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# State of Oregon Qualified Allocation Plan

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1 **Introduction**

2 The Tax Reform Act of 1986 created the Low Income Housing Tax Credit (LIHTC) under Section 42 of the  
3 Internal Revenue Code (Code or IRC).

4 The LIHTC Program (or Resource) is jointly administered by the United States Treasury Department of  
5 Internal Revenue Service (IRS) and authorized state tax credit allocation agencies. Under Executive Order  
6 EO-87-06, the Governor of Oregon designated the Oregon Housing and Community Services Department  
7 (OHCS) as the administrator of the LIHTC Program.

8 OHCS administers the LIHTC Program under Oregon Administrative Rule (OAR) Chapter 813, Division 90.  
9 This Qualified Allocation Plan (QAP or Plan) is intended to comply with the requirements of Section  
10 42(m)(1)(B) of the Code, which requires that a Qualified Allocation Plan set forth:

- 11 1) The selection criteria OHCS will use to determine its housing priorities,
- 12 2) The preferences of OHCS in allocating housing credit dollar amounts among selected projects  
13 (Projects), including:
  - 14 a. Projects serving the lowest income tenants.
  - 15 b. Projects obligated to serve qualified tenants for the longest periods.
  - 16 c. Projects that are located in qualified census tracts and the development of which  
17 contributes to a concerted community revitalization plan; and
  - 18 d. The procedures that OHCS will follow in monitoring for Program noncompliance in notifying  
19 the IRS of such noncompliance and in monitoring for noncompliance with Project  
20 habitability standards through regular site visits.

21 Section 42(m)(1)(C) of the Code provides the selection criteria that must be used. The selection criteria  
22 outlined in a QAP must include:

- 23 1) Project location.
- 24 2) Housing needs characteristics.
- 25 3) Project characteristics, including whether the Project includes the use of existing housing as part of a  
26 community revitalization plan.
- 27 4) Sponsor characteristics.
- 28 5) Tenant populations with special housing needs.
- 29 6) Public housing waiting lists.
- 30 7) Tenant populations of individuals with children.
- 31 8) Projects intended for eventual tenant ownership.
- 32 9) The energy efficiency of the Project.
- 33 10) The historic nature of the Project.

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1 This Plan does not apply to the allocation of a “recycled” volume cap per Section 146(i)(6) of the Code.  
2 Such “recycled” volume cap shall be assigned and allocated in accordance with policies and procedures  
3 established from time to time by the Department.

4

5 If any provision of this Plan (and documents included herein by reference) is inconsistent with the  
6 provisions of amended IRC Section 42, including any future amendments thereto, or any existing or new  
7 Oregon Administrative Rules governing the LIHTC Program, the provisions of IRC Section 42 and/or the  
8 Oregon Administrative Rules take precedence, and the plan will be amended accordingly.

9

10 The Plan has been revised for 2025. OHCS reserves the option to issue temporary public notices, rules,  
11 or other guidance through which, procedurally, OHCS will continue to efficiently administer the LIHTC  
12 Program, in a manner consistent with this Plan, and with OHCS’s goals.

13

14 Additionally, OHCS reserves the right to amend, modify, or withdraw provisions contained in this Plan  
15 that are inconsistent or in conflict with state or federal laws or regulations. In the event of a major  
16 natural disaster, pandemic/epidemic, disruption in the financial markets, or reduction in subsidy  
17 resources available, including tax credits, the Agency may disregard any section of the Plan, including  
18 evaluation criteria, that interferes with an appropriate response.

19

20 The Oregon Housing Stability Council recommended the updated Plan on **January 3, 2025**. A public  
21 hearing was held concerning the Plan on **December 11, 2024**, after appropriate notice was provided  
22 following IRS Section 42(m)(1)(A)(ii). Public comments and agency responses can be found in the  
23 **appendix** of this document.

24

25

1 **Credit Overview**

2 **4% Low-Income Housing Tax Credits**

3 The State of Oregon (State) has access to allocate federal tax credits specifically available to Projects  
4 financed using tax-exempt bond proceeds associated with Oregon’s Private Activity Bond Authority. The  
5 tax-exempt bonds are subject to the volume cap limitations in Section 146 of the Code as further  
6 detailed in Section 42(h)(4)(A) and (B) of the Code.

7 OHCS allocates the Private Activity Bonds (PAB) as resources become available utilizing the Oregon  
8 Centralized Application (ORCA) structure. Specifics of this offering will be made available in the LIHTC  
9 relevant sections of the ORCA. All set-asides, prioritizations, and performance standards within the  
10 ORCA will remain applicable and required.

11

12 **9% Low-Income Housing Tax Credits**

13 OHCS allocates the State’s 9% LIHTCs based on selection criteria integrated into the ORCA. All allocations  
14 are made with evaluative considerations required in the QAP, the Code, and the ORCA itself.

15 Specific to the 9% tax credits, OHCS holds the following:

16 1) 10% of the annual credit ceiling must go to Qualified Non-Profits, those organizations described in  
17 section 501(c)(3) or section 501(c)(4) of the code and has as one of its exempt purposes the  
18 “fostering of low-income housing” as required by IRC §42 (h)(5). Non-profits awarded under this set-  
19 aside will be required to meet the IRC requirements of Material Participation as mandated by  
20 §469(h).

21 2) 9% tax credits will be offered annually using the following set-aside targets:

22 a. 25% of the annual credit ceiling is reserved for preservation projects, consistent with the  
23 preservation criteria outlined in the ORCA.

24 b. 10% of the annual credit ceiling is reserved for developments that serve Native Nations on  
25 tribal trust land.

26 c. 65% of the annual credit ceiling should be allocated consistent with the percentages  
27 outlined in the ORCA.

28

29 **Determination of Credit Amount**

30 The owner of a low-income housing property must certify to OHCS that the Project meets the minimum  
31 requirements of:

32 1) 20 – 50 test under Section 42(g)(1)(A) of the Code,

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- 1 2) 40 – 60 test under Section 42(g)(1)(B) of the Code, or
- 2 3) Income Averaging test under Section 42(g)(1)(C).

3

4 OHCS will make the financial feasibility and viability determination required under Section 42(m)(2)(A)  
5 for all 4% and 9% LIHTC allocations. The Code requires OHCS to allocate only what is necessary for  
6 financial feasibility throughout the extended use period. OHCS will evaluate each proposed Project  
7 considering relevant factors, including but not limited to the following items:

- 8 1) Project cost, including the reasonableness of cost per unit, developer fees and overhead, consultant  
9 fees, builder profit and overhead, and syndication costs;
- 10 2) Sources and uses of funds and the total financing planned for the Project, including the ability of the  
11 Project to service debt;
- 12 3) The proceeds or receipts expected to be generated because of tax benefits;
- 13 4) The use of federal funds and other assistance; and
- 14 5) Other factors that may be relevant to the economic feasibility of the Project, such as the area  
15 economy or the housing market.

16

17 Based on this evaluation, OHCS will estimate the amount of tax credits to be reserved for the Project.  
18 This determination is made at the sole discretion of OHCS and is in no way a representation as to the  
19 actual feasibility of the Project. Rather, it will serve as the basis for making reservations of tax credits for  
20 Projects competing for credit from the federal housing credit ceiling, or it will serve as an initial  
21 determination of credit amount concerning a Project financed by private activity bonds. The amount of  
22 tax credits may change during the allocation process due to variations in cost, mortgage amount, tax  
23 credit percentage, syndication proceeds, etc. The final tax credit determination is made at the sole  
24 discretion of OHCS at the time of close-out application and before the issuance of IRS Form 8609, (Low-  
25 Income Housing Credit Allocation and Certification) as detailed in the LIHTC Requirements and Processes  
26 Section of this QAP, Placed-In-Service Allocation Requirements.

