and Experience:** Maximum points will be awarded to applicants that have selected a management agent that demonstrates a successful track record in projects of similar size, scale, type, and complexity to the proposed project, including a demonstrated ability to maintain ongoing compliance over the life of a project.
- **Architect/Construction Manager Capacity and Experience:** Maximum points will be awarded to applicants that have selected an architect that: (1) demonstrates a successful track record in projects of similar size, scale, type, and complexity to the proposed project; and (2) has the capacity and experience to ensure that the proposed design is compliant with all applicable regulations, such as the Green Building Act, accessibility standards, zoning, and historic preservation. The architect and/or construction manager have/has the capacity and experience to provide project oversight to guarantee that it is delivered on time, on budget, and to the highest quality standards.

- **Overall Team Past Performance:** The past performance of existing projects in the development team’s portfolio will be critically evaluated with consideration for any legal/noncompliance matters. Development team is defined to include the Sponsor/Developer/Owner, Management Agent, other named team members, and any related parties/affiliates. Maximum points will be awarded to teams based on the number of eligible affordable housing projects developed of similar size, scale, type, and complexity as the proposed project; and affordable housing units managed, with a preference for District of Columbia projects.

*Site Selection and Design Characteristics (Maximum 5 Points)*

Site selection and project design must meet the needs of the occupants with appropriate unit design and onsite amenities. Maximum points may be awarded to projects that meet the following criteria and others as specified in the Affordable Housing RFP: Site selection is desirable for the proposed project and planned use(s); the project's construction/rehabilitation scope of work is appropriate for the anticipated needs of the target population(s); and the site design, amenities, and unit design are innovative and specifically tailored for the project’s target population(s).

*Acquisition Cost Reasonableness (Maximum 5 Points)*

Proposed property acquisition costs must be reasonable and may not exceed the property’s fair market value as evidenced by an appraisal. DHCD will determine reasonableness through an analysis of the appraisal, the proposed flow of funds, and by comparison of recent DHCD-funded projects in similar locations and for uses similar to those proposed in the application. DHCD reserves the right to request a second appraisal. For projects where the property has already been acquired, acquisition cost reasonableness will be based on the original purchase price plus reasonable carrying and settlement costs.

*Compliance with DHCD Cost and Funding Guidelines (Maximum 15 Points)*

Maximum points will be awarded to projects that follow DHCD’s Underwriting Guidelines, including construction cost, soft cost, and operating cost guidelines that are updated periodically and will be specified in the Affordable Housing RFP. The purpose of these requirements is to ensure efficient use of DHCD funds and thus enable DHCD to serve more households with its finite amount of subsidy funds. A number of these guidelines are firm requirements and cannot be waived. In other instances, projects may be outside a certain guideline but their score will be negatively impacted.

*Leverage (Maximum 10 Points)*

This will measure the extent to which DHCD Tax Credit Allocation Amount and additional loan funds (if requested) are leveraged with other public and private resources by calculating the percentage of the total development cost that is funded by DHCD. To maximize points on this criterion, applicants should pursue alternative financing sources that reduce DHCD’s investment in the project, such as private grants or soft debt, PACE financing, Housing Assistance Payment contracts, property tax abatements/exemptions, etc. In mixed income buildings, applicants may use surplus cash flow from the market rate units to cross subsidize the affordable units and improve their leverage ratio.

**Prioritization Scoring**

A total of 100 points are available in the Prioritization Scoring portion of the Selection Criteria. Applications will be evaluated against the criteria in the following table:

<b>PRIORITIZATION SCORING</b>	
<i>Demographic Criteria</i>	Potential Points
Permanent Supportive Housing	10
Resident Services Plan	3
Family-Oriented Units	10
Special Populations	5
Income Levels Served	7
Section 8 and Public Housing Waiting Lists	1
<i>Applicant Criteria</i>	
Non-Profit Participation and Right of First Refusal	5
TOPA Preference	5
<i>Location Criteria</i>	
Transit Proximity	3
Opportunity Zones	1
Economic Opportunity Targeting	17
<i>Maximizing Impact of DHCD Resources</i>	
Preservation	5
Mixed-Income	10
Preference for Projects with District Land	8
Green Building	5
Affordability Period Restriction	5
Prioritization Scoring Subtotal	100

## ***Demographic Criteria***

**Permanent Supportive Housing (Maximum 10 Points)** The 5% PSH set-aside is a Threshold Eligibility Requirement for all non-preservation projects, but projects also may earn priority points by creating additional PSH units beyond the minimum number required. These prioritization scoring points are available to both production and preservation projects. Maximum points will be awarded to projects that set aside at least 20% of the funded units as PSH units.

The scoring preference for PSH units is guided by Chapter V of the Interagency Council on Homelessness' (ICH) 2015-2020 strategic plan, titled *Homeward DC*.

### **Resident Services Plan (Maximum 3 Points)**

Up to three prioritization scoring points are available for projects proposing high-quality, property-wide resident services. Such services are in addition to the PSH case management services that serve a limited resident population with more intensive needs. Maximum points will be awarded to projects with a resident services plan that is complete, thorough, and specifically tailored to the needs of the project and resident population.

### **Family-Oriented Units (Maximum 10 Points)**

Points will be awarded to projects in which a higher percentage of units have three or more bedrooms. Partial points may be awarded to projects that set aside a certain percentage of units that have two or more bedrooms.

### **Special Populations (Maximum 5 Points)**

In alignment with the Age-Friendly DC Task Force recommendations, prioritization scoring points will be awarded for projects that include units designed and reserved for seniors (55+), including assisted living and intergenerational housing units. Maximum points will be awarded to projects that reserve at least 80% of the units for seniors (55+), and in which all senior units meet the universal design standards.

Prioritization points will also be awarded to projects with at least 30% of the units meeting Type A accessibility requirements. Type A units are adaptable units that can allow seniors and others with mobility issues to age in place. Type A units must meet the requirements as defined in Chapter 11 of the 2013 District of Columbia Building Code:

<https://codes.iccsafe.org/content/chapter/9182/>.

Prioritization scoring points are also available for projects that include units designed and reserved for visual or musical artists. Projects are eligible to receive no more than five points for Special Populations (that is, if points are maximized in one category, no additional points will be awarded in the other). The required market study must demonstrate sufficient demand for any units that are restricted to a specific population.

