



*Thank you for attending this public meeting and for your support of affordable housing.*

**Date:** Monday, June 6, 2016

**Time:** 8:30 a.m.

**Chairperson:** JP Crowley

**Meeting Location:**  
Webinar Only

**Board Offices:**  
301 S Park Ave., Room 240  
Helena MT 59601  
(406) 841-2840

**Remote Attendance Information:**  
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## AGENDA ITEMS

Public Comments - Public comment is welcome on any public matter that is not on the agenda and that is within the jurisdiction of the agency. Please sign in on our attendance sheet.

### Minutes

- ☒ Approval of Prior Board Meeting Minutes

### Homeownership Program (Manager: Vicki Bauer)

- ☒ Income & Purchase Price Limits
- ☒ Set-aside Extensions
  - Habitat
  - Lot Refinance
  - Disabled Program
  - 80% Combined Program
- ☒ MCC Resolution Approval

*The Board of Housing's mission is to create affordable housing opportunities for Montanans whose needs are not met by the market. We value people, families, communities, fairness, teamwork, mutual respect, integrity. We are committed and passionate about collaborating with our partners to make sure Montana's families and communities have attainable, affordable, accessible and sustainable homes.*

**❏ Multifamily Program (Manager: Mary Bair)**

- ❏ 2017 QAP ARM – Response to ARM Comments & Final Approval to Publish
- ❏ Reverse Annuity Mortgage (RAM) Exception

**❏ Miscellaneous**

Meeting Adjourns

Training Session (if schedule allows)

\*All agenda items are subject to Board action after public comment requirements are fulfilled.

\*We make every effort to hold our meetings at fully accessible facilities. Any person needing reasonable accommodation must notify the Housing Division at (406) 841-2840 or TDD (406) 841-2702 before the scheduled meeting to allow for arrangements.

Future Meeting Dates and Locations (subject to change)

July 11, 2016: No meeting  
October 17, 2016: Helena

August 15, 2016: Helena  
November 14, 2016: No Meeting

September 12, 2016: No Meeting  
December 12, 2016: No meeting

HOUSING DIVISION – MONTANA BOARD OF HOUSING

Quality Inn and Suites – 2100 Cornell Avenue – Butte Montana 59701  
March 14, 2016

**ROLL CALL OF BOARD**

**MEMBERS:** J.P. Crowley, Chairman (Present)  
Bob Gauthier (Present)  
Doug Kaercher (Present)  
Ingrid Firemoon (Excused)  
Jeanette McKee (Present)  
Pat Melby (Present - webinar)  
Sheila Rice (Present)

**STAFF:** Bruce Brensdal, Executive Director  
Ginger Pfankuch, Accounting & Finance Manager  
Vicki Bauer, Homeownership Program  
Mary Bair, Multifamily Program  
Stacy Collette, Operations Manager  
Penny Cope, Marketing and Public Relations  
Mary Palkovich, Servicing Program  
Paula Loving, Executive Assistant  
Todd Jackson, Multifamily  
Jeannene Maas, Homeownership Program

**COUNSEL:** Greg Gould, Luxan and Murfitt  
John Wagner, Kutak Rock

**UNDERWRITERS:** Mina Choo, RBC Capital

**OTHERS:** Alex Burkhalter, Housing Solutions  
Kevin Thane, City of Bozeman  
Jared Swanson, Rocky Mountain Credit Union  
Zach Tondue, Rocky Mountain Credit Union  
John List  
Heather McMilin, Homeword  
Andrea Davis, Homeword  
Logan Anderson, Mountain Plains Equity Group  
Brian Barnes  
Miranda Holstrum  
Julie Stietler, NeighborWorks  
Don Sterhan, Mountain Plains Equity Group

*These written minutes, together with the audio recordings of this meeting, constitute the official minutes of the referenced meeting of the Montana Board of Housing (MBOH). References in these written minutes to tapes (e.g., Tape 1 – 4:34) refer to*

*the location in the audio recordings of the meeting where the discussed occurred. The audio recordings of the MBOH meeting of this date are hereby incorporated by reference and made a part of these minutes. The referenced audio recordings are available on the MBOH website at [Meetings and Minutes](#) .*

### **CALL MEETING TO ORDER**

Chairman JP Crowley called the Montana Board of Housing (MBOH) meeting to order at 9:05 a.m. (7:00). Chairman asked for any public comment not on the agenda (10:30).

### **APPROVAL OF MINUTES**

Jeannette McKee moved to approve the February 8, 2016 MBOH Board meeting minutes and Doug Kaercher seconded the motion (10:38). Chairman Crowley asked for comments. The February 8, 2016 MBOH Board minutes were approved unanimously.

### **FINANCE PROGRAM**

Ginger Pfankuch provided the Finance program update (11:15). In November of 2015 69% of the investments were in low grossing money market accounts. At the end of December that number dropped to 37.3% with the remaining investments earning from 3% to 6.25%. Mortgage purchases were made for the 2015 series B bond issue. This dropped the portfolio balance from \$202.7 million to \$145.6 million which in turn dropped the weighted average yield. We now have \$83 million that is or will be available for reinvestment or other operating purposes.

Ginger Pfankuch introduced Mina Choo, RBC Capital, who updated the Board on the 2016A Bond Issuance (13:33). The bond issuance is planned for April with the closing in May 2016.

### **HOMEOWNERSHIP PROGRAM**

Vicki Bauer brought to the Board a Lender Approval request from Rocky Mountain Credit Union (15:56) Rocky Mountain Credit Union has offices in Helena, Bozeman and Belgrade. Their Articles of Incorporation from Montana is dated December 16, 1940 when they operated under the name of State Capitol Employee Credit Union. They are interested in participating in our MCC program, as well as our loan programs. They are approved to originate FHA, VA and RD. According to the most recent Report of Condition for quarter ending December 31, 2015, Rocky Mountain Credit Union has equity to asset ratio of 10% which meets the criteria for MBOH participating lenders (6%). All required Errors and Omissions and Fidelity Bond Insurance requirements have been met. Rocky Mountain Credit Union is regulated by National Credit Union Administration (NCUA) and no adverse regulatory actions against them exist.

Vicki introduced Jared Swanson, Rocky Mountain Credit Union and provided a brief history of the institution (17:36).

Sheila Rice moved to approve Rocky Mountain Credit Union as an approved lender for the MBOH Bond program (18:37). Bob Gauthier seconded the motion. Chairman

Crowley asked for comments. Rocky Mountain Credit Union was approved unanimously for a lender.

Vicki Bauer brought to the Board the adjustment of the setaside interest rate to 3.18% (19:27). The Board has funds setaside for special programs that were created from recycled payments of mortgages funded with Pre-Ullman bonds. These funds are less restrictive than regular bond funds. Sheila Rice moved to approve the adjustment of the setaside interest rate to 3.18% and Bob Gauthier seconded the motion (20:32). Vicki addressed the lender fee difference between the regular bond program and the setaside program and requested the Board to allow the same fee structure for the setaside program as the regular program, or allow staff the ability to implement if necessary due to the increase in regulations requirements (20:38). Sheila Rice withdrew her original motion and made the motion to approve the adjustment of the setaside interest rate to 3.18% and adopt the fee structure of the regular bond program for the setaside program (22:00). Bob Gauthier seconded the motion. Chairman Crowley asked for comments. The new setaside interest rate of 3.18% and new fee structure was approved unanimously.

Vicki Bauer brought to the Board a setaside program – Dream Makers Program (27:40). The Dream Makers Program offers grants for down payment and closing costs to first-time homebuyers of modest means who valiantly work to protect our country's national security. The requirements for this program include:

- Active Duty, Reserve, National Guard or veteran military
- First-time home buyer, or has not owned a home for the last three years, or has lost home through divorce or disaster
- Gross annual income of all applicants used to qualify for mortgage is no more than 80% of area median income, adjusted for household size.

The amount of the grant is determined by a 2-to-1 match of the borrower's contribution to their mortgage in earnest deposit and cash brought at closing with a maximum grant of \$5,000. The borrower must contribute a minimum of \$500. Grant approvals are contingent upon available funding.

Jeanette McKee moved to approve the Dream Makers Program to the down payment first mortgage setaside pool and add a \$5 million allocation to the pool (28:57). Bob Gauthier seconded the motion. Chairman Crowley asked for comments. The new setaside program – Dream Makers Program – was approved unanimously.

Vicki Bauer provided the Board with the Homeownership program update (30:58). In the month of February 2016, the regular bond program reserved 26 loans, Veterans program reserved two loans, and Score Advantage program reserved three loans.

### **MULTIFAMILY PROGRAM**

Mary Bair brought to the Board a loan request from Missoula Housing Authority - 110 S California (35:17). This project is located in Missoula Montana will be 6-plex. It will contain 4 one-bedroom units targeting persons making below 80% AMI and 2 one-bedroom units targeting persons making below 50% AMI. This property will be constructed using many cutting edge energy efficient materials, have green features, upgraded finishes, energy star appliances, and will be of modern design. Conveniences

will include A/C, in unit wash and dryers, flat top stoves, solid surface counters, bike parking, and extra storage. Once completed, it will be a beneficial addition to the neighborhood and will provide safe, efficient, homes the tenants can be proud to live in. This project has received a HOME grant for \$700,000. Missoula Housing Authority is requesting \$144,272 loan for 20 years at 4%. The loan funds would be funded with deallocated bonds.

Bob Gauthier moved to approve the 110 S California loan request from Missoula Housing Authority and Jeanette McKee seconded the motion (38:09). Chairman Crowley asked for comments. The 110 S California loan request of \$144,272 loan for 20 years at 4% was approved unanimously.

Mary Bair brought to the Board a loan request from GL Development – Northstar Apartments (38:37). Northstar Apartments located in Wolf Point Montana is a 28 unit project. It was awarded housing credits on January 19, 2016 but did not receive a full allocation. It will contain 8 one-bedroom units, 12 two-bedroom units, and 8 three-bedroom units, all targeting persons making below 60% AMI. This project has received a Housing Credit allocation of \$5,570,420. Gene Leuwer is requesting \$385,000n at 3% loan for 30 years. The loan would be funded with the Housing Trust Fund. JP Crowley asked if the requested loan will allow the project to be funded completely.

Jeanette McKee moved to approve the Northstar Apartment loan in the amount of \$385,000n at 3% loan for 30 years, contingent on HOME fund allocation and Doug Kaercher seconded the motion (41:37). Chairman Crowley asked for comments. The Northstar Apartments loan was approved unanimously.

Mary Bair brought to the Board the 2017 Qualified Allocation Plan (QAP) (43:00). Mary reviewed the packet information provided to the Board. The 2017 QAP document approved for public comment reflects all the changes at the time of posting. The new changes within the document are the comments received during the public review period up to the last day. (See Attachment I). All comments received on the last day of the comment period will be added during the review of the Plan. (See Attachment II)

Pat Melby moved to approve the 2017 Qualified Allocation Plan which includes all changes placed for public comment and changes listed based on public comment period, according to the document Attachment I (47:48). Jeanette McKee seconded the motion.

Mary Bair reviewed the public comment period changes:

*Page 2 (48:17) – Initial Allocation, Commitments, 10% Cost Certifications*

*Page 2, (49:44) – Addition of “Adjusted Construction Costs”*

*Page 2, (50:15) – “Applicable QAP” – clarifying initial allocation and 10% cost clarification*

*Page 3, (50:40) – Addition of “Construction Costs”*

*Page 3, (50:50) – \*Attachment II – page 30\* - Homeward - suggests adding definition for expense coverage ratio.*

Pat Melby moved to approve the addition of the Expense Overage Ratio and Sheila Rice seconded the motion (52:10). Chairman Crowley asked for comments. The addition of the Expense Coverage Ratio was approved unanimously.

*Page 5, (54:08) – A technical correction of changing 24 to 20 low-income units.*

*Page 6, (56:04) – Addition of “Section B – Program Information” for clarification.*

*Page 6, (56:32) – \*Attachment II – page 27\* - RCAC – suggestion is to remove the ‘affiliated with or’.*

*Page 7, (58:08) - \* Attachment II – page 30\* - Homeward, – suggestion is to change the ‘Small Rural Project’ 20 low-income units back to 24 low-income units.*

Heather McMilin, Homeward, made comments (59:24). Alex Burkhalter, Housing Solutions, made comments (1:02:45). Staff provided the rationale of the change to 20 low-income units (1:04:10).

Pat Melby moved to amend under ‘Small Rural Project’, to change 20 low-income units to 24 low-income units (1:09:00). Doug Kaercher seconded the motion. Chairman Crowley asked for comments. Alex Burkhalter stated this was a wise decision. The Small Rural Project unit size was approved unanimously at 24 low-income units.

*Page 7, (1:10:10) - \*Attachment II – page 30\* - Homeward – suggests the ‘Soft-Cost to Hard- Cost Ratio’ in regards to donated land needs to be incorporated into the UNI APP.*

Heather McMilin made comments (1:10:50).

*Page 7, (1:12:08) – Addition within ‘Substantial Change’ to include ‘occurring prior to Placed in Service’.*

*Page 7, (1:13:26) - \*Attachment II – page 27 & 30\* - RCAC and Homeward – suggestion within the list of changes, the percentage of change to be incorporated.*

Heather McMilin made comments (1:15:14). Alex Burkhalter made comments (1:18:35).

*Page 8, (1:22:29) – Addition of definition of ‘Unit’.*

Alex Burkhalter made comments (1:23:05). Mr. Burkhalter stated it is important to include market rates.

Sheila Rice moved to add language to clarify that ‘market rate units’ are included under the definition of Unit (1:25:14). Doug Karecher seconded the motion. Chairman Crowley asked for comments. The definition for ‘Unit’ to include market rate units was approved unanimously.

*Page 9, (1:26:05) - \*Attachment II – page 31\* - Homeward - Technical change to the limited liability or limited partnership.*

*Page 13, (1:27:20) - \*Attachment II – page 10 & 31\* - Travois and Homeward – under ‘Development Cost Limitations’, Travois suggests to decrease costs and Homeward suggests to increase costs.*

Heather McMilin made comments (1:29:10). Discussion followed regarding limits (1:31:44).

Sheila Rice moved to delete the Hard Cost per Unit limit amount of \$175,000 and Bob Gauthier seconded the motion (1:49:15). Chairman Crowley asked for comments. The removal of the Hard Cost per Unit limit of \$175,000 was approved unanimously.

*Page 15, (2:03:25) - \*Attachment II – page 28 & 32\* - RCAC and Homeword – Change Debit Coverage Ratio to be ‘the DCR should be between 1.15 and 1.35’.*

Heather McMilin made comments (2:06:00).

*Page 16, (2:11:15) – Attachment II – page 28 & 32\* - RCAC and Homeword – suggestions under ‘Additional Underwriting Assumptions’.*

*Page 17, (2:12:16) – Operating expenses per unit should be \$3,000 -\$5,000, instead of \$6,000.*

*Page 17, (2:12:50) - \*Attachment II – page 26\* - North Central Independent Living Services – suggests consideration accessibility for all when designing of apartment communities.*

Bob Gauthier moved to approve the following language to be inserted under the Project Accessibility Requirements (2:15:08):

Consider Accessibility for all designing of apartment communities. Parking for Montanans with disabilities their attendants and families can be an issue in some cities due to the allotments of parking spaces in planning for units. We encourage strong advertisement new construction through the multiple listing services or through MontanaHousingSearch.com.

Jeanette McKee seconded the motion. Chairman Crowley asked for comments. The insertion of language stated into the Project Accessibility Requirements was approved unanimously.

*Page 19, (2:15:40) - \*Attachment II – page 20\* - Mountain Plains Equity Group – Staff recommends the removal of the Blower Door section of the QAP and state according to Building codes.*

Sheila Rice moved to remove the first paragraph of ‘Required Blower Door and Infrared Testing for Projects Awarded Credits’ to eliminate the Blower door tests requirements (2:17:04) and Bob Gauthier seconded the motion. Chairman Crowley asked for comments. The elimination of the Blower door test requirements were approved unanimously.

*Page 19, (2:17:51) – change the testing of infrared to ‘at least 20% of units and a representative sampling of*

*Page 20, (2:18:34) - \*Attachment II – page 32\* - Homeword – suggests an incremental boosts for various considerations.*

Kevin Thane, City of Bozeman, made comments (2:19:26) Alex Burkhalter made comments (2:22:50). Logan Anderson, Mountain Plains Equity Group, made comments (2:24:35).

*Page (2:25:39) - \*Attachment II – page 32\* - Homeword – suggests a second round utilization instead of the contingent awards at the first round decisions.*

Heather McMilin made comments (2:25:39).

Sheila Rice moved to add language to the ‘Second Award Round’ to include a modified second award round which would limiting to the participation of the existing first

round applications and Bob Gauthier seconded the motion (2:34:28). Chairman Crowley asked for comments. The additional option of a Second Award Round for only existing first applicants was approved unanimously.

*Page 22 (2:35:18) - \*Attachment II – page 14 & 33\* – Travois and Homeword – suggests the ‘Board Consideration and Determination Process’ be removed or edited to include both 150% of credit value worth of projects minimum AND 10 projects at a minimum.*

Don Sterhan, Mountain Plains Equity Group, made comments (2:37:10). Discussion followed, including comments from Alex Burkhalter, Andrea Davis, Heather McMilin Kevin Thane, Board and Staff (2:37:25).

Sheila Rice moved to change the Board Consideration and Determination Process to include a ranking process of three tiers, instead of a selection (2:48:25). Bob Gauthier seconded the motion (2:57:02). Chairman Crowley asked for comments. The motion failed by a 2-3 vote.

Discussion followed in regards to the content of requirements within the Letter of intent (2:58:18).

*Page 24, (3:04:26) – Addition of ‘Developer/Owner Reimbursement of Board Legal Expenses’ section.*

*Page 30, (3:05:27) - \*Attachment II – page 27\* – RCAC – suggests removal of ‘affiliated with or’*

*Page 35, (3:06:09) - \*Attachment II – page 22\* - Mountain Plains Equity Group – suggests this creates busy work for developers.*

Alex Burkhalter made comments (3:07:40).

*Page 36, (3:09:11) – suggested removing ‘existing housing’ from ‘Qualified Census Tract’*

*Page 37, (3:11:14) – suggested the addition of ‘other’ to Amenities.*

Doug Karecher moved to remove the ‘Amenities’ section from the QAP and Jeanette McKee seconded the motion (3:13:20). Chairman Crowley asked for comments. J.P Crowley suggested instead of striking the whole section, it may be best to remove the points and leave the wording (3:14:10). Doug Karecher amended his motion to remove the points and leave the wording for Amenities and Jeanette McKee seconded the amendment (3:15:04). Comments were made by Alex Burkhalter, Kevin Thane, and Heather McMilin. The removal of points to the Amenities section was approved unanimously.

*Page 37, (3:20:23) - suggestion to remove the ‘Green Building and Energy Conservation Standards’ category*

Doug Karecher stated the need for the green initiatives should remain; however, some of the list should be eliminated due to lack of upkeep (3:20:47). Comments were made by Kevin Thane, Heather McMilin, Andrea Davis and the Board.

*Page 37, (3:29:09) – suggestion the addition of a new category for innovation within the ‘Project Characteristics’.*

Kevin Thane made comments (3:29:56).

*Page 37, (3:32:12) – suggested there are too many points for the ‘Development Team Characteristics*

Kevin Thane made comments (3:32:25).

*Page 38, (3:35:40) - \*Attachment II – page 14 & 33\* - Travois and Homeword – suggested additional language to allow tribal projects to receive points for serves provided to project tenants within a five-mile radius of project site; and scale of points available for things like donation of land or waiver of fees by local government disproportionate to other items in this section.*

*Page 39, (3:36:44) – \*Attachment II – page 15 & 29\* - Travois and RCAC - suggested to removal of the ‘Percentage of Credits Funding Total Project Cost’. Staff agrees with comments.*

Sheila Rice moved to delete the ‘Percentage of Credits Funding Total Project Cost’ section from the QAP and Doug Karecher seconded the motion (3:37:45). Chairman Crowley asked for comments. The motion passed unanimously.

*Page40, (3:44:39) – \*Attachment II – page 33\* - Homeword - stressed concern within the ‘Developer Knowledge and Responsiveness’.*

Andrea Davis and Heather McMilin made comments (3:44:38).

Mary Bair stated MBOH received comments from Summit Housing. Patrick Klier has reviewed the QAP and has made clerical suggestions (Tape 2 – 1:53).

*Page42, (T2 – 2:31) - \*Attachment II – page 18\* - KIN Recommendation Response – suggests an addition to the list of ‘Award Determination Selection Standard’ to include: If the project is being developed in or near a historic downtown neighborhood.*

Sheila Rice moved to add to the list and the following verbiage (T2 4:50):

- If the Project is being developed in or near a historic downtown neighborhood. The above proposal recognizes the importance of these types of projects without needing a specific set-aside. Furthermore, we will track Housing Credit issuance and development in historic downtown areas as a matter of practice and resource for community partners.

Doug Karecher seconded the motion. Discussion was table for a few minutes until a quorum was available. Bruce Brensdaal restated the motion (T2 8:35) Chairman Crowley asked for comments. The motion passed unanimously.

*Page 42, (T2 5:27) - \*Attachment II – page 15\* - Travois – suggested changing the QAP to be based on a point system award.*

*Page 39, (T2 6:00) – \*Attachment II – page 33\* - Homeword – questioned the allocation of funds based on limitations to who can live there.*

*Page 46 (T2 10:08) - removal of the ‘blower door’ testing as part of the ‘Final Allocation/8609’.*

Doug Karecher moved to remove the ‘blower door testing’ from the Final Allocation/8609 section and Sheila Rice seconded the motion (T2 11:11). Chairman Crowley asked for comments. The motion was approved unanimously.

*Page 50 (T2 11:30) - \*Attachment II – page 23 and 34\* - Mountain Plains Equity Group and Homeword - suggested removal or the addition of a five day grace period before a fee is assessed under the ‘Owner/Management Changes’.*

Heather McMilin made comments (T2 12:57). Doug Karecher moved to amend the language to include a five day grace period before a fee is assessed and Jeanette McKee seconded the motion (T2 13:45). Chairman Crowley asked for comments. The addition of a five day grace period to before a fee is assessed under the Owner/Management Changes was passed unanimously.

*Page 52 (T2 14:12) - \*Attachment II – page 16\* - Travois – expressed concern on the 'minimal notice'*

Chairman Crowley asked for any final comments on the amended 2017 Qualified Allocation Plan (T2 15:25). The amended 2017 Qualified Allocation Plan was approved unanimously.

Mary Bair provided a Multifamily program update (T2 17:10). Mary provided an update on the Makoshika Estates in Glendive.

### **EXECUTIVE DIRECTOR UPDATE**

Stacy Collette provided an Operations update (T2 19:57).

Penny Cope provided a Public Relations & Marketing update (T2 23:09).

Bruce Brensdal provided an Executive Director's update (T2 23:59). Mountain Plains Housing Summit will be in Wyoming May 2- 5, and the Annual Housing Conference will be in Kalispell May 23-25.

Meeting adjourned at 1:23 p.m. (T2 24:56))

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Sheila Rice, Secretary

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Date

**MONTANA BOARD OF HOUSING**

**HOUSING CREDIT PROGRAM**

**2017 QUALIFIED ALLOCATION PLAN (QAP)**

**MONTANA BOARD OF HOUSING  
PO BOX 200528  
HELENA, MONTANA 59620-0528  
(406) 841-2840  
(406) 841-2841 FAX**

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All Forms are located on the website at: <http://housing.mt.gov/MFOAP>

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## INTRODUCTION

The low income housing tax credit is established under Section 42 of the Internal Revenue Code of 1986. The credit is a federal income tax credit for Owners of qualifying rental housing which meets certain low income occupancy and rent limitation requirements.

Congress established the Low Income Housing Tax Credit program by enactment of the Tax Reform Act of 1986. Montana Board of Housing (MBOH) implemented and began administering the Low Income Housing Tax Credit program in 1987 in the State of Montana. Since then, the program has assisted in providing for the retention, rehabilitation, and construction of rental housing for low income individuals and families for over 6,000 units throughout Montana.

The Omnibus Budget Reconciliation Act of 1989 required the appropriate administering agencies (in this case, MBOH) to allocate credits pursuant to a Qualified Allocation Plan (QAP) which sets forth the priorities, considerations, criteria and process for making Allocations to Projects in Montana. The Omnibus Budget Reconciliation Act of 1993 provided a permanent extension for the Low Income Housing Tax Credit.

Montana Board of Housing (MBOH) is the state agency that allocates the tax credits for housing located in Montana. The per state resident amount of tax credit allocated annually for housing is limited to \$2.30 with a minimum cap as allocated by IRS, whichever is larger. The current allocation of Tax Credits plus any inflation factor the IRS may calculate is posted to the MBOH website, normally in August or September each year. Montana receives the minimum cap because of its population.

An Owner must obtain a Final Allocation from MBOH and meet all other applicable requirements before claiming the tax credit.

This QAP is intended to ensure the selection of those developments which best meet the most pressing housing needs of low income people within the State of Montana in accordance with the guidelines and requirements established by the federal government and the requirements, considerations, factors, limitations, criteria and priorities established by the MBOH Board.

At its February 8, 2016 meeting, the MBOH Board considered and approved public notice and distribution of the proposed 2017 Qualified Allocation Plan (QAP). Public notice of the proposed 2017 QAP and the opportunity for public comment was published and distributed on February 8, 2016 with oral comments received at a public hearing February 17, 2016. At its March 14, 2016 meeting, after considering written and oral public comment on the proposed 2017 QAP, the MBOH Board approved the proposed 2017 QAP for submission to and approval by the Montana Governor. The Governor of Montana, Steve Bullock, approved the plan as the final 2017 QAP on \_\_\_.