27

28 If there is a material increase in LIHTC pricing after a reservation of tax credits, OHCS reserves the right  
29 to adjust the amount of a tax credit award or any other OHCS funding source. OHCS may use the  
30 following guidelines for avoiding Project over-subsidization. Subject to the approval of OHCS, the  
31 increase may be used:

- 32 1) To decrease rents.
- 33 2) To reduce the permanent loan, sponsor loans, tax credit allocation, or other OHCS funding sources  
34 as determined by OHCS in consultation with the Project ownership.
- 35 3) For necessary and justifiable cost increases or to reduce deferred developer fees, as allowable under  
36 the Code

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Pursuant to Section 42(m)(1)(A)(iii) of the Code, a comprehensive market study of the housing needs of low-income individuals in the area to be served by the Project must be conducted by a disinterested third party approved by OHCS before the credit allocation is made and at the developer’s expense.

## Applying for Credits

### Project Charges

When applying for or receiving any Program funds, the applicant must pay applicable charges, as adopted by the Oregon Housing Stability Council. These charges include but are not limited to, application charges, recipient charges, reservation fees, issuance charges, and compliance charges. The charges adopted by the Housing Stability Council will be in the General Policy and Guidelines Manual (GPGM), as well as posted on the [Oregon Centralized Application \(ORCA\) webpage](#) of the OHCS website.

### LIHTC Allocation Application Process

All applications for Low-Income Housing Tax Credits will be evaluated and reviewed through the Oregon Centralized Application (ORCA). For selected applicants, all projects must meet ORCA standards and expectations, including, but not limited to, standards, timelines, and documentation. These are in addition to, not in lieu of, requirements and expectations from the Qualified Allocation Plan (QAP) and any other programmatic requirements of the LIHTC program.

**Applications for 4% Low-Income Housing Tax Credits and Conduit Bond Financing** will be rolling and continuous as funding availability allows in alignment with the ORCA process. Projects will be evaluated using the process laid out by OHCS below, and the number of projects selected will be based on available resources made available through the ORCA. OHCS will offer 4% LIHTC and associated Private Activity Bonds (PAB) on a rolling basis as resources remain available, and retain a waitlist of projects in alignment with the ORCA policies.

In managing the states’ Private Activity Bond resource investments to support housing, OHCS will work annually with the Housing Authorities of Oregon to establish a Housing Authority Owned (HAO) PAB Set-Aside. This HAO PAB Set-Aside will be eligible for projects that are owned by Housing Authorities and do not require any state loan or grant funding, as defined below. These resources will be held for that following year; unused resources that are not requested within the timelines, along with PAB that was not set-aside for HAO Projects, will be offered through the ORCA.

Housing Authority Owned (HAO) definition

- 1) Required:
  - a. Site control including Housing Authority or county owned land;
  - b. 51% or more ownership interest and control of the General Partner or Managing Member entity



- 1 c. For the purposes of PAB: Project does not require state loan or grant funding.
- 2 2) Must meet one:
- 3 a. A loan or contribution of either cash or value representing the lesser of at least
- 4 10% of total sources or \$2 million, including but not limited to seller financing in
- 5 a rehabilitation/resyndication, a sponsor loan, a land lease loan, and/or a land
- 6 lease contribution.
- 7 b. Federal, state, or locally-provided project based rent assistance for the lower of
- 8 15 units or 15% of units.
- 9

10 **Applications for 9% Low-Income Housing Tax Credits** will be accepted and reviewed annually as funding  
11 availability allows. 9% LIHTC projects will be notified of their status, and those selected to move forward  
12 into the ORCA process and will be given access to a Procorem Workcenter to begin the ORCA process's  
13 Impact Assessment. Applicants not selected can choose to have the project placed on the ORCA 9%  
14 LIHTC waitlist which will remain active through September of each calendar year. Projects may not be on  
15 more than one waitlist for resources within the ORCA. If projects are on the 9% LIHTC waitlist and  
16 sufficient credits become available (from a return of credit or otherwise) projects will be funded in order  
17 from the waitlist as resources will allow. If 9% LIHTC are not fully allocated after all eligible projects are  
18 selected, or sufficient credits are returned from a failed project OHCS may, at its discretion, either  
19 consider projects on a first-come first-reviewed basis or open a subsequent window or windows for  
20 acceptance of intake forms for 9% LIHTC projects.

21 OHCS reserves the right to waive, change, or alter any timelines, processing, and other QAP  
22 requirements, at its sole discretion, to encourage and/or facilitate the financing of tax-exempt, 4% LIHTC  
23 or 9% LIHTC financed projects including, but not limited to, implementing application pauses and  
24 blackout dates, and increasing allocations of LIHTC and PAB.

25

## 26 **Project Performance Guidelines**

27 All applications including those funded, in underwriting, or forthcoming are subject to:

- 28 a. Any stipulations outlined by OHCS in writing via project-specific documents, department
- 29 programs, or policy manuals.
- 30 b. Limitation of one applicant requested 30-day extension to the financial close date per
- 31 project.
- 32 c. Availability on the OHCS financing calendar.
- 33 d. Formal notification to the department regarding any material changes to the project
- 34 throughout underwriting or post-construction close. Including but not limited to:
- 35 (1) The number of buildings or units
- 36 (2) The project contact person
- 37 (3) The Identity of Interest disclosure

- 1 (4) The development team
- 2 (5) The project's total project costs
- 3 (6) A financing source (whether debt or equity)
- 4 (7) Operating revenue or expenses for the project of more than ten percent
- 5 (8) Anything that would result in a change in the standards OHCS uses to evaluate projects
- 6 (9) Expanding the scope of the project, such as adding or subtracting buildings, units, and
- 7 design elements that impact the budget and livability of tenants
- 8 (10) Changing project type and switching to a different intended tenant population
- 9 (11) Replacing sponsor and project ownership in a way that has a financial impact on the
- 10 project
- 11 (12) Showing a gap, after funding approval and prior to closing and construction start, of
- 12 more than 10 percent of OHCS investment (exclusive of tax credits)
- 13

## 14 **Housing and Economic Recovery Act of 2008 (HERA) Basis Boost**

15 Under HERA and subject to update should federal regulation permit, OHCS has the authority to increase  
16 the eligible basis for 9% LIHTC Projects from 100 percent eligible basis up to 130 percent of the eligible  
17 basis when OHCS determines that the financial feasibility of the building requires it. OHCS has  
18 determined that the financial feasibility of Project buildings meeting the criteria below may require a  
19 basis boost of up to 130 percent.

- 20 1) Rural Projects as defined using the methodology found in the ORCA.
- 21 2) Preservation Projects.
- 22 3) Projects serving permanent supportive housing goals.
- 23 4) Projects that meet Universal Design Standards.
- 24 5) Projects sited on tribal lands.
- 25 6) Projects with at least twenty percent (20%) of the units restricted to LIHTC Extremely Low (30%)
- 26 rents and income limits.
- 27 7) Projects that are located in Transit Oriented Districts (TODs) as designated by local governments.
- 28 8) Projects that result in the de-concentration of poverty by locating low-income housing in low-
- 29 poverty areas, which are Census Tracts where 10 percent or less of the population lives below the
- 30 poverty level.
- 31 9) Projects that co-locate Early Care and Education (ECE) facilities with affordable housing. Co-located
- 32 as defined by OAR 813.125.0011.

1 **Returned / Unused LIHTC Allocation Authority**

2 Specific to 9% LIHTC - If an application is considered for a LIHTC Reservation/allocation is withdrawn or  
3 canceled, or available credits were not originally allocated during the funding round, or a project can't  
4 make its carryover requirements, or National Pool as prescribed at IRS section 42(h)(3)(D)(iii) is awarded  
5 above current estimates, OHCS, may do any of the following:

- 6 1) Fund the next project on the active 9% LIHTC ORCA waitlist, if established, based on resource fit for  
7 available LIHTCs. The applicant will be given 30 days to reevaluate the financial feasibility and  
8 determine whether the proposed project can move forward or not.
- 9 2) Open a second or later funding round through the ORCA process.
- 10 3) Add the returned amount to the total available for the following calendar year's application cycle.  
11 Any credits returned after September 30 of any year will be treated as if received in the following  
12 year and will be allocated as part of the next allocation year.

13 OHCS may take such steps as it deems appropriate to maintain the desired funding split between set-  
14 aside categories outlined in the ORCA.