### **Income Levels Served (Maximum 7 Points)**

This measure evaluates the weighted average of the income levels served for units proposed to be funded by DHCD, with a preference for projects serving lower incomes. This criterion

applies to both preservation and production projects. Maximum points will be awarded to projects that target a weighted average Area Median Gross Income (AMGI) less than or equal to 40%. For example, a project with an equal mix of 30% AMGI and 50% AMGI units funded by DHCD.

### **Section 8 and Public Housing Waiting Lists (Maximum 1 Point)**

Prioritization scoring points will be given for projects in which leasing preference is given to households on the public housing or Section 8 waiting list maintained by the DC Housing Authority (DCHA).

## ***Applicant Criteria***

### **Non-Profit Participation and Right of First Refusal (Maximum 5 Points)**

This score will be determined from the applicant's response to the development team member section of the online application. Points will only be awarded for projects in which a Qualified Non-profit Organization materially participates (that is, has an ownership interest and decision-making role) in the development and operation of the project. Points will be awarded for projects in which a Qualified Non-profit Organization is the managing member of the general partner, the Qualified Non-profit Organization holds an ownership interest of 51 percent or more of the general partner or managing member, as applicable, of the Ownership Entity, and will have a right of first refusal to purchase the project at the end of the Compliance Period based on IRC Section 42(i)(7). All LIHTC projects in which a Qualified Non-profit Organization is managing member of the general partner or managing member, as applicable, of the Ownership Entity, can apply to participate in the Tax Relief Program. The real property tax and recordation exemption offered through this program should be reflected in the Form 202 for LIHTC projects receiving 5 points in this category.

To obtain points under this preference, the applicant must sign or intend to sign before closing an agreement between the owner and qualified non-profit organization. All rights of first refusal granted to qualified non-profit organizations under this preference are subject to the requirements of the Tenant Opportunity to Purchase Act (TOPA) and the District's Opportunity to Purchase Amendment Act of 2008, DC Law 17-286 (DC Code §42-3404.31 *et seq.*), as either the same may be amended from time to time.

### **TOPA Preference (Maximum 5 Points)**

Projects proposed by or in partnership with tenant groups that exercised their TOPA rights to purchase their building will receive preference under this criterion. If the proposed development increases the number of units originally acquired by the tenants or their assignee, partial points may be awarded.

## ***Location Criteria***

### **Transit Proximity (Maximum 3 Points)**

This item awards priority scoring points to projects that are located within 1/4 mile of a

Metrorail station or DC Streetcar stops, as evidenced by using the following website: <http://arcg.is/1OChwCA>. Maximum points will be awarded to projects located within 1/4 mile of a Metrorail station or a DC Streetcar stop. No points are awarded based on proximity to a bus line.

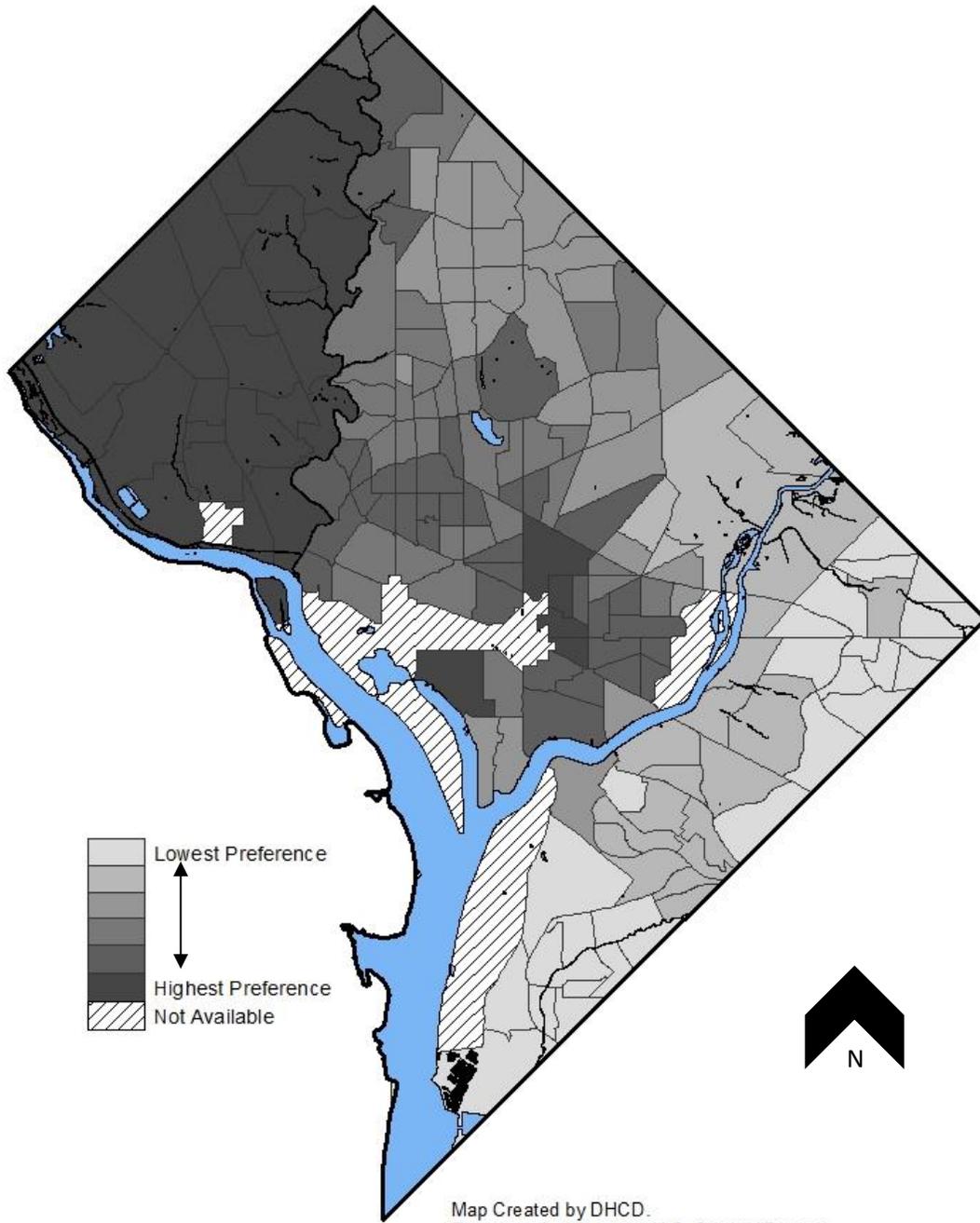
**Opportunity Zones (Maximum 1 Point)**

**A prioritization point will be awarded to projects located in Opportunity Zones as designated by the District and certified by the U.S. Department of Treasury. Refer to the following website for more information on the 25 census tracts that have been certified as Opportunity Zones: <https://dmped.dc.gov/page/opportunity-zones-washington-dc>.**

