Maryland
DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT

Multifamily Rental Financing Program Guide

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

Attachment to the Qualified Allocation Plan
Effective February 4, 2022

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Overview and Policy Statement: The State Context

With this 2021 update of the Maryland Qualified Allocation Plan for the Allocation of Federal Low Income Housing Tax Credits (QAP) and Multifamily Rental Financing Program Guide (Guide), the Maryland Department of Housing and Community Development (DHCD)[1] has established the following set of priorities to guide the award of competitive and non-competitive funding:

1. **Family Housing in Communities of Opportunity**
2. **Housing in Community Revitalization and Investment Areas**
3. **Integrated Permanent Supportive Housing Opportunities**
4. **Preservation of Existing Affordable Housing**
5. **Elderly Housing**
6. **Permanent Supportive Housing for Veterans and Persons Experiencing Homelessness**
7. **Housing for Low-Income agricultural, fishery, livestock, and poultry workers**

DHCD remains focused on expanding and preserving housing opportunities in thriving communities to serve lower income households and targeted populations in a way that builds economic opportunity equitably. To do so most effectively, the Department is focused on vulnerable populations whose exclusion from quality housing opportunities imposes severe economic, social, and personal costs.

The QAP and Guide were crafted after the consideration of the State Housing Needs Assessment[2] published in December of 2020 and public comments received from a wide range of housing partners, stakeholders, consultants, housing advocates, and others during the review process.

At all times during the review process, it has been DHCD's intent to ensure that Maryland's affordable housing development resources are fairly deployed in a manner that best serves Maryland residents, including families, seniors, and persons with disabilities or special needs, and the continuing demand for quality, affordable rental housing across the State.

[1] DHCD includes the Community Development Administration, a unit of the Division of Development Finance of DHCD, which administers all funds awarded pursuant to this Guide.

[2] https://dhcd.maryland.gov/Documents/Other%20Publications/Report.pdf

1 Introduction

DHCD administers a variety of State and federal programs that finance the development of affordable rental housing. These programs include, but are not limited to, the Low Income Housing Tax Credit Program (LIHTC), the Rental Housing Financing Programs (RHFP) (which consists of the State-funded Rental Housing Program and the federally-funded HOME Investment Partnership Program), Rental Housing Works (RHW), and the Multifamily Bond Program (MBP). DHCD may, from time to time, establish new development financing programs to advance its mission.

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

This Guide is an attachment to the QAP and, unless otherwise noted, the requirements herein apply to any transaction seeking allocations of LIHTC from DHCD, whether those come from the State's population-based credit ceiling or from the use of tax-exempt bonds. Additionally, unless otherwise noted, this Guide applies to MBP, RHW, and RHFP funds (which include the State funded Rental Housing Program and federal HOME funds as noted above). All references to timeframes in the QAP and Guide refer to calendar days.

2 Application Process

This section provides information on application and funding processes. For projects requesting MBP financing, RHW financing, and non-competitive LIHTC only, some of the following steps may not apply, but more information for these programs may be found in the text boxes throughout this Guide.

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

Multifamily Bond Program and Rental Housing Works

Projects requesting MBP financing, with or without non-competitive LIHTC or RHW, may submit an application at any time. Processing is subject to certain fees that are subject to change. See Section 6.2 for additional information on MBP. The current fees are posted on the DHCD website at: http://dhcd.maryland.gov/HousingDevelopment/Pages/Fees.aspx

2.1 Pre-Round Communication

2.1.1 Information Session

In advance of each competitive round, DHCD will hold a pre-round information session during which it will discuss resources available for the round, explain any changes to the QAP, Guide, or process, provide additional information about how State Bonus Points (described in Section 4.7) will be utilized in the round, and provide an opportunity for questions and answers. The date, time, and location of the information session will be established in the Public Notice.

2.1.2 Optional Pre-Application Meetings

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

2.1.3 Waiver Requests

Chapter 5 provides information on the submission of waiver requests, including appropriate justifications. Certain waivers must be submitted in advance of the application deadline.

2.2 Local Governments- Notice and Opportunity to Comment

DHCD's process for notifying local governments and providing an opportunity to comment on applications for financing is as follows:

(1) Upon receipt of an application submission package for LIHTC or for a loan under MBP, RHFP, or RHW, DHCD will provide written notice of the application and a reasonable opportunity to comment to the political subdivision in which the project is located. If the project is located in a

municipal corporation, the notice will be sent to the municipal corporation and not to the county. The written notice will be sent to the political subdivision's highest elected public official and to the head or president of the political subdivision's legislative body. The written notice will include the following information about the project:

(a) Date of application;

(b) Name and description of the project;

(c) Address of the project;

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

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

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

(g) Total number of units;

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

(i) Such other information as DHCD deems relevant.

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

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

2.3 Application Review Process

Projects seeking competitive financing will be considered only upon DHCD's receipt of a complete application by the application deadline. Applications will be evaluated first against the Threshold Criteria described in Chapter 3. Projects passing the threshold review will be evaluated against the Competitive Scoring Criteria described in Chapter 4.

These criteria are intended to select viable projects that meet DHCD's identified priorities as well as all federal and State requirements. Except for requirements of the programs' governing statutes, the Threshold Criteria may be waived by the Secretary of DHCD or the Director, Multifamily Housing, as provided in Chapter 5.

If an application is incomplete or does not meet the Threshold Criteria, it will be rejected, and the applicant will be notified in writing by DHCD. The rejection notice shall state the reason the application has been rejected. A sponsor may request reconsideration of a rejection within seven (7) calendar days of the date of the notice of rejection. The request for reconsideration shall be in writing and submitted to the Director of Multifamily Housing. The request may not include new or additional information and must establish that DHCD has made a mistake or error in its initial decision. DHCD will review the request and respond within seven (7) calendar days. If DHCD determines that its initial decision was incorrect, the project will be re-entered into processing. If DHCD upholds the initial decision, the applicant will be notified, and the application will be withdrawn from processing. Rejected applications may be resubmitted in a subsequent round. An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or the Code of Maryland Regulations (COMAR) 05.01.01. DHCD reserves the right to redirect a project from the competition to the MBP if DHCD, in its sole discretion, determines that the project would be financially feasible using tax-exempt bond proceeds with or without other DHCD resources.

Multifamily Bond Program and Rental Housing Works Threshold Requirements

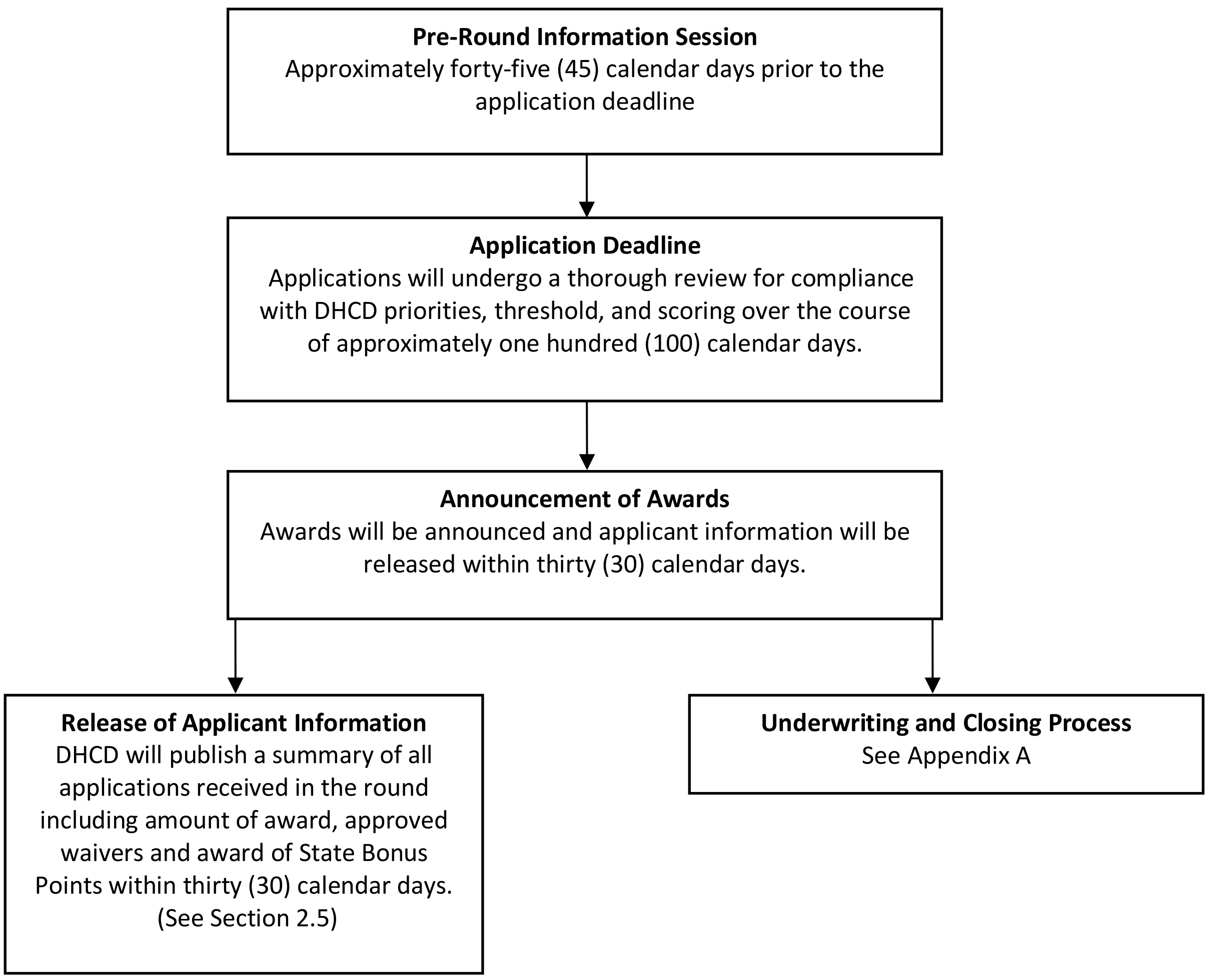
Projects requesting MBP and RHW financing, with or without non-competitive LIHTC, must meet all Threshold Criteria unless specified otherwise. Projects requesting MBP and RHW financing that do not meet all Threshold Criteria or have incomplete applications will be withdrawn from processing. Requests for reconsideration may be filed in accordance with COMAR 05.05.02.08. See Section 6.2 for additional information on MBP. Additional RHW application requirements are outlined below.

Generally, RHW funding is governed by the laws (statutes, regulations and the Guide) applicable to MBP with the following changes:

- RHW loans shall be subordinate loans with the terms and conditions described below.
- RHW loans must be used in conjunction with MBP and 4% LIHTC. RHW applications must be submitted in conjunction with MBP applications.
- RHW loans may not be used as cash collateral for short-term bonds.
- RHW loans are not subject to the requirements of MBP that are strictly applicable to the issuance of tax-exempt bonds.
- RHW applications must satisfy the following additional criteria:
    - Required zoning for use and density of development must be in place at the time of application and properly documented. A letter from the local zoning office would be proper documentation. An approved Planned Unit Development resolution or a local jurisdiction's equivalent to a Planned Unit Development resolution also satisfies this requirement. Development or site plan approval is not required at application. Conditional use or special exception approval also is not required at application but must be obtained before closing;
    - The award of any competitive public and private sources of funding necessary for the project's financial feasibility must have been made; and
    - The project's projected Full Time Equivalent jobs must be documented using the Full Time Equivalent Job Calculator located on DHCD's website: http://dhcd.maryland.gov/HousingDevelopment/Pages/rhw/default.aspx
- The Maryland Board of Public Works must approve all RHW funding awards if the source of the RHW funding is general obligation bonds.

A complete application evaluation consists of a review of the application and supporting documentation as well as a preliminary site visit. DHCD staff will present their evaluations to an internal DHCD committee for further review and evaluation. Recommendations for reservations of competitive RHFP funds and/or LIHTC will be made by the internal committee based on the evaluation of projects pursuant to the Competitive Scoring Criteria, the award of State Bonus Points under Section 4.7, and the availability of resources. These recommendations will be made to DHCD's Housing Finance Review Committee (HFRC) for review. After evaluating the recommendations, HFRC will make final recommendations to the Secretary of DHCD, who will, in his or her discretion, approve projects for a reservation of RHFP funds or LIHTC and further processing. After a reservation has been issued, projects that do not continue to meet all Threshold Criteria outlined in this Guide will be withdrawn from processing.

The following flowchart provides an overview of the competitive application and award process:



2.4 Application Form and Fees

2.4.1 Application Form

Competitive applications must be submitted by the deadlines provided in the Public Notice using the Application Submission Package, which contains more detailed instructions regarding many of the requirements in this Guide. Information in the Application Submission Package supplements this Guide and should be reviewed carefully to ensure compliance with these requirements. The Application Submission Package is available through DHCD's website at:

http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx

Applicants must submit two complete copies of the application form including all attachments and exhibits. Application forms shall not be re-typed, changed, or modified in any manner. DHCD reserves the right to require electronic submission of applications. All information on the application must be completed or marked as not applicable. All required exhibits must be included and all required documentation must meet the criteria specified in the Application Submission Package. Incomplete or late applications will not be considered. Any changes to the application submission requirements will be announced at the pre-round information session and posted to DHCD's website at least thirty (30) calendar days before the application deadline.

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

With the exception of market studies, which must be less than six (6) months old, all documents submitted with applications, including environmental assessments, must be less than twelve (12) months old.

2.4.2 Fees

All sponsors must pay a nonrefundable fee of $2,500 for each application requesting RHFP funds, RHW, MBP, or LIHTC. Only one application fee is required for each project, regardless of the number of funding resources requested. The application fee must be paid simultaneously with or before submission of an application. Application fees must be sent under separate cover to the address on the following page, with a copy of the check included with the application.

All application submissions, including repeat submissions, must include evidence that the application fee has been paid. Applications received without the required fee will not be evaluated. The application fee is retained by DHCD even if the application is unsuccessful. Projects failing to receive a reservation of competitive LIHTC or RHFP funds may reapply in another round, but a new application fee will be required. More information on these fees is posted on the DHCD website at:

http://dhcd.maryland.gov/HousingDevelopment/Pages/Fees.aspx

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

DHCD Central Cashier
Post Office Box 2521
Landover Hills, MD 20784

2.5 Release of Application Information

DHCD will release information on all applications seeking competitive LIHTC and/or RHFP funds within fourteen (14) calendar days of the competitive funding round deadline. The information will be published on DHCD's website and will include:

- Name of applicant;
- Project sponsor;
- Site location and address;
- Primary population served (family or elderly);
- Total number of units;
- Number of units reserved for persons with disabilities (PWD) or specials needs tenants;
- Amount and type (RHFP, LIHTC, or both) of funds requested; and
- Total project cost.

In addition, DHCD will release a summary of competitive funding round award decisions within thirty (30) calendar days of announcing awards. This summary will be published on DHCD's website and will include the information listed above, as well as the distribution of LIHTC and RHFP funds to projects, disclosure of all waivers granted to applicants, and identification of projects which received State Bonus Points pursuant to Section 4.7 along with a rationale for why these points were awarded.

DHCD will post the foregoing information as well as information regarding the status of all applications for financing (both competitive and non-competitive) to its website at:

http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx

2.6 Coordination with Other State Resources

DHCD will coordinate the allocation of LIHTC, RHFP funds, and other State resources under the control of DHCD. DHCD will determine the appropriate mix of State resources for each project based on a variety of factors, including resource availability and policy priorities.