MBOH annually makes available for reservation and Allocation its authorized volume cap of credit authority subject to the provisions of this QAP. Montana's Qualified Allocation Plan for the current and prior years, along with current Forms, are available at <http://housing.mt.gov/MFQAP>. MBOH evaluates tax credit Applications, selects the Projects for which tax credits will be reserved, and allocates credits to the selected developments meeting applicable requirements. Federal legislation requires that the administering agency allocate only the amount of credit it determines necessary to the financial feasibility of the development.

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Tax credits not Awarded during a given round or any unused credits from earlier rounds may, at the discretion of MBOH, be carried forward for the next round of allocation or, as MBOH determines necessary for financial feasibility, be used to increase the amount of tax credits Awarded for a Project selected for an Award of tax credits in a prior round.

Consistent with the foregoing and notwithstanding any other provision of this QAP, all tax credit Awards, Reservations (Initial Allocations), Carryovers Commitments, 10% Cost Certifications and Final Allocations are subject to and conditional upon IRS authorization and allocation of tax credits for the State of Montana.

## SECTION 1 – DEFINITIONS

As used in this QAP, the following definitions apply unless the context clearly requires a different meaning:

“4% Credits” means HCs that may be Awarded in accordance with the applicable QAP to Projects with tax-exempt financing under the volume limitation on private activity bonds and outside the competitive allocation process applicable to 9% Credits.

“9% Credits” means HCs that may be Awarded through the competitive process in accordance with the applicable QAP.

“10% ~~Carryover~~ Cost Certification” means the certification that must be provided to MBOH using the MBOH 10% ~~Carryover~~ Cost Certification Forms.

“Absorption Rate” means the number of months projected in the Application’s market study for a Project to become fully leased.

“Acquisition” means obtaining title, lease or other Land and Property Control over a property for purposes of an HC Project. Acquisition includes purchase, lease, donation or other means of obtaining Land and Property Control.

“Acquisition/Rehab” means Acquisition of a property with one or more existing buildings and renovation meeting Montana’s minimum Rehabilitation standard set forth in Section 3, Substantial Rehabilitation, for existing buildings on the property that are part of an HC Project.

“Adjusted Construction Costs” means Construction Costs excluding General Requirements.

“Allocation” means an Initial Allocation or a Final Allocation.

“Applicable QAP” means: (a) for purposes of any substantive issues relating to an Award, or to the Development Evaluation Criteria, Scoring, Selection Criteria or Selection Standard for such Award, the particular year’s QAP under which the Application is or was submitted, evaluated and Awarded HCs; or (b) for purposes of Project changes, Reservation (Initial Allocation), ~~Carryover~~, Carryover Commitment, 10% Cost Certification, Final Allocation, compliance requirements, compliance audits, and any post-Award procedures, the QAP most recently adopted.

“Applicant” means the entity identified as such in the Application, and who is and will remain responsible to MBOH for the Application. When used in reference to a Letter of Intent, the term means the person or entity on whose behalf the Letter of Intent is submitted and who is and will remain responsible to MBOH for the Letter of Intent.

“Application” means a request for an Award of HCs submitted in the form specified by and according to the requirements of this QAP.

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“Architect” means a professional licensed by the applicable state authority as a building architect.

“Available Annual Credit Allocation” is defined as and includes the state’s actual or estimated credit ceiling for the current year plus any other available credits from prior year credit authority determined as of 20 business days prior to the applicable Application deadline, and includes any credits held back pursuant to court order or subject to Award under the Corrective Award set aside.

“Award” means selection of a Project by the MBOH Board to receive a Reservation of HCs.

“Award Determination Meeting” means the meeting of the MBOH Board at which the Board selects one or more Applicants to receive an Award.

“Carryover” means the process and determination of MBOH by which Awarded and reserved HCs are continued and carried into the second year after Award of the HCs by MBOH issuance of a Carryover Commitment, according to the specific requirements of this QAP.

“Carryover Commitment” means a Carryover of HCs based upon an MBOH Carryover determination, which commitment is conditional upon the Applicant performing all conditions and requirements for Final Allocation as set forth in the Applicable QAP, the Carryover Commitment document issued by MBOH and applicable law. “Cold Weather Development and Construction” means experience of the HC Developer or Consultant on one or more Projects located above the 40 degrees north parallel.

“Commercial Purposes” means use of any Project Amenities, common space or other Project property or facilities by others than tenants for which the Project owner or management receives any compensation for such use, whether in cash or in kind.

“Common Area” means any space in the building(s) on the Project property that is not in the units, i.e. hallways, stairways, community rooms, laundry rooms, garages/carports, etc. Common Area is eligible to be paid for with housing credits.

“Compliance Period” means, with respect to any building, the initial period of 15 taxable years beginning with the 1st taxable year of the applicable credit period as provided in 26 U.S.C. § 42.

“Construction Costs” means all costs listed on the UniApp, Section C, Uses of Funds, under the Site Work and Rehab sections.

“Consultant” or “HC Consultant” means an individual or entity advising a Developer or Owner with respect to the HC Application and/or development process.

“Contractor’s Overhead” means the contractor’s overhead shown in the Applicant’s properly completed UniApp Supplement, Section C, Cost Limitations and Requirements.

“Contractor Profit” means the contractor’s profit shown in the Applicant’s properly completed UniApp Supplement, Section C, Cost Limitations and Requirements.

“Debt Coverage Ratio” or “DCR” means the ratio of a Project’s net operating income (rental income less Operating Expenses and reserve payments) to foreclosable, currently amortizing debt service obligations.

“Design Professional” means a housing/building design professional.

“Developer” means the individual(s) and/or entity(ies) specifically listed and identified as the developer in the Uniform Application, Section A - Applicant

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Developer/Sponsor, responsible for development, construction and completion of an HC Project.

“Developer Fee” means those costs included by the Applicant in the UniApp, adjusted as necessary to comply with the maximum Developer’s fee specified in Section 3, Additional Cost Limitations, Developer Fees, which are included as Developer’s fees by the Cost Analysis.

“Development Evaluation Criteria” means the evaluation and scoring criteria set forth in QAP Section 9, Evaluation and Award.

“Development Team” means and includes the Applicant, Owner, Developer, General Partner, Qualified Management Company, and HC Consultant identified as such in the Application.

“Difficult Development Areas” or “DDA” means an area designated by HUD as a Difficult Development Area.

“Disqualify” or “Disqualification” means, with respect to an Application, that the Application is returned to the Applicant by MBOH without scoring and without consideration for an Award of HCs, as authorized or required by this QAP.

“Elderly Property” means a Project that will limit its tenants to households that include at least one individual age 55 or older or in which all household members are age 62 or older. If permitted by the rules applicable to other federal funding sources involved in the Project, households may also include disabled individuals below the specified age thresholds.

“Experienced Developer” means a Developer who was entitled by written agreement to receive at least 50% of the Development Fees on a prior low-income housing tax credit Project that has achieved 100% qualified occupancy and for which the applicable state housing finance agency has conducted a compliance audit which revealed no significant problems.

“Experienced Partner” means a member of the Development Team who was a member of the Development Team on a prior low-income housing tax credit Project that has achieved 100% qualified occupancy and for which the applicable state housing finance agency has conducted a compliance audit which revealed no significant problems.

“Extended Use Period” means the Compliance Period plus an additional period of 15 or more years as specified in the Application and provided for in the Restrictive Covenants.

“Final Allocation” means, with respect to HCs, MBOH issuance of an IRS Form 8609(s) (Low Income Housing Credit Allocation Certificate) for a Project after building construction or Rehabilitation has been completed according to the Project Application and any MBOH Board-approved changes and the building has been placed in service.

“Final Cost Certification” means an independent third party CPA cost certification, including a statement of eligible and qualified basis for the Project, submitted to MBOH on the form specified by and in accordance with the requirements of this QAP, for purposes of obtaining IRS Form 8609(s).

“Form” means the most current version of any Form referenced in this QAP. All Forms are available on the MBOH website at [URL].

“General Partner” means the general partner of a partnership entity that is formed for purposes of a Project.

“General Requirements” means the contractor’s miscellaneous administrative and procedural activities and expenses that do not fall into a major-function construction

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category and are Project-specific and therefore not part of the contractor's general overhead, categorized in accordance with NCSHA standards and shown in the Applicant's properly completed UniApp Supplement, Section C, Limitations and Requirements.

"Gut Rehab" means a Project that includes the replacement and/or improvement of all major systems of the building, including (i) removing walls/ceilings back to the studs/rafters and replacing them; (ii) removing/replacing trim, windows, doors, exterior siding and roof; (iii) replacing HVAC, plumbing and electrical systems; and (iv) replacing and/or improving the building envelope (i.e., the air barrier and thermal barrier separating exterior from interior space) by either removing materials down to the studs or structural masonry on one side of the exterior walls and subsequently improving the building envelope to meet the whole-building energy performance levels for the project type, or creating a new thermal and air barrier around the building.

"Hard Costs" means and includes all costs other than Soft Costs, land Acquisition costs and operating and replacement reserve costs. Hard Costs include any building Acquisition costs.

"Hard Cost Per Square Foot" means Hard Costs divided by Project Square Footage shown in the Applicant's properly completed UniApp Supplement, Section C, Cost Limitations and Requirements.

"Hard Cost Per Unit" means an amount calculated by dividing Hard Costs by the number of units in the Project, as calculated in the UniApp Supplement, Section C, Cost Limitations and Requirements, Part XI, line "Cost Per Unit."

"Housing Credits" or "HCs" or "Credits" means federal low-income housing tax credits allocated or available for allocation under this Montana QAP.

"Initial Allocation" means the conditional setting aside by MBOH of HCs from a particular year's federal LIHTC allocation to the state for purposes of later Carryover Commitment and/or Final Allocation to a particular Project, as documented by and subject to the requirements and conditions set forth in a written Reservation Agreement, the Applicable QAP and federal law.

"Investor" means an entity that will directly or indirectly purchase HCs from the awardee.

"Land or Property Control" means legally binding documentation of title or right to possession and use of the property, or the right to acquire title or right to possession and use of the property, for purposes the Project, including but not limited to documentation of fee ownership, lease, buy/sell agreement, option to purchase or lease, or other right, title or interest that will allow the Owner to acquire Proof of Ownership for purposes of Carryover.

"Large Project" means, for purposes of the Soft Cost Ratio, a Project with more than 24 low-income units.

"Letter of Intent" means a letter and attachment submitted to MBOH on the MBOH Letter of Intent Form.

"Low-Income Housing Tax Credits" means federal low-income housing tax credits, referred to in this QAP as HCs.

"Nationally-Recognized LIHTC Compliance Training Company" means a company recognized in the Low Income Housing Tax Credit industry as a qualified Low Income Housing Tax Credit compliance trainer.

"NCSHA" means the National Council of State Housing Agencies.

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“New Construction” means construction of one or more new buildings, and includes Gut Rehabs.

“Operating Expenses” means projected ongoing costs to run or operate a property.

“Owner” means the legal entity that owns the Project.

“Preservation” means Projects that are for the Acquisition and/or Rehabilitation of existing affordable housing stock.

“Project” means the low income residential rental building, or buildings, that are the subject of an Application for or an Award of HCs.

“Project Square Footage” means such portion of the total square feet applicable to low-income units and common areas and used for the applicable square footage calculation in the UniApp under [Section B - Program Information, Part X, “Project Uses.”](#) Project Square Footage includes all building square footage available to or serving tenants, including units, management unit(s) and offices, common area, balconies, patios, storage and parking structures.

**Comment [A1]:** Alex Burkhalter #1 added clarifying language

“Proof of Ownership” means title or right to possession and use of the property for the duration of the Compliance Period and any Extended Use Period plus one year, e.g., a recorded deed or an executed lease agreement.

“Qualified Allocation Plan” or “QAP” means this Montana qualified allocation plan required by Section 42 of the Code.

“Qualified Census Tract” or “OCT” means an area designated as such by HUD.

“Qualified Management Company” means a Management Company that meets the education requirements specified in Section 12, Education Requirements, and is not disqualified by MBOH to serve as a Management Company on existing, new or additional tax credit Properties or Projects, based upon the company’s: (i) failure to complete timely any required training; (ii) failure to have or maintain any required certification; (iii) record of noncompliance, or lack of cooperation in correcting or refusal to correct noncompliance, on or with respect to any tax credit or other publicly subsidized low-income housing property; or (iv) delinquent MBOH late fees (unless the management company demonstrates to the satisfaction of MBOH that such noncompliance or lack of cooperation was beyond such company’s control).

“Qualified Nonprofit Organization” means, with respect to a Project, an organization exempt from federal income tax under Section 501(c) (3) or (4) of the Internal Revenue Code, which is not and during the Compliance Period will not be affiliated with or controlled by a for-profit organization, whose exempt purposes include the fostering of low income housing, which owns an interest in the Project, which will materially participate in the development and operation of the Project throughout the Compliance Period, and which is not affiliated with or controlled by a for-profit organization.

“Rehabilitation,” “Rehab” or “Substantial Rehabilitation” means renovation of a building or buildings to house HC units meeting the required minimum Hard Cost Per Unit thresholds specified in Section 3, Substantial Rehabilitation.

“Related Party” means an individual or entity whose financial, family or business relationship to the individual or entity in question permit significant influence over the other to an extent that one or more parties might be prevented from fully pursuing its own separate interests. Related parties include but are not limited to: (1) family members (sibling, spouse, domestic partner, ancestor or lineal descendant); (2) a subsidiary, parent or other entity that owns or is owned by the individual or entity; (3) an entity with common control or ownership (e.g., common officers, directors, or shareholders or officers or

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directors who are family members of each other); (4) an entity owned or controlled through ownership or control of at least a 50% interest by an individual (the interest of the individual and individual's family members are aggregated for such purposes) or the entity (the interest of the entity, its principals and management are aggregated for such purposes); and (5) an individual or entity who has been a Related Party in the last year or who is likely to become a Related Party in the next year.

"Reservation" means MBOH's Initial Allocation of HCs from a particular year's federal LIHTC allocation to the state for purposes of later Carryover Commitment and/or Final Allocation to a particular Project, as documented by and subject to the requirements and conditions set forth in a written Reservation Agreement, the Applicable QAP and federal law.

"Reservation Agreement" means a written contract entered into between MBOH and the taxpayer to provide for a Reservation and setting forth the terms and conditions under which the taxpayer may obtain a Carryover Commitment or Final Allocation.

"Restrictive Covenants" means the recorded covenants required by Section 42 of the Code.

"Selection Criteria" means and includes all of the requirements, considerations, factors, limitations, Development Evaluation Criteria, set asides and priorities set forth in this QAP and all federal requirements.

"Selection Standard" means the standard for selection of Projects to receive an Award of HCs set forth in the Award Determination subsection of Section 9, Evaluation and Award, i.e., the MBOH Board's determination that one or more Projects best meet the most pressing housing needs of low income people within the state of Montana as more specifically set forth in such subsection.

"Small Project" means a Project with 20 or fewer low-income units.

"Small Rural Project" means, for purposes of the Small Rural Project set aside, a Project: (1) for which the submitted tax credit Application requests tax credits in an amount up to but no more than 10% of the state's Available Annual Credit Allocation; (2) is a Project with 20 or fewer low-income units, and (3) proposed to be developed and constructed in a location that is not within the city limits of Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, or Missoula.

"Soft Costs" means the costs of professional work and fees, interim costs, financing fees and expenses, syndication costs and Developer's fees included by the Applicant in the UniApp. Soft Costs do not include operating or replacement reserves.

"Soft-Cost-to-Hard-Cost Ratio" or "Soft Cost Ratio" means total Soft Costs divided by the sum of total Hard Costs (as calculated in the UniApp) and land value (as shown by a comparative market analysis or appraisal). Land value is added regardless of whether land is donated, leased, purchased or otherwise acquired.

"Sources and Uses" means the sources and uses of funds as specified in the Application.

"Substantial Change" means a substantial change in the Project from the Project as set forth in the Application, and includes a change in or to:

- A member of the Development Team occurring prior to Placed in Service;
- Participating local entity;
- Quality or durability of construction;
- Number of units or unit composition;
- Site or floor plan;
- Square footage of Project building(s);

**Comment [A2]:** Alex Burkhalter #2 change in management company. A change to a qualified management company should not result in negative points.

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- Project amenities;
- Income or rent targeting;
- Rental subsidies;
- Target group;
- Project location;
- Sources and Uses (to the extent any line item changes by 10% or more);
- Common Space square footage, location or purposes;
- Housing Credits required for the Project;
- Extended Use Period;
- Any Application item or information required by the Applicable QAP;
- Any item that would have resulted in a lower Development Evaluation Criteria Score under the Applicable QAP; and
- Any other significant feature, characteristic or aspect of the Project.

“Total Project Cost” ~~or “Total Development Cost”~~ mean all costs shown in UniApp Section C, Part II, Uses of Funds line “Total Projects Costs without Grant Admin”. Total Project Cost does not include grant administration costs.

“Total Project Cost Per Square Foot” means Total Project Costs divided by Project Square Footage shown in the Applicant’s properly completed UniApp Supplement, Section C, Cost Limitations and Requirements.

“Total Project Cost Per Unit” means an amount calculated by dividing Total Project Costs by the number of units in the Project, as calculated in the UniApp Supplement, Section C, Cost Limitations and Requirements, Part XI, line “Cost Per Unit.”

“UniApp” means the most current Uniform Application and Supplement available on the MBOH website at: <http://housing.mt.gov/FAR/housingapps.mcp.x>.

“UniApp Supplement” means the Supplement portion of the UniApp.

~~“Unit” means an income-restricted tenant or management (manager, security or other) residential apartment or single-family home.~~

**Comment [A3]:** Alex Burkhalter #3 add unit definition

“Vacancy Rate” means percentage of vacant units in the Application’s market area or in the property.

## SECTION 2 - OVERVIEW OF MBOH HOUSING CREDITS

THE FOLLOWING IS A BRIEF SUMMARY OF SOME ELEMENTS OF THE HOUSING CREDIT AND IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THERE ARE NUMEROUS TECHNICAL RULES GOVERNING A BUILDING’S QUALIFICATION FOR THE HOUSING CREDIT, THE AMOUNT OF THE HOUSING CREDIT, AND AN OWNER’S ABILITY TO USE THE HOUSING CREDIT TO OFFSET FEDERAL INCOME TAXES. ANYONE CONSIDERING APPLYING FOR HOUSING CREDITS SHOULD REFER, IN ADDITION TO THIS QAP, TO SECTION 42 OF THE UNITED STATES INTERNAL REVENUE CODE (26 U.S.C. § 42). DEVELOPERS OR OWNERS INTERESTED IN APPLYING FOR A CREDIT ALLOCATION SHOULD CONSULT THEIR OWN TAX ACCOUNTANT OR ATTORNEY IN PLANNING A SPECIFIC TRANSACTION.

Low Income Housing Tax Credits, referred to in this QAP as Housing Credits or HCs, are Awarded by the State of Montana through MBOH to applicants based on the information submitted in or in connection with Applications, other information obtained by MBOH staff as provided in this QAP and justification with support documentation supplied by the Applicants. At or before the time an Application is made, the Applicant must solicit an Investor who will purchase the tax credits, if Awarded.

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The Housing Credits are Awarded each year for a ten-year period. Hypothetically, a Project Awarded \$100,000 in Housing Credits is essentially Awarded \$1,000,000 (\$100,000 X 10 years) for the ten-year period. When an Investor purchases the Credits, the money from the purchase is infused into the financing for the building of the Project. The Investor purchases the Housing Credits, for example, \$ .75 on the dollar (\$100,000 X \$.75 X 10 years) equating to \$750,000. Typically, the Investor pays at a range of \$ .70 to \$.90 on the dollar. This money directly reduces the amount of dollars financed in a Project, thereby reducing the rents that must be charged to tenants as well as assuring that the Project cash flows.

The Investor, through a limited liability partnership (LLP) or a limited partnership (LP), must be a 99.99% Owner of the Project for fifteen years during which the Investor declares \$100,000 each year for ten years as credit on the Investor's income tax. Generally, once fifteen years have passed, the Project is sold back to the General Partner (the .01% partner) for a negotiated amount and the ownership is transferred.

Throughout the Housing Credit Extended Use Period, the Project must comply with the requirements of housing credit administration as set forth in the current QAP and 26 U.S.C. § 42. Periodic file audits and inspection of units will be performed by MBOH staff.

The Housing Credit is available for residential rental buildings which are part of a qualifying low income Project. The rental units must be available to the general public. Residential properties which are ineligible for the Credit generally include transient housing, housing initially leased for less than six (6) months, buildings of four (4) units or less which are occupied by the Owner or a relative of the Owner, nursing homes, life care facilities, retirement homes providing significant services other than housing, dormitories, and trailer parks.

Projects with tax-exempt financing under the Montana's volume limitation for private activity bonds may be eligible to receive Housing Credits outside the state's Housing Credit allocation volume cap. See specific requirements in Section 3, Montana Specific Requirements, Tax Exempt Bond Financed Projects.

The Housing Credit can be used to assist in financing Acquisition with Substantial Rehabilitation, Substantial Rehabilitation, construction of qualifying residential rental, or eventual homeownership housing. The applicable percentage rate (APR) for each Project will depend upon the type of building and its financing, the floating APR or other APR set by the federal government, and the Project's election of the APR. As long as the building continues to qualify for the Credit, the Owner may claim the Credit each year during the 10-year credit period.

## **New Construction or Substantial Rehabilitation**

New Construction and Rehabilitation Projects using competitive Credits will qualify for the floating monthly tax credit rate (commonly referred to as the 9% rate) or another percentage rate permitted by federal law. The applicable tax credit rate is elected by the taxpayer and locked at Reservation/Initial Allocation or at placed in service, as specified in the Reservation Agreement. If an Owner Substantially Rehabilitates a building (basically by incurring Rehabilitation expenditures in an amount that equals or exceeds the greater of:

(a) the Montana-specific Substantial Rehabilitation ~~Hard Costs~~ per rental unit standard specified in Section 3, "Substantial Rehabilitation," or (b) 30% of the adjusted basis of the building during a 24-month or shorter period), the Rehabilitation expenditure is treated as a separate new building for purposes of the Housing Credit. The "per unit" calculation is the total amount of Hard Costs for the Project divided by the number of units within the Project. Because Montana's Substantial Rehabilitation standard is higher than the federal minimum

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of \$6,200.00 in Hard Costs and 20% of adjusted basis, Montana's higher Substantial Rehabilitation standard applies.

## **Acquisition and Substantial Rehabilitation**

For an existing building which is acquired and Substantially Rehabilitated, the Housing Credit will be approximately four (4) percent for qualified Acquisition costs and nine (9) percent for the qualified Substantial Rehabilitation costs, provided that the Rehabilitation is not federally subsidized.

## **Eventual Home Ownership**

The opportunity for eventual home ownership allows for Projects, with sufficient justification, to make units available to be purchased by the current tenants after 15 years of successful performance as an affordable rental. See Section 3, Eventual Home Ownership.

## **Federally Subsidized Buildings**

Projects funded by tax exempt bonds are considered federally subsidized and qualify only for 4% of the qualified basis for New Construction, Acquisition, and Rehabilitation. Buildings directly or indirectly financed with below market federal loans are not considered federally subsidized. Below market loans made to the Project from the proceeds of grants made under the HOME Investments Partnership Act or loans made to Projects through the Native American Housing Assistance and Self Determination Act of 1996 are no longer considered to be federal subsidy. Section 8 rental "certificate" or "voucher" subsidy is not considered to be federal subsidy.

## **Qualifying Buildings**

In order to qualify for the Housing Credit, an eligible building must be part of a qualifying low income Project. A Project is a qualifying Project only if it meets one of the following requirements:

At least 20% of its units are rent-restricted and rented to households with incomes at 50% or less of area median gross income, adjusted for family size (the "20-50 test"), or

At least 40% of its units are rent-restricted and rented to households with income at 60% or less of area median income, adjusted for family size (the "40-60 test").

## **Election**

The Owner must make an irrevocable election between the 20-50 test and the 40-60 test. Regardless of the election made, the credit is only allowed for the portion of the building dedicated to low income use (for example, if the Owner elects the 40-60 test and a minimum of 40% of the units are low income, the Owner would qualify for Housing Credits on a minimum of 40% of the eligible basis).

## **Rent Limitation**

The gross rent for each Housing Credit unit may not exceed 30% of the applicable income ceiling (30% of 50% of median or 30% of 60% of median, as applicable, calculated based on the number of bedrooms in the unit, which is the "Maximum Rent"). For purposes of the rent limitation, the gross rent is the sum of the rent amount payable by the tenant, a utility allowance amount determined in accordance with this QAP (see Section 3, Underwriting Assumptions and Limitations, "Utility Allowances") and any mandatory fees payable by the tenant. Rental assistance payments made by government agencies such as Section 8, Rural Development, or any comparable rental assistance program are not included in gross rent.

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Gross rent does not include any fee for supportive services as described in 26 U.S.C. §42(g)(2)(B)(iii). Gross Rent is expressed as follows:

*Tenant paid rent + Utility Allowance + Mandatory Fees equals the Gross Rent*

The Gross Rent must be less than or equal to the Maximum Rent (i.e., 30% of the applicable income ceiling).

## **Basis**

### **Eligible Basis**

Eligible basis of a qualifying building is generally the same as its adjusted basis for tax purposes, determined at the time the building is placed in service. Generally, eligible basis consists of:

- The cost of New Construction or Substantial Rehabilitation; or
- The cost of purchasing an existing building and the cost of Substantial Rehabilitation.