**Economic Opportunity Targeting (Maximum 17 Points)**

This criteria awards preference points for projects based on location. DHCD seeks to create more affordable housing in high opportunity neighborhoods, those with characteristics such as low-crime, low-poverty, and access to high quality schools and jobs. Another goal of this preference is to disperse the District's affordable housing supply more equitably across neighborhoods and Wards, and to provide a counterbalance to the implicit incentive for developers to build affordable housing in low-cost and high poverty neighborhoods. The map provided in Exhibit A on the subsequent page categorizes D.C. Census Tracts into six zones, based on housing costs and planned development. More points will be awarded to projects located in areas of higher economic opportunity. Applicants should use the interactive map provided in the Online Application System through the Affordable Housing RFP to determine in which zone their project is located.

# Exhibit A: Economic Opportunity Targeting Map



Map Created by DHCD.  
Based on data from the U.S. Census Bureau  
2013-2017 ACS 5-year estimates and  
WDCEP 2018 Development Pipeline.

## ***Project Criteria***

### **Preservation (Maximum 5 Points)**

Prioritization scoring points will be awarded to preservation projects.

### **Mixed-Income (Maximum 10 Points)**

Maximum points will be awarded for projects that include market-rate units and affordable units serving a variety of household income levels in the same project as defined below. The affordable and market rate units must be equitably distributed within the development in order to comply with federal fair housing regulations and the mix must be achieved within a single building with a shared entrance. Applicants proposing market rate units must be aware that none of DHCD's gap financing sources that might be made available in conjunction with tax credits can be used to subsidize market rate units (directly or indirectly). Therefore, applicants must demonstrate that there is sufficient interest from market-rate lenders and investors to fully finance any market rate units.

1. Inclusion of market-rate units: A maximum of five prioritization scoring points will be awarded to projects that integrate affordable units with market rate units within the same project. For the purposes of this section, market rate units developed in a condominium structure will count as created within the same project. To achieve points, the percent of market rate units must be between 20% to 80% of the total units, and the affordable and market rate units must be equitably distributed within the development in order to comply with federal fair housing rules.

These five points only relate to a mix of affordable and market-rate (unrestricted) units and not a mix of affordable units serving varying AMGI levels. For example, a 100% affordable building that is part of a larger site mixed-income redevelopment would not qualify for this preference.

2. Providing units for a range of AMGI levels: A maximum of five prioritization scoring points will be awarded to projects that propose a mix of affordable units serving varying AMGI levels and market rate units within the same project. To achieve points, a minimum of 10% of units must be proposed in each of the following income categories:
  - 0% to 30% AMGI
  - 31% to 50% AMGI
  - 51% to 80% AMGI
  - Market-rate (unrestricted, unsubsidized)

### **Preference for Projects with District Land (Maximum 8 Points)**

Projects will receive a five point preference if: (1) they are part of the redevelopment of a site formerly owned by the District of Columbia; (2) the site was awarded to the applicant through a competitive disposition process; and (3) the project is being developed on the site that was awarded. This includes dispositions managed by DHCD's Property Acquisition and Disposition Division (PADD), the Deputy Mayor for Planning and Economic Development (DMPED), and the DCHA, among others.

### **Green Building (Maximum 5 Points)**

Preference points will be awarded projects that go beyond the minimum threshold Green Building Act requirements and commit to achieving specific certifications defined below. Any project claiming this preference must demonstrate the capacity and experience to achieve certification. Also, the architectural plans and project budgets (development and operating) submitted in the application must reflect the commitment to certification. Maximum points will be awarded to applicants that design and construct their project to achieve International Living Future Institute's Zero Energy Building certification or Passive House (PHI or PHIUS standards).

A lesser number of points will be awarded to projects that demonstrate that they will meet: (1) DOE Zero Energy Ready Home; (2) LEED certification at the Platinum level; or (3) achieve a HERS index score of 70 or lower, or Energy Star version 3.0 certification. Option 3 is for preservation projects only.

### **Affordability Period Restriction (Maximum 5 Points)**

Applications documenting that the owner will maintain the low-income units in compliance for a designated period beyond the standard 15-year extended use period after the initial 15-year Compliance Period will be awarded prioritization scoring points. Maximum points will be awarded to projects that commit to affordability in perpetuity.

### ***Other Required Selection Criteria***

DHCD also will consider aspects of a project that relate to eventual tenant homeownership and the historic nature of the project, but DHCD has not attributed specific points to these categories.

## Underwriting Guidelines

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Projects that have met the Threshold Eligibility Requirements that have been rated and ranked against the selection criteria also will be evaluated to determine the LIHTC amount that is needed for the project's feasibility and viability. DHCD will calculate the maximum LIHTC for which projects are eligible and the minimum required LIHTC needed for feasibility and viability.

Sponsor/Developers will be required to file an updated development budget, operating pro forma, and tax credit calculation worksheet at each stage of the tax credit process. In addition, the Sponsor/Developer must supply all information and supporting documentation requested by DHCD for the purposes of evaluating: (1) the development team capacity; (2) the project's financial and economic feasibility; and (3) the project's ability to comply with all applicable federal and local regulations.

Projects are subject to the specific underwriting guidelines outlined in this QAP, listed below, and as supplemented by those items identified in the Affordable Housing RFP, which may include, but are not limited to:

- Reserve requirements
- Limitations on costs
- Development/consultant fees
- General contractor fees
- Income/expense/vacancy rates
- Debt service requirements

Applicants must review both documents and comply with specified guidelines for LIHTC projects.

DHCD's underwriting guidelines include the following: (1) subsidy layering review; and (2) basis boost.

### **Subsidy Layering Review**

For projects that combine HUD development and/or operating assistance with tax credits, DHCD or DCHFA will complete a subsidy layering review to ensure that the Ownership Entity does not receive excessive government subsidies. DHCD or DCHFA will:

- Undertake the subsidy layering review for each project after completion of underwriting, if applicable.