2.7 Loan Processing

If projects include RHFP or RHW loan financing, the processing requirements outlined in Section 6.1 apply.

3 Threshold Criteria

Projects must meet all of the following Threshold Criteria to ensure basic program guidelines are met and DHCD resources are reserved for projects that are viable and ready to proceed. Projects meeting all criteria listed in this section, or successfully obtaining waivers for such criteria, will be evaluated against the Competitive Scoring Criteria in Chapter 4.

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3.1 Development Team Requirements

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

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

All corporations, limited liability companies, or limited partnerships that make up the Developer, Project Owner, or that will provide guarantees to the transaction must submit audited, reviewed, or compiled financial statements, as well as interim statements acceptable to DHCD. If possible, financial statements should be prepared according to Generally Accepted Accounting Principles (GAAP). Any individuals providing guarantees or who will be a managing member or general partner in the Developer must submit personal financial statements, including certifications acceptable to DHCD. The required financial statements must include calculations of total assets, total liabilities, current assets, and current liabilities. Complete financial statement requirements may be found in the Application Submission Package.

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

3.1.1 Previous Project Performance

Within five (5) years prior to the application date, members of the Primary Development Team may not have received a reservation or commitment of funding from DHCD for a project that was not carried out for any of the following reasons:

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

This criterion does not apply to the voluntary return of a LIHTC, RHFP, RHW, or MBP reservation or commitment by a Developer based on a determination that the project as originally proposed was no longer feasible, provided that DHCD was willing to accept the return and there was no loss to DHCD of State resources. Additionally, DHCD will evaluate the role of Primary

Development Team members relative to the project. For example, an architectural firm would not be prevented from participating in a new transaction simply because it had been the architect on a project where the developer subsequently developed a pattern of noncompliance leading to issuance of IRS form 8823.

In addition, within five (5) years prior to the application date, Primary Development Team members may not have:

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

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

3.1.2 Credit History

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

- Chronic past due accounts;
- Substantial liens or judgments;
- Three or more instances of unpaid taxes (even if cured prior to the application date);
- Foreclosures or bankruptcies; or
- Deeds in lieu of foreclosure.

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

3.2 Occupancy Requirements

3.2.1 Minimum Income and Rent Restrictions

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

3.2.2 Definition of Elderly Housing

Any application for funding that reserves units for the elderly must meet DHCD's definition of elderly housing or must request a waiver.

DHCD defines Elderly Housing as any project that proposes to restrict occupancy to one or more of the units in the project based on age. DHCD defines an Elderly Household as one in which at least one household member is age sixty-two (62) or over. This definition would generally permit the restriction of occupancy to households in which all members are age sixty-two (62) or older. These definitions apply to all projects applying for LIHTC, RHFP, RHW, or MBP financing as Elderly Housing, subject to the additional restrictions set forth below for projects including HOME funds or FHA insurance.

For any project that applies for or is the recipient of HOME funds, the definition of an Elderly Household, per 24 CFR 5.403, is a household "whose head (including co-head), spouse, or sole member is a person who is at least sixty-two (62) years of age. It may include two (2) or more persons who are at least sixty-two (62) years of age living together, or one (1) or more persons who are at least sixty-two (62) years of age living with one (1) or more live-in aides".

FHA Insurance Threshold Requirement

For projects financed under FHA Insurance programs such as FHA Risk Sharing, DHCD will follow the requirements of those programs. For FHA Risk Sharking, DHCD will follow 24 CFR 266.200(g) – *Under this definition, projects making use of FHA Risk Sharing must allow household members under the age of sixty-two (62), including children under eighteen (18).*

The Market Study provided in accordance with Section 3.12 must demonstrate demand for the project among the elderly population proposed. In all cases, Elderly Housing must comply with all applicable federal laws, including the Fair Housing Act.

3.2.3 Long Term Use Restrictions and Homeownership Opportunities

All projects requesting competitive LIHTC, RHFP funds, and/or RHW must agree to at least forty (40) years of low-income occupancy restrictions, unless a structured fifteen (15) year transition to homeownership is presented and accepted. All projects requesting non-competitive LIHTC and/or MBP loan funds must agree to at least thirty (30) years of low-income occupancy restrictions.

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

3.2.4 Relocation and Displacement

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

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

https://www.hud.gov/program_offices/comm_planning/relocation/regulations

3.3 Marketing Requirements

3.3.1 Public and Assisted Housing Waiting List

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

3.3.2 Affirmative Fair Housing Marketing

The State of Maryland has a compelling interest in creating fair and open access to affordable housing and promoting compliance with state and federal civil rights obligations. Fair Housing requirements apply to the full spectrum of housing activities, including, but not limited to, outreach and marketing, qualification and selection of residents, and occupancy. This Guide and the QAP continue DHCD's long-standing commitment to affirmatively furthering fair housing.

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

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

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

- Prohibit income requirements for prospective tenants with Housing Choice Vouchers or similar vouchers, including, but not limited to, VASH, Shelter Plus Care, Bridge Subsidy and Continuum of Care;
- Eliminate local residency preferences;
- Ensure access to leasing offices for persons with disabilities;
- Provide flexible application and office hours to permit working families and individuals to apply;
- Encourage credit references and testing that take into account the needs of persons with disabilities or special needs;
- Provide notice of unit availability and accept referrals from public housing authorities, voucher administrators, and mobility counseling programs operating in the regional market area, and formalize such arrangements in the form of contracts or Memorandums of Understanding;
- An agreement to certify to DHCD annually that the owner accepts vouchers and does not employ practices that have the effect of excluding voucher holders, such as screening standards that require incomes at two or three times the monthly contract rents; and
- Develop marketing strategies to identify applicants that are least likely to apply.

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

Prior to closing DHCD will review the AFHMP to ensure the AFHMP is in conformance with all HUD and DHCD requirements and will reject any AFHMP not in conformance. Additionally, projects must review and update their AFHMP at least every five (5) years or more frequently if required by DHCD. Failure to comply with an approved AFHMP will result in negative points in future applications as described in Section 4.1.2.

3.3.3 Housing for Low-Income Agricultural, Fishery, Livestock, and Poultry Workers

Any application for funding targeting low-income agricultural, fishery, livestock, or poultry workers must provide a marketing plan that details the planned outreach to those workers in addition to the AFHMP as described in Section 3.3.2. The marketing plan must also identify industry partners and formalize such arrangements in the form of contracts or Memorandums of Understanding.

Agricultural, fishery, livestock, or poultry workers are considered those holding occupations that typically:

- Plant, inspect, or harvest crops;
- Process crops, fish, or animals for entrance into the food supply chain;
- Irrigate farm soil and maintain ditches or pipes and pumps;
- Operate and service farm machinery and tools;
- Apply fertilizer or pesticide solutions to control insects, fungi, and weeds;
- Move plants, shrubs, and trees with wheelbarrows or tractors;
- Feed livestock and clean and disinfect their cages, pens, and yards;
- Examine animals to detect symptoms of illnesses or injuries and administer vaccines to protect animals from diseases;
- Transport, exercise, train, groom, or otherwise care for livestock;
- Use brands, tags, or tattoos to mark livestock ownership and grade;
- Herd livestock to pastures for grazing or to pens, stalls, scales, trucks, or other enclosures;
- Undertake the forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

3.4 Tenant Services

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

- Family projects must deliver or coordinate services that improve building and unit maintenance, stabilize occupancy by improving residents' abilities to uphold their lease obligations, and enhance quality of life and self-sufficiency for residents, including children;
- Elderly occupancy projects must deliver or coordinate services that stabilize occupancy by improving residents' abilities to uphold their lease obligations throughout the aging process and enhance quality of life through improved access to or information concerning services and benefits, health promotion, community building, and socialization;
- Projects that include populations with disabilities or special needs must ensure that the targeted population served is able to benefit and access the services provided to the general population at the property;
- Projects that intend to serve persons experiencing homelessness or formerly homeless individuals or families must demonstrate that services will be provided in cooperation with the local Continuum of Care (CoC) and that client data will be entered into the Homeless Management Information System (HMIS) or its successor; and Projects must develop and/or use an up-to-date community scan (within the last five years) that includes a review and assessment of existing local amenities, services, community assets, potential partners, and resources.

Alternatively, an applicant will meet this threshold requirement by executing a certification at the time of application that requires the provision of tenant services throughout the compliance period or loan term, as applicable, through a sponsor organization or contract service provider that has achieved designation as a Certified Organization for Resident Engagement and Services (CORES) or a comparable DHCD-approved certification. Information regarding CORES can be accessed at https://coresonline.org/.

3.5 Persons with Disabilities (PWD)

3.5.1 Uniform Federal Accessibility Standards Requirements

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

All projects, regardless of the source of funds, must comply with UFAS and any other applicable laws or requirements including, without limitation, to Section 504 of the Rehabilitation Act of 1973 (Section 504), the regulations implementing Section 504 at 24 CFR Part 8, the Americans with Disabilities Act (ADA), and the 2010 ADA Standards (as modified by HUD). Additional information about Section 504 is also available online at:
https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/sect504faq

3.5.2 Family Housing Developments – Units for Persons with Disabilities

For family housing projects, UFAS units under Section 3.5.1 must be reserved for PWD households for a period of not less than sixty (60) calendar days both at initial lease-up and upon turnover. The sixty (60) calendar day time period at lease-up will be measured from the date upon which the project achieves 80% occupancy and at turnover will be measured from the date the unit is determined ready for occupancy following move-out by the prior tenants and completion of any cleaning, repairs, or maintenance. In addition to other marketing or referrals for the units, the Developer must agree to provide notice of unit availability to and accept referrals from the Maryland Department of Disabilities (MDOD) and/or the Maryland Department of Health (MDH).

In addition, all family projects, regardless of the source of funds, must agree to accept, if offered by DHCD, any capital or rental subsidy funds for their PWD units and to comply with program requirements.

3.6 Other Financing Commitments

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

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

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

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

3.7 RHFP and RHW Loan Requirements

This section sets forth the terms applicable to RHFP and RHW loans. A sponsor of a project that has been awarded RHFP or RHW funds may generally choose the repayment option set forth in either Section 3.7.2 or 3.7.3, unless the underwriting for the project indicates that the project can bear a must-pay loan as described in Section 3.7.4. Sponsors must select a repayment option prior to execution of a loan commitment with DHCD. In all cases, DHCD reserves the right to adjust loan terms for a particular project based on its underwriting and subsidy layering reviews.

3.7.1 General Terms

The following terms are generally applicable to all loans:

- Maximum Awards: Generally, the maximum RHFP loan per project may not exceed $2 million except as permitted in COMAR. RHW loans may not exceed $2.5 million.
- Prepayment Restrictions: RHFP and RHW loans are subject to certain restrictions upon prepayment, including, but not limited to, continuing occupancy restrictions, tenant notices and relocation requirements.
- Loan Term: The RHFP and RHW loan term will be the construction loan period (generally the construction contract term plus three months for cost certification) plus the permanent loan period (generally forty (40) years). Repayment of the loan will be accelerated due to sale, refinancing or other transfer of the project, or occurrence of an event of default.

3.7.2 Standard Surplus Cash Repayment Terms

The terms set forth below reflect DHCD's traditional surplus cash repayment terms. This option is most commonly used for RHFP and RHW loans in conjunction with LIHTC. A form of the Note used in connection with this form of loan is available on the DHCD website:

http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx

- Interest: 0% interest during the construction loan period; 2% simple interest during the permanent loan period.
- Construction Loan Period: No payments during construction loan period.
- Payment Dates: Annual payments are due on April 1st or three (3) months after the end of the borrower's fiscal year.
- First Payment: First payment is interest only based on the lesser of (i) 75% of surplus cash; or (ii) the amount of interest accrued from the end of the construction loan period to the end of the borrower's fiscal year.
- Regular Payments: Thereafter, payments of principal and interest are based on the lesser of (i) 75% of surplus cash; or (ii) an amortized amount of principal and interest that would pay off the loan in forty (40) years.
- Surplus Cash Definition: The definition of surplus cash for purposes of repayment of an RHFP or RHW loan is set forth in the Note and generally does not permit payments to partners or members to be paid ahead of loan payments to DHCD (except for a $3,000 annual investor services fee).

3.7.3 Contingent Interest Surplus Cash Repayment Terms

Below are alternative repayment terms that DHCD has approved where DHCD agrees to limit the amount of interest that would otherwise accrue on a traditional surplus cash loan. A form of the Note used in connection with this form of loan is available on the DHCD website:

http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx

- Interest: 0% stated interest for both construction loan period and permanent loan period.
- Construction Loan Period: No payments during construction loan period.
- Regular Payments: Annual payments are due on April 1st or three (3) months after the end of the borrower's fiscal year three (3) months after the end of the year in which the construction loan period ends.
- Regular Principal Payments: Principal payments shall be paid based on a percentage of surplus cash (see below regarding calculation of this percentage) determined as of the end of borrower's fiscal year.
  - The amount paid is not limited by an amortizing amount as in the standard terms under Section 3.7.1.

  - The definition of surplus cash for principal payments is the same as that used for the standard surplus cash repayment terms under Section 3.7.1.
- Regular Contingent Interest Payments: Once principal is repaid, "contingent interest" payments shall be made from a percentage of "contingent interest surplus cash"**.** The definition of "contingent interest surplus cash" allows this payment to be made later in the project's cash flow "waterfall" behind the payment of deferred Developer's Fees, partner loans, deferred investor services fees, and tax credit adjustment payments.
- Maximum Contingent Interest Amount: The maximum amount of contingent interest to be paid will be capped to an amount equal to the amount of interest that would have accrued at the rate of 4% on the outstanding principal balance of the loan.
- Surplus Cash Percentage: The following principles apply with respect to the DHCD surplus cash percentage used for principal payments:
  - Until deferred Developer's Fees are paid, DHCD's percentage will not exceed 50%.
  - If a local government is also making a loan to the project greater than $250,000, so long as the local government agrees to the same terms and conditions as apply to DHCD's contingent interest surplus cash loan, DHCD may allow a local government to share a percentage of the surplus cash, proportionately, up to 25%.
  - If the local government's capital contribution is greater than 60% of the project's total public subordinate debt, DHCD will share the available surplus cash evenly with the local government.

Appendix C sets forth examples of surplus cash splits in a variety of scenarios. In addition, the DHCD website includes a calculator that may be used to determine the relative surplus cash percentages of the parties for a particular project:

http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx

- Contingent Interest Percentage (used for contingent interest payments): DHCD's contingent interest percentage (used for contingent interest payments) will be the greater of (i) the percentage that the loan comprises of the total costs of the project; or (ii) 20%. The calculator on the DHCD website may also be used to determine the contingent interest percentages applicable to the parties involved in financing a project.
- Capital Event Contingent Interest Payment: In the event of a capital event, such as a sale or transfer of the project, refinancing of the loan, or the maturity of the loan, a payment shall be due to DHCD from the net proceeds of the capital event. The amount due shall be determined based on DHCD's contingent interest percentage of the net proceeds provided that the aggregate amount of contingent interest payments does not exceed the maximum contingent interest amount described above.

3.7.4 Amortizing Loans

In some cases, a project's anticipated cash flow and debt service are such that it is reasonable to expect the borrower to make regular monthly payments of principal and interest on the RHFP or RHW loan. The general requirements set forth in Section 3.7.1 would also be applicable to such loans.