15

16 **Re-evaluation of Reservation**

17 The following events will result in a re-evaluation of a previously issued Reservation:

- 18 1) Failure to close within three hundred days of the Reservation ("Reservation Period").
- 19 2) The proposed Project will not have construction completion by the date mutually agreed upon.
- 20 3) The proposed Project will not be placed in service by the date mutually agreed upon.
- 21 4) Other material causes at OHCS's reasonable discretion.

22

23 **Agency authority to use discretion**

24 In the event of a re-evaluation of a reservation, OHCS, at its reasonable discretion may do one of the  
25 following:

- 26 1) Revoke the reservation.
- 27 2) Approve the requested changes to the original Reservation or Application as proposed.
- 28 3) Leave the reservation in place with no changes.

29

30

31

1 **Project Selection Process**

2 The following section will describe the criteria and process used to apply for tax credits.

3

4 **Private Activity Bonds and 4% Low-Income Housing Tax Credits**

5 The following overviews the process for requesting 4% LIHTC and PAB through the Oregon Centralized  
6 Application (ORCA). All projects, including HAO projects, must meet ORCA standards and expectations,  
7 including, but not limited to, standards, timelines, and documentation. These are in addition to, not in  
8 lieu of, requirements and expectations from the Qualified Allocation Plan (QAP) and any other  
9 programmatic requirements of the LIHTC program.

10

11 **Intake Process**

12 Projects applying for 4% Low Income Housing Tax Credits (LIHTC) and Private Activity Bond (PAB)  
13 resources, with or without state subsidy requests, must apply through the agency’s Oregon Centralized  
14 Application (ORCA) process and designate their application as a 4% LIHTC and PAB request by selecting  
15 that option in their ORCA Intake Form. OHCS does not guarantee the award or recommendation of a  
16 PAB allocation based solely on this Intake Form designation, but any Intake Form that does not request  
17 4% LIHTC and PAB will not be directed towards the PAB application. The Intake Form submission should  
18 also indicate the amount of gap resources the applicant intends to request. OHCS will determine the  
19 appropriate gap resources to assign to the project based on the project design, location, gap resource  
20 availability and other factors.

21 When PAB resources are included in the ORCA resources, project sponsors with submitted Intake Forms  
22 for 4% LIHTC and PAB will be given access to a Procorem Workcenter to begin the ORCA Impact  
23 Assessment application step after review and approval by OHCS.

24

25 **Project Selection**

26 Projects will apply and be evaluated in the ORCA, and the number of projects selected for funding  
27 recommendation will be based on available PAB volume cap, and corresponding gap resource  
28 availability. Through the ORCA, PAB will be tracked and allocated based upon a first complete, first  
29 reviewed process and in alignment with the estimated closing date of the project as provided by the  
30 applicant. Where resources are insufficient to fund all projects, a waitlist of projects will be maintained.

31 OHCS will steward and strive to maximize the leverage of the state’s Private Activity Bond  
32 authority that is made available to affordable housing investments. The project selection process for the  
33 4% LIHTC / PAB projects will rely on the ORCA process and readiness requirements. However, where  
34 there is a risk that OHCS will not be able to substantially commit all available PAB to projects in a given  
35 year, OHCS reserves the right to reassign resources within the funded pipeline or direct resources to  
36 projects on the ORCA waitlists based on the development timeline. This PAB Timeline Prioritization will

1 establish criteria that will be applied to identify best-fit projects that have been reviewed in the Impact  
2 Assessment and are on an ORCA waitlist.

3

#### 4 **HAO Project Selection**

5 In managing the states' Private Activity Bond resource investments to support housing, OHCS will work  
6 annually with the Housing Authorities of Oregon to establish a Housing Authority Owned (HAO) PAB Set-  
7 Aside. This HAO PAB Set-Aside will be eligible for projects that are owned by Housing Authorities and do  
8 not require any state loan or grant funding, as defined below.

9 These resources will be held for that following year; unused resources that are not requested within the  
10 timelines, along with PAB that was not set-aside for HAO Projects, will be offered through the ORCA.  
11 Housing Authorities may choose to issue the bonds for HAO Projects where sufficient capacity is  
12 demonstrated and within OHCS suballocation policies. Housing Authority sponsored projects that  
13 request gap funding and 4% LIHTC through the traditional ORCA application will not count against the  
14 HAO set-aside. Every year by February 28th (year 0), Housing Authorities will provide OHCS with:

- 15 1) HAO Project list for the subsequent year's (year 1) PAB resource needs; these projects will be  
16 required to submit full applications and ORCA process requirements;
- 17 2) HAO future pipeline for the following year (year 2) which will be used to support the determination  
18 of the needed HAO set-aside, and will be considered by OHCS alongside state resource needs; these  
19 projects will be submitted through the ORCA intake within a year.

20

#### 21 **PAB Award Calculations and Commitments**

22 To determine PAB award needs, OHCS will utilize the Total Project Cost dollar amount from the Impact  
23 Assessment proforma to make an estimate of PAB utilization (55% of the total project cost). Project PAB  
24 resource needs must remain within 10% of the requested amount in the Impact Assessment application  
25 or may be required to forfeit the resource commitment and re-apply for resources as a new application.

26 Where projects are determined to have substantial changes, the resource commitment will be deemed  
27 invalid. OHCS will review project change to determine if it is substantial. Substantial changes that may  
28 result in loss of PAB include: change in resource needs, failure to meet project benchmarks, inability to  
29 resolve financial challenges within the timelines prescribed by OHCS and changes to development team  
30 and/or ownership parties.

31 NOTE: Changes in projects that incorporate value engineering are not considered substantial changes.  
32 Changes or delays due actions or inactions taken by local, state or federal jurisdictions are also not  
33 considered substantial changes.

34

35

36

1 **Timelines and Closing Dates**

2 Estimated closing dates are required at Intake and Impact Assessment and form the basis of a project’s  
3 readiness estimation and timelines. OHCS recognizes that these dates are estimates and likely to  
4 change, however, all projects must meet the timelines associated with each step of the ORCA process or  
5 their PAB hold may be forfeited. OHCS may require timelines to move based upon a number of factors  
6 including PAB availability.  
7

8 In the event that a project does not move forward within required ORCA timelines or does not meet  
9 required standards within the ORCA process, the PAB hold will be reallocated by OHCS.  
10

11 **Additional Process Information**

12 1) For selected applicants, all projects must meet ORCA standards and expectations, including, but not  
13 limited to, standards, timelines, and documentation. These are in addition to, not in lieu of,  
14 requirements and expectations from the Qualified Allocation Plan (QAP) and any other  
15 programmatic requirements of the LIHTC program.

16 2) After Impact Assessment application evaluation, projects must receive Housing Stability Council  
17 approval for initial gap resources if such resources are needed for the project and included in the  
18 initial proforma. A Letter of Intent (LOI) will be issued based on an up-to amount for both the gap  
19 resources and PAB.

20 3) At the Financial Eligibility step, project sponsors provide a solid, detailed proforma, with cost  
21 estimates supported by bids. The LOI will be updated with a more precise amount at this time.

22 a. The proforma provided at Financial Eligibility should have costs within 10% of the Impact  
23 Assessment proforma and further refine the allowable PAB.

24 b. Complete due diligence submitted by the readiness timeline requirements.

25 4) Projects may be held at the Financial Eligibility stage until closing dates are available. If a project is  
26 held by OHCS for an agency purpose, the readiness timeline requirements are suspended during  
27 that period. Once projects are moved forward into the closing stage, projects have no more than 6  
28 months to close. Projects that do not close in the 6-month time period will be removed from the  
29 queue and must restart the ORCA process.

30 5) Projects will need to go back to Housing Stability Council during the Commitment period to lock in  
31 the PAB rate. Once the PAB allocation is locked, any surplus can be released.  
32

33 **9% Low-Income Housing Tax Credits**

34 **Intake and Request Form**

1 Projects applying for 9% LIHTC resources must complete a 9% LIHTC Request Form identifying their  
2 interest. The 9% Request Form will be available for a minimum of six weeks, and the open period will be  
3 announced by OHCS through a Technical Advisory at least two weeks in advance of opening.