- Complete the subsidy layering review for applicable projects after the Sponsor/Developer submits relevant documentation for review at carryover. This information includes the results of DHCD or DCHFA’s underwriting analysis, the Sponsor/Developer’s proposed development costs, and information concerning any project syndication.
- Complete a second subsidy layering review when the IRS Form(s) 8609 is issued for the project.

DHCD and DCHFA reserve the right, without amending this QAP, to amend the subsidy layering procedures as necessary to comply with changes in applicable federal law or regulations, and HUD guidelines.

### **Basis Boost**

Federal law permits jurisdictions to calculate and reserve a greater amount of LIHTC than normally calculated on the eligible basis for projects in certain areas. These areas are known as Qualified Census Tracts (QCT) and Difficult Development Areas (DDA).

- QCTs are areas in which 50% of the population has incomes of less than 60% of the AMGI or that have a poverty rate of a least 25%. A listing of QCTs for the District is available from the HUD website at [www.huduser.gov](http://www.huduser.gov).
- DDAs are those areas designated by HUD because of high construction, land and utility costs relative to the AMGI. The eligible basis for projects in these areas may be increased by up to 30%. A higher LIHTC may be calculated and reserved where federal law permits and where the feasibility analysis indicates the need for the additional LIHTC.

As authorized by and to the extent permitted by IRC Section 42(d)(5)(B)(v), enacted by The Housing and Economic Recovery Act of 2008, DHCD, in its sole discretion, may increase the eligible basis of projects by up to 30% (Department’s Basis Boost), if it determines that the project or a building in the project needs the basis boost to be financially feasible. The Department’s Basis Boost is only available to 9% LIHTC projects.

DHCD has identified the following attributes that could potentially qualify a project for the Department’s Basis Boost:

- high land values, as supported by the Economic Opportunity Targeting Map in this QAP; or
- projects located in a census tract that meets the following demographics according to the most recent FFIEC Census Report (<http://www.ffiec.gov/census/>):
  - Less than 5% below poverty level (see Income)
  - Designated Middle or Upper Income level (see Demographics); or
- projects that achieve maximum points in all three of the following prioritization scoring categories:
  - economic opportunity targeting
  - mixed-income; and
  - family-oriented units.

Projects receiving a 30% Basis Boost because of location in QCT or DDA are not eligible to receive the Department's Basis Boost.

## Monitoring for Compliance

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DHCD will monitor each low-income housing project to make sure that project owners comply with all federal and District laws, regulations, and provisions applicable to a project receiving LIHTCs.

DHCD has established compliance monitoring procedures consistent with the requirements of §1.42-5 of the Income Tax Regulations, as amended, which include provisions for physical inspections of low-income housing projects, review of low-income certifications, the documentation supporting the certifications, and the rent records for the tenants occupying low-income housing units, record-keeping, record retention, and notification of non-compliance. These compliance monitoring procedures are provided in detail in the DHCD LIHTC Compliance and Monitoring Reference Guide, as may be updated from time to time, and can be found at [dhcd.dc.gov](http://dhcd.dc.gov).

Project owners electing the third minimum set-aside for Income Averaging must submit an owner-generated plan outlining their proposed policies and procedures for ensuring compliance with Income Averaging requirements. This submission will be required during the underwriting process before a conditional commitment is issued.

The Compliance Period is for 15 years beginning with the first taxable year of the building's credit period, and is extended over an additional 15 year period by the Land Use Restrictive Covenants, for a total of 30 years.

### Fair Housing & Accessibility

Section 504 of the Rehabilitation Act of 1973 (Section 504) provides guidelines for the new construction or rehabilitation of housing units that should be accessible to persons with disabilities. Section 504 standards are applied by DHCD to all development projects, including LIHTC projects. All projects will be expected to comply with Affirmative Marketing practices as well as all applicable accessibility standards in addition to Section 504, such as the Americans with Disabilities Act (ADA) and the Fair Housing Amendments Act (FHAA).

### Davis Bacon

If a LIHTC project is assisted with other federal or local funding sources or subsidies triggering the Davis-Bacon Act of 1931 (Davis Bacon) and Davis Bacon Related Acts (DBRA), then prevailing wage rates will apply to the LIHTC-assisted project. This may include federal sources such as HOME, CDBG, HUD 542(c) Risk Share, and/or an Annual Contributions Contract (ACC). Additionally, local funding sources such the Housing Production Trust Fund (HPTF) and the Local Rent Supplement Program (LRSP) also trigger prevailing wages.

### Section 3

Similar to the application of Davis Bacon stated above, Section 3 of the Housing and Urban Development Act of 1968 (Section 3) will apply to LIHTC-assisted projects with funds that

may trigger its application. HUD and DHCD funds will require the applicability of Section 3 for housing construction, housing rehabilitation, and public construction projects, and will apply to the whole project.

### **Environmental Reviews**

Environmental Reviews (ER) subject to NEPA will be performed by DHCD for projects utilizing both LIHTCs and federal funds, such as Risk Share, ACC, HOME, and/or CDBG. Projects utilizing both LIHTCs and HPTF or the National Housing Trust Fund (HTF) are not subject to the NEPA ER process, but will still undergo an ER. LIHTC-only projects do not require SHPO concurrence.

Additional local compliance requirements may apply to LIHTC projects. Applicants should refer to the Compliance and Monitoring Reference Guide referenced above.

### **Violence Against Women Act (VAWA)**

Title VI of the Violence Against Women Reauthorization Act of 2013 (“Act”), Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking, expanded the applicability of the Act to the LIHTC program. VAWA protects both child and adult victims of domestic violence, dating violence, sexual assault and stalking. All LIHTC owners and managers shall comply with the requirements of this Act and shall use the applicable VAWA forms as amended from time to time including but not limited to the HUD-5380 Notice of Occupancy Rights under the Violence Against Women Act, HUD-5381 Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, HUD-5382 Certification of Domestic Violence, Dating Violence or Stalking, and Alternate Documentation, HUD-5383 Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and HUD-91067 VAWA Lease Addendum.

### **Recordkeeping and Retention**

For each qualified low-income building in the project, project owners must maintain records that provide specific information for each year of the Compliance Period. The failure to maintain these records or otherwise comply with requirements in the DHCD LIHTC Compliance and Monitoring Reference Guide may result in the issuance of IRS Form(s) 8823 and the eventual recapture of tax credits. All applicants are urged to review the LIHTC Compliance and Monitoring Reference Guide and require that project property managers have a thorough knowledge of the requirements under IRC Section 42 and the LIHTC Compliance and Monitoring Reference Guide.