Multifamily Bond Program Terms and Conditions

Loans provided under the MBP must be amortized at an interest rate set by DHCD. The term of the loan may be up to forty (40) years for either taxable or tax-exempt bond funded loans. All projects must be credit-enhanced so that the bonds sold to fund the loans can receive a rating of "AA" or better from DHCD's rating services, unless an alternative structure is approved by DHCD. See Section 6.2 for additional information on MBP.

3.8 LIHTC Award Limits

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

Allocations of non-competitive LIHTC pursuant to §42(h)(4)(B) of the Internal Revenue Code (federally subsidized tax-exempt bond transactions) are not subject to the $1.5 million cap noted above and are limited only by the amount permitted under the Internal Revenue Code and the amount required, in the sole determination of DHCD, for the long term feasibility of the project.

3.9 Underwriting Standards

To pass threshold, an application must meet the underwriting standards listed in Sections 3.9.1 through 3.9.9.

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

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

Voucher Housing Assistance Payments Contracts, as published in the Federal Register, July 9, 2010, as may be amended or superseded.

3.9.1 Maximum Rents

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

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

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

For units restricted to Elderly Households, the imputed household size may not exceed three (3) persons regardless of the number of bedrooms. For example, in a family project, the rent for a three-bedroom unit would be based on a 4.5 person household, but if designated as an elderly unit the maximum rent must be calculated based on a three (3) person household.

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

http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx

3.9.2 Vacancy

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

Multifamily Bond Program Terms and Conditions
Loans financed using the FHA Risk Sharing Program generally will be underwritten using a 7% vacancy rate. See Section 6.2 for additional information on MBP.

3.9.3 Operating Expenses

Annual operating expenses, including all real estate taxes but excluding replacement reserve deposits, should be no less than $4,000 per unit per year and no more than $7,000 per unit per year. Waivers may be requested for small projects of up to forty (40) units, projects with master-metered (i.e. project paid) utilities, or other unusual circumstances.

3.9.4 Reserves for Replacement

All projects must budget at least $300 per unit per year in reserves for replacement (RFR) deposits. Additionally, RFR deposits must be adequate to support the project as determined by a capital needs assessment (CNA) prepared by a qualified third party. DHCD reserves the right, in its sole discretion, to require a new CNA every five (5) to ten (10) years and adjust RFR deposits based upon such new CNA.

3.9.5 Operating Reserves

Each project must establish an operating reserve equal to between three (3) and six (6) months of underwritten operating expenses, debt service payments, and required deposits to other reserves. At a minimum, capitalized operating reserves must remain in place until the project has achieved a minimum 1.15 debt service coverage ratio, economic break-even operations for one complete fiscal year as confirmed by the project's annual audit, and reached and sustained 90% occupancy for twelve (12) consecutive months. In the discretion of DHCD, the operating reserve may be released over the next three (3) years provided the project continues to achieve economic break-even operations and sustains 90% occupancy. Operating reserve will be held by DHCD unless held by the superior lien holder.

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

3.9.6 Trending

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

3.9.7 Debt Service Coverage Ratio

All projects must be underwritten to a minimum debt service coverage ratio (DSCR) of 1.15 in the first year of stabilized operations and at least 1.00 through year 15. The DSCR will be calculated including all must-pay debt service payments. For projects with amortizing debt service on an RHFP or RHW loan, the minimum DSCR is 1.1.

3.9.8 Development Costs and Fees

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

3.9.8.1 Acquisition

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

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

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

The acquisition price must meet the following requirements:

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

- In the case of a Related Party Transaction where the property was acquired two or more years before the application date, the acquisition price does not exceed the "as is" appraised value of the property.

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

Except for family housing projects located in a Community of Opportunity, any portion of the acquisition price in excess of the "as is" value may not be financed or reimbursed by RHFP, RHW, or other project sources; may not be used in calculating the Developer's Fee; and may not be reimbursed from cost savings at final closing. The excess must be paid with non-project sources such as proceeds of the Developer's Fee. For a family housing project located in a Community of Opportunity, the acquisition price may be up to 120% of the "as is" value before being subject to the limitations outlined in this paragraph.

Exceptions to the acquisition price standards may be submitted to DHCD on a case- by-case basis under the waiver process described in Section 5.2.10. Waivers to the acquisition price limitations will be in DHCD's sole discretion, and DHCD expects the approval of such excess acquisition prices to be extremely limited.

Additionally, DHCD loan funds may not be used directly to purchase schools or school sites owned by local governments or religious institutions for conversion to housing, except as permitted by waiver as provided in Section 5.2.4.

DHCD will allow real estate taxes and other carrying costs associated with owning the site for up to twelve (12) months prior to application and during the period after acquisition and application to be counted towards the allowed acquisition price of the property for the purpose of meeting the 10% expenditure tests associated with awards of LIHTC.

3.9.8.2 Syndication Costs

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

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

Payment of an investor service's fee prior to payment of the DHCD loan will be restricted to $3,000 annually.

3.9.8.3 Professional Fees

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

Summary of Professional Fee Limitations		
	Large Projects	***Small Projects (up to 40 units)***
Builder's Fees - Aggregate limit % of net construction costs	New construction: 15% Rehabilitation: 17%	New construction & Rehab: 20%
Builder's Profit	10%	
Builder's Overheard	3%	
General Requirements	10%	
Civil Engineering % of net construction costs	5%	7%
Architect—Design % of construction contract	5%	7%
Architect—Administration % of construction contract	3%	4%
Developer's Fee % of aggregate basis	5%-15% as further defined below	

- Applicants may request waivers to the professional fee limitations described above for small projects (those with up to forty (40) units) and/or projects that require specialized consultants or services. Waivers must be requested in accordance with Chapter 5 and will be granted at the sole discretion of DHCD and upon a determination that the increased costs are necessary and reasonable given unique features of the proposed project.
- **Developer's Fee** – The Developer's Fee is inclusive of all fees paid to the Developer, processing agents, and development consultants, and includes deferred fees. The range of allowable Developer's Fees is from 5% to 15% of total development costs as approved by DHCD based on the table below. For purposes of this calculation, total development costs include the following: expenses related to the construction or rehabilitation of the

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

For projects with competitive RHFP funds and LIHTC, the Developer's Fee may not exceed $2.5 million.

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

Sponsors may request up to an additional five (5) percent above the calculated Developer's Fee (i.e. up to 20% of Development Costs and up to 15% of Acquisition Costs) if the additional fee is escrowed with DHCD or another lender to: (a) fund a supportive service reserve or (b) fund a rent subsidy for Targeted Population units (See Section 4.4.2) set aside for persons at or below 20% of Area Median Income (AMI) for twenty (20) years. If a 20% AMI unit funded with this subsidy is rented to a voucher holder, then the next available comparable unit in the building must be rented to an income-qualified tenant at or below 20% of the AMI. The additional five (5) percent above the calculated Developer's Fee will not be subject to the $2.5 million limit stated above.

If funds are deposited for a rent subsidy, the funds will be used to fund the difference between the 20% AMI rent and 60% AMI rent. DHCD will work with sponsors to determine the exact mechanism necessary and appropriate to ensure funding on the subsidy. Additionally, during the initial fifteen (15) year LIHTC compliance period, DHCD will review, approve and monitor use of the rental subsidy. Provisions for the rent subsidy will be incorporated into DHCD's loan documents, as appropriate.

Note that while this section describes the limits on the allowable Developer's Fee, Section 6.1.9 addresses expectations on the disbursement of the Developer's Fee.

3.9.9 Phased Projects

Applications for subsequent phases of projects already in receipt of a reservation of RHFP funds or LIHTC allocations must show evidence that the original phase(s) of the project has achieved

Sustaining Occupancy. For this purpose, Sustaining Occupancy means a minimum of three (3) months of break-even operations and occupancy at 90% or greater.

3.10 Readiness to Proceed and Financial Feasibility

As part of the Application Submission Package, sponsors must complete the Anticipated Development Schedule in CDA Form 202. This schedule must be consistent with DHCD's underwriting and construction review process as outlined in Appendix A of this Guide as well as LIHTC requirements. If a project is approved for a LIHTC, RHFP, and/or RHW reservation, it is expected to meet the development schedule as proposed. In cases where a zoning change, variance, or exception is necessary, schedules must be consistent with the analysis provided by the Development Team's zoning attorney or engineer. In all cases, the Anticipated Development Schedule must reflect the project's readiness to use current calendar year LIHTC and current fiscal year RHFP or RHW. If a project envisions utilizing other than current calendar year LIHTC and/or current fiscal year RHFP or RHW, the application must provide sufficient explanation and supporting information for the alternate development schedule.

Additionally, all projects must be financially feasible in accordance with DHCD underwriting standards and generally accepted industry practices.

3.11 Site Requirements

3.11.1 Site Control

Sponsors must have sufficient site control to allow projects to move forward if they receive a reservation of funds or LIHTC. At the time of application, site control must extend for at least one-hundred and eighty (180) calendar days after the application deadline date (including extension options). Acceptable evidence of site control includes deeds, contracts of sale, leases, purchase options, land disposition agreements and other similar agreements from a local government, or other evidence at DHCD's discretion.

3.11.2 Utility Availability

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

3.11.3 Zoning

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

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

3.11.4 Environmental Assessments

Each project must comply with applicable requirements of local, State, and federal environmental laws and regulations. As part of the Application Submission Package, an environmental assessment checklist or environmental report, if available, must be included. Environmental assessments must not be more than one (1) year old as dated from application submission.

3.11.5 Scattered Sites

Except for family housing located in a Community of Opportunity, projects which involve either the rehabilitation of existing scattered site homes or new construction on non-contiguous vacant infill lots, whether as a stand-alone project or as part of a larger scattered site redevelopment project, must include in the application a current community revitalization plan. The community revitalization plan must be prepared in accord with the requirements of Section 4.2.1 of this Guide.

Except for family housing located in a Community of Opportunity, no targeted unit in any scattered site project may be adjacent to a vacant unit that is not part of the project or is not otherwise specifically targeted for redevelopment in a community revitalization plan.

3.11.6 Exceptions

The requirements for site control, availability of utilities, environmental assessments, zoning compliance, and scattered sites are not applicable to projects that involve the purchase of completed residential units constructed under a density bonus, affordable zone, or other comparable program. Additionally, site control requirements are not applicable for a sponsor of a scattered site family project in a Community of Opportunity. Sponsors of both of these types of projects must provide a detailed proposal for identifying specific sites and indicating how and when they will obtain site control.

3.11.7 New Construction - Priority Funding Areas (Smart Growth)

All projects involving any new construction must be located in a Priority Funding Area (PFA). PFAs include:

- All incorporated municipalities, including Baltimore City, with some exceptions related to water, sewer and density for areas annexed after January 1, 1997;

- All areas between the Baltimore beltway and the Baltimore City limits and the Washington, DC beltway and the Washington, DC boundary;
- All areas designated as Sustainable Communities, as defined by the Maryland Annotated Code, Housing and Community Development Article, Section 6-201(l) (see Section 4.2.3);
- Federal and State enterprise zones;
- All areas designated by county governments as PFAs, including rural villages designated in county comprehensive plans as of July 1, 1998; and
- Certified heritage areas within locally designated growth areas.

All applications for projects involving any new construction must include a letter from the local government that certifies the project is located in a PFA. Information regarding PFAs may also be found at the link below:

http://planning.maryland.gov/pages/ourproducts/pfamap.aspx

3.12 Market Study

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

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

   http://dhcd.maryland.gov/HousingDevelopment/Documents/rhf/AppraiserList.pdf

2. The Market Study shall be no more than six (6) months old as dated from application submission.

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

4. The Market Study must address and satisfy the standards described in Section 3.12.1. The Market Study must be consistent with the most recent version of the NCHMA Model Content Standards for Rental Housing Market Studies, which is available on the NCHMA website at:

https://www.housingonline.com/councils/national-council-housing-market_analysts/model-content-standards/

5. The Market Study must provide:

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

3.12.1 Market Analysis

The Market Study must:

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

- For properties with project-based Section 8 or USDA Multi-Family Housing Rental Assistance, provide a marketability opinion in the event the Section 8 or USDA Multi-Family Housing Rental Assistance agreement is not renewed or expires;
- Derive a market rent and an achievable rent and then compare them to the proposed rent;
- Evaluate the need for voucher support or project-based rental subsidy;
- Provide an estimate of the number of renter households qualified by income and, if appropriate, age for the targeted program(s) (using the definition of Elderly Household in Section 3.2.2), and persons with disabilities or special needs set-asides, if any, in the PMA;
- Provide rent levels, operating expenses, comparative amenity study, turnover rates, waiting lists, and vacancy rates of comparable projects in the market area with an analysis of the competitive advantages offered by the applicant's proposed project;
- Support the applicant's proposed vacancy rate and the income targeting of the project; and
- Provide a summary of the project's positive and negative attributes and impact on existing projects already in DHCD's portfolio and projects in DHCD's current processing pipeline. To ensure that the Market Study addresses all the relevant properties, the market analyst must use the DHCD website to generate a proximity report identifying properties within up to five (5) miles of the project site.

  http://www.dhcd.state.md.us/GIS/multifamily/index.html

3.12.2 Capture Rate

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

3.12.3 Penetration Rate – New Construction Projects Only

- The Market Study must provide the penetration rate for the proposed project overall, as well as for each targeted income band in accordance with NCHMA guidelines; and
- The penetration rate for a project must not exceed 100% for the overall project and for each individual income band.

3.12.4 Vacancy Rates

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

3.12.5 Income Levels

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

3.12.6 Absorption Rate

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

3.13 Development Quality Thresholds

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

3.13.1 Criteria Applicable to All Projects

1. All projects must demonstrate compliance with all applicable State and local building codes, which includes the latest version of the Building and Energy Code and the accessibility code incorporated by the Maryland Codes Administration into the Maryland Building Performance Standards (MBPS).

2. All projects, regardless of the source of funding, must comply with UFAS and any other applicable laws or requirements, including without limitation Section 504 of the Rehabilitation Act of 1973 (Section 504), the regulations implementing Section 504 at 24 CFR Part 8, the Americans with Disabilities Act (ADA), and the 2010 ADA Standards (as modified by HUD).

3. Provide a certification that the project, if funded, will employ a Residential Energy Services Network (RESNET) Certified Home Energy Rating System (HERS) rater for new construction projects, or a RESNET Certified HERS rater or Building Performance Institute (BPI) Certified Professional (Multifamily Building Analyst or Envelope Professional) for rehabilitation projects to work with the Development Team using accepted practices and levels of professional care to achieve applicant- stated energy goals, DHCD requirements, and the

State's adopted energy codes. If the project is funded, the certified energy professional must be engaged to review and verify the design, provide construction quality assurance, and perform necessary in-progress performance testing and evaluation.

4. The project must implement an integrated pest management program equivalent to the HUD Healthy Homes Initiative.

5. High performance roofing specified for durability must be used for new construction projects and when roofing is replaced for rehabilitation projects. Warranties must equal or exceed twenty (20) years for flat roofs and thirty (30) years for pitched shingled roofs.

6. Heavy (i.e. eighteen (18) to twenty (20) gauge) metal, solid core wood, or top quality foam filled fiberglass must be used for entry doors; unit entrance doors must have durable frames and hardware for exterior entry; twenty-two (22) gauge materials must be used for interior unit entry doors.

7. Laundry facilities must be adequate for the project and located for safe, convenient access. There must be a minimum of one (1) washer and dryer for every fourteen (14) units in family projects and one (1) washer and dryer for every twenty-five (25) units in elderly projects. A common or shared laundry room must include, at a minimum, a utility sink, folding table, and seating. Additionally, the common laundry room should have a means to drain should an overflow occur, dryers vented to the exterior, and must meet all ADA requirements.