4 The 9% Request Form will be used to evaluate, screen, and, if necessary, rank 9% project applications by  
5 the adopted tie-breaker criteria. While it will not include all documentation required for finalizing  
6 resource commitments, it will require more information and detail than the general ORCA Project Intake  
7 form.

8 Projects recommended for 9% LIHTC will be required to meet all applicable evaluation standards in the  
9 ORCA to retain resource commitment. Information provided in the 9% Request Form and following  
10 through the application process constitute application commitments for the project. Such commitments  
11 made regarding the character, quality, and financing of a project in the 9% selection process will be  
12 enforced during the underwriting process and beyond. Departure from those commitments will trigger  
13 reconsideration of the award.

14

### 15 **Application Process**

16 Projects will be evaluated using the process laid out by OHCS below, and the number of projects  
17 selected will be based on available resources identified as available for that funding round. Applications  
18 for 9% Low-Income Housing Tax Credits will be accepted and reviewed annually as funding availability  
19 allows. 9% LIHTC projects will be notified of their status, and those selected to move forward into the  
20 ORCA process and will be given access to a Procurement Workcenter to begin the ORCA process's Impact  
21 Assessment.

22 Applicants not selected can choose to have the project placed on the ORCA 9% LIHTC waitlist which will  
23 remain active through September of each calendar year. Projects may not be on more than one waitlist  
24 for resources within the ORCA. If projects are on the 9% LIHTC waitlist and sufficient credits become  
25 available (from a return of credit or otherwise) projects will be funded in order from the waitlist as  
26 resources will allow. If 9% LIHTC are not fully allocated after all eligible projects are selected, or  
27 sufficient credits are returned from a failed project OHCS may, at its discretion, either consider projects  
28 on a first-come first-reviewed basis or open a subsequent window or windows for acceptance of intake  
29 forms for 9% LIHTC projects.

30 For selected applicants, all projects must meet ORCA standards and expectations, including, but not  
31 limited to, standards, timelines, and documentation. These are in addition to, not in lieu of,  
32 requirements and expectations from the Qualified Allocation Plan (QAP) and any other programmatic  
33 requirements of the LIHTC program.

34

### 35 **Project Criteria**

36 In order to select new construction projects to access 9% LIHTC through the ORCA process, OHCS will  
37 use the following criteria to create the list of projects that are eligible to be moved forward to Impact  
38 Assessment. Projects must meet mandatory threshold criteria and 3 supplemental criteria or more to  
39 meet the eligibility standard.

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If the total resources requested by projects that meet minimum threshold for this evaluation is greater than the total resources available, projects will then be evaluated against tie-breaker criteria. The number of projects selected to move forward with the comprehensive ORCA application using 9% LIHTC will depend upon total resources available.

**Mandatory Criteria**

Projects must meet all of the following mandatory criteria.

**Responsive to Tenant/Community Needs**

- 1. Project includes features in the design, services, site location, or other project considerations that are tailored to the population being served (e.g. appropriate levels of supportive services for chronically homeless households, co-located Early Care and Education (ECE) facility for families with young children, universal design features for older adults and people with disabilities, transportation opportunities or unique design features for veterans, unique features or access to locations of cultural significance for communities of color, etc.).
- 2. Project demonstrates alignment with the Oregon Housing Needs Analysis (OHNA) and local jurisdiction housing production strategies. Small cities without an OHNA requirement are exempt from this.

**Community Needs**

- 3. Project has supporting documentation from a local Housing Authority demonstrating that a commitment is in place to market available units to their wait list, or will rely on coordinated entry for tenant referrals.

**Supplemental Criteria**

Projects must meet three of the following supplemental criteria.

**Responsive to Tenant/Community Needs**

- 1. Project incorporates an average unit AMI of less than 50% or are including Project-Based Rental Assistance (PBRA) with at least 25% of their units.
- 2. Project incorporates a co-located ECE facility.
- 3. Accessible units beyond minimum code requirements.

**Economic/Workforce Impact**

- 4. Project includes features in the design, services, site location or other project considerations that provide opportunities for employment to residents and benefit to the community (e.g. co-located ECE facility for families with young children, access to community college or workforce training site, walkable access or access to transit to high job density locations).



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**Section 42 considerations**

- 5. Projects demonstrate evidence of historic value for the community, including Projects using the federal Historic Tax Credit (HTC) as part of the Project financing, and are: Listed, or have been determined eligible for listing, in the National Register of Historic Places administered by the U.S. Department of the Interior in accordance with the National Historic Preservation Act of 1996; or Located in a registered historic district and certified by the Secretary of the U.S. Department of the Interior as being of historic significance to that district.
- 6. Projects that have formally committed to meeting the Department’s Sustainability Standards which include energy efficiency expectations that exceed current State of Oregon Energy Code requirements.
- 7. Projects intended for eventual tenant ownership.

**Organization Type**

- 8. Lead developer is a Culturally Specific Organization and/or a rural nonprofit organization.

**Tiebreakers**

Projects that meet threshold for evaluation from the above criteria will be further prioritized using the following criteria, in the order listed below, with criteria a. being the first considered and criteria d. being the last, if all else is equal:

- a. Policy enriched: Permanent Supportive Housing (meeting all PSH standards described in the ORCA), co-located ECE facility for families with young children, use of Universal Design.
- b. Participating Jurisdiction: significant federal HOME fund leverage.
- c. Efficient Unit Production: Applicants will be ranked based on the total number of credits requested per units they will be providing for their communities.
- d. Average AMI: Lowest average household AMI served.

**Preservation Projects**

Preservation projects are defined by the Preservation Funding Frameworks adopted by OHCS to include: projects at risk of loss due to physical or financial challenges, properties with federal project-based rent assistance at imminent risk of loss, and expiring properties at risk of conversion to market-rate. To apply for 9% LIHTC, preservation projects will also submit a 9% Request Form which will have the applicant provide project-specific details for the resource investment request. These 9% Request Forms for Preservation will be evaluated in alignment with criteria established within the OHCS Preservation Funding Framework. This framework establishes criteria to assess risk within each of the following applicable preservation project types: Risk of Loss Physical or Financial Challenges; Risk of Loss Federal Project-Based Rent Assistance; Risk of Loss Expiration and Conversion to Market-Rate.

1 OHCS will evaluate applications against criteria in their respective preservation-type to identify projects  
2 that meet Critical Priority thresholds. Once all Critical properties are identified, if there are more  
3 projects than are able to be funded, OHCS will utilize tiebreakers to determine which projects will be  
4 selected to move forward into the ORCA process. If no Critical properties are identified, OHCS will follow  
5 the same process but evaluate properties in the High Priority category. If no High Priority properties are  
6 identified, OHCS will follow the same process but evaluate properties in the Medium Priority category.

### 7 8 **Project Criteria: Risk of Loss Physical or Financial Challenges**

9 For properties at risk of loss due to physical or financial challenges being experienced, those  
10 deemed to be critical priority will be those in which all of the below are true:

- 11 1) Applicant is a Culturally Specific Organization;  
12 2) Project is currently at-risk; and,  
13 3) Two thirds or greater of tenants in the property are considered vulnerable by OHCS's  
14 definition.

### 15 16 **Project Criteria: Risk of Loss Federal Project-Based Rent Assistance**

17 For properties at risk of loss of existing Federal Project-Based Rent Assistance (PBRA), those  
18 deemed to be critical priority will be those in which both of the below are true:

- 19 1) PBRA is at risk within two years of the date of application; and,  
20 2) At least 50% of the units in the property have PBRA.

### 21 22 **Project Criteria: Risk of Loss Expiration and Conversion to Market-Rate**

23 For properties at risk of loss due to expiration of affordability covenants and potential  
24 conversion to market-rate, those deemed to be critical priority will be those in which either:

- 25 1) The property is in a census tract defined as rural by OHCS; or

26 Both of the below are true:

- 27 1) Either:  
28 a. Fifty percent or more of units in the property either are rent-restricted to 50% AMI  
29 or lower, or have PBRA attached; or,  
30 b. Twenty five percent or more of units in the property either are rent-restricted to  
31 30% AMI or lower, or have PBRA attached;

32 And,

- 33 2) One third or greater of tenant households are considered vulnerable by OHCS's definition.