Eligible basis includes costs of common areas and comparable amenities provided to all residential rental units in the building. However, eligible basis must be reduced to reflect any Rehabilitation or historic preservation tax credit claimed with respect to the building. Eligible basis excludes land cost, costs attributable to any portion of the building which is not residential rental property (except common areas), and costs attributable to non-low income units which are above the average quality of the low income units in the Project. Cost certifications must list all items in basis (parking lot, paving, community areas, covers for parking, etc.).

### **Qualified Basis**

To determine the qualified basis of a qualifying building, the taxpayer multiplies the eligible basis of the building by the lesser of the "unit percentage" or the "floor space percentage". The "unit percentage" is the number of low income units in the building expressed as a percentage of the number of all residential rental units in the building. The "floor space percentage" is the total floor space of the low income units in the building expressed as a percentage of the total floor space of all residential rental units in the building. Low income units are eligible units which are occupied by qualified low income tenants (with income at or below 50% or 60% of area median gross income, depending on the Owner's election of the 20-50 or 40-60 test) and which comply with the gross rent limitation (30% of the applicable 50% or 60% income limit). The Credit is only allowed for the portion of the building dedicated to low income use.

## **Credit Calculations**

To calculate the Credit each year, the taxpayer applies the applicable credit percentage to the qualified basis of a qualifying building. The "qualified basis" is that portion of the "eligible basis" attributable to low income units in the building.

## **Allocation of Credit**

### **Need for Allocation**

All Projects including Projects financed with tax-exempt bonds must first obtain a Final Allocation from MBOH before claiming the housing credit. MBOH makes a Final Allocation by issuance of IRS Form 8609(s).

### **Allocation Applies Throughout Credit Period**

An Owner needs to obtain a Final Allocation only once with respect to a building for which the Credit will be claimed. The Final Allocation then applies each year during the 10-year

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Credit period. Regardless of the maximum Credit otherwise available (based on applying the applicable credit percentage to the qualified basis), the Credit claimed each year for a building may not exceed the amount of the Final Allocation for that building.

## **Time for Obtaining Carryover Commitment**

An Owner who receives an Award of Credits must either:

- Place the building in service and receive a Final Allocation by MBOH issuance of IRS Form 8609(s) by the close of the calendar year corresponding to the annual tax credit ceiling from which the Credits are allocated (e.g., by the close of calendar year 2017 for 2017 credits Awarded in January 2017), or
- Obtain a Carryover Commitment as provided below, **and** place the building in service **and** receive a Final Allocation by MBOH issuance of IRS Form 8609(s).

## **Carryover Provision**

A Carryover of a housing credit Allocation will be permitted for a period of two (2) years beyond the end of the calendar year corresponding to the annual tax credit ceiling from which the Credits are allocated (e.g., by the close of calendar year 2019 for 2017 credits Awarded in January 2017); contingent upon meeting 10% requirements (see Section 10).

## **Compliance Period**

The Compliance Period is the initial period of 15 taxable years beginning with the 1st taxable year of the applicable credit period as provided in 26 U.S.C. § 42. The Application must specify an additional period of 15 or more years in which the Applicant agrees to maintain units for low income occupancy. The Compliance Period plus the additional 15 or more year period together are referred to as the Extended Use Period. These restrictions will be included in the Declaration of Restrictive Covenants and will be effective for the entire Extended Use Period.

An Owner must continue to meet the requirements of Section 42 for a Compliance Period of 15 years. Failure to comply, reducing the number of the HC units, or reducing floor space for which the Credit is based during the Compliance Period, may result in IRS recapture of Housing Credits, including non-deductible interest, of at least a portion of the Housing Credits taken previously by the Owner.

To be eligible for HCs, a building must be subject to an extended low income housing commitment between the Owner and the state agency, which commitment must be established by recorded Restrictive Covenants effective for the full Extended Use Period. The Owner must meet compliance criteria for the full Extended Use Period specified in the Restrictive Covenants. Any Application indicating an Extended Use Period beyond the Compliance Period forfeits the right to request that MBOH locate a non-profit qualified buyer and the Owner must maintain HC units through the Extended Use Period as provided in the Restrictive Covenants.

## **Three-year tenant protection period**

HC rent requirements and restrictions will continue for a period of three years following the termination or expiration of the Extended Use Period. The Owner cannot evict or terminate the tenancy of an existing tenant of any HC unit other than for good cause during the Extended Use Period or during the additional three-year tenant protection period.

## **SECTION 3 - MONTANA SPECIFIC REQUIREMENTS**

## Eligible Applicants

An Applicant who previously received an Award of Credits for its first Housing Credit Project in Montana may not receive an Award of Credits for another Housing Credit Project until the first Project has achieved 100% qualified occupancy and an MBOH compliance audit has been conducted which revealed no significant problems. For purposes of this rule, Applicants are considered to be the same Applicant if the Applicants are Related Parties or if the same Developer or a Related Party of the Developer will receive more than 50% of the Development Fees for both Projects. The foregoing rule does not apply to a subsequent Housing Credit Application if the Developer partners with an Experienced Developer who will be entitled under a written agreement to receive at least 50% of the Developer Fee on the subsequent Project. The Applicant is not eligible to apply for Credits if the Applicant or any member of the Applicant's Development Team is debarred from federal programs or FHLB (Federal Home Loan Bank), prohibited from applying for LIHTCs by another state HFA for disciplinary reasons, or has delinquent late fees due and payable to MBOH. If any member of the Development Team has delinquent late fees due and payable to MBOH at any time from submission of Letter of Intent through the Award Board meeting, the Application will be ineligible for an Award of Credits until such fees are paid in full. If such late fees are not paid in full within ten (10) business days of written notice, the Application will be returned and will receive no further consideration. Application fees will not be refunded.

## Tax Credit Proceeds

In order to allow MBOH to adequately evaluate Sources and Uses for Housing Credit Projects, the Applicant is required to provide information to MBOH regarding the proceeds or receipts generated from the Housing Credit.

At Application, expected Credit proceeds must be estimated by the Applicant. **Within 30 days after the partnership or operating agreement is signed by all parties, the Applicant must provide MBOH with a copy of the executed agreement.** If MBOH does not receive a copy of the executed agreement within 30 days of execution, a late fee of \$500.00 will be assessed. Prior to issuance of IRS Form 8609(s), MBOH will require the accountant's certification to include gross syndication proceeds and costs of syndication, even though the costs are not allowed for eligible basis.

## Sources and Uses Certification

Applicants must certify that they have disclosed all of a Project's Sources and Uses, as well as its total financing, and must disclose to MBOH in writing any future changes in Sources and Uses over 10% in any line item or any increase in Soft Costs throughout the development period (until 8609's are received). Applicant's certification of such disclosure must be provided to MBOH at Application, at 10% ~~Carryover~~ Cost Certification and at Final Cost Certification on the MBOH Disclosure Certification Form.

## Development Cost Limitations

To balance housing needs in Montana with appropriate and efficient use of the state's allocation of tax credit authority, MBOH has adopted the following cost limitations and requirements for purposes of calculating the Housing Credit amount for a particular Project. These cost limitations are based upon and in accordance with NCSHA standards.

### Hard Cost Per Unit/Hard Cost Per Square Foot and Total Project Cost Per Unit/Total Project Cost Per Square Foot

Hard Cost Per Unit, Hard Cost Per Square Foot, Total Project Cost Per Unit and Total Project Cost Per Square Foot are subject to the specific limitations provided in other sections of this QAP. In addition, even for those projects meeting such specific limitations, MBOH will

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evaluate such Cost Per Unit and Cost Per Square Foot for all Projects for reasonableness, taking into account the type of housing, other development costs as detailed below, unit sizes, the intended target group of the housing and other relevant factors. MBOH will also consider in this review the area of the state and the community where the Project will be located.

All Applications must provide justification for development costs. These costs will be analyzed and scrutinized considering the individual characteristics of the Project listed above and will be compared to other like Projects.

Even though the costs of some Projects may be justifiable and even in some contexts considered reasonable given their unique characteristics, MBOH may decline to Award Credits to a Project where it determines that costs do not reflect the optimal use of Housing Credits.

Both of the following limits must be met:

- Hard Cost Per Unit may not exceed \$175,000; and
- Total Project Costs Per Unit may not exceed \$230,000.

Applications exceeding these limits will be returned un-scored and will receive no further consideration, and the application fee will not be refunded. Projects must meet these limits at Letter of Intent, Application, 10% ~~Carryover~~ Cost Certification and Final Cost Certification. If these limits are exceeded at Final Cost Certification, negative points will be assessed with respect to future Applications as provided in Section 9, Item 910, Developer Knowledge and Responsiveness. The revised \$175,000 amount of the Hard Cost Per Unit limit set forth in this 2017 QAP and the negative points assessment provided in this paragraph for exceeding the cost per unit limits will apply only prospectively to Projects awarded Credits in the 2017 or later Award rounds.

**Comment [A4]:** Alex Burkhalter #4 may be high -- average cost in "16" apps was 144,480, with one coming in at 205,775. 10% above average is \$159,324, 10% less is \$130,356, could not do analysis on rehabilitation, as land & building costs were not available.

## Additional Cost Limitations

Applications must comply with the following limitations on Contractor Overhead, General Requirements, Contractor Profit and Developer Fee. To the extent an Application exceeds these cost limitations, as calculated in Uni-App Section C, Cost Limitations and Requirements, the excessive costs will be reduced to the limit amount for all purposes under the HC program, including without limitation, calculation of basis and eligible Project costs, determination of Credit eligibility, and any Award, Reservation (Initial Allocation) or Final Allocation of Credits.

### Contractor's Overhead

Contractor's Overhead is limited to a maximum of 2% of Construction Costs.

### General Requirements

General Requirements are limited to a maximum of 6% of Total Adjusted Construction Costs, ~~excluding General Requirements~~.

### Contractor Profit

Contractor Profit will be limited to a maximum of 6% of Construction Costs.

### Developer Fees

Developer Fees for New Construction or Rehabilitation will be limited to a maximum of 15% of Total Project Costs. For purposes of this Developer Fee limit, Total Project Costs do not

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include Developer Fees, Contractor Profit or land costs. Consultant fees (amount must be disclosed) will be included as part of and subject to the limit on Developer Fees. Architectural, engineering, and legal fees are considered to be professional services, and are not included in this limitation; however, fees for professional services will be examined for reasonableness.

Developer fees for Acquisition will be limited to a maximum of 15% of the Project Acquisition costs.

## Disclosure of Transactions Involving Related Parties

If the development includes transactions with Related Parties, any profit from those transactions must be subtracted from the Total ~~Development Project~~ Cost before calculating the 15% maximum Developer Fee and 6% maximum Contractor Profit. Failure to fully disclose Related Party transactions may result in the Project's not receiving an Award of Housing Credits. MBOH reserves the right to negotiate lower Developer Fees and Contractor Profit on Projects involving Related Party transactions.

## Limitation on Soft Costs

The Soft-Cost-to-Hard-Cost Ratio ("Soft Cost Ratio") for the Project, based upon the Application's UniApp, may not exceed 30% for Large Projects (more than 20 units) and 35% for Small Projects (20 or fewer units) or Small Rural Projects. If the Soft Cost Ratio for a Project exceeds the applicable maximum, MBOH will contact the Applicant regarding the excessive costs and allow the Applicant to specify how and by what amount its Soft Costs will be reduced to comply with the maximum. The Applicant must communicate its chosen Soft Costs adjustments to MBOH staff in writing within ten (10) business days after such communication and the Application will be deemed amended to reflect such adjustments for all purposes under the HC program. All such Soft Cost adjustments and the Application, as amended to reflect such adjustments, must comply with this QAP in all other respects. If the Applicant fails to communicate its Soft Cost adjustments to MBOH staff within the required time, MBOH staff will decide how and by what amount Soft Costs will be reduced to comply with the maximum and the Application will be deemed amended to reflect such adjustments for all purposes under the HC program.

## Underwriting Assumptions and Limitations

### Credit Percentage Rate for Tax Credit Calculation

The credit percentage rate published by the federal government for the month prior to the date of Application will be used by Applicants and MBOH for purposes of preparation, submission, underwriting and evaluation of Applications and Award of HCs.

### Operating Expenses

MBOH will evaluate Operating Expenses and Vacancy Rate underwriting assumptions for all Projects for reasonableness, taking into account the type of housing, unit sizes, intended target group of the housing and the location of the Project within the area of the state and the community. Staff may require the Applicant to provide additional justification and documentation regarding any Operating Costs deemed to be outside the normal range.

### Debt Coverage Ratio

The Debt Coverage Ratio ("DCR") should be:

- For Projects whose DCR is projected to trend upward through the first 15 years of normal operation, the DCR should be between 1.15 and ~~1.50~~ 1.35 in the first year of normal operation, i.e., year 1 as shown on the DCR calculation of the UniApp.

Comment [A5]: Alex Burkhalter #5 DCR in year 1 too high at 1.50

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- For Projects whose DCR is projected to trend downward through the first 15 years of normal operation, the DCR should be between 1.10 and 1.50 during the entire first 15 years of normal operation i.e., the 15-year period that begins with year 1 as shown on the DCR calculation of the UniApp.
- DCR's outside these ranges must be justified in the Application narrative.

MBOH will evaluate the DCR at Application, at 10% ~~Carryover~~ Cost Certification and at Final Cost Certification. MBOH considers several variables, including projected Vacancy Rates (which may require upward adjustment for Small Projects) and Operating Cost data, in conjunction with debt service coverage, in judging the long-term financial viability of Projects. MBOH may require adjustments to rents or Credit amount to assure the Credits Awarded are no greater than necessary to make the Project feasible.

## Maximum Rents

The MBOH Board may require that rents be maintained at a specified percentage of maximum target rent throughout the Extended Use Period. If required for a particular Project, this limitation must be specifically included as a condition of the HC Award and included in the Project's Restrictive Covenants.

## Operating Reserves

Minimum operating reserves must be established and maintained in an amount equal to at least four months of projected Operating Expenses, debt service payments, and annual replacement reserve payments. The specific requirements for reserves, including the term for which reserves must be held, must be included in the limited partnership or operating agreement and meet the requirements of the Investor. Using an acceptable third party source, this requirement can be met by either cash, letter of credit from a financial institution, or a Developer guarantee that a syndicator has accepted the responsibility for a reserve.

## Replacement Reserves

Minimum replacement reserves must be built up in an amount equal to at least \$300.00 per unit annually. Exceptions may be made for certain special needs or supportive housing developments. Exceptions must be documented and will be reviewed on a case by case basis. In projecting replacement reserves (15 year pro-forma), developments should take into account a realistic rate of inflation foreseeable at the time of Application. The specific requirements for reserves, including the term for which reserves must be held, will be included in the limited partnership or operating agreement and meet the requirements of the Investor.

## Utility Allowances

The Montana Department of Commerce Section 8 Utility Allowances are the only acceptable utility allowances for Applications, unless otherwise provided by USDA (Rural Development), an MBOH-approved allowance or a HOME-approved allowance. Utility allowances provided by utility providers will not be considered or accepted.

## Additional Underwriting Assumptions

The following underwriting assumptions will be used by MBOH for underwriting of all Applications:

- Vacancy rates: 10% - 20 units and less, 7% - more than 20 and up to 50 units, 5%-more than 50 units or 100% project based rental assistance;
- Income Trending: 2%;

- Expense Trending: 3%;
- Reserves Trending: 0%;
- Debt Coverage Ratio: see "Debt Coverage Ratio" subsection above;
- Structured Debt for pro-forma not allowed; and
- Operating expenses per unit: \$3,000-\$6,000 annually.

**Comment [A6]:** Alex #6 reserves should trend @ 3%

**Comment [A7]:** Alex Burkhalter #6 should be between \$3,000 and \$5,000

These underwriting assumptions will be used at Application, 10% ~~Carryover~~ Cost Certification and Final Cost Certification. Credits will not be Awarded in an amount beyond those needed to make the Project feasible according to these underwriting assumptions.

## Project Accessibility Requirements

The Fair Housing Act, including design and accessibility requirements, applies to HC properties. In addition to meeting Fair Housing Act requirements, all New Construction and Rehabilitation that at least replaces interior walls and doors must incorporate the following:

- 36 inch doors for all living areas (except pantry, storage, and closets).
- All door hardware must comply with Fair Housing Act standards for all units.
- Outlets mounted not less than 18 inches above floor covering.
- Light switches, control boxes and/or thermostats mounted no more than 36 inches above floor covering.
- Walls adjacent to toilets, bath tubs and shower stalls must be reinforced for later installation of grab bars.
- All faucets must be lever style.
- A minimum of a ground floor level half-bath with a 30X48 inch turn space (also required in Rehabilitation unless waived by staff for structural limitations or excessive cost, etc.) (does not apply if there is no living space on the ground floor level).
- No-step entry to all ground floor level units.

Compliance with accessibility requirements must be certified in the architect's letter of certification submitted with the 8609(s) submission. It is suggested but not required that Projects also include parking for caregivers for tenants with disabilities and that a lease addendum provide for moving a household without tenants with disabilities from a handicapped accessible unit to a regular unit if the handicapped accessible unit is needed for rental to a tenant with a disability.

## Energy and Green Building Initiatives, Goals and Requirements

### Integrated Design Process and Community Connectivity

Project development and design includes a holistic approach. Processes include neighborhood and community involvement to ensure Project acceptance and enhancement. Integrated design processes ensure higher quality finish Project. Existing neighborhood edges, characteristics, fabric are considered in the Project design. Some considerations may include but are not limited to a community design charrette, incorporating Project into neighborhood fabric, energy modeling, commissioning, blower door testing, etc. [\(see Required Blower Door and Infrared Testing for Projects Awarded Credits, below\).](#)

### Sustainable Site, Location and Design

The building(s) and Project site, including the surrounding area, provide opportunities for education, alternative transportation, services, and community facilities. This is evidenced, for example, by Projects using existing infrastructure, reusing a building or existing housing, redeveloping a greyfield/brownfield, or developing in an existing neighborhood. Design elements use the site's characteristics and reduce impact on the site allowing for open space and other amenities, such as infill projects, rehabilitating existing building(s), rehabilitating existing housing, providing carpooling opportunities, using well water for landscaping, etc.

## **Passive House Standard**

Passive House is a voluntary international building standard developed by the Passive House Institute (PHI), located in Darmstadt, Germany (referred to as the "Passive House Standard"). The Passive House Standard is composed of several strict performance requirements for new building construction. For the renovation of existing buildings, PHI developed a similar if slightly more lenient performance standard. The resulting performance represents a roughly 90% reduction in heating and cooling energy usage and up to a 75% reduction in primary energy usage from existing building stock.

**Comment [A8]:** Tim McDonald comment. Wants to introduce this as a scoring item.

### **Energy and Water Conservation**

Design features, product selection and renewable energy options directly reduce use of resources and result in cost savings. Design and product selection exceeds applicable energy codes in performance. Examples include but are not limited to Energy Star appliances, drip irrigation, low flow fixtures, dual flush or composting toilets, ground source heat, duct sealing, rain water collection, and low water consumption plants.

### **Material and Resource Efficiency**

Material selections are better quality, designed for durability and long term performance with reduced maintenance. Products used are available locally and/or contain recycled content. Construction waste is reduced in the Project through efficient installation or recycling waste during construction. Considerations include but are not limited to construction waste management specification, recycled content products, local materials, reuse existing building materials, certified lumber, and sustainable harvest lumber.

### **Healthy Living Environments (Indoor Environmental Quality)**

Materials and design contribute to a healthy and comfortable living environment. Mechanical system design, construction methods and materials preserve indoor air quality during construction as well as the long term performance such as fresh air circulation and exhaust fans, bathroom and kitchen fans exhausting air and moisture, material selection with low toxicity and low VOC (volatile organic compounds) paints, sealants, and adhesives.

### **Smoke-Free Housing**

Promoting healthy behaviors can also have a large impact on residents at no additional cost to the Developer. Smoke-free policies protect residents against the harmful health impacts of tobacco smoke, greatly reduce the risk of fires, and prevent damage to units caused by tobacco smoke. Such policies also make properties more attractive to those who do not allow smoking in their own homes.

For New Construction Projects seeking or awarded 2016 or later year Credits, the Owner (and any Management Company) must establish and implement a written policy that prohibits smoking in the units and the indoor common areas of the Project, including a non-smoking clause in the lease for every Project unit. The Owner (and any management company) rather than MBOH will be responsible to establish, implement and enforce such written policy and lease clause. The Owner and management company also must make educational materials on tobacco treatment programs, including the phone number for the Montana Tobacco Quit Line, available to all tenants of the Project. The Montana Tobacco Use Prevention Program Smokefree Housing Project can provide educational materials and smokefree signage to property owners and managers free of charge, as requested. If smoking is allowed outside on the Project property, it is recommended that the written smoking policy require that smoking be restricted to areas no closer than 20 feet from all building entrances and exits. The written policy must provide appropriate exceptions for bona fide cultural or religious practices.

## Required Blower Door and Infrared Testing for Projects Awarded Credits

*For New Construction Projects Awarded HCs:* Blower door tests must be completed on every Single Family Project unit. On Multi-Family Projects, blower door tests must be completed on the greater of twenty percent (20%) of units (such units to be selected by MBOH in conjunction with the testing provider) or the number of units required by State building codes (whether or not the State building code has been adopted in the Project's jurisdiction). Proof of such testing demonstrating compliance with the state building code standard (CFM50) must be submitted to MBOH to qualify for issuance of Form 8609(s). The Developer or Builder must notify MBOH at least one week in advance of the date and time that blower door testing will be performed and MBOH staff must be permitted to attend and observe the testing.

*For Rehabilitation Projects Awarded HCs:* Infrared tests will be required on at least 20% of each full-unit and a representative sampling of common areas both before and after the Rehabilitation. MBOH staff may require changes to the sample selected. The Developer or Builder must notify MBOH at least one week in advance of the date and time that post-Rehabilitation infrared tests will be performed and MBOH staff must be permitted to attend and observe such testing. Proof of such testing must be submitted to MBOH to qualify for issuance of Form 8609(s), demonstrating at least 20 degrees temperature difference from outdoors to inside the unit.

## Substantial Rehabilitation

Montana's minimum Substantial Rehabilitation standard is expenditures the greater of (i) \$15,000 (for 4% projects)/\$25,000 (for 9% Projects) of Hard Costs per rental unit, or (ii) an amount which is not less than 30% of the adjusted basis of the building during a 24-month or shorter period.

Rehabilitation Projects applying for (9%) competitive credits must meet all requirements of the capital needs assessment and the Application must also include a list of items in each unit that will be replaced, refinished, repaired, upgraded, or otherwise rehabilitation in the Project and a detailed narrative explaining the scope, details and expectations of the rehabilitation.

## Tax Exempt Bond Financed Projects

Projects with tax-exempt financing under the volume limitation on private activity bonds ("4% Projects") may be eligible to receive Housing Credits outside the state's tax credit allocation volume cap. Applications must meet all requirements of the applicable QAP and must meet at least the minimum Development Evaluation Criteria score specified in Section 9, below, to receive an Allocation of Housing Credits. Projects with tax exempt financing must submit a certification from the bond financing agency indicating that the Project meets the public purpose requirements of the bonds and that the Project is consistent with the needs of the community. For purposes of Application, evaluation and Awarding tax credits with respect to 4% Projects, the Applicable QAP is the version of the QAP most recently and finally adopted as of the date of Application submission.

## Eventual Home Ownership

Several supplemental Application documents are required for Projects that include eventual home ownership. The Application must: (a) address how the Owner will administer the transfer of ownership to a qualified homebuyer at the end of the Compliance Period; (b) either identify the price at the time of the title transfer or a reasonable process to determine the price; (c) document that the potential owners will be required to complete a homebuyer counseling program; and (d) identify how Reserve for Replacement funds will be used at the time of sale of the properties.

At the time of sale, the HC Owner must provide a copy of the title transfer together with a certificate verifying that the new homeowner completed a homebuyer program within five years prior to the transfer of title. Enforceable covenants must maintain the home as affordable and prevent sale or resale to a realtor, financial institution, or a family with an income over 80% AMI, or more than 80% of FHA appraised value. Families who exceed income levels of 80% of AMI at the time of the sale must have qualified at the appropriate AMI contained in the recorded Restrictive Covenants for the Project evidenced by the Tenant Income Certification at the initial rent-up for the family. Tenant qualification documentation must be sent to MBOH for approval before the sale is completed. Please contact MBOH for current forms. Units not sold under the Eventual Home Ownership Program must remain in compliance with Section 42 until such time as they are sold to a qualified buyer or the end of the Extended Use Period.

## **130% Basis Boost**

### **Basis Boost for QCT and DDA Projects**

Federal law permits MBOH to reserve Housing Credits based on a “basis boost” of 30% for Projects in a Qualified Census Tract (“QCT”) or in HUD designated Difficult Development Areas (“DDA”). In addition, a 30% “basis boost” may be available for non-QCT or DDA Projects based upon the specific requirements specified below.

### **MBOH Discretionary Basis Boost for Non-QCT/DDA Projects**

For buildings not already eligible for the 30% “basis boost” by virtue of being located in a QCT or DDA, up to 130% of the eligible basis of a New Construction building or the Rehabilitation portion of an existing building may be considered in Awarding Housing Credits if MBOH determines that an increase in Housing Credits is necessary to achieve the Project’s feasibility. MBOH staff may recommend an Award of Housing Credits, and the MBOH Board, at the time it considers authorizing Reservations of Housing Credits, may Award Credits for such buildings based upon a basis boost of up to 30%. Applications for Projects not located in a DDA or QCT may be submitted with requested Housing Credits calculated at up to 130% of eligible basis. The Application narrative and supporting documentation must specify and explain in detail the applicable considerations supporting the need for the requested basis boost (i.e., any of items 1 through 5, below) and justify the need for the requested basis boost. Considerations justifying a need for a basis boost are:

1. Qualification of the Application for the Small Rural Project set aside pool;
2. Qualification of the building location for Rural Development funding;
3. Targeting of more than 10% of the Project units to 40% or below area median income level or more than 62% of Project units to 50% or below area median income level;
4. The Project includes historical preservation or Preservation of existing affordable housing; or
5. The Project is located within a community where unusual market conditions produce higher than normal labor and material costs, unusually high land cost and/or rent and income limits which are too low to support the cash flows required by the Project’s financial structure.