8. All projects must have the capacity for high-speed Internet in each unit or in a community space. Internet service provided in each unit may be the responsibility of the tenant. If service is to be provided in community spaces, the services provided must include any necessary computer hardware and software, as well as connections, and allow reasonable accommodation during evenings and weekends for tenant work and academic schedules.

9. All products and materials must be installed in accordance with the manufacturer's installation instructions.

3.13.2 Base Level Green Standards for All Projects

1. Demolition Plan – For projects where demolition will occur, submit a demolition plan which includes plans and/or specifications which identify sound practices for managing waste and hazardous materials. Specify methods which are environmentally sensitive and create less pollution. Identify opportunities for recycling.

2. Site work – Employ Maryland Department of the Environment (MDE) 2011 Standards for Soil Erosion and Sediment Control during construction. Limit area of disturbance to immediate work area. Site work at building pad, parking areas, and storm water structures must be

completed with the approval and direction of the geotechnical engineer. Limit access to the site when vehicles or construction activity environmentally degrade the site.

3. Landscaping – New plantings shall utilize at least 50% native or regionally adapted plantings. Select native, highly suitable, drought /disease tolerant plantings suitable for the project soil and microclimate. Where there are healthy large existing trees, consider preserving mature trees in the site plan. Utilize shade, windbreak and screening benefits of plantings in the project design. Protect trees and root zones during construction.

4. Construction Waste Recycling/Deconstruction – The project must implement a construction waste recycling plan in which construction waste materials are collected, separated and recycled instead of being sent to a land fill. The plan shall include a recordkeeping function that shows the weight, type and disposition of materials processed.

5. Air Quality – The project shall make primary use of all of the following Interior Air Quality criteria: low toxic, low volatile organic compound (VOC) paint, primer, sealers, and adhesives. The architect must reference a national standard such as Green Seal, South Coast Air Quality Management District, Bay Area Air Quality Management District, or equivalent standard. In addition, unsealed engineered or composite wood products free of added urea formaldehyde must be used. (See American National Standards Institute (ANSI) A208.) The architect must verify compliance with use of green products during the submittal review and construction verification process.

6. Carpets – Any carpet products must meet the Carpet and Rug Institute's Green Label or Green Label Plus Certification for carpet, pad, and carpet adhesives. Waivers of this requirement may be requested for existing projects with recently installed carpet products.

7. Chlorofluorocarbons (CFC) – Where new HVAC equipment is specified, there must be no use of CFC refrigerant. Where CFC refrigerant equipment is being removed, specify standards for capturing and disposal of CFC materials. For retained CFC refrigerant equipment, include a comprehensive inspection, maintenance, and phase out or conversion plan.

8. Mold, Moisture, and Mildew – Correct all observed areas of mold, mildew, and moisture infiltration within the building. On existing structures, the Building Evaluation Report or environmental report must identify these areas. Plans or specifications must anticipate and identify remedies and accepted practices for treatment. Detailed plans must be included in the Development Quality Threshold Narrative portion of the application.

9. Radon Gas – For Projects located in EPA Radon Area Zone 1, install a passive radon gas reduction pipe system with vertical venting convertible to mechanical venting unless testing

indicates there is no radon gas hazard as determined by EPA standards. This requirement is only for projects in EPA Radon Zone 1 where radon gas poses a legitimate hazard.

10. Recycling Plan, Post Completion – Provide space and containers on site for household recycling. Encourage residents to recycle. Address recycling in tenant education and management plan.

11. Water Conserving Features – Project water fixtures and faucets must conserve water with toilets that use 1.28 gallons per flush or less and shower heads and bath and kitchen faucets that use 2.0 Gallons Per Minute (GPM) or less.

12. Smoking Areas –Project has a non-smoking policy applicable to all interior space, including units and common areas. Outside designated smoking areas must be at least twenty-five (25) ft. away from entry air intakes and windows.

13. Site Location – New Construction projects are not to be located in FEMA Flood Zone Areas except zones C or X which are minimal risk areas.

14. Habitat Protection – Where development of the project removes the prime habitat for a protected or endangered species, the developer must provide an offsite conservation lease or easement for a replacement habitat which is a minimum of three times the area of the habitat lost in the development of the project or consistent with State or Federal requirements, whichever is greater. The conservation lease or easement shall be a minimum of fifty (50) years.

3.13.3 Additional Criteria Applicable Only to New Construction, Gut Rehabilitation, and Adaptive Re-use

New construction, gut rehabilitation, and adaptive re-use projects (i.e. the conversion of non-residential buildings such as offices, rental, and community facilities into rental housing) do not need to submit an energy audit. Gut rehabilitation is defined as demolishing the building to the building's exterior wall structural framing and removing and replacing the existing MEP systems. Gut rehabilitation and adaptive re-use projects will be considered new construction projects for scoring purposes.

1. The project must be certified under the current version of Energy Star Certified Homes or Energy Star Multifamily New Construction, as applicable to the project type.

   For gut rehabilitation and adaptive reuse, waivers for specific Energy Star Program requirements may be requested for projects for the following elements of the Energy Star Certification:

   a. The requirement for installing slab insulation for projects with slab

b. The requirement for continuous exterior insulation where exterior walls are concealed by existing brick veneer.
c. The requirement for high performance windows, where prohibited by historic preservation restrictions.

All other requirements of the Energy Star program shall remain in force. If a waiver is granted, upon project completion, an energy consultant must provide a letter and energy modeling reports to the owner for submission to DHCD attesting that, with the exception of the waived items, the project has fulfilled all requirements of the Energy Star program, both prescriptive and performance-based.

2. Except for gut rehabilitation projects, the project must meet visitability standards for at least 25% of its units and incorporate universal design features in its units and common areas.

3. The project must provide resident comfort and efficiency through installation of Energy Star central or split HVAC systems for community area(s) and units. Proposed equipment of a type or class not currently available as Energy Star-certified shall equal or exceed the efficiency of Energy Star-certified systems. Packaged, thru the wall HVAC units, if proposed, must have duct work serving all major rooms, and the overall system design must include an adequate air return path. All supply ducting for split HVAC systems must be sealed and insulated. Projects that certify at the time of application to achieve Department of Energy (DOE) Zero Energy Ready Home (ZERH) or comparable DHCD-approved energy savings certification or rating designation in Section 4.6.2 may request a waiver of the Energy Star HVAC requirements.

4. All appliances must be Energy Star qualified, including vented bathroom exhaust fans. Clothes dryers and microwave/range hoods are excluded.

5. Except for high rise projects, install Energy Star qualified windows in accordance with current Energy Star Standards as appropriate to project location.

6. Except for gut rehabilitation projects, paving at the dumpster pad, the access drive to the dumpster, and any turns or return path of the garbage truck route must equal local requirements for standard duty residential roadway or provide specifications which indicate a stone base of eight (8) inches or greater with the combination thickness of the asphalt base and top coat being at least five (5) inches.

7. Bi-fold doors will not be used unless space requirements mandate.

3.14 Additional Criteria Applicable Only to Rehabilitation

All rehabilitation projects that do not meet the definition of gut rehabilitation and adaptive reuse as described in Section 3.13.3 shall follow all of the requirements outlined below and in Section 3.14.1.

1. Total hard construction costs (exclusive of fees or overhead items) of rehabilitation for projects must be at least $15,000 per unit and supported by a building evaluation report performed by an engineer or other qualified professional.

2. The scope of work must include exterior renewal by providing any needed repairs and cleaning of finishes to provide an improved visual impact on the neighborhood.

3. Project designs must include complete replacing or upgrading of aging finishes, fixtures, equipment or systems and site conditions that are nearing the end of their useful life or show signs of excessive wear, deterioration, are in need of repair, or are obsolete or inefficient.

4. Newly installed mechanical ventilation must terminate at the exterior of the building, not the attic or other unconditioned or interstitial space. Best efforts must be made to extend existing mechanical ventilation to terminate at the exterior of the building.

3.14.1 Base Level Energy Standards for Rehabilitation Only

An energy audit is not required at the time of application for a rehabilitation project. If a rehabilitation project receives an award of LIHTC and/or RHFP, a comprehensive energy audit must be submitted to DHCD within ninety (90) days of issuance of a reservation letter. For non-competitive MBP and RHW projects with or without LIHTC, the energy audit must be submitted on a schedule set by the underwriter and construction manager.

As determined by the energy audit, rehabilitation projects must achieve a minimum of 15% energy savings for the rehabilitated building(s) over the existing building condition or install all energy conservation measures that have a Savings to Investment Ratio (SIR) of 2.0 or greater. The SIR standard may be used if a rehabilitation project previously completed an energy efficiency retrofit and the 15% standard cannot be achieved.

Energy audits and resulting reports must be performed by a DHCD listed Qualified Auditor and be prepared in accordance with DHCD Energy Audit Guidance.

http://dhcd.maryland.gov/HousingDevelopment/Documents/Qualified_Auditor_List.pdf

Base level energy standard regulations for rehabilitation-only projects are:

1. Install Energy Star qualified heating, ventilation, and air conditioning (HVAC) systems and components when HVAC systems and their components are replaced. Replacement HVAC

units must be at least 10% greater efficiency than code minimum when Energy Star equipment is not available. The closest efficient system available to 10% must be used if a model meeting the 10% efficiency minimum is not available.

2. Install programmable thermostats where thermostats are installed or replaced. Project specifications must include thermostats to be programmed in accordance with IECC thermostat set-back guidance by the installer as part of equipment installation and commissioning.
3. All newly installed appliances must be Energy Star qualified, including vented bathroom exhaust fans. Clothes dryers and microwave/range hoods are exempt from this requirement.
4. Install only Energy Star qualified LED lighting fixtures or LED lamps when lighting replacement is included in the scope of work. For any lighting products not available as Energy Star certified, such as commercial lighting, select and install fixtures and lamps approved by the Design Lights Consortium (DLC). For more information, visit www.designlights.org.
5. Install Energy Star qualified windows in accordance with current Energy Star Standards as appropriate to project location when windows are replaced (excluding high-rise buildings).
6. A building draft- stopping and air-sealing scope of work is to be included in the project specifications with minimum verification completed by sampling 10% of the units with a blower door test. Schematic drawings indicating typical air-sealing details for the project building type(s) is to be included in the construction section of the Application Submission Package. Air-sealing details must include, at a minimum, air sealing for unit compartmentalization as well as air sealing the buildings thermal envelope; including attic and basement/crawl space. Effective attic air-sealing may require temporary displacement or removal of existing insulation. Typical details must include sealing inherent design deficiencies specific to the building type(s).
7. A building duct-sealing and insulation scope of work must be included in the project specifications (for ducts located outside the building envelope with minimum verification completed by sampling 10% of the units, utilizing a duct blaster or similar diagnostic test). Schematic drawings for typical duct air-sealing and insulation details must be included in the construction section of the Application Submission Package. It may not be feasible to insulate ducts that are not accessible. See Energy Star or the Department of Energy *Building America Best Practice*, Volume 4.
8. Heating and cooling equipment must be sized in accordance with the Air Conditioning Contractors of America (ACCA) Manuals, Parts J and S, or ASHRAE handbooks for the post-

rehabilitation building condition. The smallest available size may be used when the calculated size is smaller than the available equipment. Calculation worksheets must be submitted to DHCD before Viability Commitment if the project is approved for funding.

9. A project specific Operations and Maintenance (O&M) manual shall be created to optimize the energy efficiency of the equipment installed in the project. The O&M manual must include: evaluation criteria, operation parameters, maintenance schedules, and checklists for systems and equipment on the project. The building maintenance staff must utilize the O&M manual as an operational standard.
10. The project management staff must provide continuing tenant education and reminders on how to conserve energy at minimal intervals of tenant turnover and heating/cooling changeovers in the spring and fall. Property Management Staff must have written material containing energy-saving tips distributed to tenants.

3.14.2 Lead Hazard Elimination

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

All projects originally constructed before 1978 must register with MDE's lead poisoning prevention program.

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

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

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

http://www.epa.gov/getleadsafe

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

http://mde.maryland.gov/programs/Land/LeadPoisoningPrevention/Pages/index.aspx

4 Competitive Scoring Criteria

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

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

Multifamily Bond Program and Rental Housing Works Terms and Conditions

Applicants seeking only MBP and RHW financing and associated non-competitive LIHTC must meet all Threshold Criteria in Chapter 3. Such projects are not required to compete with others but will be scored using the Competitive Scoring Criteria and **must achieve a minimum total score of ninety-two (92) points** to be awarded MBP and RHW funds and non-competitive LIHTC. Additionally, projects must achieve **at least thirty (30) points within the Development Team Experience category** in Section 4.1.1, **at least twelve (12) points within the Developer Financial Capacity category** outlined in Section 4.1.3, and **at least ten (10) points within the Development Quality Standards category** in Section 4.6.

Projects seeking FHA Risk Sharing Insurance for MBP financing must meet all Threshold Criteria. Such projects are not required to compete with others but will be scored using the Competitive Scoring Criteria and **must achieve a minimum total score of ninety-two (92) points including at least thirty-two (32) points in the Development Team Experience category** in Section 4.1.1 **(with no individual team member earning less than three (3) points below the respective maximum score), at least fourteen (14) points within the Developer Financial Capacity category** outlined in Section 4.1.3**, and at least twelve (12) points within the Development Quality Standards category in** Section 4.6 **below.**

See Section 6.2 for additional information on MBP.

Scoring Summary Table		Maximum Possible Points
4.1 Capacity of Development Team		**74 Total Points**
	4.1.1 Development Team Experience	42 points
	4.1.2 Deductions from Team Experience Score	Negative 10 points
	4.1.3 Developer Financial Capacity	18 points
	4.1.4 Nonprofits (NPs), Public Housing Authorities (PHAs) and Minority/ Disadvantaged Business Enterprises (MBE/DBEs)	14 points
4.2 Community Context		**16 Total Points**
	4.2.1 Community Impact Projects	16 points*
	4.2.2 Communities of Opportunity	16 points*
	4.2.3 Defined Planning Areas and Opportunity Zones	16 points*
4.3 Transit Oriented Development (TOD)		**8 Total Points**
4.4 Public Purpose		**46 Total Points**
	4.4.1 Income Targeting	15 points
	4.4.2 Targeted Populations: PWD or Special Needs	10 points
	4.4.3 Family Housing	8 points
	4.4.4 Tenant Services	8 points
	4.4.5 Policy Incentives	5 points
4.5 Leveraging and Cost Effectiveness		**25 Total Points**
	4.5.1 Direct Leveraging	15 points
	4.5.2 Operating Subsidies	10 points
	4.5.3 Construction or Rehabilitation Cost Incentives	Negative 8 points
4.6 Development Quality Standards		**31 Total Points**
	4.6.1 Green Features	10 points
	4.6.2 Energy Efficiency	8 points
	4.6.3 Project Durability and Enhancements	13 points
4.7 State Bonus Points (maximum of 10 points)		**See note#**
Total		**200 points**

* Project cannot receive points under more than one of the Community Impact, Communities of Opportunity, and Defined Planning Area categories.
# State Bonus Points may be awarded outside of the 200 point scale.

4.1 Capacity of Development Team

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

4.1.1 Development Team Experience (42 maximum points)

DHCD will award up to forty-two (42) points based on an assessment of Development Team capacity as further described below. Capacity will be based on the demonstrated relevant experience and qualifications of the Primary Development Team. DHCD will evaluate the Primary Development Team (see Section 3.1 for Primary Development Team members) based on their record of accomplishment during the past five (5) years with projects that are similar in size, scope, and complexity to the proposed project. Primary Development Team members without appropriate experience should establish partnerships with experienced entities. In the case of a joint venture, points will be awarded based on the capacity and experience of the controlling member of the joint venture.