1           **Preservation Tiebreakers**

2           Projects that meet threshold for evaluation from the above criteria will be further prioritized  
3           using the following criteria, in the order listed below, with criteria a. being the first considered  
4           and criteria d. being the last, if all else is equal:

- 5           1) Projects meeting Critical Priority criteria in the Federal Project-Based Rent Assistance  
6           category;
- 7           2) Projects with greater rent burden in the census tract in which they are located;
- 8           3) Projects requesting lower subsidy per unit;
- 9           4) Projects with the lowest average AMI rent-restrictions.

10

11           **Programmatic Requirements**

12           **Minimum Requirements for LIHTC Projects**

13           OHCS has the following minimum requirements for any LIHTC-funded project. Developers must  
14           demonstrate through their application, during underwriting, in the lease-up process, and throughout the  
15           extended use period compliance with all applicable requirements. Failure to meet the criteria may  
16           disqualify a project from receiving any funding presently or in the future.

17

18           **Long-Term Affordability**

19           All Projects awarded 9% LIHTC must remain affordable for 60 years.

20           All 4% LIHTC Projects must remain affordable for 60 years except for Projects where LIHTC resources are  
21           paired with other OHCS resources offered for 4% LIHTC pairing for at least 30 years. When this pairing  
22           happens, the LIHTC Project’s affordability will be at least 30 years and will match the affordability of the  
23           paired source if it is over 30 years.

24

25           **Resyndication Restrictions**

26           Projects funded with LIHTC in 2025 and thereafter are not eligible to apply for an additional 4% or 9%  
27           LIHTC within 20 years of the Project’s Placed-In-Service date. Exceptions may be granted at the sole  
28           discretion of OHCS in cases where it determines there is a risk of physical, affordability, or other loss.

29

30           **Minimum Tax Equity Pay-In Schedule**

31           Given the scarcity of state and local resources leverageable for the development of affordable rental  
32           housing and the extremely tight margins in project development, OHCS is requiring minimum Tax Credit  
33           Equity contributions benchmarks for all LIHTC transactions.

34

<b>Benchmarks for Equity Installments</b>	<b>Minimum Equity Installment</b>
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## DRAFT 2024 QAP Update

On or before project finance close	5%	Of total project equity	1
At or before 65% project completion	20%	Of total project equity	2
At or before 100% project completion	65%	Of total project equity	3
On or before 8609 Issuance	100%	Of total project equity	3

4

5 OHCS reserves the right to approve alterations to these benchmark percentages with documentation  
6 and proof the project and team have sufficient access to resources to reach project completion in  
7 alignment with the established development timeline.

8

### 9 **Limited Partnership Agreement (LPA)**

10 All project applicants and owners are responsible for understanding the specifics of their Limited  
11 Partnership Agreement. OHCS expects all parties to execute the LPA document in good faith and  
12 maintain the goal of producing and maintaining affordable housing throughout Oregon.

13

### 14 **Violence Against Women Act**

15 In conformity with the Violence Against Women Act (VAWA) of 2013, an Applicant for or tenant of  
16 housing assisted under the LIHTC Program may not be denied admission to, denied assistance under,  
17 terminated from participation in or evicted from the housing on the basis that the Applicant or tenant is  
18 or has been a victim of domestic violence, dating violence, sexual assault or stalking if the Applicant or  
19 tenant otherwise qualifies for admission, assistance, participation, or occupancy. An incident of  
20 domestic violence, dating violence, sexual assault, or stalking shall not be considered a lease violation by  
21 the victim, nor shall it be considered a good cause for an eviction. If a tenant who is a victim requests an  
22 early lease termination, lease bifurcation from the abuser, or transfer to another unit because she/he is  
23 in danger, a LIHTC owner, manager, or agent thereof shall make every effort to comply with the request  
24 and shall not penalize the tenant.

25

### 26 **Waiver of Qualified Contract**

27 By submitting an application for LIHTC funding, all LIHTC Applicants waive the right to request a qualified  
28 contract under Section 42(h)(6)(E)(i) of the Code. Thus, any OHCS-required extended use commitment  
29 shall not terminate at the end of the compliance period but will have a minimum duration of 60 years  
30 for both 9% LIHTC and 4% LIHTC transactions.

31

### 32 **Asset Management Compliance and Project Monitoring**

33 As the authorized allocating agency for the state of Oregon, OHCS is responsible for monitoring Projects  
34 for compliance with Section 42 of the Code, corresponding Treasury regulations, and any other  
35 applicable IRS guidance (rulings, procedures, decisions, notices, and any other applicable IRS guidance),  
36 the Fair Housing Act, State Laws, Local Codes, OHCS loan or regulatory documentation, and any other  
37 legal requirements in administering the LIHTC Program. Project owners (Owners) must comply with all  
38 such requirements if implemented after this QAP is approved. OHCS is also responsible for establishing  
39 monitoring procedures to verify compliance and is required by law to report noncompliance to the IRS.

1 Monitoring each Project is an ongoing activity that extends throughout the affordability period (a  
2 minimum of 30 years).

3 Projects with funding sources obtained from OHCS in addition to the tax credits, will be monitored for  
4 the most restrictive requirements of all combined OHCS programs. Owners must be aware of the  
5 differences in Program regulations, including PSH projects which must adhere to OHCS' PSH Standards  
6 and policies for tenant selection and low-barrier screening.

7 The OHCS' LIHTC Compliance Manual is incorporated by reference and may be found at  
8 <https://www.oregon.gov/ohcs/compliance-monitoring/pages/compliance-lihtc-program.aspx>. OHCS  
9 may perform an on-site review of any building in the Project, interview residents, review resident  
10 applications and financial information, and review the Owner's books and records relating to the Project  
11 as consistent with the law and as OHCS determines it to be appropriate. Ownership must provide OHCS  
12 reasonable access to the Project and its books and records, and to reasonably cooperate in all such  
13 compliance monitoring. In connection with these obligations, an Owner must take all reasonably  
14 necessary actions to allow OHCS to inspect housing units occupied by residents.  
15

## 16 **Program compliance**

17 All OHCS Projects must satisfy the Program Requirements for each applicable OHCS funding source  
18 reserved. Each OHCS funding source has separate requirements, which can be found in the  
19 supplemental Program manuals.  
20

## 21 **Relocation Plan**

22 If any relocation or displacement of existing tenants might occur because of an Allocation, the  
23 development team must provide a satisfactory relocation plan to OHCS including a complete survey of  
24 existing tenants. The tenant survey must be in the OHCS-provided format and can be augmented to  
25 include copies of the third-party verifications before construction closing for the project.  
26

## 27 **Ownership Integrity**

28 OHCS may reject any application or solicitation of funding where any member, officer, principal, or  
29 entity within the Project ownership, management, or development team:

30 Are under investigation by a public body, has a pending claim, indictment, suit, action, or other  
31 proceeding against them.

32 Has been convicted of or been determined by an administrative or judicial (whether criminal or civil)  
33 order or judgment to have committed fraud, misrepresentation, theft, embezzlement, or any other act  
34 of moral turpitude (including, but not limited to any felony or malicious behavior) within the previous  
35 ten years.  
36

## 37 **Single-Asset Ownership**

38 OHCS requires that each Project be owned by a single-asset entity duly organized under the laws of the  
39 State of Oregon, or if allowed by OHCS, duly authorized to conduct business in the State of Oregon.  
40

1 **Reservation and Extended Use Agreement**

2 Projects that receive an OHCS Allocations must enter into a Reservation and Extended Use Agreement  
3 (REUA), satisfactory to OHCS, which includes executing and recording, at the Applicant’s expense, a  
4 follow-on declaration of restrictive covenants and executing and recording other documents about the  
5 Project satisfactory to OHCS. The provisions of the REUA, including the declaration of restrictive  
6 covenants, will apply throughout the applicable “Affordability Period,” which includes the initial fifteen  
7 (15) year compliance period, and an additional “extended low-income use period” as referenced in the  
8 Project’s restrictive use agreements.