The MBOH discretionary basis boost does not apply to non-competitive 4% Credits.

### **Non-Housing Amenities**

Swimming pools, tennis courts, golf courses, and other similar amenities will not be funded by Housing Credits. Proposed Projects may include such amenities only if the amenities are funded by sources other than Housing Credits. Subject to the requirements of this QAP,

**Comment [A9]:** Kevin Thane #1 suggests different levels of boost for targeting

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garages or car ports may be funded by Housing Credits considering Montana's extreme winter weather.

## Accountant and Owner Certification

Prior to the 10% ~~Carryover~~ Cost Certification deadline and at Final Cost Certification, MBOH requires an independent third party CPA cost certification, including a statement of eligible and qualified basis for the Project. The Accountant Certification must include a breakdown of costs similar to the Project Sources and Uses of the Application, including development cost limitation categories as discussed in this QAP. The Owner must provide the CPA certification, under penalty of perjury, providing the Owner's name and address, the placed in service date, taxpayer identification number, the Project name and address, building(s) address(s), building identification numbers, the total eligible and qualified basis, and, if applicable, the percentage of the Project financed by tax-exempt bonds.

## Information Request and Release Policy

Requests for information and documents from MBOH will be handled in accordance with and subject to applicable law and the MBOH Information and Release Policy, which policy is available on the MBOH website at [URL].

## Ex Parte Communication Policy

MBOH Board members should refrain from ex parte communications with interested persons or parties, or their representatives, who may be affected by any matter on which members may take official Board action. Ex parte communications may include communications that take place outside a duly noticed meeting or hearing of the Board, relate to a matter on which the Board may take action to determine to rights or obligations of the person or party, and which convey information or may otherwise influence the Board member regarding the matter.

If a Board member is unable to avoid such communications, the member will be required to disclose at a public meeting of the Board the full content of such communication and the identity of the person making the communication. In addition, the Board member may be disqualified from participating in Board action on the matter. Such communications may also subject the Board to challenge regarding its action on the matter.

Ex parte communications do not include communications regarding general matters of housing, funding for low-income housing, or other Board policy, and do not include Board member speaking appearances, conferences, consulting engagements or other events or settings to the extent not involving communications such as those described above.

The foregoing statement is provided as general information. Ex parte communications are addressed in further detail and governed by the MBOH Ex Parte Communication Policy, available on the MBOH website at [URL].

## SECTION 4 - APPLICATION SUBMISSION AND AWARD SCHEDULE – MANNER OF SUBMISSION

### Competitive 9% Credit Applications

Applicants may apply for an Award of 9% Credits for a particular Project no later than the applicable submission deadline specified below or otherwise set by MBOH.

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Applicants must submit the Application and the applicable fee (based on the fee schedule below) to MBOH as required in this QAP. A separate Application is required for each Project. A single Application should include all buildings within a single Project.

Complete Letters of Intent/Applications meeting all requirements of this QAP must be received at MBOH's office by 5:00 pm Mountain Time on the Letter of Intent/Application submission date specified below.

## First Award Round:

- |  |                                 |
|--|---------------------------------|
| o Letter of Intent Submission                            | First Monday in July 2016       |
| o Applicant Presentations/<br>Board Invitations to Apply | August 2016 MBOH Board Meeting  |
| o Application Submission                                 | First Monday in October 2016    |
| o Award Determination                                    | January 2017 MBOH Board Meeting |

## Second Award Round (if any):

If the Board decides to hold a second Award round, it will determine and post on MBOH's website the dates for submission of Letters of Intent and Applications, Board review, discussion and invitation to apply, Applicant presentations and Award determination.

Any of the above deadlines and dates may be extended or changed by MBOH if circumstances warrant, and in such event MBOH will provide notice of such extension or change by posting on MBOH's website. The MBOH Board, in its discretion, may waive any requirement of this QAP if it determines such waiver to be in the best interests of MBOH, the HC program or the application cycle. In any Application/Award round or rounds, the MBOH Board may elect to Award less than all available Credits or to not Award any Credits if the MBOH Board determines that such is in the best interests of MBOH, the HC program or the Application cycle.

## Board Consideration and Determination Process

At the MBOH Board's meeting in the month after submission of Letters of Intent, MBOH staff will present Letters of Intent to the MBOH Board. MBOH will provide an opportunity for Applicants to make a presentation to the MBOH Board regarding their Projects and Letters of Intent and will provide an opportunity for public comment on proposed Projects and Applications. Applicant presentations will be limited to 10 minutes or less. The MBOH Board may ask questions of Applicants and discuss proposed Projects for purposes of assisting the Board in determining which Projects it will invite to submit Applications and assisting Applicants in presenting better Applications, but such questions, answers and discussions shall not be binding upon MBOH in any later Award determination or other MBOH process.

After considering the Letters of Intent, presentations, questions and answers and discussion, the MBOH Board will select those Projects that it will invite to submit Applications. Selection for invitation to submit an Application may be based upon consideration of any of the Selection Criteria permitted to be considered for purposes of an Award under this QAP, but no evaluation or scoring of Letters of Intent will be done or considered for purposes of selection for invitation to submit an Application. For purposes of determining the number of Projects to select: (a) the total amount of Credits requested for all Projects invited to submit Applications will not exceed 150% of the State's Available Annual Credit Allocation determined as provided in Section 6; and (b) no more than 10 Projects will be selected. Each Project so selected by the MBOH Board will be deemed invited to submit an Application. An Application may be submitted only for a Project invited by the

**Comment [A10]:** . Alex Burkhalter #7 does not support the change with only a 10-minute presentation, a 2-page narrative, and single spreadsheet, no requirement for a market study, major part of full application is proving development team can deliver the project, verifiable demonstration of need, financial underwriting, financial partners, appropriate positioning of project in the market, necessary approvals, and site control, appropriate infrastructure. Don't believe a determination can be made on a 3-page package that "best meet the most pressing needs of low income people with in the state of Montana. It is for these reasons that I request all projects, if they meet minimum requirements and minimum scoring are given a full consideration for an award of Housing Tax Credits.

MBOH Board to submit an Application. All other Applications will be returned without consideration.

At the MBOH Board's meeting in the month of Application submission, MBOH staff will present Applications to the MBOH Board. The MBOH Board may ask questions of Applicants and discuss proposed Projects but there will be no Applicant presentations. MBOH will provide an opportunity for public comment on proposed Projects and Applications.

At the Award Determination Meeting, Applicants should be available to the MBOH Board to answer questions regarding their respective Applications. Applicants shall have an opportunity to respond to any negative comments.

## **4% Credit Applications for Tax Exempt Bond Financed Projects**

Projects with tax-exempt financing under the volume limitation on private activity bonds ("4% Projects") may be eligible to receive tax credits outside the state's tax credit allocation volume cap. An Applicant for tax-exempt financing under the volume limitation on private activity bonds also seeking an Award of 4% Credits for a scattered-site Project under a single partnership may apply for such credits by submission of a single Application that includes sub-applications for each property included in the Project.

Full Applications for tax-exempt financing and related 4% Credits may be submitted at any time; submission is not limited to the Application schedule set forth above for 9% Credit competitive awards. However, complete Applications must be received by MBOH at least 6 weeks before the scheduled MBOH Board meeting at which the Application is to be considered. Changes to the Application that require MBOH to re-underwrite the Application will restart the minimum 6-week period.

The Application fee for 4% Projects is 1% of the amount of annual Credits requested in the Application and must be submitted to and received in the MBOH office for the Application to receive consideration. In addition, Final Allocation of 4% Credits is subject to payment in full of applicable bond closing fees at bond closing per the MBOH Private Placement policy available on the MBOH website at [URL].

Applications for 4% Projects must meet all requirements of the Applicable QAP, including meeting at least the minimum Development Evaluation Criteria threshold score specified in Section 9 to receive an Allocation of Housing Credits. Projects with tax exempt financing must submit a certification from the bond financing agency indicating that the Project meets the public purpose requirements of the bonds and that the Project is consistent with the needs of the community. For purposes of Application, evaluation and Awarding Housing Credits with respect to 4% Projects, the Applicable QAP is the version of the QAP most recently and finally adopted as of the date of Application submission.

## **Application Submission Method for 4% and 9% Credit Applications**

Electronic submission of Applications using MBOH's system (currently ShareFile) is preferred but hard copy Applications will also be accepted. Please contact staff (preferably at least a week ahead of the submission deadline) for set up and for specific instructions on how to access this system. In submitting or preparing to submit Applications, Applicants shall not change or create folders or otherwise change the file structure within the ShareFile submission. An Applicant may request an additional folder by contacting MBOH staff.

## SECTION 5 - FEE SCHEDULE

### Letter of Intent

The Letter of Intent fee is \$1,500.00 and must be submitted to and received in the MBOH office by the applicable Letter of Intent deadline. MBOH will not consider Letters of Intent submitted without the Letter of Intent fee. The Letter of Intent fee is not refundable.

### Application

The application fee is 1% of the amount of credits requested in the Application and must be submitted to and received in the MBOH office by the applicable application deadline. MBOH will not consider Applications submitted without the application fee. The application fee is not refundable and will not be adjusted even if the MBOH Board Awards no credits or only a portion of the tax credits requested.

In addition to the application fee, a Reservation fee in the amount of 8% of the credits reserved is due on or before December 1 of the year in which the Award is made (e.g., December 1, 2017 for 2017 credit Awards made in January 2017). After a Reservation Agreement is executed the Reservation fee is not refundable. If the conditions described in the Reservation Agreement are not met, the entire Reservation fee will be forfeited to MBOH.

### Requesting Additional Credits After Initial Allocation

As MBOH, in its discretion, determines necessary for financial feasibility, returned or unreserved Housing Credits may be used to increase the amount of Housing Credits reserved for a Project after the first round Awards have been made. In considering a request for an increase under this paragraph, MBOH may consider any anticipated potential need for returned or unreserved Credits to fund Projects that would otherwise be funded or require greater funding under the Corrective Award set aside under Section 7. An Applicant seeking an increase in the amount of reserved Credits must apply in writing for such increase and must submit new financials (UniApp Section C) and documentation of cost increases. Applications for additional Credits must be submitted to staff. Staff will review and evaluate supporting financials and new cost documentation and a staff recommendation will be presented at a later MBOH Board meeting for consideration. Staff will not recommend and the MBOH Board will not approve any increase beyond that necessary to make the Project feasible.

Any request for Credits above the amount initially Awarded is considered a request for additional Credits after Initial Allocation and is subject to the provisions of this section.

An Application and Reservation fee of 9% of the additional Housing Credits requested is due with the request. In the event an increase for the additional requested Credits is not approved, the Reservation fee in the amount of 8% will be refunded.

### Compliance Fees

See Section 12, Compliance Monitoring.

### **Developer/Owner Reimbursement of Board Legal Expenses**

**The Developer/Owner of any Project awarded credits will be required to reimburse MBOH for legal fees and expenses incurred by MBOH with respect to any non-standard request, change, document or other matters relating to Reservation (Initial Allocation), Carryover Commitment, compliance or other aspects of qualifying for or obtaining Housing Credits. Such fees and expenses must be paid within 30 days of MBOH's submission of an invoice.**

MBOH shall not be required to complete any pending process, approval or other action until such fees and expenses are paid in full.

## SECTION 6 - MAXIMUM AWARDS

### Maximum Credit Award

Twenty-five percent (25%) of the state's Available Annual Credit Allocation will be the maximum Credit Awarded or Allocated to any one Project or Developer. The state's Available Annual Credit Allocation is defined as and includes the state's actual or estimated credit ceiling for the current year plus any other available Credits from prior year credit authority determined as of 20 business days prior to the applicable application deadline, and includes any Credits held back pursuant to court order or subject to Award under the Corrective Award set aside. The Developer's percentage of the Development Fee, as specified in a written development agreement, will be that Developer's percentage of the 25% limit. The maximum Credit Award for a Project will be determined based upon the state's Available Annual Credit Allocation for the Housing Credit year from which the Project is first Awarded HCs. If the state's Available Annual Credit Allocation is not known as of 20 business days prior to the applicable application deadline, the Available Annual Credit Allocation from the previous year will be used, subject to later adjustment once the state's actual Available Annual Credit Allocation is known. If an estimated amount is used for Award purposes, all Awards based upon such estimate shall be conditional upon a final determination of the state's actual Available Annual Credit Allocation.

MBOH does not commit tax credits from future years, except as specifically provided in this QAP. The MBOH Board may Award Housing Credits from a future year's Available Annual Credit Allocation at any time outside the competitive cycle for purposes of funding repair or replacement of a Project building due to a life/safety emergency as determined by the MBOH Board in its discretion. The Applicant must submit a Letter of Intent and the Board must invite the Applicant to submit an Application before making an Award. The Application must meet all QAP requirements.

## SECTION 7 – SET ASIDES

### Non-profit

Ten percent of each state's credit ceiling must be set aside for buildings which are part of one or more Projects involving Qualified Nonprofit Organizations.

The 10% non-profit set-aside requirement may be met by an Award to a Project involving a Qualified Nonprofit Organization out of any other set-aside or the general pool. If no Project Awarded HCs involves a Qualified Nonprofit Organization, the non-profit set aside (i.e., 10% of the state's credit ceiling) will be held back for later Award to a Project involving a Qualified Nonprofit Organization.

### Corrective Award

Such portion of the state's Available Annual Credit Allocation is reserved and set-aside as is necessary for Award of credits to:

- Any Project for which an Application was submitted in a prior round or year, if:
  - a final order of a court of competent jurisdiction determines or declares that such Applicant was entitled to an Award in such prior round or year or requires MBOH to make an Award or Allocation of tax credits to such Project;

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- o a final order of a court of competent jurisdiction invalidates or sets aside an Award of credits to an approved Project from such prior round or year and a Reservation Agreement was executed by MBOH and such Applicant prior to issuance of such court order, unless such court order determines that such Project was not eligible or qualified under the applicable QAP to receive an Award of tax credits; or
- o MBOH, upon further consideration of any Award determination as required by and in accordance with the order of a court of competent jurisdiction, determines that such Project was entitled to an Award in such prior round or year.

All requirements and conditions of this Corrective Award set aside provision must be met to receive an Award under this set aside provision. The amount of any Award under the Corrective Award set aside shall be the amount specified by the court, or if no Award amount is specified by the court, an amount determined by MBOH in accordance with this QAP. The Corrective Award set aside shall be funded first from returned or unreserved tax credits from a prior year. Awards may be “future allocated” under this Corrective Action set aside, i.e., such Awards may be made from returned or unreserved tax credits from a prior year and/or the current year’s credits at any MBOH Board meeting after the final court order has been issued and presented to MBOH. Such Award need not await the annual Application and Award cycle.

Where a court orders that an amount of the current year’s credits be set aside for a Project pending the decision of the court, if the court’s decision is not received before the end of the current year, the credits set aside will become classified as the next year’s credits, as required by federal code.

If the court orders MBOH to Award credits to any Project under this set-aside, the Project must submit an updated Application so the MBOH can review and underwrite current numbers and assumptions to verify that the amount of credits requested or some other credit amount is justified for Project feasibility, unless otherwise ordered by the court. The corrective awardee must pay the Reservation fee as required in Section 5.

## **Small Rural Projects**

Twenty percent (20%) of the state’s Available Annual Credit Allocation is set-aside for Small Rural Projects. For purposes of this set-aside, a Small Rural Project is a Project: (1) for which the submitted tax credit Application requests tax credits in an amount up to but no more than 10% of the state’s Available Annual Credit Allocation, (2) with 20 or fewer low-income units, and (3) proposed to be developed and constructed in a location that is not within the city limits of Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, or Missoula.

## **General Rules Regarding Set Asides**

MBOH reserves the right to determine in which set-aside a Project will be reviewed (subject to its eligibility), regardless of its eligibility for any other set-aside. For example, if a Project is submitted as a Small Rural Project in order to utilize the Small Rural Project set-aside when it is clearly part of a larger or non-rural Project, the Project will be placed in the proper category as determined by MBOH staff.

To qualify and receive consideration to receive an Award of credits under a set-aside, the Project must meet all applicable requirements of this QAP and must receive minimum Development Evaluation Criteria score specified in this QAP.

The MBOH Board reserves the right to not Award credits to a qualifying Small Rural Project even if the Project meets the minimum required score, if the MBOH Board, at its discretion, determines another Project or Projects better meet the most pressing housing needs of low

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income people within the state of Montana, taking into consideration the Selection Criteria of this QAP as determined in accordance with Section 9.

In the event there are insufficient tax credits available to fully fund all set aside categories, the respective set asides categories shall be funded in the following order of priority: (1) Non-profit; (2) Corrective Award; and (3) Small Rural Project.

## **SECTION 8 – LETTER OF INTENT AND APPLICATION PROCESS**

Applicants are responsible to read and comply with this Qualified Allocation Plan (QAP) (and any other Applicable QAP) and accompanying materials.

Applicants are responsible to determine the degree that their building(s) and development correspond to the MBOH's Selection Criteria contained in this QAP.

Applicants are responsible to consult their own tax attorney or accountant concerning: (a) each building's eligibility for the tax credit; (b) the amount of the credit, if any, for which their building(s) may be eligible; and (c) their ability and/or their Investor's ability to use the tax credit.

### **Letter of Intent**

All Projects wishing to apply for HCs in Montana must submit a Letter of Intent by the deadline specified in Section 4 with the applicable fee.

All Letters of Intent must be submitted in the format posted on the Board's website. The Project Location, type (e.g., family or elderly), and Developer specified in the Letter of Intent may not be changed in any later Application. Other information in the Letter of Intent (e.g., cost information, number of units, unit sizes, income targeting, rents, hard and soft loan sources, etc.) will be considered the Applicant's best estimates and may be changed in the Application. No market study or mini-market study is required for purposes of a Letter of Intent.

### **Application**

An Application may not be submitted for a Project unless a Letter of Intent has been submitted with respect to the Project according to the requirements of this QAP and the Board has invited that Project to submit an Application. MBOH will return all other Applications without consideration, along with the application fee.

Applicants must commission a full market study as outlined in the MBOH Market Study Form. Such Market Study must be included with the Application submission in accordance with the Threshold Requirements below.

Applicants must complete and submit the Uniform Application and Supplement, full market study and full application fee by the applicable application deadline (see Section 4, Application Submission and Award Schedule). Applicants must use the most current form of the Uniform Application (UniApp) and Supplement available on the MBOH website at: <http://housing.mt.gov/UniformApplication>

### **Threshold Requirements Are Mandatory**

Threshold Requirements are mandatory for all Letters of Intent and Applications. Letters of Intent and Applications received not meeting all Threshold Requirements or other requirements of this QAP will be returned un-scored and will receive no further consideration. Fees will not be refunded.

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Submit complete Applications to MBOH. Electronic submission of Applications using MBOH's system (currently ShareFile) is preferred but hard copy Applications will also be accepted. Please contact staff (preferably at least a week ahead of the submission deadline) for specific instructions on how to access this system. In submitting or preparing to submit Applications, Applicants shall not change or create folders or otherwise change the file structure within the ShareFile submission. Applicants may request an additional folder by contacting MBOH staff.

MBOH staff may communicate with Applicants for purposes of providing interpretive guidance or other information or for purposes of clarifying Applications. MBOH staff may allow minor corrections to Applications, but will return and will not further consider Applications requiring substantial revision or those that are substantially incomplete.

## Threshold Requirements

To be eligible for further consideration, all Letters of Intent and Applications must be submitted in accordance with the requirements of this QAP and the following Threshold Requirements.

ALL MBOH FORMS REFERENCED IN THIS QAP ARE AVAILABLE ON THE MBOH WEBSITE AT [URL]. ALL FORMS SUBMITTED TO MBOH IN OR AS PART OF THE APPLICATION, DEVELOPMENT, UNDERWRITING, ALLOCATION, COST CERTIFICATION, COMPLIANCE OR OTHER PROCESSES UNDER THIS QAP MUST BE THE MOST CURRENT FORM AVAILABLE ON THE MBOH WEBSITE. If the most current Form(s) are not used, submissions may be returned and required to be resubmitted on the correct Form.

Letters of Intent must:

1. Include the applicable fee;
2. Be received by the applicable deadline; and
3. Be substantially complete and in the format prescribed in the MBOH Letter of Intent Form.

Applications must:

1. Include the application fee;
2. Be received by the applicable deadline;
3. Include all of the documents, information and other items specified in threshold requirements 4 through 26 below;
4. Include a cover letter summarizing the Project, limited to 2 pages, which will be provided to MBOH Board members within one week following the Application deadline ;
5. Include a fully completed, UniApp, including all applicable Forms, all in the most current forms as posted on the MBOH website.
6. Specify the Qualified Management Company that will provide property management service to the Project and provide a copy of the written agreement with the management company evidencing the company's commitment to provide management services. Upon written notice from MBOH that the Application has identified a management company that is not a Qualified Management Company, the Applicant must submit to MBOH within ten (10) days a written designation of a Qualified Management Company and a copy of the written agreement with the

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management company evidencing the replacement company's commitment to provide management services.

7. Include a Market Study prepared and signed by a disinterested third party analyst, with certificate (included in MBOH Market Study Form) signed by analyst and notarized. Market Studies must be completed within six (6) months prior to the submission date of the Application, must have the market analyst complete a physical inspection of the market area within one (1) year of the Application and must adhere to minimum market study requirements in MBOH Market Study Form.
8. Include documentation of Land or Property Control.
9. Include documentation from the applicable local zoning authority that applicable zoning requirements are met or otherwise addressed, e.g., Project is within applicable zoning requirements, part of an approved planned unit development, subject to a zoning change request for which a change request has been submitted that has been or will be approved, or not subject to any existing zoning requirements. Acquisition/Rehabilitation Projects may provide documentation that the Project will not require a change in zoning requirements.
10. Include documentation of availability and capacity of utilities to serve the Project, including documentation that utilities are available to the Project and the present proximity of utilities to the Project location. Such documentation must be from the electric, gas/propane, water and/or sewer/septic provider/company, as applicable. Acquisition/Rehabilitation Projects need only provide such documentation for any expected additional load. Documentation of utility availability and capacity must not be more than 24 months old at the time of Application submission. MBOH staff may in its discretion require the Applicant to provide updated documentation.
11. Include a preliminary financing letter from a lender indicating the proposed terms and conditions of the loan. The financing letter must formally express interest in financing the Project sufficient to support the terms and conditions represented in the Project financing section of the Application.
12. Include a letter of interest from an equity provider including an anticipated price based on the market at time of the Application.
13. For all Applications, include a comparative market analysis ("CMA") or an appraisal done by an independent (non-related) party. Such CMA or appraisal is required regardless of the manner or method of Acquisition and must cover all real estate acquired, including land and/or buildings. Land and existing building values must be listed separately.
14. For Rehabilitation Applications, include a full scale Capital Needs Assessment on the USDA Rural Development Capital Needs Assessment (CNA) template or similar form, a list of items in each unit that will be replaced, refinished, repaired, upgraded or otherwise rehabilitated, and a detailed narrative explaining the scope, details and expectations of the Rehabilitation.
15. For Applications proposing Rehabilitation or replacement of existing units, include a preliminary relocation plan addressing the logistics of moving tenants out of their residences and providing temporary housing during the Rehabilitation or replacement

**Comment [A11]:** Alex Burkhalter #8 change request should not have to be approved at application, as some localities will not consider until application awarded, change back to original language.

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- and returning tenants to their residences upon completion of the Rehabilitation or replacement.
16. Include a site plan, and a Design Professional's preliminary floor plan and elevations/photos of existing properties for the Project.
  17. For Applications for Projects involving Qualified Nonprofit Organizations and seeking to qualify for the non-profit set aside under Section 7, include: (a) a copy of the IRS determination letter documenting such organization's 501(c)(3) or (4) status; (b) an affidavit by the organization's managing partner or member certifying that the organization is not and during the Compliance Period will not be affiliated with or controlled by a for-profit organization; and (c) documentation that one of the exempt purposes of the organization includes the fostering of low-income housing.
  18. For Applications proposing a property tax exemption for rental housing providing affordable housing to lower-income tenants pursuant to Mont. Code Ann. § 15-6-221, include documentation of intent to conduct a public hearing as required by Mont. Code Ann. § 15-6-221(2). Such public hearing must be conducted by the Owner and documentation of such public hearing must be submitted prior to issuance of the Carryover Commitment. If the Application does not include documentation of intent to conduct the required public hearing, the Project will be underwritten as if no exemption was or will be received.
  19. Specify the Extended Use Period.
  20. For Projects targeted for Eventual Homeownership, provide the supplemental Application documents and information specified in Section 3, Eventual Home Ownership.
  21. Specify the selected minimum set aside (20-50 test) or (40-60 test).
  22. Include a copy of both the public notice and the affidavit of publication from the publisher, meeting the requirements specified in this Section 8, Public Notice.
  23. Include letters of community support. These support letters must be Project specific and address how the Project meets the needs of the community. New letters of support (as well as new letters of non-support) must be submitted for each Application for each Application round. Generic support for affordable housing will not be considered support for the specific Project being considered. These letters will be provided to the MBOH Board for its consideration.
  24. If the Project is an Elderly Property, include a stipulation of minimum tenant or resident age (i.e., 55 or 62 and over).
  25. Include a narrative addressing each of the Development Evaluation Criteria, demonstrating how the Application meets each of these criteria, and providing a specific explanation and justification of the points sought for each scoring item. Narrative references to the Market Study must cite the specific page and paragraph of the Market Study. The narrative must include the Applicant's own proposed total score for each scoring item in the Development Evaluation Criteria and, at the conclusion of the narrative, the Applicant's own proposed total score.
  26. Include the completed and signed Indemnification Form, Cost Sponsor Certification Form and Release of Information Form.