Points will be available as detailed on the following chart:

Development Team Capacity				
Criteria	***Developer***	***General Contractor***	***Architect***	***Property Manager***
The entity has a consistent and successful track record during the past five (5) years with projects that are similar to the proposed project and has shown the ability to remedy problems.	14-18 points	6-9 points	5-6 points	6-9 points
The entity has an overall successful track record during the past five years (5) but may not have sufficient experience, may not have always promptly addressed problems, or may not have sufficient experience with similar projects.	9-13 points	3-5 points	3-4 points	3-5 points
The entity has an inconsistent track record during the past five years (5), may not have sufficient experience, may not have promptly addressed some problems, or may not have sufficient experience with similar projects.	4-8 points	1-2 points	1-2 points	1-2 points
The entity has limited or no experience, has a record of problems that were not promptly addressed, or has limited or no experience with similar projects.	0-3 points	0 points	0 points	0 points

4.1.2 Deductions from Team Experience Score (Negative 10 maximum points)

Points will be deducted from the Development Team Capacity score for any Developer (up to six (6) points) or property manager (up to four (4) points) with a record of the following within the past five (5) years:

Processing Timeframes:

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

Compliance Issues:

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

- Failure to maintain income targeting as required under any MBP, RHFP, RHW, LIHTC, or other DHCD funding agreements;
- Failure to maintain adequate documentation of tenant eligibility or qualified basis;
- Failure to timely recertify tenant incomes or continued occupancy by unqualified households; or
- Failure to promptly resolve compliance matters arising from commitments in prior applications that led to the award of points under a prior QAP, Guide, or funding round, including, but not limited to, failures to:
    - Provide promised tenant services;
    - Maintain promised preferences within the set-aside of units or criteria for persons with disabilities or special needs populations;
    - Obtain non-State leveraged funding as committed in a prior application; or
    - Deliver promised development features, amenities, or as-built specifications without prior approval of DHCD.

Asset Management Issues:

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

- Late payments of any type including cash flow billings.

<u>Construction Management Issues:</u>

- Failure to pay the general contractor (in accordance with the construction contract) for work-in-place;
- Failure to make a good faith effort to meet Fair Practices goals established for previous projects;
- Inability to resolve construction related issues, which result in an unreasonable delay of project completion; or
- Construction cost increases after closing that are not approved by DHCD.

4.1.3 Developer Financial Capacity (18 maximum points)

Up to eighteen (18) points may be awarded based on the financial capacity of the Developer, which, as defined in Section 3.1, includes the project sponsor, guarantor, and general partner/managing member with an ownership interest in the project's ownership entity whether such roles are held by individuals, corporate entities, partnerships, or limited liability companies. Points will be awarded as described below. The required financial statements must include calculations of Total Assets, Total Liabilities, Current Assets, and Current Liabilities. DHCD will use these figures to assess the Developer's financial capacity, assessing whether the Developer has access to sufficient working capital to carry the project through pre-development and/or unexpected challenges, and net worth (net assets for nonprofit organizations) sufficient to provide applicable guarantees of project completion and operations.

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

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

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

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

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

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

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

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

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

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

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

Projects shall be eligible for a maximum of fourteen (14) points under this section as detailed in the four (4) categories below. The same entity may receive points in multiple categories. For example, an MBE/DBE, Community-Based NP (defined below), or PHA could have a 10% developer/owner role in Category 2 and also receive points in Category 4 as a service provider.

Category 1 (maximum of eight points): Eight (8) points will be awarded when the NP, PHA, or MBE/DBE has a controlling ownership interest (51% or greater) in the project and, for the NP entity, is a Qualified Nonprofit within the meaning of Section 42(h)(5)(B) and (C) of the Internal Revenue Code which, among other things, requires that the entity:

1. Materially participate in the development and management of the project throughout the compliance period;

2. As determined by DHCD, is neither controlled by nor affiliated with any for-profit entity; and

3. Has as one of its exempt purposes the fostering of low-income housing.

Category 2 (maximum of six points): Up to six (6) points will be awarded to a PHA, MBE/DBE, or a Community-Based NP if the entity has less than 50% but more than 10% interest in the general partner or managing member of the project owner

A Community-Based NP means:

- A Community Housing Development Organization (CHDO) certified by DHCD or by a participating jurisdiction; or
- A Community Development Corporation (CDC) or a nonprofit or charity organized under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, which: (i) has at least a one-year history of serving the local community in which the project is located; (ii) has an existing physical location in the local community (or for a project that serves persons experiencing homelessness or veterans within a Community-Based NP's service footprint) other than space that would be provided, if any, in the proposed project; and (iii) the project is within its defined service area.

Category 3 (maximum of eight points): Up to four (4) points may be awarded to a project for each NP, PHA, or MBE/DBE that is involved as a member of the Primary Development Team as the general contractor, architect, or property management company.

Category 4 (maximum of eight points): Up to two (2) points for each NP, PHA, or MBE/DBE entity that:

1. Is a member of the Secondary Development Team as a civil engineer, attorney, accountant, and/or other specialized professional service provider; or

2. Performs another important role with the goal of building its capacity to develop, manage, construct, design, or own affordable housing in the future. Examples include: (a) providing consulting or tenant services, (b) participating in the project in some other learning role, (c) performing as a joint venture partner with the contractor to perform some defined portion of the contractor role, or (d) entering into a joint venture or subcontracting with the architect to perform some defined portion of the design or supervision work. In the case of contractor or architect joint venture, points for contractor/architect capacity in Section 4.1.1 shall be based solely on the primary contractor/architect, and no points shall be deducted in that category based on the lesser experience of the subcontractor/joint venture partner.

   To receive points as a Secondary Development Team member (see Section 3.1), the entity must show sufficient experience to carry out the proposed role. Such experience need not be on previous affordable housing projects.

If an NP, PHA, or a MBE/DBE is a member of the Primary Development Team (see Section 4.1) and receives less than 50% of the points under Section 4.1.1 (Development Team Experience) above, no points for participation will be awarded in this Section 4.1.4. Additionally, if the entity's prior performance results in negative points in Section 4.1.2, the same amount of negative points will be applied to the points awarded in this Section 4.1.4. Points will not be awarded under this Section 4.1.4 if DHCD determines that the role proposed for the entity is not a role that it has the experience or competence to perform.

4.2 Community Context

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

Projects may only receive points under one of the following categories: 4.2.1, 4.2.2, or 4.2.3.

4.2.1 Community Impact Projects (16 maximum points)

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

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

A concerted community revitalization plan means a development plan which:

1) Is geographically specific;
2) Outlines a clear plan for implementation and goals for outcomes;
3) Includes a strategy for applying for or obtaining commitments of public or private investment (or both) in non-housing infrastructure, amenities, or services; and
4) Demonstrates the need for community revitalization.

To meet the definition of a concerted community revitalization plan and qualify for points in this category, a concerted community revitalization plan must meet the following requirements:

a) Officially adopted or endorsed by a local government or created with local government involvement;

b) Established to increase investment in the community or build from existing community assets;

c) Developed and approved in accordance with local planning requirements;

d) Includes evidence of community and stakeholder engagement;

e) Has a defined geographic boundary, that includes the proposed site or is focused within a single municipality, jurisdiction, or targeted area;

f) If there is a housing component in the plan, the plan should include rehabilitation or new construction of rental housing as a goal for the community;

g) Includes details of implementation measures along with specific time frames for the achievement of such policies and housing activities; and

h) Provides a list of other investment occurring or planned within the immediate area.

A community revitalization plan will be considered <u>ineligible</u> if it:

a) Was formulated solely by a Development Team member. This requirement shall not exclude a plan which included Development Team member(s) as a participant in the planning process;

b) Is a comprehensive plan, consolidated plan, municipal zoning plan or land use plan; unless such plan includes a neighborhood-based or other location-specific strategy that articulates where development may occur; or

c) Is not relevant to current neighborhood conditions.

Documentation must be submitted as part of the Application Submission Package that supports each of the elements above, including:

a) A certification form executed by both the applicant and the local government through the local planning department or zoning board that demonstrates that the plan meets the requirements of DHCD;

b) A copy of the full revitalization plan; and

c) A map of the area targeted by the plan identifying the location of the project.

4.2.2 Communities of Opportunity (16 maximum points)

Sixteen (16) points will be awarded to family projects with reasonable access to jobs, quality schools, and other economic and social benefits, as demonstrated by meeting at least one (1) of the following two (2) criteria:

1. Be located in a "Community of Opportunity" as shown on the Maryland QAP Comprehensive Opportunity Maps posted to the DHCD Web site at:

   http://www.dhcd.state.md.us/GIS/multifamily/index.html

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

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

- *Community Health*: The community health indicator represents the wealth and quality of life in a community relative to the State average. The community health indicator has six (6) components, as follows:
  - Median household income obtained from the U.S. Census Bureau American Community Survey (ACS) 2007-2011, five-year estimate. Household income is positively correlated with community health. Higher household incomes support a

more diversified economic base and enhance the tax basis and services of its local government.

- Ratio of owner-occupied to all occupied housing units (a proxy for homeownership rate) obtained from the ACS 2007-2011, five-year estimate. A higher homeownership rate indicates the economic stability of a community, which is positively correlated with community health.
- Median value of owner-occupied housing units obtained from the ACS 2007-2011, five-year estimate. This statistic indicates the strength of a community's real estate market relative to the average statewide market condition and is highly correlated with community health.
- Population growth between 2010 and 2012 obtained from the Economic and Social Research Institute (ESRI) 2012 community profile. A component of population growth is the number of people relocating to a community, so this measures the quality of life in a community and is positively correlated with community health.
- Poverty rate, obtained from the ACS 2007-2011, five-year estimate. The poverty rate highlights the detrimental impact of concentrated poverty on quality of life in a community. This variable is inversely correlated with community health.
- Property vacancy rate obtained from the ESRI 2012 community profile. An elevated property vacancy rate negatively impacts community health. Vacant property is often correlated with higher crime and depreciation of property values in a community.

- *Economic Opportunity*: Economic opportunity measures the extent to which a community provides employment opportunity and mobility to its residents. Employment opportunity is measured by the following variables:
  - Prevailing unemployment rate obtained from the ACS 2007-2011, five-year estimate. This variable, which measures employment opportunity in a community, is inversely related with economic opportunity.
  - Median commute time to work obtained from the ACS 2007-2011, five-year estimate. The commute time measures proximity to regional employment opportunities and is inversely related with economic opportunity.
- *Educational Opportunity*: Educational opportunity measures the outcomes of student performance and educational attainment in the community. This indicator is measured by the following variables:
  - Maryland School Assessment (MSA) scores, proficient and advanced, for elementary, middle, and high school students obtained from Maryland Department of Education for the 2011/2012 academic year. These scores play a key role in determining educational advancement as well as opportunities available to students. The MSA scores are positively correlated with educational opportunity.

- Percent of population with a college degree (both undergraduate and graduate degrees) obtained from the ACS 2007-2011, five-year estimate. This variable is positively related to educational opportunity.
- Percent of population with no high school diploma, obtained from the ACS 2007-2011, five-year estimate. This variable is inversely related with educational opportunity.

2. Be located in a geographic area defined by applicable law as a community of opportunity for affordable family housing or identified as such by an order or consent decree entered by a federal or State court of competent jurisdiction or by a settlement agreement to which DHCD or a local government in Maryland is a party. As of the publication of this Guide, DHCD is aware of two such settlements:

    1) Baltimore City: The case of *Thompson v. HUD*. The following link provides information on census tracts designated as Communities of Opportunity in the *Thompson* case:

       http://www.brhp.org

    2) Baltimore County: The Conciliation Agreement among HUD, several complainants, and Baltimore County to designate 116 census tracts in Baltimore County as Communities of Opportunity. These census tracts are outlined in Exhibit F of the Conciliation Agreement found at the following website:

       http://www.baltimorecountymd.gov/Agencies/planning/fairhousing/hudconciliation.html

As detailed in Section E.3 of the Qualified Allocation Plan, all family projects located in a Community of Opportunity will qualify for the State Basis Boost without prior CDA approval.

4.2.3 Defined Planning Areas and Opportunity Zones (16 maximum points)

Projects that did not receive points in Sections 4.2.1 or 4.2.2 may receive up to a maximum of sixteen (16) points in this section as detailed below.

- **Category 1:** Twelve (12) points for projects in a rural area or projects located in any of the following: Certified Heritage Areas within county designated growth areas; Sustainable Communities; Empowerment Zones; Federal or Maryland Enterprise Zones; Main Street/Maple Street Maryland communities; or rural villages designated in county comprehensive plans as of July 1, 1998 and where there is evidence of other recent public investment in the plan area.
    - The Sustainable Communities Program is a place-based designation offering a comprehensive package of resources that support holistic strategies for community development, revitalization, and sustainability. The following link provides a list of approved Sustainable Communities:

http://dhcd.maryland.gov/Communities/Pages/dn/default.aspx

- For purposes of this section, a rural area includes any area eligible under the U.S. Department of Agriculture's Rural Development programs or any area in Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, or Worcester Counties that are not otherwise Community Development Block Grant (CDBG) entitlement communities or HOME Participating Jurisdictions.

- **Category 2:** Four (4) points for projects located in a designated Opportunity Zone and also located in an area outlined in Category 1 above.

4.3 Transit Oriented Development (TOD) (8 maximum points)

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

- Eight (8) points to a project that is part of a MDOT-designated TOD. A list of MDOT-designated TODs is available at: http://www.mdot.maryland.gov/newMDOT/Planning/TOD/index.html;
- Eight (8) points to a project that is located within a one-half (1/2) mile radius of a passenger boarding and alighting location of a planned or existing transit rail stop or station;
- Eight (8) points to a project located within a one-half (1/2) mile radius of two separate bus lines, where passengers can transfer from one line to another;
- Eight (8) points to a project located in an area defined as rural by DHCD or USDA and located within a one (1) mile radius of a passenger boarding and alighting location of a planned or existing bus or transit rail stop or station;
- Eight (8) points to a project that is family housing in a Community of Opportunity and meets either of the following criteria:

  a) located within a two (2) mile radius of a passenger boarding and alighting location of a planned or existing bus or transit rail stop or station; or

  b) augments the minimum threshold tenant services by providing (or arranging for the provision of) alternate forms of free or subsidized transportation services and assistance for residents of the project beginning no later than 8:00 am and ending no earlier than 6:00 pm, Monday through Friday (such as on-demand paratransit, vans, microtransit, taxi, "Uber" or "Lyft" service, "Zip Car" or other car sharing services, or car purchase programs such as "Vehicles for Change" and "Wheels for Work", but any chosen services must be available to all residents and not restricted to service for the elderly or disabled);

- Four (4) points to a project served by Demand Responsive Transit (DRT) that is accessible (i.e. available to all people with disabilities including those who use a mobility device and/or service animal). The project is served by a DRT service beginning no later than 8:00 am and ending no earlier than 6:00 pm, Monday through Friday. DRT must be available to all residents and not restricted to service for the elderly or disabled. DRT service funded solely by the project is acceptable for points in this category;
- Four (4) points to a project offering car sharing. The project is located within ¼ mile of a car sharing vehicle (i.e. "Zip Car" or other car sharing services), or is proposing a car sharing service on site; or
- Points will be allocated to a project located in a transit-proximate development that promotes walkability and/or bike-friendly land use with easy access to mass transit and retail store locations based on its WALK Score (www.walkscore.com).