9  
10 **Right of First Refusal (ROFR)**

11 Applicable to Projects with Non-Profit General Partners. OHCS hereby reserves the right to require any  
12 and/or all the following concerning LIHTC applications and funded projects:

- 13 1) Provisions to be included in the Applicant’s organizational documents limiting transfers of  
14 partnership or member interest or other actions detrimental to the continued provision of  
15 affordable housing.
- 16 2) A letter of intent from a tax credit investor that grants to a qualified not-for-profit organization a  
17 right of first refusal to purchase the project for a below-market purchase price (the “ROFR Purchase  
18 Price”), following the expiration of the tax credit compliance period, in accordance with Section  
19 42(i)(7) of the Code (the “ROFR”).
- 20 3) Terms in the extended use agreement requiring notice and approval by OHCS of transfer of  
21 partnership or member interests.
- 22 4) Debarment from the program of Project sponsors, investors, syndicators, or lenders having  
23 demonstrated a history of conduct detrimental to long-term compliance with any extended use  
24 agreements, whether in Oregon or another state and the provision of affordable tax credit units;  
25 and
- 26 5) Provisions to implement any amendment to the IRC or any future federal or state legislation,  
27 regulation, or administrative guidance.
- 28 6) The decision whether to institute and the terms of, any such requirements shall be made by OHCS as  
29 reasonably determined to be necessary or appropriate to achieve the goals stated in this paragraph  
30 and to be in the best interest of the Plan.

31  
32 **LIHTC Reservation Requirements**

33 All LIHTC Applicants must comply with the requirements of the ORCA, in addition to these requirements,  
34 the following will also be applicable.

35  
36 **Requirements for Reservation**

37 Those projects selected by OHCS as recipients of LIHTCs will be issued a LIHTC reservation (REUA),  
38 Carryover Allocation (if applicable), and Form 8609 (Outlined in the Place-In-Service Allocation  
39 Requirements section). OHCS may disqualify the Project/Applicant and cancel the LIHTC Reservation

1 and/or Carryover Allocation if requirements are not met by the deadlines set by OHCS.

2

3 **Reservation Period**

4 If the Applicant does not satisfactorily complete the conditions of the LIHTC REUA and/or Carryover  
5 Allocation Agreement, OHCS may rescind the LIHTC Reservation for the project. OHCS may reallocate  
6 any 9% LIHTCs returned or rescinded. OHCS will require each Applicant who has received a LIHTC  
7 Reservation to demonstrate the project is making satisfactory progress toward completion through  
8 regular progress reports.

9

10 **No Representation or Warranty**

11 Issuance of an OHCS funding resource Reservation shall not constitute or be construed as a  
12 representation or warranty as to the feasibility or viability of the Project, or the Project's ongoing  
13 capacity for success, or any conclusions with respect to any matter of federal or State law. All OHCS  
14 resources are subject to various State and federal regulations governing the specific Program from  
15 which they are obtained, and Applicants are responsible for the determination of their Project's  
16 eligibility and compliance consistent with all Project requirements.

17

18 **Determination of the LIHTC Allocation Authority Year (9% Specific)**

19 When making a Reservation of LIHTC, OHCS reserves the right to make an allocation of a future year's  
20 credit ceiling (Forward Allocation). Such Allocation(s) may be full or partial for the Project(s). The  
21 applicable QAP will be the plan in place for the earliest funding cycle in which an award of funds is  
22 received.

23

24 **Carryover Allocation Requirements (9% LIHTC Specific)**

25 Once a project is successfully selected for an allocation of 9% LIHTCs. The following requirements must  
26 be met in addition to any of those requirements by the department or other resources allocated to the  
27 project.

28

29 **9% LIHTC Carryover Allocation Agreement**

30 9% LIHTC Applicants, on or before November 1st of the LIHTC Allocation Authority Year, must submit  
31 either an Application for LIHTC Carryover Allocation (if the Project is still in the construction phase), or a  
32 Final Application indicating the Project has been placed-in-service. All LIHTC Carryover Allocations will be  
33 made on a per Project basis. The LIHTC amount that qualifies for a Reservation to any Project is the lump  
34 sum amount of available to each qualified building in the Project. The actual amount of LIHTCs available  
35 for any specific building will be apportioned from the lump sum Carryover Allocation of Credit and  
36 determined when that building satisfies the placed-in-service allocation requirements.

37

1 **10% Carryover Test for 9% LIHTC Projects**

2 Within twelve (12) months of the date of the Carryover Allocation Agreement, the 9% LIHTC Applicant  
3 must demonstrate to the satisfaction of OHCS that it has incurred more than ten percent (10%) of the  
4 reasonably expected basis of the Project by certifying to OHCS that it has fulfilled this requirement and  
5 by submitting a CPA’s certification.

6 The CPA’s certification should itemize all the costs incurred to satisfy the ten percent (10%)  
7 requirement. If the Applicant is itemizing any portion of the developer fee or consultant fees for  
8 purposes of satisfying the ten percent (10%) requirement, the certification must contain a detailed  
9 breakdown of the services performed by the developer and each consultant and the amount of the fees  
10 apportioned to each service. The Applicant must also submit a copy of all developer and consultant  
11 contracts as well as an itemized statement apportioning the fees earned to each service provided.

12 OHCS may require the Applicant to submit additional documentation of the costs reflected in the  
13 certification and OHCS may limit or exclude certain costs if it cannot determine that they are reasonable  
14 and appropriate.

15

16 **Exchange of 9% Credit Award for Subsequent Years Credit Allocation**

17 Once an Applicant has received a Reservation of LIHTCs, the Applicant has the responsibility to complete  
18 the Project by the timelines identified in IRC Section 42 and outlined by OHCS. The Department reserves  
19 the authority to exchange an allocation of credits from one year to credits in the subsequent year with  
20 the amount unchanged. Applicants must demonstrate good cause to return their Reservation to OHCS,  
21 and as such the Applicant has this option one time. This practice is also called a “credit swap” or a  
22 “credit refresh.”

23 No later than March 31 of the year following the Reservation of LIHTC, an Applicant may request to  
24 return its allocation and exchange it for an award of the same amount of credits from the next year.

25 For example, a 2025 awarded Project that receives a forward reservation of 2026 tax credits can  
26 exchange those credits, if requested by March 31, 2026, to receive an allocation of 2027 credits. This is  
27 necessary if the Project will not be placed in service by December 31, 2028, but instead will be placed in  
28 service by December 31, 2029.

29 After LIHTCs have been returned, an Applicant may apply for additional LIHTCs. Projects must comply  
30 with the requirements applicable in the initial year of award and all representations made in the initial  
31 Application (unless specifically and explicitly waived by OHCS). OHCS must have a Project to which it can  
32 award current-year LIHTCs.

33

34 **Placed-In-Service Allocation Requirements**

35 All LIHTC Applicants are required to complete a Final Application containing required documentation.  
36 Any changes from the Equity Closing are subject to OHCS review and approval before the issuance of IRS  
37 Form 8609. Projects with excess funds must return those funds to one or more of the public funders



1 upon Project completion. OHCS funding resources will have a priority for return upon the determination  
2 of excess funds for the Project.

3 OHCS will accept and process Final Application documents and issue IRS Form 8609(s) throughout the  
4 year. OHCS reserves the right to set a schedule for review and approval of 8609(s). Commercial costs  
5 should be separated from the cost certification in an individual column or deducted from the total  
6 residential costs. In either circumstance, the budget uses pages should identify both components of cost  
7 separately. However, a Project Owner must submit a complete application with all Placed-In-Service  
8 documentation, including the independent Certified Public Accountants Report (Cost Certification) and  
9 the certificates of occupancy for each building in the Project at least sixty (60) days prior to when the  
10 Owner expects to receive the IRS Form 8609.

11 Upon completion of the Project, for 4% LIHTC Projects, the Borrower will provide to OHCS an analysis of  
12 the breakdown of the bond-funded costs for the Project, to meet the federal tax requirements  
13 described in the Project's Tax Certificate and Agreement (or other similar document) in a form certified  
14 by an authorized representative of the Borrower (commonly referred to as a "Good Costs  
15 Certificate"), together with more detailed backup information as requested by OHCS and/or Bond  
16 Counsel for the State.