3. include a copy of the public notice and affidavit of publication required below under "Public Notice."

Comment [A12]: Alex Burkhalter #9 delete, is same as 22.

Applications must also demonstrate that the proposed Projects are financially sound. This includes reasonable financing terms, costs, expenses, and sufficient cash flow to support the operations of the Project, all of which must meet the underwriting standards of MBOH.

### **Public Notice**

An Applicant must place a notice in the local newspaper of the intent to apply for Housing Credits, and encouraging submission of public comment to MBOH. Such notice must include name of Project, number of units, location of Project, for-profit or non-profit status, and, if applicable, intent to request tax-exempt status for the Project. The notice will be placed as a box advertisement in the newspaper within 90 days prior to or not more than 5 working days after the due date of the Application and will allow for not less than 30 days for submission of comments to MBOH. The notice must be published twice within a seven-day period. A copy of the notice, together with an affidavit of publication showing the dates published, must be included in the Application.

### **Example of Public Notice**

(Name of Developer, address, telephone number), a (for-profit/non-profit) organization, hereby notifies all interested persons of (city, town, community name) that we are planning to develop, (Name of Project) an affordable multi-family rental housing complex on the site at (street location). This complex will consist of (number) (one bedroom, two bedroom, or three bedroom) units for (elderly persons/families). This Project (will/will not) be exempt from property taxes.

An Application (will be/has been) submitted to the Montana Board of Housing for federal tax credits financing.

You are encouraged to submit comments regarding the need for affordable multi-family rental housing in your area to the Montana Board of Housing, PO Box 200528, Helena, MT 59620-0528 or FAX (406) 841-2841. Comments will be accepted until 5 PM the Friday before the MBOH Board Award Determination Meeting (see Section 4, Application Cycle).

## **SECTION 9 – EVALUATION AND AWARD**

### **Threshold Evaluation and Considerations**

MBOH staff will review all Applications received by the applicable submission deadline for compliance with all Threshold Requirements, including but not limited to completeness, soundness of the development, and eligibility based on federal requirements and this QAP. Applications determined by MBOH staff to not substantially meet all Threshold Requirements or other requirements of this QAP or federal law will be returned un-scored and will receive no further consideration. Except as specifically provided in this QAP, Application fees will not be refunded.

MBOH staff may communicate with Applicants for purposes of providing interpretive guidance or other information or for purposes of clarifying, verifying or confirming any information in Applications. MBOH staff may allow minor corrections to Applications, but will return and will not further consider Applications requiring substantial revision or those that are substantially incomplete.

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MBOH staff may query an Applicant or other persons regarding any concerns related to a Housing Credit Application or the management, construction or operation of a proposed or existing low income housing Project. Questionable or illegal housing practices or management, insufficient or inadequate response by the Applicant, General Partners, or Management Company as a whole or in part, may be grounds for Disqualification of an Application and non-consideration for an Award of Housing Credits.

As part of its review of Applications, MBOH staff will contact community officials of the Project location to discuss relevant evaluation criteria information pertaining to the Application and the proposed Project. MBOH may also contact any other third parties to confirm or seek clarification regarding any information in the Application, including but not limited to checking Development Team references, verifying credit reports and verifying information through direct contact with the Project Developer.

Between the submission deadline and the MBOH Board Award Determination Meeting, as required by federal law, MBOH will notify the chief executive officer of the local jurisdiction of each proposed development requesting comments on the development.

Housing Credit Allocations will be subject to three underwriting evaluations: (i) evaluation for purposes of Award/Reservation and, for Projects that have received an Award of credits and entered into a Reservation Agreement, (ii) evaluation for purposes of the 10% ~~Carryover~~-Cost Certification, and (iii) evaluation for purposes of Final Cost Certification.

MBOH will return and will not consider for an Award of Credits:

- Incomplete Applications;
- Unsound Applications, i.e., Projects for which the Market Study and other available market information fails to demonstrate adequate market need within the proposed location community or Projects that are not financially feasible, including but not limited to viable cash flow, based upon MBOH underwriting standards as set forth in this QAP;
- An Application submitted by an entity with a demonstrated poor track record in completion of development or management of low income housing, whether located in Montana or another state;
- Applications submitted by Applicants with current Project(s) that have/had numerous or unresolved substantial non-compliance issues or IRS 8823's (consideration will be given to the type of 8823);
- Any other Application failing to meet any mandatory requirement of this QAP or federal law; and
- Any Application as otherwise specified in this QAP.

Applications meeting all minimum Threshold Requirements and not excluded from further consideration under this QAP will be evaluated for the amount of tax credits needed for feasibility and long term viability and will be evaluated and scored according to the Development Evaluation Criteria section below.

## Amount of Tax Credit Allocation

Although a proposed development may be technically eligible for a certain Credit amount, federal law prohibits MBOH from allocating more Credits than necessary for the financial feasibility of the development and its viability as a qualified low income housing Project throughout the Compliance Period. Accordingly, an Award of Housing Credits under this QAP will be limited to the amount of Credits that MBOH, in its sole discretion, deems necessary to make the development feasible and viable throughout the Compliance Period.

In determining the amount of Credits necessary, MBOH will consider:

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- The Sources and Uses of funds and the total financing planned for the Project. Funds, including funds from federal sources, such as HOME grant money, Rural Development, and similar funds, may be loaned by or through a parent organization to a Project at an interest rate below the Applicable Federal Rate (AFR). Such loans will not reduce the basis for the Project providing they are true loans.
- Grants made with federal funds directly to a Project, which will reduce basis.
- Any proceeds or receipts expected to be generated by the Housing Credits.
- The reasonableness of the development and operational costs of the Project.

Based on its evaluation, MBOH will make a preliminary determination of the amount of Credits deemed necessary for the financial feasibility of the development and its viability as a qualified low income housing Project throughout the Compliance Period. This determination is made solely at MBOH's discretion, and is not intended to be a representation or warranty to anyone as to the feasibility of the development. Rather, it will serve as the basis for making an Award of Credits. A similar analysis will be done at the time of 10% ~~Carryover~~-Cost Certification and at Final Cost Certification prior to issuing IRS Form(s) 8609. Neither the selection of a Project to receive an Award of Housing Credits nor the amount of Credits to be allocated constitutes a representation or warranty that the Owner or Developer should undertake the development, or that no risk is involved for the Investor.

## Development Evaluation Criteria and Scoring

In addition to evaluation under all other QAP Selection Criteria, Applications will be evaluated and scored according to the following Development Evaluation Criteria.

- Awarding of points to Projects pursuant to these Development Evaluation Criteria is for purposes of determining that the Projects meet at least a minimum threshold of 1100 of the total possible 1419 available points to qualify for further consideration. Developments not scoring the minimum Development Evaluation Criteria score of 1100 of the total possible 1419 available points will not receive further consideration.
- Non-competitive 4% Credit Bond Deals will meet at least a minimum threshold of 850 of the total possible 1419 available points to qualify for further consideration. Non-competitive developments not scoring the minimum Development Evaluation Criteria score of 850 of the total possible 1419 available points will not receive further consideration.
- The Development Evaluation Criteria, other QAP Selection Criteria and information submitted or obtained with respect to Projects will be used to assist the MBOH Board in evaluating and comparing Projects.
- Development Evaluation Criteria scoring is only one of several considerations taken into account by the MBOH Board. It does not control the selection of Projects that will receive an Award of tax credits. For purposes of this QAP and HC Awards and Allocations, the QAP Selection Criteria include all of the requirements, considerations, factors, limitations, Development Evaluation Criteria, set asides, priorities and data set forth in this QAP and all federal requirements.

### 1. **Extended Low Income Use\* (100 points possible)**

Federal law requires a 30-year or longer Extended Use Period. An Application in which the Applicant agrees to maintain units for low income occupancy beyond the Compliance Period will receive points as indicated below and must incorporate these restrictions into the Restrictive Covenants.

**Comment [A13]:** Kevin Thane #2 suggests graduated points for extended use.

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## **Years beyond initial 15**

15 years	0 points	(30 total years)
16 – 20 years	40 points	(31 – 35 years)
21 – 25 years	60 points	(36 – 40 years)
26 – 30 years	80 points	(41 – 45 years)
Over 30 years	100 points	(46 years +)

Eventual Home Ownership\* Applications must also specify an Extended Use Period and will receive points for the Extended Use Period chosen as provided above (refer to the “Eventual Home Ownership” portion of Section 3 for supplemental Application documentation and information requirements).

## **2. Lower Income Tenants\* (220 points possible)**

An Application will receive points for the percentage of eligible units at the percentages of area median income (“AMI”) levels listed below. An Application will receive points for 40%, 50%, and 60% categories when the development targets those income and rent levels. Points awarded for 40% units are independent of and not calculated as part of 50% or 60% units, except that the number of 40% units included in the Project, if any, that exceed 10% of eligible units will be added to the number of 50% units for purposes of point scoring under the chart below. Developments will be bound by the terms committed to in the application process through the use of the Declaration of Restrictive Covenants. Section C, Part IV, Rent and Forecasted Income of the UniApp will be used to calculate the score for this item. Scoring under the following chart is based upon the total number of HC units including a manager’s unit if applicable.

**Comment [A14]:** Kevin Thane #3 suggests 30% income targeting.

Target Median Income Level	Percentage of Eligible Units	Points
40%	10% (or greater)	20 NOTE 1
50%	15-20%	60 NOTE 1
50%	21-40%	80 NOTE 1
50%	41-60%	150 NOTE 1
50%	61-100%	200 NOTE 1
60%	40%	0
60%	41-60%	20
60%	61-100%	40

NOTE 1: Rents @ 40% allowed to income qualify to 49% AMI.

Rents @ 50% allowed to income qualify to 55% AMI (40-60 election must apply)

(Applicable to all existing HC properties)

## **3. Project Location\* (100 points possible)**

An Application will be awarded points to the extent the Project is located in an area where amenities and/or essential services will be available to tenants, determined according to the following specifications. An Application will be awarded points with respect to an amenity or service as specified below, if: (i) a Project is located within 1½ miles of the specified amenity or essential service; (ii) public or contracted transportation (not including taxi or

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school bus service) is reasonably available to the specified amenity or service (i.e., the Project is located within ¼ mile of fixed bus stop or on a same day call basis); or (iii) where applicable, the specified amenity or service is available via a no-charge delivery service to the Project Location:

- 20 points for grocery store (convenience store does not count); and
- 10 points for each of the following, up to a maximum of 80 points:
  - One or more public schools;
  - Senior Center;
  - Bank;
  - Laundromat (only if washer/dryer not included in unit or onsite);
  - Medical services appropriate and available to all prospective tenants (e.g., hospital, doctor offices, etc.);
  - Pharmacy services appropriate and available to all prospective tenants;
  - Gas station and/or convenience store;
  - Post Office;
  - Public Park;
  - Shopping (department, clothing or essentials – does not include convenience store); or
  - Public Library.

#### 4. Housing Needs Characteristics\* (190 points possible)

Development meets area housing needs and priorities and addresses area market concerns, such as public housing waiting lists (for all units and tenants), Vacancy Rate and type of housing required.

- **Community Input (40 points possible):** Up to a total of 40 points will be awarded for Community Input. 10 points will be awarded for each of the items (i) through (iv) through which community input regarding the proposed Project was gathered, as shown by evidence provided in the Application or in response to MBOH inquiries: (i) neighborhood meetings held expressly for this Application with attendance rosters and minutes; (ii) local charrettes held expressly for this Application with supporting documents, concept drawings, and input from community; (iii) other appropriate form of community input specifically designed to gather community input for this Application; and/or (iv) City or County Commission meeting. In order to obtain the available points under item (iii), there must be actual community input in some form. If a community meeting is held but there is no attendance, another form of community input must be used. No points will be awarded if the meeting or charrette is part of another public or design meeting, unless the minutes demonstrate that a portion of the meeting was specifically dedicated to community input for this Application. No points will be awarded if the Application does not provide evidence of qualifying community input, including minutes of any meeting, charrette or other form of community input and copies of any written comments received. Documentation of community outreach efforts to inform and invite community members to attend any of the community input events must be included.
- **Appropriate Size (50 points possible):** Points will be awarded for the appropriateness of size of the development for market needs and concerns as reflected in the Market Study. 50 points will be awarded if the number of units being proposed is 50% or less than the number of units needed as projected by the Project's Market Study. No points will be awarded if the number of units being proposed is more than 50% of the number of units needed as projected by the Project's Market Study. For projects developed, rehabilitated or constructed in a location that is not within the city limits of Billings, Bozeman, Butte, Great Falls,

**Comment [A15]:** Alex Burkhalter #9 further define each category, should change to 20 points for each or all and 20 points for city or county Commission meeting.

Helena, Kalispell, or Missoula, no points will be awarded if the number of units being proposed is more than 75% (rather than 50%) of the number of units needed as projected by the Project's Market Study. If the Project is existing in the community, the number of units in the Project will be added to the new units needed and the above test will be applied. The Application narrative must address this scoring item with citations to the relevant pages and paragraphs of the market study.

- **Appropriate Development Type (40 points possible)**: Points will be awarded for the appropriateness of the development type for market needs and concerns as reflected in the Project's Market Study. 40 points will be awarded if the Project's Market Study explains and justifies the selection of the type of construction and housing selected (including justification of Rehab/New Construction, Family/Elderly, Single-Family/Multi-Family, bedroom size and Eventual Home Ownership). If this explanation and justification is not included in the Project's Market Study, no points will be awarded in this category. The Application narrative must address this scoring item with citations to the relevant pages and paragraphs of the market study.
- **Market Need (60 points possible)**: The Application will be awarded points based upon the required Market Study's documentation that the Project meets the market needs of the community, as follows:
  - Vacancy Rate is at or below 5% (20 points);
  - Absorption rate is less than 4 months (20 points) or Absorption rate is 4 or more months and less than 6 months (10 points) and
  - Rents are at least 10% below adjusted market rents (20 points).

Narrative references to the Market Study must cite the referenced page and paragraph of the Market Study.

## **5. Project Characteristics\* (269 points possible)**

### ***Preservation of or Increase in Housing Stock (50 points possible)***

20 points will be awarded if the Application proposes the Preservation of existing affordable housing stock or increases the affordable housing stock through the use of federal funds or funds from other sources (e.g., donation of land, other substantial donations, reduction in taxes through tax abatement (other than non-profit exemption) or impact fees) to leverage the tax credit dollars.

### ***Qualified Census Tract\* or Community Revitalization Plan\* (10 points possible)***

10 points will be awarded if the Project is located in a Qualified Census Tract\* or **involves existing housing** as part of a local (not national, state or regional) community revitalization plan\* or similar plan. The Application must include any such local community revitalization plan and identify where in the plan such existing housing may be found.

### ***Preservation of Affordable Housing Projects\* (20 points possible)***

20 points will be awarded if the Application proposes the Acquisition and/or Rehabilitation of buildings with local, state, and/or federal historic\* preservation designations, existing affordable housing stock, or Projects applying for Rehabilitation tax credits that have completed their Compliance Period.

### ***Project-based rental subsidy (50 points possible):***

- 0 points for less than 25% of the units;
- 10 points for at least 25% of the units;
- 20 points for at least 35% of the units;

**Comment [A16]:** Kevin Thane #6 Suggests adding new category for innovation in construction or operation.

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- 30 points for at least 50% of the units;
- 40 points for at least 75% of the units; or
- 50 points for 100% of the units.

The Application must provide a copy of the relevant contract or other documentary proof of subsidy from the provider. MBOH staff will verify claimed subsidies with funding source.

## **Amenities (39 points possible):**

Applications will be awarded 3 points for each of the amenities listed in the Amenities Form that will be provided at no charge to tenants in the Project up to a maximum of 39 points: For an amenity not included in all units, such amenity will be counted as a partial amenity based upon the ratio of number of units with the amenity to total units in the Project. Partial amenities may be combined to constitute one or more entire amenities for purposes of receiving an award of 3 points per amenity. Amenities qualifying for points are listed in the Amenities Form available on the MBOH website at [URL]. Amenities listed on the Amenities Form must all be accessible amenities in/for handicapped/504 units.

Luxury amenities will not be considered or funded with tax credits. Items deemed luxury amenities include but are not limited to swimming pools, golf courses, tennis courts and similar amenities.

The added costs of the Project attributable to higher quality amenities will be considered on a Project by Project basis for a cost to benefit assessment.

Amenities provided will not be used for Commercial Purposes. All Projects previously awarded tax credits are subject to this restriction but are grandfathered only to the extent Commercial Purposes were specifically included in the Application.

## **Green Building and Energy Conservation Standards\* (100 points possible):**

Applicant's justification for green building and energy conservation includes but is not limited to Energy Star building and appliance initiatives, water saving devices and green construction and materials. The green building and energy conservation items are listed and further described, and the available points and evaluation scoring criteria are specified, for New Construction and Rehabilitation in the MBOH Green Building and Energy Form. The Application must include the completed worksheet (Exhibit F). The Applicant's architect, who is qualified with respect to energy and green building standards, must provide a letter confirming the listed green building ~~and energy conservation~~ items incorporated into the Project and a document that is outlined in a column and table format, listing each Mandatory and Scoring Item. For Rehabilitation the table must list each scoring item and specify each unit that will include the item. This letter and the accompanying column/table document must be included in the Application. NOTE: The Applicant's architect also must provide certification at Final Cost Certification for 8609(s) purposes confirming that the initiatives were incorporated.

Please refer to Section 3 for mandatory blower door and infrared testing for Projects that have been Awarded HCs.

## **6. Development Team Characteristics\* (330 points possible)**

Participation by an entity with a demonstrated track record of quality experience in completed development or management of low income housing tax credit Projects. MBOH will consider all members of the Development Team (Applicant, Owner, Developer, General

**Comment [A17]:** Kevin Thane #4 add recycling bins and central wifi, and remove computers.

**Comment [A18]:** Kevin Thane #7 LED required for all lighting, points on amount of savings from Photovoltaic and Solar Hot Water systems.

**Comment [A19]:** Kevin Thane #5 too many points for this category.

Partner, Management Company, and HC Consultant) and whether housing Projects have been developed and operated with the highest quality either in Montana or another state. Special attention will be paid to existing Projects, amount of active local community participation used to develop Projects, and a management entity with a good compliance track record and specialized training. If a new Developer these points can be obtained through Experienced Partners. **(180 points possible)**

Thirty points each will be awarded for (a) one member of the Management Company meeting the education requirement under Section 12, and (b) one member of the Development Team (other than the Management Company) who is directly and actively involved with the Project that has been trained by a Nationally Recognized LIHTC Compliance Training Company. For MBOH purposes, to maintain certification, the person must attend a complete class with a Nationally Recognized LIHTC Compliance Training Company at least once every four years (certificates must be attached with each Application). MBOH annual compliance training does not qualify for credit under this category **(60 points possible)**.

Ninety points will be awarded if the Project's Developer or Consultant who is actively involved in the actual construction process has experience with Cold Weather Development and Construction, as reported on the MBOH Cold Weather Experience Form. Cold Weather Development and Construction is defined as experience of the HC Developer or Consultant on one or more Projects located above the 40 degrees north parallel **(90 points possible)**.

The application must list all affordable housing including low-income housing tax credit Projects in Montana or any other state developed, owned, managed or consulted on by Applicant and any member of the Development Team or for which an Award of tax credits was received, whether or not such Projects were successfully completed. All Development Team members, including Applicant, Developer, General Partner/Owner, Management Company, and HC Consultant must consent in writing, on a form provided in the UniApp Supplement, to the release of information by any other applicable state tax credit agencies to MBOH regarding the Applicant's history of performance on other tax credit Projects.

## **7. Participation of Local Entity (60 points possible)**

The MBOH Board has determined having a Local Entity participate at a significant level increases the success and acceptance of the Project into the community. Up to 60 points may be awarded for participation of one or more local entities. 10 points will be awarded for each of the local entity participation items (i) through (vi) documented in the Application as provided below.

Qualifying participation includes Local Entities providing: (i) screening and referring of individuals as prospective tenants; (ii) providing on-site services to Project tenants; (iii) donation of land or sale at a reduced price to enhance affordability; (iv) use of grant money to develop infrastructure or for other uses; (v) significant fee waivers on local government fees; or (vi) other forms of significant monetary or material support.

Each item of local entity participation must be evidenced by a binding written agreement to participate, binding grant or conveyance, binding commitment for fee waivers, etc. Such agreements may be conditioned upon an Award of Credits. Formal written agreements are required; letters, offers or other non-binding documents will not be accepted as sufficient documentation of local entity participation under this section. Only new or updated agreements, land donations, and/or grants requested or negotiated for the current round will be considered for awarding points. The Application must provide evidence of how such local entity support will benefit the property. Formal written agreement for ongoing services must be extended or replaced so that a binding agreement remains in place for the duration of the Extended Use Period (with such agreement preserving the Owner's right to

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cancel the agreement and obtain a replacement agreement with a new servicer if existing servicer is unable to provide the services). The same component of participation by a local entity may not be counted toward more than one item, and may be given credit by an award of points only once. Points will not be awarded for the same item in both this Development Evaluation Criteria 7 and Development Evaluation Criteria 5, Preservation of Affordable Housing.

## 8. Tenant Populations with Special Housing Needs\* (100 points possible)

An Application will be awarded 10 points for each 5% of the units targeting the following identified needs up to a maximum of 100 points. The Application must specify the number of units targeted for each category. Section B Part XII, Units Accessibility, of the UniApp will be used to calculate the score for this item. Units may not be counted more than once or in more than one category for purposes of awarding points.

- Units targeted specifically for individuals with children or large families (units with 2 or more bedrooms).
- Units targeted specifically as Section 504 fully accessible units exceeding minimum fair housing requirements.
- Units targeted specifically for persons with disabilities (limited to a maximum of 25% of units in the Project) (Application must describe the strategy that will be used to market available units to disabled persons throughout the Extended Use Period).
- Units targeted to veterans (limited to a maximum of 25% of units in the Project).
- Units targeted to victims of domestic violence (limited to a maximum of 25% of units in the Project)

If the Project is an Elderly Property as defined in federal law, the Application will receive 100 points under this provision.

### Example:

- 2 – 2 bdrm units meet family requirement 20% – 40 points
- 2 – 1 bdrm units exceed section 504 20% – 40 points
- 1 – 1 bdrm unit targeted to mental illness 10% – 20 points
- 5 – 1 bdrm units with no targeting 50% – 0 points
- 10 – Total units in Project – 100 total points received

## 9. Percentage of Credits Funding Total Project Cost (from minus (-) 50 to a positive 50 points possible)

Projects proposing Total Project Cost to be funded by Housing Credits at the following levels will be assigned negative points (minus (-) 50) or awarded positive points (50 points) as follows:

- |                          |                         |                      |
|--------------------------|-------------------------|----------------------|
| • New Construction (NC)  | equal to or above 75%   | minus (-) 50 points; |
| • Rehabilitation (Rehab) | equal to or above 70%   | minus (-) 50 points; |
| • Combined NC/Rehab      | equal to or above 72.5% | minus (-) 50 points; |
| • New Construction (NC)  | below 75%               | 50 points;           |
| • Rehabilitation (Rehab) | below 70%               | 50 points;           |
| • Combined NC/Rehab      | below 72.5%             | 50 points;           |

Percentage numbers will not be rounded upward or downward for purposes of this Section. A Project is entitled to points in only one of the 3 categories New Construction, Rehabilitation and Combined New Construction/Rehabilitation.

Comment [A20]: Alex Burkhalter proposed a graduated schedule

## **10. Developer Knowledge and Responsiveness (Up to minus (-) 400 points possible)**

If an entity or individual participating in a Project as a member of the Development Team identified in an Application has a demonstrated poor track record or demonstrated past management weaknesses with respect to developments in Montana or in another state, or has failed in the past to respond timely to an MBOH letter of Inquiry with respect to a Project, MBOH may assign negative points.

### **a. Demonstrated Poor Track Record**

For purposes of determining a participant's track record, MBOH may contact community officials, Development Team or Development Team member references, credit bureaus, other state tax credit administering agencies and any other sources as MBOH deems appropriate. Up to minus (-) 100 points may be assigned for each of the following: (i) demonstrated poor track record with respect to developments in Montana or in another state, and/or (ii) failure to respond within 10 working days of MBOH letter of inquiry. **(Up to Minus (-) 200 points possible)**

### **b. Demonstrated Management Weaknesses**

Development Team members with past demonstrated management weaknesses, including but not limited to those management weaknesses listed below may be assigned negative points for this section **(Up to Minus (-) 200 points possible)**, for example:

- Has not followed-through on the development of a Project from Application to rent-up and operation;
- Has not complied with MBOH submission, compliance or other requirements applicable during Project development, construction and Extended Use Period;
- Has not maintained a Project to Section 42 or other program standards;
- Has or had numerous or outstanding substantial non-compliance issues or IRS 8823's (consideration will be given the type of 8823);
- Has not completed required training in a certified compliance training program;
- Has not completed required management compliance retraining at least every four years;
- Has requested income targeting changes that are not supported by unanticipated hardship;
- Has requested additional credits more than once;
- Has made Substantial Changes to previous tax credit applications or has failed to notify MBOH and seek approval of Substantial Changes according to QAP requirements;
- Has significantly diminished the quality and long term viability of a previous Project by lowering costs below a reasonable level;
- Has delinquent late fees due and payable to MBOH; or
- Has been a member of the Development Team for a prior Project that exceeded maximum Hard Cost Per Unit or Total Project Cost Per Unit at Final Cost Certification.