WALK Score Range	Points Allocated
50-59	2
60-69	4
70-79	6
80 and Above	8

4.4 Public Purpose

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

4.4.1 Income Targeting (15 maximum points)

In accordance with changes to §42 of the Internal Revenue Code by the federal Consolidated Appropriations Act of 2018, and effective in the State of Maryland as of August 1, 2018, all LIHTC applicants must commit to select one of the following three (3) set-aside elections (the Set-Aside Election): 1) at least 20% of the housing units in the project for households with incomes at or below 50% of the area median gross income (the 20@50 Set-Aside); 2) at least 40% of the housing units in the project to households with incomes at or below 60% of the area median gross income (the 40@60 Set-Aside); or 3) at least 40% of the housing units in the project to households with incomes at or below 80% of the area median gross income so long as the average gross income for the restricted units in the project does not exceed 60% of the area median gross income (the Income Averaging Set-Aside). Further guidance with regards to these requirements is outlined in Section A.3 of the Qualified Allocation Plan.

Note that the changes to the Internal Revenue Code made by the federal Consolidated Appropriations Act of 2018 and described above do not extend to the set-aside requirements associated with MBP financing which involves the issuance of tax-exempt bonds in accordance with §142 of the Internal Revenue Code. Projects that receive an allocation of 4% LIHTC in conjunction with MBP financing must meet the set-aside requirements of both §42 and §142 of the Internal Revenue Code.

Additionally, any unit financed with RHFP or RHW funds must be rented to households at or below 80% of AMI.

To encourage sponsors to income-restrict additional units and to target units to lower-income households, DHCD will award points for income targeting in excess of these minimum requirements as follows:

- A project will receive five (5) points if at least 10% of the income-restricted units in the project will be income-restricted at 30% of the area median gross income or below for the compliance period (including the extended use period). These points are available (a) if the project rent restricts those units at the 30% area median gross income level for the compliance period or (b) for units supported by the award of a project-based housing choice voucher contract (or a DHCD approved equivalent form of project-based assistance) with a term of fifteen (15) years or more. DHCD will consider project-based housing choice vouchers awarded through a recognized mobility program in awarding points in this section. At this time, DHCD is aware of one (1) such program being operated by the Baltimore Metropolitan Council. For initial lease-up, project-based voucher units will be considered 30% units for the purposes of income targeting.
- Up to ten (10) points will be awarded to any project, regardless of location, based on the weighted average of area median gross income targeting by bedroom in a project. For purposes of this calculation, the lowest income level used will be 20% of area median gross income. For the purposes of this section, units restricted at 20% of area median gross income excludes project-based vouchers (PBV), project-based rental assistance (PBRA) contracts, or equivalent federal rental assistance programs that serve households at or below 30% of the area median gross income. SRO or efficiency units will be counted as 0.67 bedrooms, and all weighted averages will be rounded to the nearest one hundredth of a percentage point. To calculate the weighted average, applicants should use the following process:
    - Determine the number of income-restricted bedrooms serving each percentage of area median gross income by multiplying the number of units of a given size by the number of bedrooms per unit.

- Multiply each income-restricted bedroom by the maximum income target and add the sum of those totals together.
- Divide the result by the total number of income-restricted bedrooms and round to the nearest one hundredth of a percentage point to determine the weighted average.

DHCD will award points based on the weighted average as follows depending on the location of the project:

Points	**Average Area Median Gross Income**
10	32.00% or below
9.5	32.01% to 33.50%
9	33.51% to 35.00%
8.5	35.01% to 36.50%
8	36.51% to 38.00%
7.5	38.01% to 39.50%
7	39.51% to 41.00%
6.5	41.01% to 42.50%
6	42.51% to 44.00%
5.5	44.01% to 45.50%
5	45.51% to 47.00%
4.5	47.01% to 48.50%
4	48.51% to 50.00%
3.5	50.01% to 51.00%
3	51.01% to 52.00%
2.5	52.01% to 53.00%
2	53.01% to 54.00%
1.5	54.01% to 54.50%
1	54.51% to 55.00%
0.5	55.01% to 55.50%
0	55.51% or greater

For projects that involve “twinning” of 9% LIHTC and MBP/4% LIHTC, which refers to multiple projects which, pursuant to a common plan of development, are part of a larger development located on the same, contiguous, or proximate sites, include an overall total of at least 120 units, and demonstrate a need for at least $5 million of MBP financing, the Income Targeting score for the 9% LIHTC project will be calculated taking into account only the income targeting for the units associated with the 9% LIHTC project. Since the units in the MBP/4% LIHTC project are considered a separate project, these units will be excluded in the Income Targeting scoring calculation for the 9% LIHTC project. DHCD will determine whether an assemblage of sites is "proximate" based on whether they can be developed in a single construction period and would constitute a single site except for street or other public divisions. To calculate the Income Targeting score for the 9% LIHTC project, applicants should provide a separate CDA Form 202 that includes only the project information for the 9% LIHTC project on a stand-alone basis.

Example

A one hundred (100) unit rental housing project consists of twenty-five (25) one-bedroom units, fifty (50) two-bedroom units and twenty-five (25) three-bedroom units. The one-bedroom units will be rented to families with incomes of no more than 50% AMI. Twenty (20) of the two-bedroom units will be rented to families with incomes of no more than 80% AMI, twenty (20) more will be rented to families with incomes of no more than 20% AMI, and ten (10) will be rented to families with incomes of no more than 30% AMI. Ten (10) of the three-bedroom units will be rented to families with income of no more than 50% AMI, and the remaining fifteen (15) three-bedroom units will be rented to families with incomes of no more than 40% AMI.

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

80% AMI – 20 2-bedrooms or 40 bedrooms [20 x 2 = 40]
50% AMI – 25 1-bedrooms and 10 3-bedrooms or 55 bedrooms [(25 x 1) + (10 x 3) = 55]
40% AMI – 15 3-bedrooms or 45 bedrooms [15 x 3 = 45]
30% AMI – 10 2-bedrooms or 20 bedrooms [10 x 2 = 20]
20% AMI – 20 2-bedrooms or 40 bedrooms [20 x 2 = 40]

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

40 bedrooms x 80% of AMI = 3,200
55 bedrooms x 50% of AMI = 2,750
45 bedrooms x 40% of AMI = 1,800
20 bedrooms x 30% of AMI = 600
40 bedrooms x 20% of AMI = 800
Total = 9,150

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

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

Step 4. Use chart above to determine number of points for 45.75% of AMI.

45.75% AMI results in five (5) points.

4.4.2 Targeted Populations (10 maximum points)

DHCD strongly supports the creation of permanent housing opportunities integrated across the State for targeted populations, particularly those with disabilities who rely primarily on Supplemental Security Income (SSI) or Social Security Disability Income (SSDI). DHCD will award points for projects that set aside up to 20% of the affordable units in a project for targeted populations. To qualify as a targeted population set-aside unit, the housing unit must be:

- Permanent housing. Transitional housing or other facilities with limits on the term of occupancy do not qualify as permanent housing;
- Income and rent-restricted at no more than 30% of the area median income; and
- Set aside for a household that is headed by one of the following (projects must identify the percentage of units for each targeted population):
    - PWDs;
    - Persons with special needs;
    - Persons experiencing homelessness;
    - Youth aging out of foster care;
    - Survivors of crimes, including domestic and/or intimate abuse, sexual assault, and sex trafficking;
    - Veterans;
    - Persons transitioning from a correctional facility or other State facility or institution; or
    - Persons recovering from substance abuse disorder.

To receive points in this category, targeted populations in elderly projects must meet DHCD's age restrictions. The UFAS units from the threshold requirement in Section 3.5.2 may be counted toward the total percentage for scoring in this section, if the threshold units are income and rent-restricted at or below 30% AMI.

DHCD will award up to 10 points in this category based on the percentage of units set aside out of the 20% set-aside maximum. The points will be calculated based on the following formula:

$$\frac{\text{\# of set-aside units}}{\text{20\% of the affordable units}} \times \text{10 points} = \text{Points Awarded}$$

The final score will be rounded to the nearest one-hundredth (1/100) of a point.

Example
A project consists of 49 affordable units. 8 units have been set aside PWDs.

Step 1. Calculate 20% of the affordable units in the project.

49 x 20% = 9.8 units

Step 2. Divide the set-aside targeted population units by 20% of the affordable units.

8 ÷ 9.8 = 0.8163265306

Step 3. Multiply the result by 10 to determine the number of points awarded.

0.8163265306 x 10 = 8.16 points awarded

*Projects with more than 25% of the units for a targeted population will receive zero points in this category except those projects targeting persons experiencing homelessness through permanent supportive housing and projects targeting at-risk veterans and their families under the Department of Veterans Affairs Enhanced Use Lease (EUL) Program may exceed the 25% target population limit and still qualify for 10 points.

Applicants seeking points under this section for PWD must agree to provide notice of unit availability to and accept tenant referrals from MDH and MDOD. Applicants seeking points under this section for a targeted population other than PWD must agree to provide notice of unit availability to and accept tenant referrals from the State CoCs or applicable agencies that regularly work with the targeted populations being served by the project, as evidenced by a memorandum of understanding or other formal written agreement. DHCD intends to establish a web-based process for service providers to connect their target population-eligible clients to available units set-aside for that specific targeted population. When such a system is created by DHCD, applicants seeking points under this section for any and all set-aside target population units must agree to provide notice of unit availability and accept tenant referrals from such a DHCD system.

Units that receive points under this category must be reserved exclusively for the targeted population. If a project is unable to fill a unit with the targeted population after a sixty (60) calendar day referral period, the unit may be leased to another household with income at 30% AMI or below. The next available 30% AMI unit in the Project shall be marketed to the Project's original targeted population until the project is in compliance with the percentage for which it received points. The sixty (60) calendar day period at lease-up will be measured from the date upon which the project achieves 80% occupancy and at turnover will be measured from the date upon which the unit is determined ready for occupancy following move-out by the prior tenants and completion of any unit turn cleaning, repairs, or maintenance.

4.4.3 Family Housing (8 maximum points)

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

Up to eight (8) points are available in this category for projects as outlined in the table below:

Points Awarded	**Project Must Meet Requirements in Both Columns Below and Must Not Impose Any Age Restrictions on Tenants**	
	Minimum % of Units in Project with 2 BRs, 3 BRs or more	*Minimum % of Units in Project with 3 BR or more*
2	65%	5-9%
3	60%	10%-19%
4	60%	20% - 24%
5	65%	20% - 24%
6	60%	25% - 29%
7	65%	25% – 29%
8	60%	30% or more

Alternatively, for projects where 100% of the units have a preference for veterans or persons experiencing homelessness, four (4) points will be awarded if at least 20% of the units are 2-bedrooms or larger.

Examples

A 50-unit project which includes twenty (20) one-bedroom units, fifteen (15) two-bedroom units and fifteen (15) three-bedroom units would receive eight (8) points in this category since a total of 60% of the units (i.e. fifteen (15) two-bedroom and fifteen (15) three-bedroom units) include two (2) bedrooms or more, AND a total of 30% of the units (i.e. fifteen (15) three-bedroom units) include three (3) bedrooms or more.

A 50-unit project which includes ten (10) one-bedroom units, thirty (30) two-bedroom units and ten (10) three-bedroom units would receive five (5) points in this category since a total of 80% of the units (i.e. thirty (30) two-bedroom and ten (10) three-bedroom units) include two (2) bedrooms or more, AND a total of 20% of the units (i.e. ten (10) three-bedroom units) include three (3) bedrooms or more.

4.4.4 Tenant Services (8 maximum points)

While all projects must provide or coordinate resident access to community services as outlined in the Threshold Criteria, DHCD recognizes the value that more robust resident services coordination and/or direct services bring to tenants' lives.

Up to eight (8) points will be awarded to projects that augment the minimum Threshold Criteria by identifying one or more tenant service providers for services on-site or in the community. The provision of such services must be evidenced by a certification from the applicant detailing the services to be provided. Points will be awarded as follows:

- Identification of partners, including written agreement(s). The documents (in the form of an MOU or Contract) must detail where the services are located and address transportation needs for off-site services (3 points).
- Identification of tenant population and applicability of services offered. Services must benefit and be accessible to all tenants (1 point).
- Description of how tenant services will be funded (up to 2 points):
    - Full budget with sources (2 points);
    - Description of financing needed without identified sources (1 point); or
    - No mention of financing (0 points)
- Identification of goals for resident outcomes and how they will be measured (1 point)
- Description of feedback mechanism, conflict resolution between property management and resident services, and privacy protocols for storing tenant information (1 point)

Alternatively, an applicant will receive eight (8) points in this category by executing a certification at the time of application that requires the provision of tenant services throughout the compliance period or loan term, as applicable, through a sponsor organization or contract service provider that has achieved designation as a Certified Organization for Resident Engagement and Services (CORES) or a comparable DHCD-approved third-party certification. Information regarding CORES can be accessed at http://coresonline.org/.

4.4.5 Policy Incentives (5 maximum points)

- One (1) point will be awarded to projects that involve "twinning" of 9% LIHTC and MBP/4% LIHTC, as described in Section 4.4.1. These points will be awarded as follows:
  - Points will only be awarded to the three (3) highest scoring "twinning" projects (prior to points eligible under this section) in the funding round;
  - Points will only be awarded to "twinning" projects which include an overall total of at least 150 units; and
  - Points will only be awarded to "twinning" projects which demonstrate a need for at least $5 million of MBP financing.
- Two (2) points will be awarded to the top two (2) projects in communities of opportunity in the Baltimore Region and the DC Metro areas. These points will be awarded as follows:
  - Points will only be awarded to new construction, gut rehabilitation, or adaptive re-use projects, as defined in Section 3.13.3;
  - Points will only be awarded to family or intergenerational housing. For purposes of this section, intergenerational housing means housing designated for both families and seniors and which complies with the federal Housing for Older Persons Act; and
  - Points will only be awarded if at least 75% of the total units are net new units.
  - Note: for the purposes of this scoring criteria, the Baltimore Region and the DC Metro Area include Anne Arundel, Baltimore, Carroll, Harford, Howard, Montgomery, and Prince George's Counties and the City of Baltimore.
- Two (2) points will be awarded to the top two (2) projects located in Allegany, Calvert, Caroline, Cecil, Charles, Dorchester, Frederick, Garrett, Kent, Queen Anne's, Saint Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester Counties.
- Five (5) points will be awarded to "Choice Neighborhood" projects. These points will be awarded as follows:
  - Points will only be awarded to projects located within the boundaries of, and contributing to, a "Choice Neighborhood" identified by HUD; and
  - Points will only be awarded to "Choice Neighborhood" "twinning" projects, as defined in Section 4.4.1, which include an overall total of at least 150 units.

Note: All policy incentive points will be awarded based on the final scores, excluding points in Section 4.4.5 and Section 4.7.

4.5 Leverage and Cost Effectiveness

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

4.5.1 Direct Leveraging (15 maximum points)

DHCD will award points based on the percentage of total development costs funded by non-state resources in accordance with the chart below. For purposes of this section, State resources include:

- All equity generated from competitive LIHTC awards from the State's LIHTC ceiling except any LIHTC awarded as the result of a federally or state-designated basis boost;
- DHCD-administered rental housing resources including, but not limited to, RHFP, RHW, HOME, CDBG, the Community Legacy Program, Demolition Funds, and the Partnership Rental Housing Program.