17

### 18 **Project Changes**

19 An Applicant must notify OHCS in writing of, and obtain its written consent to, any material changes in a  
20 Project. An Applicant must notify OHCS when a material change is first identified. OHCS will endeavor to  
21 respond within thirty (30) days after receiving the notice of a material change and request for consent.  
22 OHCS may give or withhold its consent, or condition its consent, subject to its reasonable discretion. A  
23 "material change" includes, but is not limited to, a change in:

- 24 1) The number of buildings or units.
- 25 2) The Project contact person.
- 26 3) The Identity of Interest disclosure.
- 27 4) The Development Team.
- 28 5) The Total Project Costs.
- 29 6) A financing source (whether debt or equity).
- 30 7) Operating revenue or expenses for the Project of more than ten percent (10%).
- 31 8) Anything that would result in a change in the standards OHCS used to competitively rank Projects.

32 OHCS will determine whether a change in a project is substantial and triggering the requirement to  
33 return the project to a previous step in the ORCA process. The written request for approval of a material  
34 change in a Project must include a narrative description and other supporting documentation, plus the  
35 applicable revised pages of the Application. If OHCS grants the request, including as modified or  
36 conditioned by OHCS, it may adjust the amount of the funding allocation to ensure the pro forma  
37 "sources and uses" of the Project remain in balance.

1 **Cost Savings Clause**

2 Construction contracts that include any provision for cost savings that are to be retained by the general  
3 contractor or split with the Project Applicant are not permitted. All ORCA-specific policy related to cost  
4 savings apply to LIHTC.

5

6 **Project Transfer or Assignment Requiring OHCS Consent**

7 A Project transfer or assignment requiring OHCS consent includes any direct or indirect sale,  
8 contribution, assignment, lease, exchange, transfer, or other change in:

- 9 1) An interest in the land, the Project, or any building.  
10 2) An ownership interest in the entity that is the Applicant or Project Owner.  
11 3) The rights, title, or interest of the Applicant or Project Owner in any agreement to which OHCS and  
12 the Applicant or Project Owner are parties.

13 The following transfers or assignments do not require the prior written consent of OHCS:

- 14 1) The grant of a security interest or lien junior to the interest of OHCS; or  
15 2) The issuance, redemption, or transfer of stock or shares of a corporation that is not a closely held  
16 corporation.

17

18 **Process and Requirement for Obtaining OHCS Consent**

19 The first step in obtaining OHCS's written consent to a Project transfer or assignment is to advise OHCS  
20 in writing of the proposed transfer or assignment. At a minimum, the Applicant should describe:

- 21 1) The name of the Project.  
22 2) The names of the Applicant and/or the Owner, the proposed transferor and transferee, and all other  
23 relevant parties.  
24 3) A complete description of the proposed transfer or assignment, including the proposed effective  
25 date; and  
26 4) Any special circumstances related to the proposed transfer or assignment.

27 After OHCS's receipt of the written request, OHCS will advise the Applicant of OHCS's requirements and  
28 conditions that must be satisfied to obtain the consent, including payment of document preparation  
29 charges and applicable legal fees. If the Applicant committed to participate under the set-aside category  
30 for Qualified Non-Profit, any transfer or assignment must be such that the Project continues to qualify  
31 for such set-aside category.

32

1 **Construction Closing**

2 For 9% LIHTC transactions, the Applicant must give OHCS at least thirty (30) days' written notice of the  
3 scheduled Construction Closing. At least ten (10) days before the Construction Closing, but after the  
4 general contractor bids have been received, the Applicant must submit to OHCS the Project's final  
5 development budget, final sources of funds, and documentation to substantiate the final budget.

6 For 4% LIHTC transactions, the Applicant must give OHCS the Project's final development budget pro  
7 forma, final sources of funds, and documentation to substantiate the final budget items at least ten (10)  
8 days before submission to the OHCS Finance Committee for approval.

9

10 **Market Study**

11 Applicants must submit a complete market analysis before receiving a 9% LIHTC or 4% LIHTC allocation.  
12 The deadline for submission will be established within the Financial Eligibility step of the ORCA process  
13 for projects selected for funding. Applicants should read and refer to the LIHTC Market Analysis  
14 Guidelines for a full description of OHCS policies and guidelines. Selected projects must use approved  
15 OHCS Market Analysts as required in code at IRC §42(m)(1)(A)(iii).

16 The Market Analysis Guidelines can be found at:

17 <https://www.oregon.gov/ohcs/development/Documents/admin/market-analysis-guidelines.pdf>

18 The Approved Market Analyst List can be found at:

19 [https://www.oregon.gov/ohcs/development/Documents/LIHTC/Approved-Market-Analysts-List-12-01-](https://www.oregon.gov/ohcs/development/Documents/LIHTC/Approved-Market-Analysts-List-12-01-21.pdf)  
20 [21.pdf](https://www.oregon.gov/ohcs/development/Documents/LIHTC/Approved-Market-Analysts-List-12-01-21.pdf)

21

22 **Considerations**

23 **Reservation of Rights**

24 Project/Request Denial. OHCS, in its sole discretion, may reject an application where the Applicant,  
25 Owner, Principal, or other Participant concerning the proposed Project, previously has done any of the  
26 following:  
27

- 28 1) Failed to complete a Project in accordance with requests or certified plans presented to OHCS or  
29 other public or private allocating agencies.
- 30 2) Failed to complete a Project within the time schedule required or budget indicated in the request.
- 31 3) Failed to effectively utilize previously allocated Program funds and was notified of such failure to  
32 meet appropriate utilization in advance of request or NOFA closing date.
- 33 4) Been found to be in non-compliance with Program rules as evidenced by OHCS or other public or  
34 private Allocating Agency Project monitoring and missed the cure time deadline given in writing.

- 1 5) Been debarred or otherwise sanctioned by OHCS or other state, federal or local governmental  
2 agency.
  - 3 6) Been convicted within the last ten (10) years of criminal fraud, misrepresentation, misuse of funds,  
4 or moral turpitude or currently is under indictment for such an offense.
  - 5 7) Been subject to a bankruptcy proceeding within the last five (5) years.
  - 6 8) Otherwise displayed an unwillingness or inability to comply with OHCS requirements.
- 7 OHCS reserves the right to disapprove any Application if, in OHCS's judgment, the proposed Project is  
8 not consistent with the goals of providing decent, safe and sanitary housing for low-income persons.  
9 OHCS may impose additional conditions on Project Applicants for any Project as part of the Application,  
10 Reservation or Allocation processes.

11

### 12 **Documentation of Discretion**

13 OHCS may, at its sole discretion, award credits in a manner not in accordance with the requirements of  
14 the QAP. If any provision of this QAP (or documents incorporated herein by reference) is inconsistent  
15 with any provisions (current or as amended) of IRC Section 42, corresponding Treasury Regulations, and  
16 applicable IRS guidance, or any existing State Laws or State Administrative Rules governing the LIHTC  
17 Program, the provisions of IRC Section 42, corresponding Treasury Regulations, and applicable IRS  
18 guidance, State Laws or State Administrative Rules take precedence over the QAP.

19

### 20 **Policy on Exceptions/Waiver Requests**

21 All OHCS policies, other than those mandated by Section 42 of the Code, are considered as guidelines  
22 and may be waived by OHCS at its sole discretion. A written request for a waiver or exception,  
23 accompanied by justification, may be submitted to OHCS. QAP waivers will be documented for all  
24 Projects and regular periodic publications of waivers will identify the Applicant, the QAP provision  
25 waived, and the reason for waiver. In addition, the summary for Projects recommended for funding may  
26 identify and explain waivers granted for any Projects listed.

27 Applicants, lenders, or syndicators must submit any request for a waiver or exception to a policy in  
28 writing with a full justification at least 30 days prior to the construction/equity closing date for  
29 Applications. Furthermore, OHCS reserves the right to waive any provision or requirement of the QAP  
30 that is not stipulated in Section 42 of the Code in order to affirmatively further fair housing.