### **Notification of Noncompliance**

DHCD will promptly notify project owners in writing if its monitoring reveals that the project is in noncompliance. This notice will provide a cure period of up to 90 days from the notice date for the owner to bring the project into compliance. Failure to cure a condition of noncompliance may result in recapture of the LIHTC. All incidents of noncompliance must be reported to the IRS on Form(s) 8823 notwithstanding the resolution of compliance issues. For

good cause, DHCD, in its sole discretion, may grant an extension of the cure period for up to an additional six months.

## Definitions

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The following capitalized terms shall have the meanings below unless context clearly requires a different meaning.

**Affiliate:** A corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other person, and specifically shall include parent companies or subsidiaries.

**Applicable Fraction:** The fraction used to determine the Qualified Basis of the qualified low-income building, which is the smaller of the unit fraction or the floor space fraction, as defined more fully in IRC Section 42(c)(1).

**Applicable Percentage:** The percentage multiplied by the project's qualified basis to determine the annual tax credit available to the ownership entity for each year of the Tax Credit period and as more fully described in IRC Section 42(b).

**Application or Application Package:** Those forms and instructions prepared by DHCD to make a determination to allocate tax credits. Developers are required to use the forms in the application package. The Application must include all information required by the QAP and as may be subsequently required by DHCD.

**Area Median Gross Income (AMGI):** The most current tenant income requirements published by HUD pursuant to the qualified low-income housing project requirements of IRC Section 42(g). Depending on financing sources, the project may also be required to conform with affordable housing program income limits published for other local and federal programs, with any notable differences described in the Affordable Housing RFP.

**Carryover Agreement and Allocation:** An allocation of current year Tax Credit Reservations by DHCD pursuant to IRC Section 42(h)(1)(E) and Treasury Regulations Section 1.42-6.

**Code or IRC:** The Internal Revenue Code of 1986, as amended, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued there under by the U.S. Department of the Treasury or the Internal Revenue Service relating to the Low-Income Housing Tax Credit Program authorized by IRC Section 42. These documents are incorporated in the QAP by reference. A copy of the Internal Revenue Code and Treasury regulations and related information relating to this program are found in the District of Columbia Public Library and are available for review by the public.

**Compliance Period (as defined in IRC Section 42(i)(1)):** Regarding any building, the period of 15 consecutive taxable years beginning with the first taxable year of the Tax Credit Period.

**Control (including the terms Controlling, Controlled by, under common Control with, or some variation or combination of all three):** The possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person or Affiliate thereof, whether through the ownership of voting securities, by contract or otherwise, including specifically ownership of more than 50 percent of the general partner interest in a limited partnership, or designation as a managing general partner or the managing member of a limited liability company.

**Consolidated Request for Proposals for Affordable Housing Projects (Affordable Housing RFP):** The competitive procurement vehicle issued by DHCD on a periodic basis that identifies available resources for affordable housing development, including 9% Tax Credits. The Affordable Housing RFP solicits proposals from qualified applicants and provides any desired clarifications on the threshold eligibility requirements and selection criteria. All Affordable Housing RFPs issued by DHCD are catalogued and available on [dhcd.dc.gov](http://dhcd.dc.gov).

**Developer or Sponsor/Developer:** The party acting as agent for the eventual owner or taxpayer benefiting from an award of a Tax Credit Reservation.

- That party and any of its successors in interest that will be bound by the representations made in the application or documents executed in applying for or accepting the allocation of LIHTC.
- That party or its successors that shall be obligated to carry out the commitments made to DHCD by the Sponsor on its own behalf or on behalf of other Persons or Affiliates.

**Difficult Development Area (DDA):** Any area that is so designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to Area Median Gross Income.

**Eligible Basis:** Regarding a building within a project, the building's eligible basis at the close of the first taxable year of the Tax Credit Period and as further defined in IRC Section 42(d).

**Forward Reservation:** has the same meaning as described in IRC Section 42(h)(1)(C).

**High Risk:** Projects that involve adaptive re-use or require extraordinarily challenging substantial rehabilitation or provide more than 50% of units for tenants with annual income of 50% or less of the Area Median Gross Income.

**HUD:** The U.S. Department of Housing and Urban Development, or its successor.

**IRS:** The Internal Revenue Service, or its successor.

**Land Use Restrictive Covenants a/k/a District of Columbia Department of Housing and Community Development Indenture of Restrictive Covenants for Low-Income Housing Tax Credits (Restrictive Covenants):** An agreement between DHCD and the Ownership Entity and all of its successors in interest where the parties agree that the project will be an

affordable housing project for the length of the Compliance Period plus the extended use period elected by the Ownership Entity and upon which the award of tax credits was in part based. The Restrictive Covenants will contain language that must encumber the land where the project is located for the life of the agreement. The Restrictive Covenants must conform to the requirements of IRC Section 42(h) and this QAP.

**Low-Income Unit:** Any residential rental unit if such unit is rent-restricted and the occupant's income meets the limitations applicable as required for a qualified low-income housing project.

**Management Agent:** The property manager for the project.

**Online Application System:** DHCD's internet-based system through which applicants submit applications for 9 percent Tax Credits.

**Ownership Entity:** Any Person and any Affiliate of such Person that:

- submits an Application to DHCD requesting a Tax Credit Reservation pursuant to this QAP;
- receives a Tax Credit Reservation, Carryover Agreement or IRS Form(s) 8609 Tax Credit Allocation;
- is the successor in interest to the Sponsor/Developer who owns or intends to own and develop a Project or expects to acquire Control of a Project consistent with control documents provided by the Ownership Entity to DHCD as part of the Application.

**Permanent Supportive Housing (PSH):** Supportive housing for an unrestricted period of time for individuals and families who were once homeless and continue to be at imminent risk of homelessness, including persons with disabilities as defined in 24 Code of Federal Regulations 582.5 for whom self-sufficient living may be unlikely and whose care can be supported through public funds. (DC Official Code Section 4-751.01-28)

**Preservation:** A project that meets the requirements of "Preservation" described under the Threshold Eligibility Requirements.

**Production:** A project that meets the requirements of "Production" described under the Threshold Eligibility Requirements.