Negative points may not be assigned for the same matter under both Section [10.9\(a\)](#) and [10.9\(b\)](#).

### **c. Method of Assigning Negative Points.**

Any negative points will be assigned as follows:

- The factors that will be considered in determining whether to assign negative points and the number of any negative points to be assigned with respect to poor track

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record items, management weaknesses and failure to respond to MBOH letters of inquiry, include:

- o The nature and seriousness of the incident(s);
  - o The frequency of such incidents;
  - o The incidents were or were not within the control of the individual or entity;
  - o The degree and timeliness to and with which the entity or individual responded to correction and educational efforts;
  - o The responsiveness of the individual or entity in responding timely to fees, penalties and other sanctions imposed;
  - o The cost or financial harm caused to the Project, the tax credit agency or third parties;
  - o The nature and extent of inconvenience and harm caused to Project tenants;
  - o The nature and extent of damage or expense caused to Project property;
  - o The extent to which the Project as completed failed to comply with the Project as represented in the Application or in approved Project changes;
  - o The extent to which the incident would have affected scoring of the Project Application if known as the time (although no such effect on Application scoring need be shown to justify an assignment of negative points);
  - o The extent to which completion of a Project that received an Award of Credits was substantially delayed or prevented;
  - o The extent to which Credits that were Awarded were recaptured;
  - o The extent to which unreasonable or excessive fees, profits or other improper remuneration was derived improperly from a Credit Award or Project; and
  - o The presence of any other relevant factors or considerations.
- Except as otherwise provided in this Section, negative points will be assigned on the next competitive 9% Credit Application (or multiple Applications in the same competitive round) which includes as part of its Development Team any person or entity that participated as a Development Team member in the Project or Projects giving rise to the negative point assignment.
  - If multiple and/or repeat instances of poor performance, management weakness or fail to respond occur or have occurred, negative points may be assigned with respect to a Development Team member for not only the first competitive round in which an Application involving such member participates but may also be assigned for such Applications in multiple future years or competitive rounds.
  - If negative points are assigned as a result of poor track record, management weakness or failure to respond that occurred as part of the development/construction/rehabilitation process prior to beginning of lease-up activities or other involvement of the Qualified Management Company, negative points will not be assigned with respect to such Qualified Management Company.
  - If more than one Development Team member subject to a negative point assignment from a prior Project is part of the Development Team on a current or future Project Application, the total negative points assigned to the Application will be the greatest number of negative points assigned with respect to any one such participating Development Team member.
  - If the Project giving rise to the negative points would have received a lower Development Evaluation Criteria score under the QAP under which the Project

initially was evaluated, scored and awarded credits had the poor track record, management weakness or failure to respond been known as of Application scoring, the negative points assigned with respect to a Development Team member from the earlier Application will be the number of points corresponding to the difference in scoring that would have resulted. Such point difference shall be converted as appropriate and necessary to correspond to the current QAP point scoring system.

\* Indicates federally mandated criteria

## **Minimum Scoring Threshold**

Developments not scoring the minimum Development Evaluation Criteria score of 1100 points (or 850 points for non-competitive 4% Credit Bond Deals) will not receive further consideration. Applications scoring at least the minimum Development Evaluation Criteria score of 1100 points or 850 points for non-competitive 4% Credit Bond Deals and meeting all other requirements of this QAP will be considered for an Award of Housing Credits as provided in this QAP.

## **Award Determination Selection Standard**

The MBOH Board will select those Projects to receive an Award of Housing Credits that it determines best meet the most pressing housing needs of low income people within the state of Montana, taking into consideration: (i) all of the requirements, considerations, factors, limitations, Development Evaluation Criteria, set asides, priorities and data (including without limitation the statistical data in the MBOH Statistical Data Form) set forth in this QAP and all federal requirements (together referred to in this QAP as the "Selection Criteria"); (ii) the Development Evaluation Criteria scoring; and (iii) all other information provided to the MBOH Board regarding the applicant Projects.

The awarding of points to Projects pursuant to the Development Evaluation Criteria is for purposes of determining that the Projects meet at least the minimum Development Evaluation Criteria required for further consideration and to assist the MBOH Board in evaluating and comparing Projects. Development Evaluation Criteria scoring is only one of several considerations taken into account by the MBOH Board and does not control the selection of Projects that will receive an Award of Housing Credits. In addition to any other Selection Criteria specified in this QAP, the MBOH Board may consider the following factors in selecting Projects for an Award of Housing Credits to qualifying Projects:

- The geographical distribution of Housing Credit Projects;
- The rural or urban location of the Projects;
- The overall income levels targeted by the Projects;
- The need for affordable housing in the community, including but not limited to current Vacancy Rates;
- Rehabilitation of existing low income housing stock;
- Sustainable energy savings initiatives;
- Financial and operational ability of the Applicant to fund, complete and maintain the Project through the Extended Use Period;
- Past performance of an Applicant in initiating and completing tax credit Projects;
- Cost of construction, land and utilities, including but not limited to costs/credits per square foot/unit; and/or
- The frequency of Awards in the respective areas where Projects are located.

If the MBOH Board Awards Credits to an Applicant where the Award is not in keeping with the Selection Criteria of this QAP, it will publish a written explanation that will be made

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available to the general public pursuant to Section 42(m)(1)(A)(iv) of the Internal Revenue Code.

If all of the authorized Credits are Awarded after a particular cycle, MBOH may place qualifying Applications which did not receive an Award of tax credits on a waiting list for potential Award of Housing Credits in the event Credits become available at a later date. Any available Credits that are not Awarded or reserved in a particular cycle may in the discretion of the MBOH Board be made available for Award in a future cycle or may be used to increase the amount of Housing Credits reserved for a previously Awarded Project as provided in this QAP.

## SECTION 10 – RESERVATION, CARRYOVER AND FINAL ALLOCATION

Once MBOH has selected Projects and determined the Award of Housing Credits and amount of Credits to be reserved, MBOH will provide a Reservation Agreement, Gross Rent Floor Election, and Declaration of Restrictive Covenants to the partnership for execution and return to MBOH.

### Reservation Agreement

MBOH will provide a Reservation Agreement, Gross Rent Floor Election, and Declaration of Restrictive Covenants to the partnership for execution and return to MBOH. The partnership should review, complete, sign, and return the Reservation Agreement and Gross Rent Floor Election, along with the additional information and materials required below. A Reservation Agreement is MBOH's conditional commitment to make a Carryover Commitment and/or Final Allocation to the Project, subject to the requirements and conditions of the Reservation Agreement, the QAP and federal law. Such requirements include but are not limited to submission of evidence of timely progress toward completion of the development acceptable to MBOH and compliance with federal tax credit requirements.

If an unsuccessful Applicant, or a party associated with such Applicant, commences any legal action or proceeding challenging MBOH's Award determination or process, MBOH will make a Carryover Commitment or Final Allocation of Housing Credits as required by an executed Reservation Agreement to the same extent it would have been bound to do in absence of the legal challenge, unless the court determines that such Applicant was not eligible or qualified under the applicable QAP to receive an Award of Housing Credits or MBOH otherwise determines that it is precluded by Court order from doing so. If a court determines in any such action or proceeding that MBOH must Award Credits to one or more unsuccessful Applicants from such round or year, such Award or Awards will be made using any available returned or unreserved Housing Credits or current year's Credits provided in Section 7.

The following will be required from the partnership, prior to entering into a Reservation Agreement:

- Demonstrated financial ability to proceed (conditional financing commitment); and
- Certain other updated Application material

MBOH will send the successful Applicant a Reservation Agreement shortly after Award and upon meeting the foregoing requirements. The Applicant will have a maximum of 120 days after award to accept, sign and return the Reservation Agreement. **Failure to return the Agreement by the deadline will result in a late fee of 25% of the Reservation Fee.** Where applicable, however, if the Owner elects the federal percentage(s) in the month that the Reservation (Initial Allocation) is issued by MBOH, the Reservation Agreement must be

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signed and returned on or before the 25<sup>th</sup> of that month to assure the lock-in of the rate. Owners electing the placed-in-service date should return the signed Reservation Agreement immediately. Upon receipt, MBOH will sign the Reservation Agreement, and return a copy to the partnership.

The Reservation Fee specified in the fee schedule in Section 5 will be due and must be received by MBOH on or before December 1 of the year in which the Award is made (e.g., December 1, 2016 for 2016 credit Awards made in January 2016).

Once the partnership enters into a Reservation Agreement with MBOH, the partnership must then meet the requirements and conditions described in the Reservation Agreement and provide the required documentation before it receives a Carryover Commitment or Final Allocation of Housing Credits.

MBOH will revoke an approved Reservation (Initial Allocation) and terminate the Reservation Agreement when a Project fails to make successful progress toward completion or otherwise fails to perform its obligations under the Reservation Agreement. Submitting quarterly status reports demonstrating satisfactory evidence of the Project's completion is the responsibility of the Applicant. Successful progress toward Project completion and Project completion require that such progress and completion are in substantial accordance with the Project as described and proposed in the Project Application, except to the extent that Substantial Changes have been approved by the Board as provided in the Applicable QAP.

NOTE: Reservation Agreements for tax credit Projects funded through tax-exempt bonds must be completed, signed, and returned to MBOH not later than five business days following the close of the bond financing agreement.

## Gross Rent Floor Election

The election on this form verifies when the Owner elects the gross rent floor for the Project. There are two options: at the Reservation/Initial Allocation, or at the date Placed in Service. This form reflects the election made by the Owner in the Reservation Agreement. This form must be returned with the executed Reservation Agreement.

## Declaration of Restrictive Covenants

The Declaration of Restrictive Covenants assures that the land and its use will be restricted for the purposes of providing low-income housing for the period proposed in the Application. Provisions included in the Restrictive Covenants will include Exhibit A-1 (Legal Description of Project Land); Exhibit A-2 (Conditions of Tax Credit Allocation) indicating the number of units at the appropriate elected rent levels, e.g., 30%, 40%, 50%, 60% AMI as determined by the Application. Owners will be required to maintain those rent levels through the Extended Use Period of the Project; Exhibit A-3 (Energy and Green Building) indicating the architect's letter provided in the Application outlining those energy and green building initiatives.

**It is the Developer's responsibility to record the Declaration of Restrictive Covenants in the county in which the Project real property is located. In unusual circumstances, and for good cause shown, MBOH may permit amendments to the Declaration of Restrictive Covenants at a subsequent date.**

## Carryover Commitment

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MBOH will issue a Carryover Commitment in December of the year for which the credits are being Awarded and such Carryover will be for a period of two (2) years. To preserve this commitment the Owner/Developer must submit the 10% ~~Carryover~~-Cost Certification by the deadline specified in the Applicable QAP.

In order to receive a Carryover Commitment, Owners must provide Proof of Ownership (evidence of title or right to possession and use of the property for the duration of the Compliance Period and any Extended Use Period plus one year, e.g., a recorded deed or an executed lease agreement), executed and recorded Restrictive Covenants, and the Reservation fee. Land lease periods must be at least one year longer than the Restrictive Covenant period. These items must be received by December 1, of the year for which the Award of Credits was made. MBOH will issue Carryover Commitments before year end.

## 10% Test

MBOH requires that more than 10% of the expected basis in a Project, including land, must be expended by the 10% ~~Carryover~~-Cost Certification deadline. MBOH requires that Developers provide an independent third party CPA Cost Certification, in a format established by MBOH, verifying compliance with the 10% test.

Developers must submit the 10% requirements, including the required CPA Cost Certification, other documents and the 10% test underwriting fee by the deadline. Failure to do so will result in the loss of the Credit Award. The fee for 10% test underwriting is \$1,000.00, which fee must be paid at the time of submission of 10% test information and documentation. **Failure to provide the 10% test information so that it is received by MBOH by the deadline will result in a \$5,000.00 late fee. At the Developer's request, one extension will be granted if requested before the deadline. A fee of \$2,500.00 will be imposed for the extension. The extension will not exceed the period allowed by federal law. If 10% test information is submitted by the deadline but any forms are incomplete or omitted, a \$100 correction fee will be imposed for each incomplete or omitted item.**

At 10% Test, MBOH staff will re-evaluate:

- The Sources and Uses of funds;
- Total financing planned for the Project;
- Proceeds or receipts expected to be generated by the Housing Credits;
- Reasonableness of the development and operation costs;
- Projected Rental Income and Operational Expenses;
- Debt Coverage Ratio; and
- Housing Credits required for financial feasibility of the Project.

Deadline for submission of the required 10% information is the first anniversary of the date on which MBOH executed the Reservation Agreement. This submission deadline will apply to 10% test submissions for Projects awarded housing credits in the 2016 or later year allocation rounds. Developers that fail to pay the required fee will be deemed not to have met the 10% Test requirements. Failure to submit certification for 10% documentation or to meet the 10% Test will cause forfeiture of Awarded, reserved or allocated Housing Credits for the Project.

## Placed in Service

Placed in Service (PIS) is the date on which the building is ready and available for its specifically assigned function (the date on which the first unit in the building is certified as being suitable for occupancy in accordance with State or local law). This certification is the Certificate of Occupancy (C of O).

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New Construction and Gut Rehabilitation buildings must be placed in service (receive C of O), not later than the close of the second calendar year following the calendar year in which the Carryover Commitment is made.

Other Rehabs that are accomplished with residents in place during Rehab can place in service at the end of the 24 month or shorter period over which the required amount of expenditures are aggregated. The Owner selects the placed in service date in this case unless local approval is required.

## Final Allocations/8609

Documentation supporting a request for issuance of IRS Form 8609(s) must be submitted to MBOH within 6 months of the last building Placed In Service date. MBOH will not allocate tax credits on IRS Form 8609(s) until a qualified building is placed in service. A site visit and file audit by MBOH may be conducted prior to the issuance of the IRS Form 8609(s). Notwithstanding other provisions of this QAP, to obtain issuance of Form 8609(s), the Project must be placed in service in substantial accordance with the Project as described and proposed in the Project Application, except to the extent that Substantial Changes have been approved by the Board as provided in the Applicable QAP.

The Final Allocation/8609 underwriting fee is \$2,500.00, which fee must be paid at the time of submission of the request for issuance of IRS Form 8609(s). If the paperwork is not received by MBOH within the 6 months, a \$5,000.00 late fee will be assessed.

The request for issuance of IRS Form 8609(s) must include:

- Certification of required blower door or infrared test results (if not previously submitted);
- The independent third party completed MBOH CPA's Cost Certification and Owner's Statements Form;
- Sponsor Certification section of the UniApp;
- The architect's verification that the items for green and energy listed in the Application as well as provisions of accessibility listed in Section 3 have been incorporated;
- Certificates of Occupancy (C of O's);
- Copies of all permanent loan and/or grant documents;
- Copy of partnership/operating agreement; and
- Statement of items or costs excluded from eligible basis.
- Statement identifying the first year of the credit period, which statement must name the specific year (e.g., 2017).
- The Final Allocation/8609 underwriting fee.

If the required fee is not submitted, the Project will be deemed not to have met Final Allocation requirements and MBOH will not issue Form 8609(s). MBOH will complete the final credit Allocation evaluation. Typical turn-around time for 8609(s) is 4-8 weeks after submission of all required documentation and the fee. Once the 8609(s) are issued and delivered to the Owner, the bottom half must be completed and signed. **A copy of each completed 8609 must be sent back to MBOH within 90 days of issuance. Failure to provide the completed 8609(s) so that they are received by MBOH by the deadline will result in a \$1,000.00 late fee. If the 8609(s) need to be reissued after completed by MBOH due to Developer error, the MBOH underwriting fee must be paid again.**

## SECTION 11 - DEVELOPER/APPLICANT RESPONSIBILITIES

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Applicant must respond to a written MBOH request within 10 working days. Failure to do so may result in the Application being deemed ineligible for that funding round.

Applicant must proceed according to the timeframe identified in the Implementation Schedule. Adjustments up to 60 days are acceptable. Any changes in the Implementation Schedule greater than 60 days must be submitted in writing with justification to MBOH. Any changes not reported or not approved may jeopardize the credits. If the schedule is more than 60 days behind, a late fee of \$1,000.00 will be assessed.

## State Law Requirements

The Applicant and Development Team must agree to comply with Montana State law requirements (e.g., certificate of contractor registration, workers compensation, unemployment compensation, and payroll taxes). MBOH will include this certification in the execution of all Reservation ([Initial Allocation](#)) and Carryover Commitment documents.

## Public Notification

Any public relations actions by a recipient of tax credits involving MBOH funds or tax credits must specifically state that a portion of the funding is from MBOH. This will be included in radio, television, and printed advertisements (excluding rental ads), public notices, and on signs at construction sites, e.g., "Housing Credits allocated by the Montana Board of Housing, Montana Department of Commerce."

## Quarterly Status Reporting

All Applicants receiving Reservations ([Initial Allocations](#)) of credits must provide written status reports for each calendar quarter, beginning with the quarter in which the tax credit Award is made. Status reports will be due on or before January 10<sup>th</sup>, April 10<sup>th</sup>, July 10<sup>th</sup> & October 10<sup>th</sup> until the Applicant receives its 8609(s). The documentation regarding the progress must be development specific, and include such items as planning approval and building permits, firm debt and/or equity financing commitments, construction progress (foundation, framing, rough in, enclosed, drywall, etc., **for each Project building**), and lease up progress. Submission of photos is encouraged.

The following items must be addressed for **each building** on the quarterly report that is submitted to MBOH. If all items are not addressed, the report will be returned and must be corrected and resubmitted. If the resubmitted report is received after the due date the late fee will apply.

- Updated implementation schedule if more than 60 days behind schedule submitted with application;
- Advertising for construction bids;
- Construction bid awards;
- Pre-construction meeting date;
- Groundbreaking ceremony date (at least 2 weeks' notice);
- Future dates of construction/draw meetings;
- Each phase of construction for **each building including photos** (excavation, foundation framed, etc.);
- Certificate of Occupancy for **each building** as issued for the month of report;
- Number of units occupied and number left to full lease up each quarter; and
- Grand Opening date (at least 2 weeks' notice).

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**Owners must provide a copy of the Certificate of Occupancy for each building. The Certificate of Occupancy must be included in the status report covering the period in which it was issued. Failure to provide the reports so that they are received by MBOH by the deadline will result in a \$500.00 late fee. This also applies to those Properties with ARRA funding.**

All ARRA reports are due on or before the dates listed in the ARRA Exchange or TCAP Program Agreement.

**\$500.00 late fee will be assessed if the financial audit is not received by MBOH by the deadline.**

**\$500.00 late fee will be assessed if the annual budget is not received by MBOH by the deadline.**

**\$500.00 late fee will be assessed if the annual insurance binder is not received by MBOH by the deadline.**

## **Changes to Project or Application**

The Applicant must notify MBOH in writing at least 30 days before any proposed Substantial Changes in the Project. Proposed Substantial Changes to the Project must be approved by MBOH.

Specific approval by MBOH is required for Substantial Changes. MBOH staff will review requested Substantial Changes and may approve or deny approval of such changes, or may request Board consideration and determination of the change request. If MBOH staff denies approval of any Project Change, the Applicant may request Board review and approval of the change request. Requests must be submitted to MBOH with proper justification at least 30 days before the change is expected to take place. The Applicant must inform MBOH staff if the proposed change requires immediate or urgent review and approval. MBOH review and approval of changes must be completed prior to the change taking effect. Changes completed without MBOH approval may result in the termination of the Reservation Agreement and/or loss of some or all credits.

Any requested changes submitted requiring MBOH action may incur additional fees. Changes to the Project site, construction of building(s), architectural, engineering, or any on-site review by any member of MBOH will incur additional charges. Fees will be determined based upon the cost of MBOH Staff travel for that purpose.

## **SECTION 12 - COMPLIANCE MONITORING**

Federal law requires state allocating agencies (MBOH) to monitor compliance with provisions of Section 42 of the Internal Revenue Code (26 U.S.C. § 42). In addition, Federal law requires allocating agencies to provide a procedure the agency will follow in monitoring for non-compliance and to inform tax credit recipients (Owners) of procedures and requirements.

Included in the requirements are procedures for notifying the Internal Revenue Service (IRS) of any non-compliance of which the allocating agency becomes aware. Federal income tax regulations related to Procedures for Monitoring Compliance with Housing Credit Requirements are published in 26 CFR Part 1 and 602.

For complete HC compliance guidance, refer to the MBOH HC Compliance Manual, available at <http://housing.mt.gov/MFCompManual> **Compliance Fees**

# ATTACHMENT I

Developments will incur and must pay to MBOH a compliance monitoring fee to offset the costs for MBOH compliance monitoring. The compliance monitoring fee of \$45.00 per each non-market unit (subject to change) is payable annually at the time of the Owner's Submission of the Owner's Certificate of Continuing Program Compliance.

**If the complete Annual Compliance Package is not received by the deadline, a late fee of \$100.00 or 25% of the annual compliance monitoring fee, whichever is greater, will be charged.**

Failure to provide corrections on noncompliance so that they are received by the deadline set by MBOH will result in a \$25.00 per day fee until all required documentation is received by MBOH. A one-time extension may be granted if a written request is submitted to MBOH no later than 10 days prior to the deadline. Once the extension deadline passes without MBOH receipt of the complete documentation, a \$25.00 per day fee will be imposed until all required documentation is received by MBOH.

The following procedure describes MBOH plans for monitoring compliance on tax credit Projects. At minimum, each Project that has been placed in service will be subject to the following monitoring requirements:

## **Recordkeeping, Record Retention and Data Collection**

### **Recordkeeping**

The Owner of a low-income housing Project must keep records for each building in the Project that shows unit qualifications for each year throughout the term of the Declaration of Restricted Covenants, including the Compliance Period and the Extended Use Period in effect for such Project.

The information must show for each year in the Compliance Period:

- The total number of residential rental units in a building (including the number of bedrooms and the size in square feet of each residential rental unit);
- The percentage of residential rental units in the building that are qualified units;
- The rent charged on each residential rental unit in the building (including any utility allowances and mandatory fees);
- HC unit vacancies in the building and information that shows when, and to whom, the next available units were rented. If a unit is left vacant, or in a mixed use Project is rented to a non-qualifying tenant, the Owner must maintain documentation showing a diligent attempt was made to rent the unit to a qualifying tenant;
- The tenant income certification of each HC tenant (by unit), including annual certifications for each continuous tenant;
- Documentation to support each HC tenant's income certification. This must include a copy of (a) verification of income from third parties, or (b) 6 consecutive paystubs;
- The eligible basis and qualified basis of the building at the end of the first year of the credit period; and
- The character and use of any non-residential portion of the building included in the eligible basis of the building, if applicable.

### **Records Retention**

Federal regulations require the Owner of a HC Project receiving tax credits to retain the records listed above. The Owner is required to retain such records for at least 6 years after the due date for filing the federal income tax return for that year. Records for the first year of the credit period must be retained for at least 6 years beyond the due date for filing the federal income tax return for the last year of the Compliance Period. Owner should also retain records relating to the amount of credit claimed for the Montana Housing Tax Credit, including the Form 8609(s) and Schedule A of Form 8609(s).

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## Data Collection

To the extent required by federal law, the Owner will assist the MBOH with meeting federal reporting requirements by collecting and submitting information annually concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United States Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of all qualified households.

## Owners Certificate of Continuing Program Compliance

The Owners Certificate of Continuing Program Compliance is required on an annual basis for each property. The certificate must be signed by the Owner and notarized. This statement must be filed with MBOH every year throughout the Extended Use Period. Owners must file annual certifications on the form provided by MBOH. Substitute forms are not acceptable. Failure to provide an annual certification before the date established by MBOH may trigger an IRS Form 8823.

## Income and Expense Summary

All property Owners must submit operating income and cost information for the property's latest fiscal period, including a current balance of replacement and operating reserve accounts.

## Submission Deadlines

The Owners Certificate of Continuing Program Compliance and Tenant Income Certifications (TIC) must be submitted on or before the 25th of the month following the assigned annual period. Federal regulations stipulate there must be no more than 12 months between certifications.

All submissions must be filed through Certification On Line (COL).

## Review by MBOH staff

MBOH will review the items listed above for compliance with the requirements of Section 42 of the Code and with the requirements of the MBOH HC program.

## Ownership/Management Changes

Written Notification of changes to property management companies, managers, site managers, or changes to points of contact must be submitted to MBOH prior to or immediately upon implementation of the change. Changes not received by MBOH prior to change or immediately upon change will result in a \$10.00 per day fee until written notification is received. If no notification is received MBOH will research and identify the date of the change, and impose late fees based upon such date. No Change in management company shall be acceptable unless it results in a Qualified Management Company assuming management of the property. Replacement of a management company with a company that is not a Qualified Management Company or failure to timely submit such notification to MBOH may trigger issuance of a Form 8823. All management companies, whether in place or being hired, must meet Qualified Management definition.