31 If OHCS acts contrary to or fails to act in accordance with this Plan, the ORCA, or any other Program  
32 Requirement, such act or omission does not constitute a waiver by OHCS of any obligation on the part of  
33 a Project, person or entity to comply with the provisions of this Plan, the ORCA, or other Program  
34 Requirements, or establish a precedent for any other Project, person or entity. In any event, no waiver,  
35 modification, or change of a requirement set forth in an OHCS Program Manual, or of any other Program  
36 Requirement will be binding upon OHCS unless set forth in writing, signed by an authorized agent of  
37 OHCS, and consistent with law.

1 **Partial Invalidity**

2 If any provision of this QAP, or the application of this Plan to any person or Project, is found by a court  
3 to be invalid or unenforceable, the remainder of this Plan, or the application of that provision to persons  
4 or circumstances other than those with respect to which the provision was held invalid or unenforceable,  
5 shall not be affected. Each provision of the Plan shall be valid and enforceable to the fullest extent  
6 permitted under State or federal law.

7  
8 **OHCS Sole Discretion**

9 OHCS reserves the right to determine at application, reservation and/or at any point during the  
10 underwriting process and at its sole discretion, whether the Third-Party Letters of Interest or Intent,  
11 Award Letters, or Commitment Letters are satisfactory, and whether a lender or investor possesses the  
12 financial or other capacity to make a specific loan or investment. A change in the Project's financing  
13 structure or financing terms after Reservation of OHCS funds must be brought to the attention of OHCS.  
14 OHCS may in its sole discretion re-underwrite the Project, which may result in all or a part of OHCS  
15 resources being recaptured or reduced by, or returned to, OHCS.

16  
17 **Project/Request Denial**

18 OHCS may reject an Application where the Applicant, Owner, Principal, or other participant with respect  
19 to the proposed Project, previously has:

- 20
- 21 1) Failed to complete Projects in accordance with requests or certified plans presented to OHCS or  
22 other public or private allocating agencies.
  - 23 2) Failed to complete a Project within the time schedule required or budget indicated in the request.
  - 24 3) Failed to effectively utilize previously allocated Program funds and was notified of such failure to  
25 meet appropriate utilization in advance of the request or ORCA cycle closing date.
  - 26 4) Been found to be in non-compliance with Program rules as evidenced by OHCS or other public or  
27 private Allocating Agency Project monitoring and missed the cure time deadline given in writing.
  - 28 5) Been debarred or otherwise sanctioned by OHCS or other state, federal or local governmental  
29 agency.
  - 30 6) Been convicted within the last ten (10) years of criminal fraud, misrepresentation, misuse of funds,  
31 or moral turpitude or currently is indicted for such an offense.
  - 32 7) Been subject to a bankruptcy proceeding within the last five (5) years.
  - 33 8) Otherwise displayed an unwillingness or inability to comply with OHCS requirements.

34 OHCS reserves the right to disapprove any Application if, in OHCS's judgment, the proposed Project is not  
35 consistent with the goals of providing decent, safe, and sanitary housing for low-income persons. OHCS

1 may impose additional conditions on Applicants for any Project as part of the Application, Reservation, or  
2 Allocation processes.

3

#### 4 **Financial Solvency**

5 As part of the Application and at such other times as required by OHCS, the Applicant must provide a  
6 certification concerning the financial solvency of the Applicant, the Project, and certain Project  
7 participants in the form required by OHCS.

8 If the certification discloses any financial difficulties, risks, or similar matters that OHCS believes in its  
9 sole discretion might materially impair or harm the successful development and operation of the Project  
10 as intended, OHCS may:

- 11 1) Refuse to allow the Applicant or other participant to participate in the Tax Credit Program or other  
12 OHCS Programs.
- 13 2) Reject or disqualify an Application and cancel any LIHTC Reservation or allocation.
- 14 3) Demand additional assurances that the development, ownership, operation, or management of the  
15 Project will not be impaired or harmed (such as performance bonds, pledging unencumbered assets  
16 as security, or such other assurances as determined by OHCS).

17

#### 18 **Take such other action as appropriate**

19

20 The Applicant must also immediately disclose if there is a material change in the matters addressed in  
21 the certification throughout the Application process and throughout the development and operation of  
22 the Project. Failure to do so may result in a loss of Reservation.

23

#### 24 **Disclaimer**

25 Issuance of a LIHTC reservation pursuant to a Reservation and Extended Use Agreement, a LIHTC  
26 Carryover Allocation (Carryover) or a placed in service allocation as indicated by OHCS or the IRS Form  
27 8609, shall not constitute or be construed as a representation or warranty as to the feasibility or viability  
28 of the Project, or the Project's ongoing capacity for success, or any conclusion with respect to any  
29 matter of federal or state income tax law. All LIHTC allocations are subject to the Code and  
30 corresponding Treasury Regulations governing the LIHTC Program, and Applicants are responsible for  
31 the determination of a Project's eligibility and compliance. If statements in this QAP are in conflict with  
32 Section 42 of the Code and corresponding Treasury Regulations, the Code and such regulations shall  
33 take precedence. While this QAP and the applicable ORCA processes govern OHCS's process of allocating  
34 LIHTC, Applicants may not rely upon this QAP as an interpretation of IRS Code requirements.

35

36 No executive, employee or agent of OHCS, or of any other agency of the State, or any official of the  
37 State, including the Governor, shall be personally liable concerning any matters arising out of, or in  
38 relation to, the allocation of the State's LIHTC allocation, or the approval or administration of this QAP.

1 Lenders and investors should consult with their own tax or investment counsel to determine whether a  
2 Project qualifies for LIHTCs, or whether an investor may use the LIHTCs, or whether any Project is  
3 commercially feasible.

4

## 5 **Violations**

6 OHCS may exercise any of the Remedies described below if:

- 7 1) The Applicant fails to comply with any Program Requirement including, but not limited to, the timely  
8 payment of charges and fees and the execution and recording of documents satisfactory to OHCS;
- 9 2) OHCS determines the Applicant or other Program participant made a material misrepresentation,  
10 affirmatively or by omission;  
11
- 12 3) OHCS determines the Applicant or other Program participant is debarred from accessing Program  
13 resources or otherwise is not a qualifying Applicant; or
- 14 4) The Applicant, Owner, or other Program participant defaults with respect to any Program  
15 Requirement or obligation to OHCS.

16 OHCS will have no duty, obligation, or liability to the Applicant, the lender, the tax credit investor, or  
17 other related Program participant for exercising such remedies. Applicant and related Program  
18 participants, including lenders and tax credit equity investors, expressly waive any claims, causes of  
19 action or other remedies against OHCS with respect to a disqualification, cancellation, or modification as  
20 described above as a condition of Applicant's filing of its Application or their participation in the  
21 Program.

22

## 23 **Remedies**

24 In the event of any failure to adhere to the terms of this Plan or any Program Requirements, including as  
25 described above in the Violations section, OHCS may elect to pursue any and all remedies available to it  
26 under the Program Requirements, including executed documents, or otherwise available to it at law.  
27 These remedies include, but are not limited to:

- 28 1) Cancellation of an Application.
- 29 2) Revocation or modification of an Allocation Credit or other award of OHCS resources.
- 30 3) Debarment of person or entity from accessing OHCS Programs.
- 31 4) Recoupment of allocated or disbursed resources.
- 32 5) Specific enforcement.
- 33 6) Actions for direct, indirect, consequential, or punitive damages.
- 34 7) Appointment of a Project receiver.

1 8) Foreclosure of secured interests or otherwise.

2 Furthermore, OHCS may, and specifically reserves the right to, modify, waive, or postpone any restrictive  
3 covenants or equitable servitudes with respect to the Project or any part thereof.

4 No Third-Party Liability: Nothing in the Program Requirements is intended, or shall be construed, to  
5 create a duty or obligation of OHCS to enforce any term or provision of the Program Requirements or  
6 exercise any remedy on behalf of, at the request of, or for the benefit of, any former, present, or  
7 prospective resident. OHCS assumes no direct or indirect obligation or liability to any former, present, or  
8 prospective resident for violations by the Applicant, Owner or any other Program participant.

9

## 10 **Effective Date**

11 This Qualified Allocation Plan shall be effective upon its approval and execution by the Governor and  
12 shall remain in effect indefinitely or until modified or terminated.