**Project:** A low-income rental housing property the Sponsor/Developer of which represents that it is or will be a qualified low-income housing project within the meaning of IRC Section 42(g). With regard to this definition, the Project is that property that is the basis for the application.

**Property:** The real estate and all improvements thereon, which are the subject of the Application, including all items of personal property affixed or related thereto, whether currently existing or proposed to be built thereon in connection with the application.

**Qualified Allocation Plan (QAP):** A plan to select and award tax credits to qualified recipients, as described under IRC Section 42(m)(1)(B).

**Qualified Basis:** Regarding a building within a project, the building's eligible basis multiplied by the applicable fraction, within the meaning of IRC Section 42(c)(l).

**Qualified Census Tract:** Any census tract that is so designated by the Secretary of HUD and, for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the Area Median Gross Income for such year or which has a poverty rate of at least 25percent.

**Qualified Non-profit Organization or Non-profit:** An organization that: (1) is described in IRC Section 501(c) (3) or (4); (2) is exempt from federal income taxation under IRC Section 501(a); (3) is not affiliated with or controlled by a for profit organization; (4) includes as one of its exempt purposes the fostering of low-income housing within the meaning of IRC Section 42(h)(5)(C); (5) is allowed by law or otherwise to hold and develop property; and (6) meets any additional requirements as described in the QAP and/or Affordable Housing RFP.

**Recovered Tax Credits:** Either tax credits previously awarded to a project or projects that cannot use all the tax credits awarded or tax credits from projects that cannot be placed in service by the Sponsor/Developer/Ownership Entity.

**Reservation or Reservation Letter:** A conditional commitment of LIHTC, which, therefore, does not meet the definition of a binding allocation as stated in IRC Section 42.

**Selection Criteria:** See the heading "Selection Criteria" in this QAP.

**State Ceiling:** The limitation imposed by IRC Section 42(h) on the aggregate amount of tax credit allocations that may be made by DHCD during any calendar year, as determined from time to time by DHCD in accordance with IRC Section 42(h)(3).

**Tax Credit:** The LIHTC issued pursuant to the program, IRC Section 42. Tax credits are determined under IRC Section 42(a) for any taxable year in the Tax Credit Period equal to the amount of the applicable percentage of the qualified basis for each qualified low-income building.

**Tax Credit Allocation Amount:** Regarding a project or a building within a project, the amount of Tax Credit DHCD allocates to a project and determines to be necessary for the project's financial feasibility and its viability as a qualified low-income housing project throughout the Compliance Period.

**Tax Credit Period:** Regarding a building within a project, the period of 10 taxable years beginning with the taxable year the building is placed in service or, at the election of the Ownership Entity the succeeding taxable year, as more fully defined in IRC Section 42(f)(l).

**Threshold Eligibility Requirements:** See the heading “Threshold Eligibility Requirements” in this QAP.

**TOPA:** The Tenant Opportunity to Purchase Act of 1980, DC Law 3-86 (DC Official Code Section 42-3404.01 *et seq.*)

**Total Project Cost:** The total costs reflected in the application.

**Unallocated or Recovered Tax Credits:** Tax Credits that are not awarded by DHCD during its most recent round of allocation or are returned to DHCD during the current year. These Tax Credits are eligible for redistribution in accordance with DHCD rules or may be carried forward to the next year’s allocation cycle.

## Response to Public Comments

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On June 3, DHCD publicly released its draft 2019 Qualified Allocation Plan for the Low Income Housing Tax Credit Program and published District Register Notice Vol.66 No.23, a Solicitation of Public Comment and Notice of Public Hearing. The Comment period was closed on June 21, 2019. The public hearing was held on June 18 at DHCD's headquarters. In this process, DHCD received a total of 26 responses covering a range of topics. The Department has thoroughly reviewed all comments and a summary of all the comments received and DHCD's responses are provided below.

For all selection criteria, further clarity and guidance related to requirements and allocation of points will be provided in the most recent Consolidated Request for Proposals for Affordable Housing Projects (Affordable Housing RFP or RFP) through which the Tax Credits are awarded. Questions about the QAP in relation to the Affordable Housing RFP can be submitted through the online Q&A portal for the RFP, and will be reviewed and responded to at that time.

### 1. Green Building

DHCD received numerous comments requesting that the scoring category for Green Building be increased to 10 points or, at minimum, maintained at 5 points, as in 2017 QAP. Several commenters requested clarity on the Solar Ready threshold requirement and the prioritization scoring requirements for preservation projects. One commenter suggested further alignment with the Department of Consumer and Regulatory Affairs (DCRA) and suggested other modifications to the prioritization scoring requirements.

Sustainability in affordable housing is one of the District's policy objectives, embodied in the Sustainable DC Plan. DHCD agrees with several of the commenters, who noted the benefits of energy- and water-efficient projects to both the environment and to resident health, along with the opportunity to substantially reduce resident utility expenses. The Department also believes it is important to help facilitate the industry's acceptance of upcoming changes to DC building codes as outlined in the Clean Energy DC Plan, including the adoption of net-zero energy construction codes for low-rise residential construction by 2022 and for all construction by 2026, as well as the District's goal to achieve carbon neutrality by 2050.

DHCD's draft 2019 QAP lowered the barrier for obtaining Green Building points by offering additional pathways to receive points beyond the Living Building Challenge and Nearing Net Zero certifications. In addition, the draft QAP incorporated a new Solar Ready threshold requirement to help facilitate adoption of the District's clean energy goals. However, DHCD recognizes the importance of offering sufficient points to incentivize pursuing advanced Green Building certifications. The final QAP includes an increase in Green Building scoring from three to five points and includes further modifications to the prioritization scoring requirements. Additional clarification and guidance on meeting updated threshold and scoring requirements will be included in the Affordable Housing RFP.

DHCD consulted extensively with both DCRA and the Department of Energy & Environment (DOEE) in order to update the Green Building requirements in the QAP to include more nuanced criteria allowing projects to more easily obtain partial points in this category. The Department will evaluate any further technical alignment and scoring adjustments with DCRA, DOEE, and other relevant agencies for future QAP and RFP application rounds.