Leveraged funding may include:

- Project CORE funds awarded by DHCD;
- Strategic Demolition funds awarded by DHCD;
- Equity from a federal or state basis boost;
- Equity from non-competitive 4% LIHTC awards;
- The proceeds of MBP financing;
- Local contributions (as described below);
- Locally-controlled federal resources such as HOME, CDBG, or State Small Cities CDBG;
- Other non-DHCD State funding;
- Private financing;
- Private or philanthropic funding;
- Equity from federal historic tax credits (as described below);and
- Capital from a qualified Opportunity Zone fund (as described below).

Projected equity from federal Historic Tax Credits (HTC) is also considered leveraged funding. To qualify the applicant must (i) provide evidence that the Part 1-Historic Preservation Certification Application has been submitted to the Maryland Historical Trust (MHT); (ii) document that MHT has recommended approval of the Part 1 Application or document that the project building(s) is already listed in the National Register; and (iii) certify that the applicant will complete the HTC application process and diligently pursue HTC equity investment.

Projected capital from a qualified Opportunity Zone fund must result in an equity contribution to the project that is in excess of DHCD's assumptions of LIHTC equity pricing as announced prior to a funding round. The equity must be documented as a qualified Opportunity Zone investment in accordance with Section 3.6.

Projects that involve "twinning" of 9% LIHTC and MBP/4% LIHTC, as described in Section 4.4.1, will receive two (2) additional points to capture the leveraging of the MBP/4% LIHTC project. Inclusion of these points is consistent with DHCD's long-standing treatment of leveraged funds, and is appropriate in light of the fact that the 9% LIHTC award will enable the MBP/4% LIHTC project to move forward. To receive the extra two (2) points for the direct leveraging score, applicants must provide a separate CDA Form 202 for the MBP/4% LIHTC project and letters of intent for the MBP/4% LIHTC project, as described in Section 3.6.

Local Contributions

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

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

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

(a) Reduces development costs, such as:

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

(b) Reduces operating expenses, such as:

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

(c) Otherwise supports a project such as:

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

(3) Local contributions may:

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

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

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

Scoring will be calculated based on the overall percentage of leveraged funds, with projects with a higher level of leveraged funds receiving the greatest points. Because projects in rural areas have higher fixed transaction costs due to their relatively smaller size and have less access to locally-controlled sources of funding, DHCD will award leveraging points to rural projects, as defined in Section 4.2.3, in a different manner.

Projects which are not in a rural area will be scored as follows:

- The percentage of leveraged funds (from 0% to 100%) will be divided by .06667 to arrive at a score from zero (0) points to fifteen (15) points, and rounded to the nearest one-hundredth (1/100) of a point. For example, a project which includes 85.6% of leveraged funds will receive 12.84 points (.856 / .06667 = 12.839).

Projects in a rural area will be scored as follows:

- The percentage of leveraged funds (from 0% to 100%) will be divided by .06 to arrive at a score and rounded to the nearest one-hundredth (1/100) of a point. Any score in excess of 15 points will be adjusted down to exactly 15 points. For example, a project which includes 85.6% of leveraged funds will receive 14.27 points (.856 /.06 = 14.266).

4.5.2 Operating Subsidies (10 maximum points)

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

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

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

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

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

Projects in Entitlement Jurisdictions will be scored as follows:

$$\frac{\text{Average subsidy per affordable unit per year}}{\$600} \times 10 \text{ points} = \text{Points Awarded}$$

The final score will be rounded to the nearest one-hundredth (1/100) of a point.

Projects in Non-entitlement Jurisdictions will be scored as follows:

$$\frac{\text{Average subsidy per affordable unit per year}}{\$300} \times 10 \text{ points} = \text{Points Awarded}$$

The final score will be rounded to the nearest one-hundredth (1/100) of a point.

Example
A project in an Entitlement Jurisdiction has an average subsidy per affordable unit per year of $375.

Step 1. Divide average subsidy per affordable unit per year by $600. $375 ÷ $600 = 0.625

Step 2. Multiply the result by 10 to determine the number of points awarded. 0.9375 x 10 = 6.25 points awarded.

4.5.3 Construction or Rehabilitation Cost Incentives (Negative 8 points maximum)

To encourage cost effective construction, DHCD has established limits on the dollar amount of construction costs per square foot. While some unique aspects of a given project may reasonably require greater investment (for example, redevelopment of a historic building on a brownfield site), DHCD also wants to encourage selection of projects that achieve various public goals—including taking on challenging sites, building high quality projects, and serving populations with unique needs—while still doing so for competitive costs. To this end, DHCD will deduct points for projects that exceed the cost limits further described below.

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

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

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

Unless a waiver has been requested and granted in accordance with Chapter 5 of this Guide, up to eight (8) points will be deducted from any large project, and up to six (6) points deducted from small projects (up to forty (40) units), with construction costs per square foot in excess of the established limits.

The amount of point deduction will be calculated by dividing the amount the project exceeds the applicable cost limit by the applicable cost limit and multiplying the result by eight (8) points for large projects and six (6) points for small projects.

More information on the construction cost limits is posted on the DHCD website at:

https://dhcd.maryland.gov/HousingDevelopment/Pages/ConstructionCostLimit.aspx

4.6 Development Quality Standards

Up to thirty-one (31) points may be awarded based on features related to a project's physical quality and its impact on the environment, including the surrounding neighborhood and the residents. These points are further broken down as follows:

4.6.1 Green Features (10 maximum points)

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

Ten (10) points will be awarded to projects that intend to complete and receive certification using green building criteria from one of the organizations in the table below. The certifying entity's published scoring checklist and scorecard must be submitted and completed by the project architect or a qualified third party. The score must be achieved as defined within the "green" guidelines at the time of application. The certificate must be provided at the completion of the project.

Rating Entity	***Rating System***	***Website***
Enterprise Green Communities	2015 Enterprise Green Communities Criteria, as updated	www.enterprisecommunity.org/green
U.S. Green Building Council (USGBC	LEED V4 (Leadership in Energy and Environmental Design) Homes or Homes Midrise, as appropriate to project type	www.usgbc.org
Home Innovation Research Labs	ICC-700 National Green Building Standard	www.homeinnovation.com/green
Southface	Earthcraft Multifamily V5, as updated	www.southface.org
Green Building Initiative (GBI)	Green Globes	www.greenglobes.com

- Eight (8) points will be awarded to projects that do not complete the actual certification process as noted above but instead continue to meet the minimum score as indicated in the application for the certification. The certifying entity's published scoring checklist and scorecard must be submitted and completed by the project architect or a qualified third party, and they must provide a statement explaining how the items listed on the checklist will be verified during construction. The scorecard must demonstrate and identify the score and level of certification intended to be achieved as defined within the "green" guidelines at the time of application; alternatively

- One (1) point will be awarded, up to a maximum of six (6) points, for each bulleted feature below that contributes to a sustainable healthy environment over the extended period of the project life:
  - Paving and Parking - For new construction, a detailed written statement from a civil engineer shows that, through the use of innovative planning, a 20% or greater reduction in impervious surface area over conventional design through the use of permeable paving, efficient narrower compact road design, reduction in local parking requirements to a level where the project needs will still be met, permeable spill over parking areas, angled parking, shared parking and driveways, narrower sidewalks, and greater permeable open space adjacent to impervious cover. Note that implementation of certain listed examples may face local jurisdiction obstacles and must be compliant with accessibility codes and standards. While DHCD supports progressive designs, which are highly suitable for specific projects, approval from local jurisdictions may require waivers or special processes.
  - Site Work Management – The project utilizes the 2007 or current version of the Maryland Stormwater Design Manuals to select Best Management Practices (BMP) for collection and treatment of stormwater captured on site through maximizing permeable surfaces. The project identifies and utilizes low-impact treatment methods, such as open channel design in conjunction with open section paving, rain gardens (bio- retention devices), urban BMP devices, disconnection of roof or non-roof runoff, or collection and reuse of water for irrigation or other approved domestic use. One point may be awarded under this criterion for projects utilizing methods identified or recognized by the Maryland Water Management Administration as Stormwater Credits for Innovative Planning:
    - Natural area conservation;
    - Disconnection of rooftop runoff;
    - Disconnection of non-rooftop runoff;
    - Sheet flow to buffers;
    - Open channel use; or
    - Environmentally Sensitive Development
  - Recycled Materials – The project uses at least two (2) of the following: recycled paving products, recycled concrete aggregate or binders; recycled framing lumber, trim or deck materials with recycled content; mulch obtained from chipping of trees removed during on site clearing operations; donations of material from demolition such as kitchen cabinets or appliances to nonprofit organizations or other significant use of recycled materials.

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

4.6.2 Energy Efficiency (8 maximum points)

DHCD will award additional points to projects to encourage design features that provide comfort and energy efficiency over the extended period of the project life and that assist DHCD in measuring energy conservation and sustainability outcomes**.**

- Six (6) points will be awarded in this category for projects that certify at the time of application to achieve Department of Energy (DOE) Zero Energy Ready Home (ZERH) or comparable DHCD-approved energy savings certification or rating designation. Information regarding ZERH can be accessed at https://www.energy.gov/eere/buildings/zero-energy-ready-homes.

  For projects that are more than 5 stories, an energy consultant must provide a letter and energy modeling reports to the owner for submission to DHCD attesting that, with the exception of exceeding 5 stories, the project has fulfilled all requirements of DOE ZERH or comparable DHCD-approved energy savings certification or rating designation.

- An additional two (2) points will be awarded for any project utilizing alternative energy (solar, geothermal, etc.) to reduce utility consumption of: water heating; heating and cooling; or electric usage for common areas or tenant units.

Alternatively, an applicant can receive up to eight (8) points in this category based on the following:

- Six (6) points will be awarded to rehabilitation projects if the project sponsor commits to incorporate into the scope of work all energy conservation measures (ECM) that result in an overall energy savings of 30% or greater over pre-retrofit levels as verified by a qualified energy auditor, or all of the ECMs having a Savings to Investment Ratio (SIR) greater than 1.0 as determined by a comprehensive energy audit. Gut rehabilitation projects, as defined in Section 3. 13.3, are not eligible for these points. For projects utilizing new construction and rehabilitation, at least 50% of the units must be rehabilitation to qualify for points under this section.

- Four (4) points will be awarded to a rehabilitation project that does not receive the six (6) points above if the project sponsor commits to incorporate into the scope of work all ECMs that result in an overall energy savings of 20% or greater over pre-retrofit levels, or all of the ECMs having an SIR greater than 1.5 as determined by a comprehensive energy audit. Gut rehabilitation projects, as defined in Section 3. 13.3, are not eligible for these points. For projects utilizing new construction and rehabilitation, at least 50% of the units must be rehabilitation to qualify for points under this section.

- Two (2) points will be awarded for any project utilizing alternative energy (solar, geothermal, etc.) to reduce utility consumption of: water heating; heating and cooling; or electric usage for common areas or tenant units.

- Two (2) points will be awarded for any project utilizing heat pump technology for domestic water heating.

4.6.3 Project Durability and Enhancements (13 maximum points)

DHCD will award points for features that add to the long-term durability and enhancement of the project for both its residents and the surrounding community. One (1) point (except as noted for building exteriors) will be awarded, up to a maximum of thirteen (13) points, for each of the following:

- The building, parking areas, and other improvements are laid out for convenient access by the residents, including those with disabilities, to site and community amenities, including public transportation.
- Building entrances are designed and located to provide security and weather protection for the targeted resident group, and the project includes green space areas, play areas, courtyards, or exterior seating areas that provide recreational and social opportunities for the targeted resident community.
- The building architecture, structure, and mass complement the existing neighborhood, and the project includes exterior architectural features and design elements that add interest and/or functionality, create unity with nearby architectural style, and generally improve the appearance of the building(s).
- Architectural accessories such as decorative door surrounds, larger window trim, corner eave, cornice and column details, or other special features are provided and are of composite or other durable materials.
- Paving is provided throughout the project site (parking areas and drive aisles) that equals local requirements for standard duty residential roadway or provide specifications which indicate a stone base of eight (8) inches or greater with the combination thickness of the asphalt base and top coat being at least five (5) inches and concrete paving at handicapped parking spaces, dumpster pad with apron, and for entire accessible route.
- Individual units, common areas, and community spaces are well designed for comfortable living and tenant activities. The layouts are efficient, with practical traffic flow, and provide adequate space for furniture placement. (550 - 600 net square feet area for predominantly one (1)-bedroom units and 20% more area for each additional bedroom unit, with the primary bedroom not less than 10 feet x 11 feet in clear size, and in multiple bedroom units the smallest bedroom shall be not less than 9 feet-0 inches in one direction

with a minimum of ninety (90) net square feet in area. Note the dimensions are for clear area and do not include the closet space).

- Storage space is reasonable with a minimum of a four (4) foot clothes closet per person in each bedroom and at least three (3) of the following: an entry coat closet, linen closet, utility closet, or additional storage for storing seasonal or bulky items. Closets intended for appliances (i.e. washer/dryer, HVAC) cannot be included as storage space.
- A half bath is provided on the living/dining/kitchen level in layouts with more than one (1) story, and the bath is visitable. For single-story units, at least one (1) bath is visitable.
- The interior doors are panel and hardware is of grade two (2) or better quality hardware with lever handles.
- Ceiling fans are provided in all bedrooms and at least one (1) living area.
- The project is not located in an area with nearby land uses that are inconsistent with residential activities.
- Floor coverings are quality long lasting products. Hard finish flooring must be products with a verifiable ten (10) year or longer warranty.
- For family projects, the cabinetry is plywood box construction, the doors are plywood or solid wood, and finishes and hardware are durable.
- Bathroom floors are sheet goods with a ten (10) year minimum warranty or ceramic tile with sealed grout.
- Tub/shower surrounds are ceramic tile with cementitious backer board or backer board supported by the Tile Council of North America (TCNA) installation or better than builder grade quality fiberglass surrounds.
- Building exterior is at least 75% masonry or other highly durable materials such as cement fiber siding, stucco or stone. (worth 2 points)

4.7 State Bonus Points

The QAP and Guide outline and implement important State priorities, making difficult choices about how to deploy affordable housing resources and seeking to achieve a reasonable balance among various opportunities to serve the housing needs of the State’s residents. DHCD both recognizes and anticipates that facts on the ground, however, can change more quickly than DHCD can respond to through revisions to this QAP and Guide and that there can be unintended consequences of any scoring system that could lead to undesirable outcomes. To provide dexterity and an opportunity to course-correct based on changes in the State’s needs, DHCD may award State Bonus Points to ensure that the award of competitive resources is balanced and in the State’s best interest. Bonus points may be awarded to projects to ensure that the overall award of competitive LIHTC and RHFP funds:

- Represents a balance between the priorities outlined in this Guide, ensuring that unanticipated aspects of scoring do not systemically and practically prevent a given project type from receiving appropriate LIHTC and RHFP resources;
- Represents an equitable regional or geographic distribution of resources, ensuring that unintended consequences of scoring do not systemically and practically prevent a given region from receiving appropriate LIHTC and RHFP resources;
- Takes advantage of time sensitive opportunities to leverage substantial resources from the federal government or from other non-DHCD funding sources that may become available;
- Responds to urgent and recent changes in housing needs resulting from natural disasters, economic crises, market dislocations, acts of war or terrorism, environmental contamination, or other events;
- Responds to substantial economic development opportunities that have the opportunity to create new jobs in the State, such as investing in workforce housing that supports a major new employer creating new jobs in Maryland;
- Responds to dislocations in the equity or debt markets related to LIHTC and the permanent financing sources used to provide mortgage debt to such projects;
- Promotes the development of projects that promote intergenerational housing opportunities or housing for persons experiencing homelessness;
- Promotes the development of elderly housing projects;
- Responds to other critical policy directives, goals, or priorities identified and articulated by DHCD;
- Affirmatively furthers fair housing or contributes to a concerted fair housing strategy; or
- Creates or preserves affordable housing units along the Purple Line corridor or other DHCD-approved major transportation projects undergoing significant redevelopment.