Subject to the requirements of Section 42 of the Code, the Restrictive Covenants and the Applicable QAP any other applicable restrictions, the Owner may sell, transfer or exchange the entire Project at any time. No portion of a building to which the Restrictive Covenants apply may be sold to any person unless all of such building is sold to such person. Prior to such sale, transfer or exchange, however, the Owner must notify in writing and obtain the written agreement of any buyer, successor or other person acquiring the Project or any

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interest therein that such acquisition is subject to the requirements of the Restrictive Covenants, the requirements of Section 42 of the Code and applicable Regulations, and the Applicable QAP. Such written agreement of the buyer, successor or other person acquiring the Project must be in the form required by MBOH, which agreement form is available on the MBOH website. Such form, executed by the buyer, successor or other person acquiring the Project must be submitted to MBOH prior to closing of the sale, transfer or exchange. The Board may void any sale, transfer or exchange of the Project if the buyer, successor or other person fails to assume in writing the requirements of this Agreement and the requirements of Section 42 of the Code.

## Education Requirements

Persons responsible for qualifying tenants and verifying compliance (involved in tenant qualification and compliance) must be certified in LIHTC compliance by one of the Nationally-Recognized LIHTC Compliance Training Companies. Property managers and property Management Company personnel must complete a Nationally-Recognized LIHTC Compliance Training Company certification course, passing the test. For MBOH purposes, to maintain certification, the person must attend a class with a Nationally-Recognized LIHTC Compliance Training Company at least once every four years. For each of the other three years, all property managers and property Management Company personnel should attend annual MBOH compliance training. The property management company and site manager for an HC property must be trained and certified before the property is placed in service. New site managers hired for existing HC properties must be certified within their first year of employment. New property management companies hired for existing properties must be certified before they assume management of a property. On a case-by-case basis, MBOH may approve its compliance training as adequate training until such time as the next Nationally-Recognized LIHTC Compliance Training Company program is available. Training requirements must be met to maintain Qualified Management Company status.

Persons responsible for qualifying tenants and verifying compliance (involved in tenant qualification and compliance) must also attend Fair Housing training at least once every four years. The manager for a HC property must complete such training before the property is placed in service. New managers hired for existing HC properties must complete the training within their first year of employment.

Such Fair Housing training must include and cover the following subjects and requirements:

- Protected Classes;
- Accessibility requirements;
- Reasonable accommodation/modification;
- Applicant screening;
- Disparate impact;
- Domestic violence issues;
- Occupancy standards;
- Section 504; and
- Service Animals.

## Tenant Income Certifications (TIC)

### Frequency and Form

Owners must complete the MBOH TIC *for all new move-ins* and file it with MBOH through Certification On Line (COL). Documentation supporting the TIC will not be submitted. MBOH staff will review supporting documentation during file audits. Timely annual Re-

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certifications (TICs) *for mixed Projects* (with market units) are required must be submitted to MBOH through COL.

The MBOH TIC is the only acceptable form.

## **Student Status Certification**

Student status certifications must be completed *annually prior to their move-in anniversary date*.

## **On-Site Inspections**

MBOH staff (staff) will perform an on-site inspection of each property at least once every three years during the Extended Use Period. Staff will notify the Owner/manager in advance of the inspection.

Staff must inspect and review at least 20% of the tenant files and corresponding units. MBOH will not notify the Project's manager, Owner or other representative of the unit selection before the site inspection. The selected sample may be expanded.

Complete copies of all tenant files for each unit from original lease-up forward must remain within the State of Montana at the location of the rental property or the regional in-state office.

If MBOH determines it is necessary, properties may be inspected on a cycle of more than once every three years. The cost of any additional inspections will be billed to the respective property.

MBOH may schedule on-site inspections at any time with minimal notice.

In event of non-compliance under Section 42 of the Code or the implementing regulations MBOH may be required or elect to undertake additional monitoring. The Owner will take any and all actions reasonably necessary to achieve and maintain compliance. Staff may require the Owner to document correction of non-compliance and/or MBOH may elect to conduct one or more site visit(s) to verify correction of non-compliance. The Owner will pay a reasonable fee to MBOH for any such additional monitoring activities.

## **Notice To Owner (26 CFR 1.42 (e)(2))**

MBOH must provide prompt written notice to the Owner if MBOH becomes aware of non-compliance. These items include:

- Non-receipt of the certification(s) described in this QAP.
- Inaccessibility of tenant income supporting documentation, rent records, or the property.

In addition, MBOH must provide prompt written notice to the Owner if MBOH discovers by inspection, review, or in some other manner, that the Project is not in compliance with the provisions of Section 42.

## **Correction Period (26 CFR 1.42 (e)(4))**

The Owner will be given a reasonable correction period from the date of non-compliance. If Staff determines that good cause exists, an extension may be granted.

## **Notice To IRS (26 CFR 1.42 (e)(3))**

MBOH must file IRS Form 8823 "Low-Income Housing Credit Agencies Report of Noncompliance" with the IRS (even if non-compliance has been corrected) no later than 45

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days after the end of the correction period, and no earlier than the end of the correction period.

## **Liability (26 CFR 1.42 (g))**

Compliance with the requirements of Section 42 is the responsibility of the Owner of the building for which the credit is allowable. MBOH's obligation to monitor for compliance with the requirements of Section 42 does not make the Agency liable for an Owner's noncompliance.

No member, officer, agent, or employee of MBOH shall be personally liable concerning any matters arising out of, or in relation to, the compliance monitoring of a low-income housing Project.

## **Marketing the Project**

MBOH will put all HC properties into the free State-approved Housing Locator website, MTHousingSearch.com. Properties will be contacted by MTHousingSearch for required information. Using this website meets the criteria for advertising vacant units and provides for broad coverage to those searching for affordable housing in Montana.

## **SECTION 13 – DISCLAIMER**

MBOH is charged with allocating no more tax credits to any given development than is required to make that development economically feasible. This decision shall be made solely at the discretion of MBOH, but in no way represents or warrants to any Applicant, Investor, lender, or others that the development is feasible or viable.

MBOH reviews documents submitted in connection with this Allocation for its own purposes. In Allocation of the tax credits, MBOH makes no representations to the Owner or anyone else regarding adherence to the Internal Revenue Code, Treasury regulations, or any other laws or regulations governing Montana Housing Tax Credits.

No member, officer, agent, or employee of MBOH shall be personally liable concerning any matters arising out of, or in relations to, the Allocation of the Housing Credit.

If it is determined that an Applicant has intentionally submitted false information, a credit Award may be withdrawn or credits may be recaptured and the Applicant or any Applicant involving any related parties or any individual or entity supplying the false information will be ineligible to apply for credits for the next five years.

## **MBOH Policy on Non-Discrimination**

Montana Board of Housing is an Equal Opportunity organization. All employees who work for MBOH, agree not to discriminate against any client or co-worker based on any protected class under applicable Federal or Montana law. The failure of any employee to comply with this policy may lead to disciplinary action in accordance with applicable employment policies and procedures, including but not limited to immediate termination of employment.

## **Qualified Allocation Plan Revisions**

This QAP may be amended at any time after compliance with applicable notice, comment and approval requirements.

## **MBOH Policy on Civil Rights Compliance**

The Owner, Developer, borrowers and any of their employees, agents, or sub-contractors, in doing business with the Montana Board of Housing understand and agree that it is the

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responsibility of the Owner(s) and such other persons and entities to comply with all applicable Federal Civil Rights laws and regulations, including without limitation applicable provisions of the Fair Housing Laws and Americans With Disabilities Act, and any applicable State and local Civil Rights Laws and regulations. Should requirements, such as design, not be specified by MBOH, it is nonetheless the Owner(s) responsibility to be aware of and comply with all applicable non-discrimination provisions related to any protected class under Federal or Montana law, including design requirements for construction or Rehabilitation, Equal Opportunity in regard to marketing and tenant selection and reasonable accommodation and modification for those tenants covered under the Laws.

**Housing Credit Forms: All Forms Referenced in this QAP are available at: <http://housing.mt.gov/MFQAP>**

Applicants, Developers, Owners, Management Companies and all other interested persons submitting Applications, Cost Certifications, Compliance materials and other material to MBOH are responsible to review the website and to make such submission on the most current Form available on the MBOH website as of the date of the submission. MBOH may require resubmission of any item if submitted without using the current Form, and late fees may be incurred if the need for such resubmission results in late submission of the correct Form. Please contact MBOH staff with any questions regarding the appropriate or current Form.

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## Amenities Form

3 points per amenity

### Unit

Air Conditioning	
Carport/Garage	
Dishwasher	
Disposal	
Extra Storage outside unit	
Microwave	
Patios or Balcones	
Washer/dryer hookups	
Washer/dryer provided in unit	

### Community

Basketball hoop/pad	
Car plug ins	
Community Garden	
Community Room	
Computer(s) for tenant use	
Library	
On site Manager	
Outdoor community area	
Play Area	

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Green Initiatives:

	pts
Energy Star appliances: all initiatives chosen in this category must be included in all units for new const & where replaced for rehab (see list below)	
Refrigerator	5
Clothes Washer (if provided)	5
Dishwasher (if provided)	5
Range Hood	5
Ceiling Fans (if provided)	5
Bathroom exhaust fans	5
Insulation- exceeds IECC code requirement by at least 5%, list what value will be used	5
Windows - exceeds IECC code requirement by at least 5%, list what value will be used	5
Low/No VOC paint/adhesive	5
Engineered Lumber	5
Water efficient landscaping- all for new Const, where replaced/modified for Rehab	5
On-site recycle or repurpose of construction materials	5
Water flow saving device - Showerheads=1.5 GPM & Kitchen Faucets=1.5 GPM & Lav faucets=1.0 GPM	5
Rain sensing landscape sprinklers or rain adjustable system	5
Photovoltaic Panels	10
Use of Montana products - 25% minimum	10
Formaldehyde free/full sealed countertop	10
Smokefree policy that includes all units, buildings, and their respective indoor common areas using a 20 foot setback from windows and doors if smoking outdoors is allowed	10
A partnership with local or statewide health agencies offering cessation services	10
Solar Hot Water system	10

0

Insert points allowed for each Initiative to be included in the property, may earn up to 100 points

The items listed below are either code and are therefore required or will be required in the QAP

Insulation and Windows meeting State Adopted IECC standards – minimum (Rehab and New Construction)

LED lighting

All Exterior (all for New Const, where replaced for Rehab)

All Interior lighting shall have CFL or LED bulbs

## ATTACHMENT I

Multi Family Project - Blower Door testing and Certification of 20% of the total units for projects with a total unit count of 9 or more. The Developer or Builder must notify MBOH at least one week in advance of the date and time that tests will be performed and MBOH staff must be permitted to attend and observe such testing. Proof of such testing must be submitted to MBOH to qualify for issuance of Form 8609(s), demonstrating at least meeting the State Adopted IECC level of ACH at the time the project is awarded. (New Const only) Single Family is covered by code

Infrared tests will be required on 50% of dwelling units and all common areas both before and after the Rehabilitation. The Developer or Builder must notify MBOH at least one week in advance of the date and time that post-Rehabilitation infrared tests will be performed and MBOH staff must be permitted to attend and observe such testing. Proof of such testing must be submitted to MBOH to qualify for issuance of Form 8609(s), demonstrating at least 20 degrees temperature difference from outdoors to inside the unit. (Rehab only)

Min Code requirement or as labeled below: (all for New Const, where replaced for Rehab)

Toilets = 1.6 GPF min (3 inch flapper is recommended)

Range/bathroom fans vented to exterior (New Const only)

Carbon Monoxide Detectors in all units that provide Gas Fired Appliances or Equipment within the unit (New Const and Rehab)

Flooring (All for New Const, where replaced for Rehab)

Carpet – 26 oz min

Hard Surface – 12 mil min

Cabinets (All for New Const, where replaced for Rehab)

Must have “No” added urea Formaldehyde

Must comply with AWI Architectural Woodwork Quality Standards

Must contain cabinet fronts made from solid wood. Front stiles pocket-drilled and assembled with screws for rugged durability. Side and back panels are made from 3/8" vinyl covered particleboard min. For wood surfaces that are to be coated or laminated with vinyl or water resistant coating, the coating or laminate should be applied as soon as practicable, to reduce formaldehyde emissions.

### **MBOH concerns about the following**

Blower door tests on more than 20% of the units - MBOH is comfortable with 20% random selection for testing, A larger selection raises costs

Range/bathroom fans vented to exterior (Rehab only) - can be very expensive

Locate trees, plantings to provide shade for 50% of hardscape at maturity - Like the idea of providing the shade, it impacts the amount of heat generated in the units by the sun. MBOH concerns are on the compliance side. That number of trees would need to be there through the affordability period. Trees have to be removed because of impact on roofs or siding, the roots impacting the ground, sidewalks, or water and sewer lines. Those trees would have to be replaced when they are gone or die

Certifications for LEED for Homes, Enterprise Green Communities, Current Applicable Energy Star, ICC 700 National Green Building Standards - Due Diligence for certifications and certifications are expensive. The items used to qualify for those certifications can be incorporated without the cost of certifications

Passive House Institute language will be added to Energy and Green Initiatives on page 17 of the final QAP proposed to the board for approval

## ATTACHMENT I

Toilets less than 1.6 GPF, MBOH called some plumbers. Plumbers concerns were they can plug easily and don't clean the bowl (items left behind when flushed) so customers complained about having to flush a second time.

Adding 10% recycle content to flooring requirements - some developer concern was expressed about recycled carpet at the QAP discussion meeting. MBOH concern compliance throughout the affordability period.

Water Re-Use - Gray water system - MBOH concerns, not sure these have been approved across MT. Helena approved this not that long ago., Rain barrels are a safety concern.

Intergrated Heat Recovery Ventilation System - MBOH needs more information about this and costs before considering adding to point system

### **FINAL CERTIFICATION**

Upon project completion, the Architect must certify the project by providing a document that indicates all Mandatory and all Scoring and shall be described per the following method:

Provide a document that is outlined in a column and table type format, that lists each Mandatory and Scoring Item, this must provide photographic evidence of each, prior to it being concealed, a cut sheet of the product indicating the project compliance and date installed in the project. The document shall be easily readable and each item should be labeled clearly. If the MBOH deems unacceptable or is in need of further information, a request will be made and the information must be sent in order for the project to reach full compliance. Proof must be submitted to MBOH to qualify for issuance of Form 8609(s). All applicable certifications are to accompany this document.

## ATTACHMENT II

Alex Burkhalter/Housing Solutions LLC  
Comments to the 2017 Draft QAP  
March 9, 2016

Page 18-19 Section 3 – Required Blower Door and Infrared Testing for Projects Awarded Credits

We would recommend the section titled *For New Construction Projects Awarded HCs: Be replaced with the following.*

For Single Family Homes Projects (unit per building), Blower door tests must be completed on every unit to meet the current requirements of the State of Montana building code. Multi-Family Projects (two or more units per building), blower door tests must be completed to meet the current requirements of the State of Montana building code. Compliance with the State of Montana building code will evidenced by the submission to MBOH of the Final Certificate of Occupancy for the project.

The International Code Council made a major leap forward when it required blower door testing in the IECC 2012 on residential buildings/units. The State of Montana, on November 7, 2014 by Administrative Rule 24.301.161 (Attached as Exhibit A) adopted the IECC 2012. The Administrative Rule made a few changes to the IECC 2012 and one very specific to blower door testing.

The entire *Subsection R402.4.1.2, Testing* of the IECC was replaced by item (h) of Administrative Rule 24.301.161. The most significant difference is a change in requirement from 3 air changes per hour to 4. A second change was the delay of the blower door testing requirement for one year. The Montana Building Code Bureau made these adjustments because of the known challenges of implementing blower door testing in Montana and specifically in multifamily dwelling units. See attached Exhibit B

The IECC 2012 as adopted by Montana allows for the testing of whole buildings, not just individual units. By testing a whole building and not just the individual units you are getting a better picture of the energy performance of the building itself. The QAP as written now, requires the testing of individual units. This becomes very, very difficult as the individual units can have as few as one exterior envelope wall, where energy would be lost to, and as many as six interior walls shared with neighboring/above/below units. To further compound the problem, the volume of the units used in the calculation of the ACH figure is very small compared to a detached dwelling unit with similar outside venting requirements (Range/Bathroom fans vented to the exterior).

This requirement was first placed in 2015 QAP and carried forward to 2016. To my knowledge there have been no project awarded credits that have been blower door tested as prescribed in the 2015/2016 QAP. I am certain that when it comes to this there will be problems and projects will be coming back for exceptions to this requirement.

## ATTACHMENT II

Historically this program has awarded additional points to projects who go beyond the code requirements. A possibility would be to add point opportunity to the Green Initiatives scoring in which the applicant would commit to blower door testing all units and passing them at 3 ACH, which is more constrictive than the 4 ACH required in the Montana Code.

With the code adopted on November 7<sup>th</sup>, 2014, and the blower door test requirement in affect as of November 7<sup>th</sup>, 2015, all projects will be subject to the IECC 2012 as adopted by Montana. I think it is prudent to allow the design and construction professionals work through the issues related to blower door testing multifamily before we place the risk of an 8609 being held on a project because it is unable to pass an individual unit when the code allows for whole buildings.

# ATTACHMENT II

## Exhibit A

Montana Administrative Rule 24.301.161 - INCORPORATION BY REFERENCE OF INTERNATIONAL  
ENERGY CONSERVATION CODE

**24.301.161 INCORPORATION BY REFERENCE OF INTERNATIONAL ENERGY CONSERVATION CODE**

(1) The Department of Labor and Industry adopts and incorporates by reference the International Code Council's International Energy Conservation Code, 2012 Edition, referred to as the International Energy Conservation Code, unless another edition is specifically stated, together with the following amendments:

(a) Subsections C103.1 and R103.1, General, are deleted and replaced with the following: "With each application for a building permit, and when required by the building official, plans and specifications shall be submitted. The building official may require plans and specifications be prepared by an engineer or architect licensed to practice by the state, except for owner-occupied, single-family dwelling houses."

(i) Exception:

"The code official is authorized to waive the requirements for construction documents or other supporting data if the code official determines they are not necessary to confirm compliance with this code."

(b) Subsections C104.2 and R104.2, Required Approvals, are deleted in their entirety when the code is used by the Building Codes Bureau of the Department of Labor and Industry. It remains undeleted and available for use for certified local governments using the code.

(c) Sections C202 and R202, General Definitions, the definition for "Air Barrier" is deleted and replaced with a new definition for "Air Barrier" as follows: "Air Barrier: Material(s) assembled and joined together to provide a barrier to air leakage through and into the building envelope. An air barrier may be a single material or a combination of materials."

(d) Table 402.1.1, INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT, is amending requirements for climate zone "6" as shown below in the table:

Fenestration U-Factor(b)	Skylight(b) U-Factor	Glazed Penetration SHGC(b,d)	Ceiling R-Value	Wood Framed Wall R-Value
0.32	0.55	NR	49	21 or 13+10(h)

Mass Wall R-Value(i)	Floor R-Value	Basement(c) Wall R-Value	Slab(b) R-Value & Depth	Crawl Space Wall(c) R-Value
15/20	30(g)	15/19	10, 4 ft	15/19

(e) Table R402.1.3, EQUIVALENT U-FACTORS, is amending requirements as shown below in the table:

Climate Zone	Fenestration U-Factor	Skylight U-Factor	Ceiling U-Factor	Frame Wall U-Factor	Mass Wall U-Factor	Floor U-Factor	Basement Wall U-Factor	Crawl Space Wall U-Factor
6	0.32	0.55	0.026	0.054	0.060	0.033	0.050	0.055

(f) Subsection R402.2.2, Ceilings Without Attic Spaces, is deleted and replaced with the following: "Where Section 402.1.1 would require insulation levels above R-30 and the design of the roof/ceiling assembly does not allow sufficient space for the required insulation, the minimum required insulation for such roof/ceiling assemblies shall be R-30. This reduction of insulation from the requirements of Section 402.1.1, shall be limited to 250 square feet or ten percent of the total insulated ceiling area, whichever is less. This reduction shall not apply to the U-factor alternative approach in Section 402.1.3, and the total UA alternative in Section 402.1.4."

(g) Subsection R402.2.9, Crawl Space Walls, is deleted and replaced with the following: "As an alternative to insulating floors over crawl spaces, crawl space walls shall be permitted to be insulated when the crawl space is not vented to the outside. Temporary crawl space vent openings are allowed during construction for crawl spaces that have insulated crawl space walls. These temporary crawl space vent openings shall be closed, sealed, and insulated to the same R-value of the surrounding crawl space wall insulation once construction is complete and prior to the time that the final building inspection would occur."

Crawl space wall insulation shall be permanently fastened to the wall and shall extend downward from the floor, the entire height of the crawl space wall. Exposed earth in unvented crawl space foundations shall be covered with a continuous Class I vapor retarder. All joints of the vapor retarder shall overlap six inches and be sealed or taped. The edges of the vapor retarder shall extend at least six inches up the stem wall and shall be attached and sealed to the stem wall."

(h) Subsection R402.4.1.2, Testing, is deleted and replaced with the following: The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding four air changes per hour in Climate Zone 6. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope. The requirements of testing found in subsection R402.4.1.2 will not be mandatory until one year following the final adoption of this rule. Buildings or dwelling units issued a building permit by a code official prior to this testing becoming required shall not be required to perform testing under subsection R402.4.1.2. During testing:

- "(i) exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;
- "(ii) dampers shall be closed, but not sealed, including exhaust, intake, makeup air, back draft and flue dampers;
- "(iii) interior doors shall be open;
- "(iv) exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
- "(v) heating and cooling system(s) shall be turned off;
- "(vi) "B" or "L" vents, combustion air vents, and dryer vents shall be sealed; and
- "(vii) HVAC ducts shall not be sealed.

(i) Subsection R403.2.2, Sealing (Mandatory). Delete the existing 2. found beneath, "duct tightness shall be verified by either of the following:" and replace the existing 1. with the following:

"Postconstruction test: Leakage to the outside of a condition space or total leakage shall be less than or equal to four cfm per 100 square feet of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. across the entire system, including the manufacturer's air handler enclosure. All register boot shall be taped or otherwise sealed during the test.

Exception: The duct tightness testing is not required for ducts and air handlers located entirely within the building thermal envelope.

(j) Subsection R403.2.3, Building Cavities, is deleted in its entirety and replaced with: "Building framing cavities shall not be used as supply ducts."

(k) Subsection R403.4.2, Hot Water Pipe Insulation (Prescriptive), is amended as follows:

Delete item number 3, delete item number 9, delete Table R403.4.2 and the text, "All remaining piping shall be insulated to at least R-3 or meet the run length requirements of Table R403.4.2."

(l) Table R405.5.2(1) SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS, amend the table as shown below:

Building Component	Standard Reference Design	Proposed Design
Thermal distribution systems	Untested distribution systems: DSE = 0.88  Tested Ducts: Leakage rate to outside conditioned space as specified Section R403.2.2(1)  Tested duct Location: Conditioned space  Tested duct Insulation: in accordance with Section R403.2.1	Untested distribution systems: DSE from Table R405.5.2(2)  Tested Ducts: Tested Leakage rate to outside conditioned space  Duct Location: As proposed  Duct Insulation: As proposed

(2) The purpose of the International Energy Conservation Code is to provide minimum requirements for the design of new buildings and structures and additions to existing buildings, regulating their exterior envelopes and selection of their heating, ventilating, air conditioning, service water heating, electrical distribution and illuminating systems, and equipment for effective use of energy.

(a) The department encourages owners, design professionals, and builders to voluntarily implement greater levels of energy efficiency in building design and construction than those required by the International Energy Conservation Code. Information regarding voluntary building standards for greater levels of energy efficiency can be obtained from the department by contacting the department at the address listed in (3), by telephone at 406-841-2053, or at the department's web site, [http://bsd.dli.mt.gov/bc/bs\\_index.asp](http://bsd.dli.mt.gov/bc/bs_index.asp).

(3) The International Energy Conservation Code is a nationally recognized model code for energy efficient construction of buildings. A copy of the International Energy Conservation Code may be obtained from the Department of Labor and Industry, Building Codes Bureau, P.O. Box 200517, Helena, MT 59620-0517, at cost plus postage and handling. A copy may also be obtained by writing to the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, or visiting the International Code Council web site at [www.ICCsafe.org](http://www.ICCsafe.org).

History: 50-60-203, 50-60-803, MCA; IMP, 50-60-201, 50-60-203, 50-60-803, MCA; NEW, 2004 MAR p. 2103, Eff. 9/3/04; AMD, 2006 MAR p. 567, Eff. 2/24/06; AMD, 2010 MAR p. 750, Eff. 3/26/10; AMD, 2014 MAR p. 2776, Eff. 11/7/14.

# ATTACHMENT II

## Exhibit B

*Building America Case Study: Challenges of Achieving 2012 IECC Air Sealing Requirement in Multifamily Dwellings*, US Department of Energy, DOE/GO-102014-4508, November 2014



## Building America Case Study

# Challenges of Achieving 2012 IECC Air Sealing Requirements in Multifamily Dwellings

Upstate New York

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**PROJECT INFORMATION**

Construction: Low-Rise Dwellings

Type: Multifamily

## Partners:

Consortium for Advanced Residential Buildings, [carb-swa.com](http://carb-swa.com)LECESSE Construction Company, [lecesseconstruction.com](http://lecesseconstruction.com)Housing Visions, [housingvisions.org](http://housingvisions.org)

Date Completed: 2014

Climate Zone: Cold (5A)

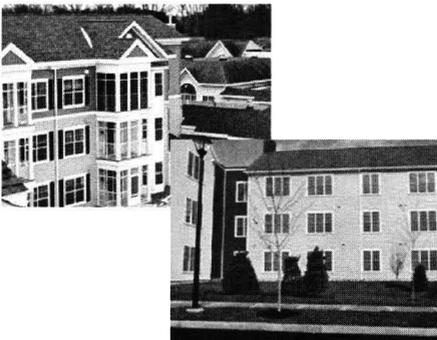
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**RESEARCH BUILDINGS**

Coburg Village: 78 units; Rexford, NY

Shaker 4: 69 units; Watervliet, NY

Housing Visions: 50 units; Syracuse, NY

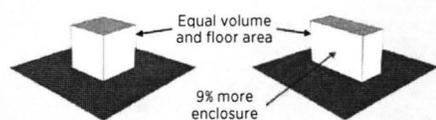


Previous versions of the International Energy Conservation Code (IECC) have included provisions to improve the airtightness of dwellings; however, for the first time, the 2012 IECC mandates compliance verification through blower door testing. Simply completing the Air Barrier and Insulation Installation Checklist through visual inspection is no longer sufficient. The 2012 IECC also mandates a significantly stricter air sealing requirement. In climate zones 3 through 8, air leakage may not exceed 3 ACH50, which is a significant reduction from the 2009 IECC requirement of 7 ACH50. This requirement is for all residential buildings, and includes Group R-2 apartment dwellings. Although this air leakage rate requirement is an important component to achieving an efficient building thermal envelope, currently, the code language doesn't explicitly address differences between single-family and multifamily applications. The 2012 IECC also does not provide an option to sample dwellings for larger multifamily buildings, so compliance would have to be verified for every unit.