## **2. Permanent Supportive Housing (PSH)**

One commenter asked that large Preservation projects be able to provide a percentage of PSH units lower than 10% in order to achieve points in the Prioritization Scoring criteria. Another commenter requested that the 20% threshold be lowered in order for large Preservation projects to achieve full points in this category. DHCD has opted not to make any change to this category. DHCD and the other agencies in the Interagency Council on Homelessness (ICH) will continue to evaluate the provision and operations of the District's PSH units and consider changes in future RFP rounds.

## **3. Special Populations and Highly Vulnerable Populations**

Three commenters requested that a Prioritization Scoring category be added for Highly Vulnerable Populations, such as residents returning from incarceration; residents living with HIV-AIDS; and residents living with serious disabilities that limit their ability to obtain market-rate employment. One commenter requested that a preference be added to the QAP for youth aging out of foster care. The scoring criteria will not be amended to include these populations at this time, but DHCD will take these comments into consideration for future QAPs and RFPs.

Two commenters requested additional information on whether Memory Care Assisted Living projects are eligible for the LIHTC program and, if so, whether the priority points category for seniors and other Special Populations can be expanded to include these projects. The Special Populations scoring criteria will not be amended at this time, and DHCD does not have the authority to comment on the classification of Memory Care units as Dwelling Units for the LIHTC program. DHCD understands that eligibility for the LIHTC program is contingent upon whether the project design meets the IRS definition of a Dwelling Unit, among other programmatic requirements, and advises commenters to seek guidance from their tax credit legal counsel and advisors.

## **4. Income Averaging**

The draft 2019 QAP introduced the option to utilize the Average Income (or "Income Averaging") set-aside for the first time, as established in the Consolidated Appropriations Act of 2018. Several commenters asked for clarification of DHCD's requirements for this election as established in the draft QAP:

- DHCD expects that the Income Averaging minimum set-aside will more easily allow for mixed-income projects in which units restricted at 30% AMGI can be provided without the need for ongoing rental subsidy, and thus will require at least 10% of projects utilizing this set-aside to be restricted at 30% AMGI. Preservation projects without current tenants at this income level will be expected to restrict 10% of the units at 30% AMGI in the affordable housing covenant and rent these units at the 30% AMGI level upon turnover.
- Market rate units will be allowable in new construction projects utilizing Income Averaging if a separate legal condominium is established, or in preservation projects with current tenants with documented income above 80% AMGI.
- The number of units (by number of bedrooms) required to be maintained at specific AMGI restrictions will be established in the affordable housing covenant.
- DHCD expects that projects utilizing the Average Income minimum set-aside will be able to generate more tax credit equity than they would without this election. Thus, the limitations on utilizing HPTF funds for units in Production projects restricted above 50% of the Median Family Income (MFI) and for units in Preservation projects above 80% MFI will not be changed.

DHCD reserves the right to consider exceptions to these requirements on a case-by-case basis. The Department will monitor the applications received and will adjust this policy as necessary to ensure that the use of the Average Income minimum set-aside is helping the District to achieve its goals and priorities.

## **5. Opportunity Zones**

Numerous commenters suggested that the points for projects located in Opportunity Zones be reduced or eliminated due to the risk of concentrating poverty in these areas and counteracting the intent of the Economic Opportunity Targeting map. Several commenters also noted that, at this time, alignment with the LIHTC program is unproven in the market and it may be premature to provide points at this stage.

DHCD has taken these comments into consideration and reduced the maximum score for this category to one point. DHCD believes it is important to support affordable housing development in both areas of immediate Economic Opportunity and areas of future Economic Opportunity such as is anticipated in several of the Opportunity Zones. It is important to recognize that areas targeted for reinvestment through federal incentives can potentially experience accelerated gentrification and loss of affordable housing in the future. In addition, Opportunity Zones, with their ability attract private investment, offer an opportunity for DHCD to support the development of mixed-income housing in areas that have historically had a concentration of low-income housing. DHCD will monitor the implementation of Opportunity Zones and take the comments received into consideration for future QAPs and RFPs.

## **6. Extended Use Restrictions**

DHCD received several comments recommending that the points available through the Extended Use Restriction category be restored to 5 total points due to the success of this incentive in the prior Consolidated RFP round for creating permanently affordable housing in the District. Commenters noted that reducing scoring by 3 points would result in fewer developers being willing to make a commitment to perpetual affordability. Consequently, the final QAP includes an increase in scoring from two points to five. In addition, the name of the scoring category has been changed to “Affordability Period Restrictions” to provide additional clarity.

## **7. Community Engagement**

Several commenters requested clarity on the requirements for the new Community Engagement Threshold Requirement, specifically the documentation that will be accepted in order to meet this requirement. DHCD will provide additional guidance and clarification, as needed, in the next Affordable Housing RFP and Online Application System.

## **8. Transit Proximity**

Several commenters recommended that the category for Transit Proximity be restored to 5 total points since access to transit reduces transportation costs for low-income households and is an important piece of the District’s commitment to sustainability. DHCD acknowledges the comments provided, as well as the rise in land values and gentrification has been most significant in transit corridors, as documented by recent studies. Three total points will remain the maximum achievable for this category, but DHCD will take these comments into consideration for future QAPs and Affordable Housing RFPs

Two commenters requested specific points of clarification regarding this category:

- Shuttle service from a project to a metro station does not meet the criteria of the Transit Proximity category.
- The Affordable Housing RFP will provide further clarity on eligibility for points for projects near the DC Street Car stations.

## **9. Cost Reasonableness**

DHCD received two comments regarding acquisition cost reasonableness. DHCD acknowledges that there are situations in which developers have a limited ability to control acquisition costs. However, DHCD expects increases in acquisition costs in related or affiliated party transactions to be partially offset by other funding sources. If a previously purchased property by a party affiliated with a sponsor/developer/owner has increased in value and the project budget reflects the current appraised value of the property, DHCD

expects a reasonable proportion of the net proceeds from the increased property value to be offset by a seller's note or other similar instrument.

DHCD received one comment requesting the implementation of a developer fee limit. DHCD currently poses limits on the amount of developer fee that cannot be deferred and seeks to balance cost containment with incentives sufficient to result in high-quality affordable housing projects. DHCD will further evaluate its current developer fee policy and other cost containment measures for future QAPs and RFPs.

DHCD received one comment requesting revised operating cost guidelines that excludes costs out of the developer's direct control. DHCD revises its cost guidelines on a regular basis and will take this comment into consideration for future QAPs and RFPs.