DHCD may award State Bonus Points as follows:

- Only applications submitted in the round that were scored are eligible to receive State Bonus Points. Additionally, to receive State Bonus Points, a proposal must have scored at least one hundred and twenty (120) points prior to the award of State Bonus Points.
- No more than ten (10) State Bonus Points may be awarded to any project, except for projects that propose intergenerational housing, housing for the elderly, or permanent supportive housing, which may be awarded up to fifteen (15) State Bonus Points.
- No more than 20% of the State's competitive LIHTCs and RHFP funds may be awarded to projects receiving State Bonus Points.
- DHCD shall provide a written explanation of the factors leading to the award of State Bonus Points, and this explanation will be published along with results of the funding round.

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

5 Waivers

5.1 Waivers – General

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

DHCD requires applicants seeking a waiver of the Threshold or Competitive Scoring Criteria in this Guide to submit such requests in writing to the Director of Multifamily Housing, at least thirty (30) calendar days in advance of the round deadline. DHCD will provide a decision within fifteen (15) calendar days of receipt of the waiver request. This provision for waivers applies only to State-funded programs and State-imposed Threshold and Competitive Scoring Criteria. Federal regulations affecting LIHTC, HOME, and MBP may not be waived by the State, and applicants should consult their attorney or tax advisor about the possibility of waivers of federal requirements.

5.2 Waivers of Threshold or Competitive Criteria

5.2.1 Previous Project Performance (see Section 3.1.1)

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

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

5.2.2 Previous Participation (see Section 3.1.1)

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

5.2.3 Construction or Rehabilitation Costs (see Section 4.5.3 and Section 3.14)

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

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

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

5.2.4 Acquisition of Schools or School Sites (see Section 3.9.8.1)

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

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

5.2.5 Builder's Fees (see Section 3.9.8.3)

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

5.2.6 Architects Fees (see Section 3.9.8.3)

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

5.2.7 Civil Engineer Fees (see Section 3.9.8.3)

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

5.2.8 Developer's Fees (see Section 3.9.8.3)

Applicants with proposed Developer's Fees in excess of the $2.5 million limit must include a detailed explanation of the reasons for the increased Developer's Fee with the request for a waiver. DHCD will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements, which may include factors such as large, complex projects involving relocation or substantial rehabilitation.

5.2.9 Project Phasing (see Section 3.9.9)

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

5.2.10 Underwriting Standards (see Section 3.9)

Applicants seeking waivers of other underwriting standards in Section 3.9 must provide a detailed written request, including, if necessary, independent studies or analyses by qualified professionals (market analyses, capital needs assessments, etc.) that support their request. DHCD will evaluate waiver requests for reasonableness on a case-by-case basis to determine compliance with the threshold requirements.

5.2.11 Deductions for Team Experience (see Section 4.1.2)

Applicants seeking waivers of the provisions for negative points in Section 4.1.2 must provide a detailed written request consistent with the standards outlined in Section 5.2.1 above.

5.2.12 Definition of Elderly Housing (see Section 3.2.2)

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

6 Loan Processing Procedures

6.1 Processing LIHTC, RHFP, and RHW Reservations of Funding

If projects include RHFP or RHW loan financing, the following processes and requirements apply (see Appendix A flowchart). If projects also include LIHTC, additional procedures, described in the QAP, apply as well.

6.1.1 Loan Reservations

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

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

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

6.1.2 Post Reservation Scheduling

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

DHCD monitors the progress of projects to ensure timely completion. LIHTC, RHFP and RHW Reservations and LIHTC Carryover Allocations may be canceled if a project falls too far behind its schedule, in DHCD's determination, or if it is determined that DHCD resources are in jeopardy of being lost to the State due to nonperformance by the sponsor. Failure to meet DHCD processing schedules may also affect future scoring (see also Section 4.1 – Capacity of Development Team).

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

6.1.3 Kick-off Meeting

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

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

6.1.4 Underwriting and Construction Review

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

Detailed guidance is provided to sponsors throughout this process to assist the Development Team in the preparation of construction plans and underwriting documentation. The architectural requirements for each stage of this review are those defined in the American Institute of Architect's (AIA) publication The Architect's Handbook of Professional Practice.

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

6.1.5 Viability Review

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

6.1.6 Commitment Review

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

6.1.7 Initial Closing; Eligible Costs; and First Draw Requisition

Along with the commitment letter, sponsors receive a loan closing checklist. Initial closing will occur once all closing conditions set forth in the commitment letter and closing checklist have been satisfied.

DHCD's standard loan conditions are detailed in the commitment letter. Sponsors should also review and understand DHCD's eligible cost, draw, and requisition requirements, particularly those affecting the initial draw. Staff is available to meet and review the eligible costs and draw and requisition procedures. Copies of the Guide to Draw Procedures, the Guide to Project Development Costs, and the Cost Certification Guide also are available on DHCD's website at:

http://dhcd.maryland.gov/HousingDevelopment/Pages/MFLibrary.aspx

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

6.1.8 Construction or Rehabilitation Period

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

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

6.1.9 Developer's Fee Disbursement

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

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

Deferred Developer's Fees are disbursed only after all must-pay debt and cash flow payments are made from net operating income.

6.1.10 Final Closing

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

6.2 Processing Multifamily Bond Program Applications

For projects that request MBP financing, the following requirements apply:

Processing Multifamily Bond Program Applications

Applicants requesting MBP financing and non-competitive LIHTC (not allocated from the State's LIHTC ceiling) should apply using the Application Submission Package available on the DHCD website. All requests for MBP financing are subject to DHCD underwriting and construction reviews. Projects requesting MBP financing, with or without non-competitive LIHTC, may submit an application at any time.

For taxable/tax exempt MBP Financing, all bonds must be outstanding for at least twenty-four (24) months.

Requirements

Applications for the MBP are subject to an initial review against the Threshold Criteria, as described in Chapter 3 of this Guide, and must score at least 92 points on the Competitive Scoring Criteria as described in Chapter 4 of this Guide. Processing is subject to certain fees that are subject to change. The current fees are posted on DHCD's website at: http://dhcd.maryland.gov/HousingDevelopment/Pages/Fees.aspx.

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

Projects financed with MBP must meet federal income-targeting requirements for tax-exempt bonds outlined in §142 of the Internal Revenue Code. The income targeting requirements for the

MBP are similar to, but not identical to the income targeting requirements of the LIHTC program. Specifically, while the LIHTC program includes a provision for the Income Averaging Set-Aside as well as a 20@50 Set Aside and a 40@60 Set Aside, the income targeting requirements for the MBP allows for only the 20@50 Set Aside and the 40@60 Set Aside. Therefore, projects financed with both MBP and LIHTC must comply with the Internal Revenue Code income targeting requirements for both programs. Special attention must be paid to maintaining compliance with income targeting requirements for both programs, especially if a project selects the Income Averaging Set-Aside for LIHTC. For example, a project financed by both MBP and LIHTC that wants to make use of the Income Averaging Set-Aside for LIHTC must also be certain to remain compliant with either the 20@50 Set-Aside or 40@60 Set-Aside requirements for MBP outlined in §142 of the Internal Revenue Code.

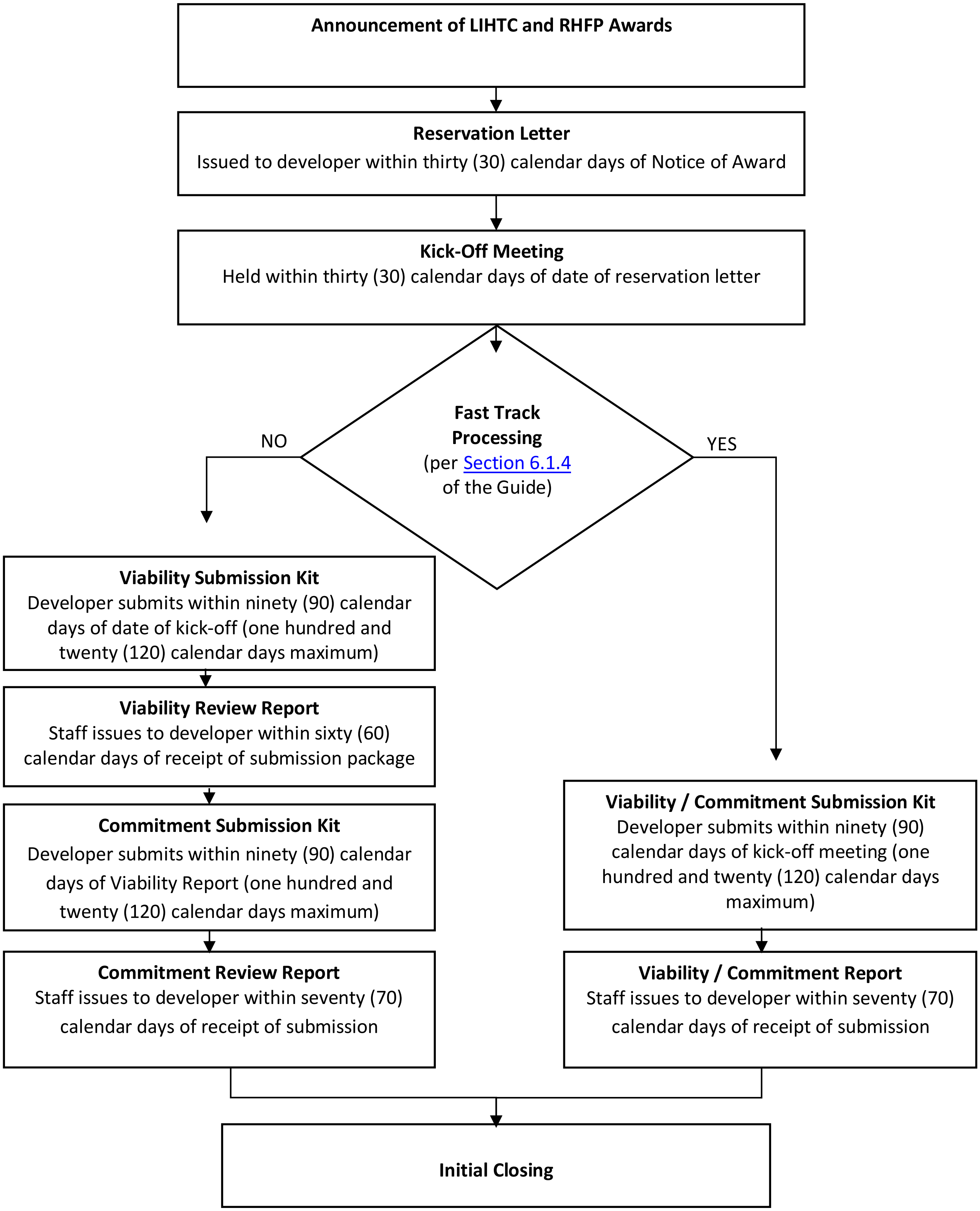
DHCD reserves the right to impose additional State income-targeting requirements for MBP financed projects. DHCD continues to modify the MBP to meet customer needs with updates posted to DHCD's website on a regular basis.

Expedited Processing

Eligible projects requesting MBP financing may be processed under an expedited system. To be eligible, applications must request tax-exempt financing without other DHCD financing or assistance, meet all Threshold Criteria or receive a waiver in accordance with Section 5.1 of this Guide, score at least ninety-two (92) total points and meet the additional scoring criteria outlined for FHA Risk Sharing Insurance noted in the call out box at the beginning of Chapter 4. If these requirements are met and subject to conditional HFRC recommendation, projects can expect to receive inducement approvals within ninety (90) calendar days of application submission.

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

Appendix A: Underwriting and Closing Process



Appendix B: Qualified Census Tracts Standards

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

Appendix C: Rental Housing Financing Programs and Rental Housing Works Surplus Cash Split Examples

(0% Interest Rate Option with "Contingent Interest")

	State Soft Debt	Local Soft Debt	DHCD %	Local Gov. %	Developer %	Comments	% Splits w/ Deferred Dev Fees	
Ex. 1	$2,000,000 100.00% of Total	$0 0.00% of Total	**75.00%**	**0.00%**	**25.00%**	DHCD will only take 50% of Surplus Cash until all Developer Deferred Fees are Paid.	DHCD LG Dev Total	50.00% 0.00% 50.00% 100.00%
Ex. 2	$2,000,000 89.89% of Total	$225,000 10.11% of Total	**75.00%**	**0.00%**	**25.00%**	DHCD will only take 50% of Surplus Cash until all Developer Deferred Fees are Paid. The Local Government cannot negotiate a higher share of the Surplus Cash with DHCD and/or Developer.	DHCD LG Dev Total	50.00% 0.00% 50.00% 100.00%
Ex. 3	$2,000,000 80.00% of Total	$500,000 20.00% of Total	**60.00%**	**15.00 %**	**25.00%**	DHCD will only take 50% of Surplus Cash until all Developer Deferred Fees are Paid. The Local Government is receiving a Prorated Share of the non-Developer portion (75.00%) of the Surplus Cash.	DHCD LG Dev Total	50.00% 15.00% 35.00% 100.00%
Ex. 4	$2,000,000 72.73% of Total	$750,000 27.27% of Total	**54.55%**	**20.45 %**	**25.00%**	DHCD will only take 50% of Surplus Cash until all Developer Deferred Fees are Paid. The Local Government is receiving a Prorated Share of the non-Developer portion (75.00%) of the Surplus Cash.	DHCD LG Dev Total	50.00% 20.45% 29.55% 100.00%
Ex. 5	$2,000,000 66.67% of Total	$1,000,000 33.33% of Total	**50.00%**	**25.00 %**	**25.00%**	The Local Government is receiving a Prorated Share of the non-Developer portion (75.00%) of the Surplus Cash.	DHCD LG Dev Total	50.00% 25.00% 25.00% 100.00%
Ex. 6	$2,000,000 57.14% of Total	$1,500,000 42.86% of Total	**50.00%**	**25.00 %**	**25.00%**	The Local Government Share of the Surplus Cash is being capped at 25.00% (or 33.33% of the 75.00% non-Developer portion). The Local Government cannot negotiate a higher share of the Surplus Cash with DHCD and/or Developer.	DHCD LG Dev Total	50.00% 25.00% 25.00% 100.00%
Ex. 7	$2,000,000 50.00% of Total	$2,000,000 50.00% of Total	**50.00%**	**25.00 %**	**25.00%**	The Local Government Share of the Surplus Cash is being capped at 25.00% (or 33.33% of the 75.00% non-Developer portion). The Local Government cannot negotiate a higher share of the Surplus Cash with DHCD and/or Developer.	DHCD LG Dev Total	50.00% 25.00% 25.00% 100.00%
Ex. 8	$2,000,000 39.60% of Total	$3,050,000 60.40% of Total	**37.50%**	**37.50 %**	**25.00%**	The Local Government Share of the Surplus Cash is being capped at 37.50% (or 50.00% of the 75.00% non-Developer portion). The Local Government cannot negotiate a higher share of the Surplus Cash with DHCD and/or Developer.	DHCD LG Dev Total	37.50% 37.50% 25.00% 100.00%