One commenter requested that the additional costs incurred by a project in order to meet Green Building requirements be exempt from the Underwriting Scoring penalty in cases where construction costs are outside of the Maximum Construction Costs per Gross Square Foot. DHCD will take this comment into consideration for future QAPs and RFPs.

## **10. Economic Opportunity Targeting**

Several commenters stated that too much emphasis is placed on Economic Opportunity Targeting in the QAP, and that the possible points for this category should be reduced. A priority of DHCD is to create more affordable housing in high opportunity neighborhoods, and to disperse the District's housing supply more equitably across all neighborhoods and wards. This category has been reduced by 2 points to 17 total available points. DHCD will continue to monitor the pattern of its subsequent investments to encourage balanced affordable housing investments in neighborhoods across the District, and will continue to adjust this policy accordingly in future QAPs and RFPs.

A request was made for DHCD to release the methodology behind the Economic Opportunity Targeting map. The Economic Opportunity Targeting map shows DC Census Tracts grouped based on an index of median rents and median value (for owner-occupied units). Median rents from each tract and all adjacent tracts were averaged to create a larger sample size, and to smooth the data. All housing cost data has been updated, from the U.S. Census Bureau's 2013-2017 American Community Survey (ACS) 5-year estimates. The updated Economic Opportunity Targeting map for the 2019 QAP is now overlaid with "development census" data from the Washington DC Economic Partnership's (WDCEP) 2018 development pipeline. This data allows DHCD to estimate the future percentage increase in new housing units across different tracts of the city due to new private sector investment in market rate development projects. This development pipeline data, combined with the updated housing cost data, provides DHCD a more current assessment of areas of opportunity in the District that include both established neighborhoods and rapidly changing neighborhoods.

## **11. District Land**

DHCD received several comments recommending that the points for projects with District land be reduced or removed entirely in order to ensure that land value is maximized for the provision of affordable units in District land dispositions. Some commenters stated that projects on District land should score favorably in the leverage category by nature.

DHCD's underwriting guidelines account for the value of a land subsidy. The Department only considers applications for financing where the funding gap exceeds what can be financed through a land subsidy or write-down. Prioritization scoring points in this section only apply to projects that have a funding gap in excess of what the land value alone can subsidize.

## **12. Preservation vs. Production**

Five commenters noted several selection criteria under which Preservation projects have a structural scoring disadvantage under the current schematic and requested that the points for Preservation projects be increased, or that other adjustments be made, such as a set-aside for Preservation projects.

In each of the past several competitive Consolidated RFP funding rounds, DHCD has selected a roughly even numbers of Preservation and Production projects. DHCD understands the challenges highlighted by the commenters, and agrees with many of the points raised. DHCD will not make any changes to its selection criteria at this time, but is actively looking at how to best balance the needs for Preservation and Production in the RFP process.

## **13. Development Team Criteria**

Comments were received recommending that DHCD reduce the number of points related to development team capacity in order to place greater emphasis on project quality, and a given project's fulfillment of the Department's policy objectives. DHCD believes the scoring criteria is weighted appropriately between development team capacity and project-related criteria. The Department will continue to monitor outcomes in this area to guide any changes to the scoring criteria in the future.

## **14. Tenant Opportunity to Purchase Act (TOPA)**

One commenter requested that prioritization points be increased for projects that are proposed by or in partnership with tenant groups that exercised their TOPA rights to purchase their building, and another asked that the points in the draft 2019 QAP be maintained. One commenter requested that a preference for District Opportunity to

Purchase Act (DOPA) projects be added to this scoring category. The Department will monitor applications received in the next Consolidated RFP round, and will evaluate alignment between DOPA and this scoring category, as well as any other relevant prioritization scoring categories in order to make any adjustments in future QAP and RFP rounds.

## **15. Non-profit Participation**

DHCD received several comments recommending an increased emphasis on non-profit ownership and additional leverage through the property and recordation tax exemption available to non-profit affordable housing developers. One commenter requested an increased emphasis on local community development organizations. No change will be made to this criterion at this time. The QAP's leverage scoring criteria already enables nonprofit developers/owners an opportunity to improve their score by highlighting the additional private debt supported through tools such as the property tax exemption. DHCD will continue to monitor the results of each funding round to determine if these prioritization points are helping to achieve the Department's goals.

## **16. Process and Underwriting Guidelines**

Two commenters requested clarification on the timing of third party reports. DHCD believes that an appraisal dated within 6 months of application submission is important in order to assess the reasonableness of the acquisition cost of the property. The acceptable age of other third party reports will be detailed in the next Affordable Housing RFP, along with other requirements.

Several commenters asked that additional points be given for conditional letters of commitment rather than firm commitments from other project funders, and that points be awarded for schematic project designs rather than permit-ready plans and documents. DHCD recognizes that the majority of projects are unable to achieve full points for firm financing commitments and permit-ready plans. These requirements thus successfully distinguish between projects that are shovel-ready and those that will take additional time to close. The Department intends to continue to prioritize projects that are closer to being shovel-ready and ready to close.

## **17. Resident Services**

One commenter recommended a new category for the provision of resident services outside of the supportive services requirement for Permanent Supportive Housing (PSH). DHCD recognizes the value of property-wide services that support all of a project's residents, not just PSH clients. Hence the Supportive Services Plan category was updated in the draft 2019 QAP. A maximum of 3 total points can now be achieved for all projects - regardless of tenant population - that provide resident services specifically tailored to the needs of the

project and resident population. To make this change more clear, the final QAP includes a revised category name, “Resident Services Plan.”

## **18. Project Size**

One commenter recommended points be awarded to small properties. Another commenter suggested that large Preservation projects receive points.

A range of project sizes have been selected for further underwriting in recent competitive RFPs. Therefore, DHCD will not change the allocation of points in the final 2019 QAP, but will continue to monitor the results of future funding rounds to determine if adjustments are required in future QAPs and RFPs.

## Additional Information

For additional information, please contact:

District of Columbia Department of Housing and Community Development  
1800 Martin Luther King Jr. Avenue SE, 2nd Floor  
Washington, DC 20020  
Telephone (202) 442-7200

I, Muriel Bowser, the Mayor of the District of Columbia, hereby signify my adoption and approval of this Qualified Allocation Plan as the Mayor's plan for the allocation of Low Income Housing Tax Credits in the District of Columbia, in conformance with Section 42 of the Internal Revenue Code of 1986, as amended.

APPROVED:



Muriel Bowser  
Mayor