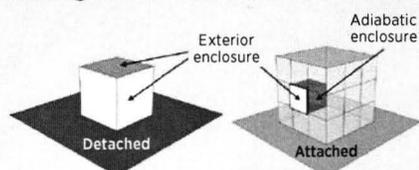
With having to comply with the 2012 IECC air leakage requirements on the horizon, several multifamily builder partners of the U.S. Department of Energy's Building America team Consortium for Advanced Residential Buildings (CARB) wanted to evaluate how best to comply with the 2012 IECC air leakage requirements. Builders are not sure whether it is more practical or beneficial to simply pay for guarded testing or to revise their air sealing strategies to improve compartmentalization to comply with code requirements based on unguarded blower door testing.

This project sought to create a well-documented design and implementation strategy for air sealing in low-rise multifamily buildings that would assist in compliance with the building infiltration requirements of the 2012 IECC as it is adopted across the country, without having to go through the potential added expense of guarded blower door testing.

### Should air leakage rates for multifamily dwellings be based on enclosure area rather than volume?



In any dwelling, energy loss occurs at the exterior enclosure, and the relationship between the dwelling's enclosure and its volume is not constant. For example, a dwelling with an elongated plan will have a larger enclosure area than a square-shaped dwelling of the same floor area.



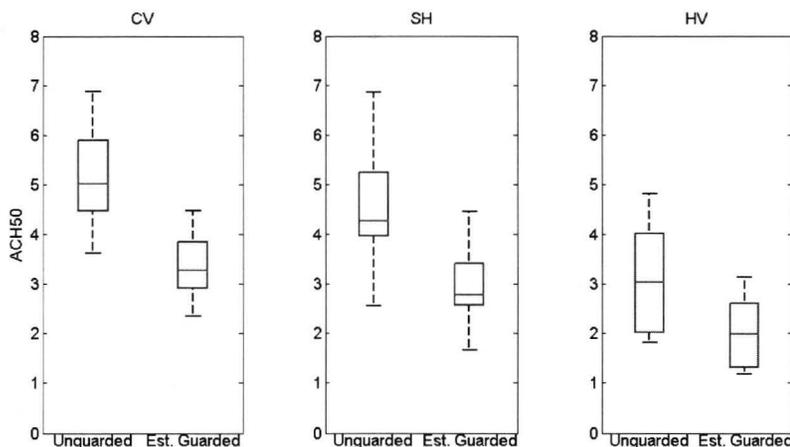
The discrepancy in exterior enclosure area is even greater when comparing attached and detached dwellings. Assuming the abstract dwellings shown above have the same shape and volume, the exterior enclosure of the attached dwelling is a small fraction of the exterior enclosure of the detached dwelling.

#### COMPARTMENTALIZATION BENEFITS:

- Increased smoke/fire control
- Increased occupant comfort, including reduced odors, drafts, and sound transmission
- Greater control and effectiveness of HVAC systems
- Increased overall building performance (by reducing pressure differentials and therefore heat loss caused by stack effect, wind, etc.).

For more information, see the Building America report, *Challenges of Achieving 2012 IECC Air Sealing Requirements in Multifamily Buildings*, at: [buildingamerica.gov](http://buildingamerica.gov)

Image credit: All images were created by the CARB team.



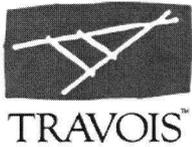
ACH values from both unguarded field testing and estimated guarded test values based on past studies by the New River Center of Energy Research & Training, Center for Energy and Environment, and CARB.

CARB conducted research to assess the feasibility of meeting the 2012 IECC air leakage requirements with unguarded blower door testing. By analyzing testing results from numerous dwellings within three multifamily projects, CARB compared performance based on several variables, including construction details (insulation, framing, etc.) and design characteristics (dwelling layout, location within the building, etc.). Based on research findings, CARB created an air sealing guideline in low-rise, wood construction multifamily buildings. This guide provides builders/developers/contractors with the critical details needed to comply with the air leakage requirements of the 2012 IECC. Still, achieving an unguarded 3 ACH50 in multifamily dwellings is not easy. Housing Visions (HV) had the highest percentage of units, 50%, that met the 2012 IECC air leakage requirement of 3 ACH50 based on unguarded blower door testing. Twelve percent of units at Shaker 4 (SH) met the requirement, and none of the units at Coburg Village (CV) met the requirement.

#### Lessons Learned

- Reducing air leakage starts during the design development process; design teams must make decisions that allow the air leakage requirement to be met.
- Construction teams must understand the design teams' intent while incorporating their experiences from previous successes and failures. Implementation is crucial; subcontractors will not meet their air leakage reduction goals without heightened awareness, support, and oversight.
- Until design and construction teams become familiar and comfortable with the tasks required to meet the air leakage requirement, construction schedules will be slowed down and implementation costs will be high.

## ATTACHMENT II



310 W. 19th Terrace  
Kansas City, MO 64108

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March 11, 2016

Mary Bair  
Montana Board of Housing  
301 S Park Ave  
Helena, MT 59601

RE: Comments on the Montana Board of Housing Draft QAP for 2017

Dear Mary:

Travois welcomes the opportunity to submit comments on the draft 2017 Qualified Allocation Plan (QAP).

### Section 1, pg. 5 and pg. 7 – Definitions

Large Projects are defined in the QAP as “a Project with more than 24 low-income units.” Small Projects are defined in the QAP as “a Project with 20 or fewer low-income units.”

Can MBOH clarify in the QAP how projects with 21-24 units would be defined?

### p.13 – Development Cost Limitations – Hard Cost Per Unit and Total Cost Per Unit

We strongly urge MBOH to remove the \$175,000 Hard Cost Per Unit threshold limit included in the draft QAP and instead implement a cost per square foot *eligible basis* cap as a means to control costs and ensure an efficient use of credit.

Setting a threshold on hard costs of \$175,000 benefits projects with smaller square footages and smaller bedroom types (1BR/2BR unit projects) and will prevent projects with larger proposed bedroom types (3BR/4BR+) from even being able to apply for Housing Credits.

A Hard Cost Per Unit threshold limit of \$175,000 is simply not fair.

In evaluating the 2016 credit round, yes, all developers (except for Blackfeet Housing) were able to have a Hard Cost Per Unit amount below \$175,000, but the majority of these projects consisted of 1BR and 2BR units. Blackfeet 6, which consists of only 3BR and 4BR units, had a Hard Cost Per Unit value of \$205,775 per unit, and this is because the Blackfeet community is in greater need of larger units to accommodate demand (an area where 59% of renter households consist of 5+ person households) **not** because of excessive construction costs or improper use of the Housing Credit. In fact, the numbers indicate Blackfeet’s project was one of the **more efficient** projects proposed given that its hard cost per square foot amount was only \$145/sf as compared to some projects allocated in the 2016 round with hard cost per square foot amounts exceeding \$150, \$180 and \$200/sf (see the charts below).

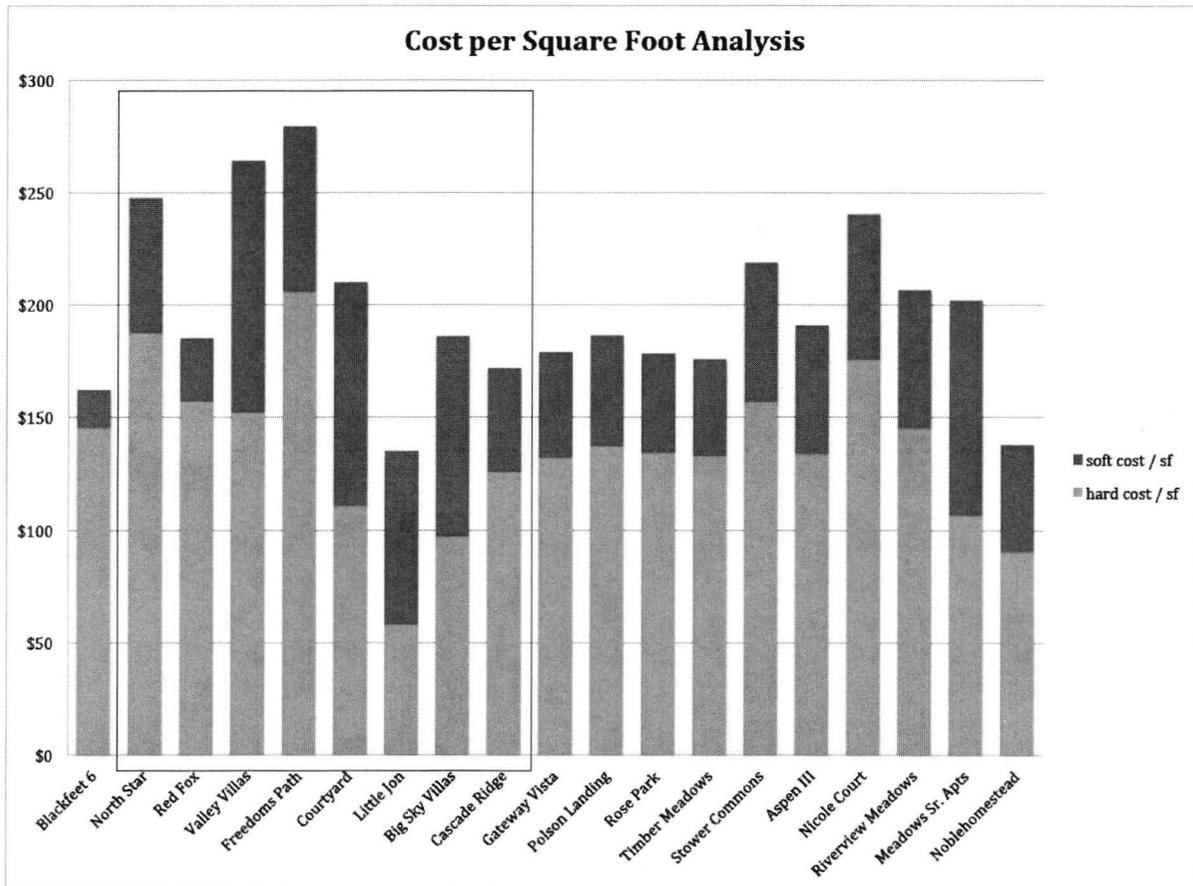
# ATTACHMENT II

Hard Cost/SF Range*	Total	
	Total	Awarded
<\$100	3	2
\$100 - \$109	1	
\$110 - \$119	1	1
\$120 - \$129	1	1
\$130 - \$139	5	
\$140 - \$149	2	Blackfeet 6 @ \$145
\$150 - \$159	3	2
\$160 - \$169	-	
\$170 - \$179	1	
\$180 - \$189	1	1
\$190 - \$199	-	
>\$199	1	1
	19	8

\* doesn't account for building acquisition cost on rehabs

TDC Cost/SF Range	Total	
	Total	Awarded
<\$120	-	
\$120 - \$129	-	
\$130 - \$139	2	1
\$140 - \$149	-	
\$150 - \$159	-	
\$160 - \$169	1	Blackfeet 6 @ \$162
\$170 - \$179	4	1
\$180 - \$189	3	2
\$190 - \$199	1	
\$200 - \$209	3	
\$210 - \$219	1	1
\$220 - \$229	-	
\$230 - \$239	-	
\$240 - \$249	2	1
\$250 - \$259	-	
\$260 - \$269	1	1
>\$269	1	1
	19	8

If anything, MBOH should be asking itself, "Why is it costing these projects in excess of \$150/sf to build 1BR and 2BR units when Blackfeet in Browning, MT is proposing 3BR and 4BR units at \$145/sf? Where is the justification for the disparity in cost? Is this the most efficient use of the Housing Credit?"



NOTE: The hard cost per square foot amount for the rehab projects is skewed to a lower cost per square foot because MBOH did not split land acquisition from building acquisition in its publicly available information. As such the hard costs do not include the building acquisition component. If we did include building acquisition, then each rehab project's hard cost per square foot dollar amount would increase.

## ATTACHMENT II

The most equitable measure for MBOH to implement would be to control credits by limiting *eligible basis* for Hard Costs to no more than \$155 per square foot. A cost per square foot metric provides a more accurate way to compare costs across projects with different sizes and unit types to determine which projects would truly have excessive costs. Additionally, a basis cap (as opposed to a strict cost cap) still allows MBOH to efficiently allocate its tax credits in the most feasible manner, while at the same time recognizing that some projects may end up more costly than anticipated and that the developer would then cover those excess costs on their own.

Below is an excerpt from the Arizona Department of Housing's 2016 Final QAP detailing how ADOH implements their cost containment rules:

2. **Maximum Allowable Eligible Basis for Total Construction Costs (No waivers will be considered for this item.)**
  - a. The maximum allowable Eligible Basis for Total Construction Cost shall be determined by multiplying the following price per square foot costs (specific to project type) by the Total Project Square Footage. ADOH will further limit the Eligible Basis for rehabilitation costs (including adaptive re-use) to those determined to be reasonable by the independent cost estimator as outlined in Section 2.9(Y)(2)(a). Applicant must provide the documents requested by ADOH or its independent cost estimator in order to determine the reasonableness of rehabilitation costs.

Project Type	Total Construction Cost per Square Foot
Balance of State Project	<u>\$122.75</u>
Suburban Project	<u>\$128.28</u>
Urban Project	<u>\$135.47</u>
Housing for Older Persons-Balance of State Project	<u>\$132.93</u>

We also ask that MBOH base its Total Cost Per Unit limit of \$230,000 on *eligible basis* as well and remove the provision for negative points on page 14 for exceeding the limits at the time of Final Cost Certification.

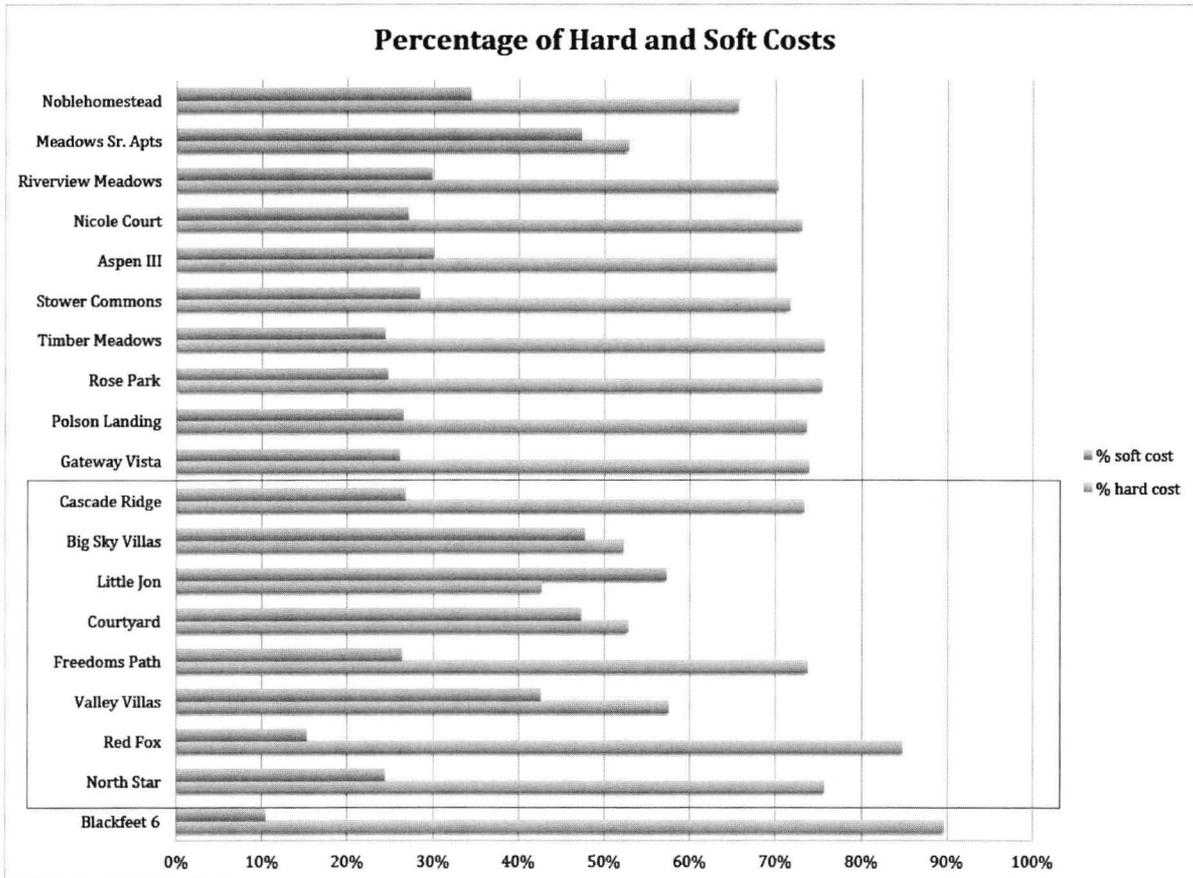
Of greatest importance is the need to address the \$175,000 Hard Cost Per Unit threshold as this will unequivocally prevent developments like Blackfeet 6 from applying for or receiving an allocation of credits.

Below is a sampling of recently developed tribal projects and their cost per unit breakdowns. As you'll see these costs per unit are in excess of MBOH's proposed \$175,000 hard cost per unit limit and it's not due to abusing, or not optimally using, the Housing Credit:

# ATTACHMENT II

Project Name	State	Type of Project	Construction Completion	Total Units	Hard Cost/Unit	Soft Cost/Unit	TDC/per unit
Blackfeet 6	MT	New Construction	2016 application	30	\$205,775	\$23,662	\$229,437
Blackfeet 5	MT	New Construction	2015	24	\$210,245	\$30,668	\$240,913
Ft Peck 2	MT	New Construction	2013	24	\$216,367	\$40,321	\$256,689
Spokane 2	WA	New Construction & Rehabilitation	2013	40	\$179,408	\$40,299	\$219,707
Eastern Shoshone	WY	New Construction	under construction	20	\$202,298	\$49,084	\$251,382
Standing Rock 18	ND	New Construction	2014	20	\$229,618	\$67,284	\$296,903
Warm Springs	OR	New Construction	2015	35	\$231,492	\$39,141	\$270,633
AVERAGE				28	\$211,571	\$41,494	\$252,238

Another key metric MBOH should look at in terms of determining reasonableness and cost efficiency is percentage of soft cost as they relate to hard costs and total development costs. Based on the data publicly available about the 2016 applications below is a chart that shows how Blackfeet 6's percentage of hard costs v. percentage of soft costs compares with the other 2016 applicants.



NOTE: The % of hard cost for the rehabilitation projects is skewed to a lower % because MBOH did not split land acquisition from building acquisition in its publically available information.

## ATTACHMENT II

The argument here is that even at \$205,775/unit Blackfeet is making the most efficient use of the Housing Credit with 89% of the total project cost going to construction rather than to legal fees, A&E costs, developer fees, etc. When you take a closer examination of Blackfeet's costs, you'll see that Blackfeet Housing (which is serving as the project's General Contractor) is taking \$0.00 for GC profit and only \$200,000 for a Developer Fee (a 2.99% developer fee). In comparison, projects allocated credits in the 2016 allocating round had anywhere between 15% and 57% allocated to soft costs and had a much higher percentage of costs allocated to developer fees.

### p.22 – Board Consideration and Determination Process

We respectfully request that MBOH abandon the proposed change in the 2017 QAP that would have the housing board perform a pre-screening of applicants (based on no objective scoring criteria or selection preferences) at the LOI stage and make recommendations on who can advance to the “full application” submission. This proposed change essentially leaves the selection of any projects awarded credits at the sole discretion of the MBOH Board – in direct contradiction of the IRS mandate that tax credits be allocated based on objective selection criteria.

### p. 36 – Qualified Census Tract or Community Revitalization Plan

We ask that MBOH remove “involves existing housing” from the criteria in order to receive the 10 points for having in place a community revitalization plan or similar plan.

### p. 38 – Participation of Local Entity

We commend MBOH for varying the number of points available in the Participation of a Local Entity category. Every application except one in 2016 received full points in this category so a change to this criterion would prevent a similar scenario from recurring. However, we would like to suggest a few more improvements to the language in this category.

First, we recommend MBOH **add additional language** to allow tribal projects to receive points for services provided to Project tenants within a 5-mile radius of the project site. Most tribes have sophisticated supportive services already in place to serve tribal members. Duplicating these services by requiring them to be offered *on-site* when they already exist in close proximity to the project would be duplicative and a waste of the tax credit resources. Furthermore, because tribal projects are typically single family or duplex homes, the current language would require tribes to build a separate “on-site” community building to provide the supportive services. With MBOH's strict cost caps, it would be extremely difficult and potentially impossible for tribes to receive these valuable points. Other states recognize targeted, supportive services provided within a certain distance of tribal projects, and we recommend MBOH do the same.

Second, we do not believe that each of the qualifying participations in the QAP are equal to one another and therefore they should not be worth the same 10 points. A financial commitment from a local entity in the form of a cash flow only loan or project based rental assistance is significantly more beneficial to a project than a commitment from a local entity to screen and refer prospective tenants to the project. Similar to the structure of the Project Location category, we suggest the following point structure (up to a maximum of 60 points):

- 30 pts for a commitment of a cash flow only loan from a local entity equaling at least 10% of the TDC;
- 20 pts for a commitment of 100% project based rental assistance;
- 20 pts for a commitment by a local entity to donate land or sale at a reduced price to enhance affordability;

## ATTACHMENT II

- 10 pts for each of the following:
  - a commitment of less than 100% project based rental assistance;
  - a commitment by a local entity to screen and refer individuals as prospective tenants;
  - a commitment by a local entity to provide targeted supportive services to Project tenants either on-site or within a 5-mile radius of the project site for tribal projects;
  - significant fee waivers on local government fees;
  - other forms of significant monetary or material support equaling less than 10% of TDC.

### **p. 39 – Percentage of Credits Funding Total Project Cost**

We ask that MBOH remove this scoring category. We understand MBOH's goal of efficiently using the Housing Credit to create more housing in the state. We also acknowledge MBOH's intent here to reward projects that request fewer credits and leverage other sources of funds instead of tax credits to construct the project. Unfortunately for tribes and entities like Blackfeet Housing, there are very few resources other than the LIHTC program that can be leveraged in order to create affordable housing on the reservation. Tribes do not have access to favorable lending mechanisms and even if they did, the project could not support the required debt service given the extremely low-income population served and rent structures.

Without maximizing leverage through the Housing Credit, entities like Blackfeet Housing would not be able to build units in their community. In the 2016 round, Blackfeet Housing committed \$988,874 of its own resources to build the proposed 30-units. If applied to the 2017 proposed scoring mechanism, this project would receive (-) 50 points for leveraging 86% of the Housing Credit. To achieve (+) 50 points and be below 75%, Blackfeet Housing would need to increase its commitment to \$1.8M (almost a 50% contribution increase), essentially making the project financially *infeasible* for the tribe.

The better way for MBOH to contain costs, as mentioned above is to limit *eligible basis* based on a per square foot cost limit.

With the proposed scoring category, entities like Blackfeet Housing, which have \$0.00 land acquisition costs, will have a disadvantage against those projects which have a high land acquisition values since land is not includable in basis. Unless the percentage of investor equity is compared against total eligible basis (v. total development cost), projects with land acquisition will have a greater likelihood of receiving the (+) 50 points by being below the 75% level.

### **p.42 – Development Evaluation Criteria & Scoring**

We strongly recommend that the MBOH abandon the clause in the QAP that allows the Board to disregard the scores achieved by the applicants in the process of awarding of credits and strictly adhere to the criteria established in the QAP. We understand that applicant scores have historically been incredibly close, and in many cases a large percentage of applicants have achieved the same score. We recommend that MBOH adjust the QAP scoring criteria to objectively score the projects. Of the eight different scoring criteria in the 2016 QAP, all applicants received full points in three of the categories (Extended Low Income Use, Project Location, and Tenant Population). In two of the other scoring criteria in the 2016 QAP, all but one applicant received full points in the categories (Development Team and Participation of a Local Entity). MBOH needs to evaluate whether these scoring criteria truly assist in identifying the best projects.

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Other potential scoring criteria MBOH should consider are:

- Points for projects where the controlling entity is at least 51% owned and controlled by a tax-exempt organization
- Points for projects developing a rural area
- Points for projects where the applicant is the ownership entity that will receive the LIHTCs and is the final owner of the project. Applications wherein the applicant is identified as the partner, general partner, a member, managing member or officer of the final owner may not claim points.
- Points to applicants who waive their right to apply for a Qualified Contract.

Secondly, even if there are still close scoring projects, or ties, we recommend that MBOH institute a formal, objective tiebreaker process that prioritizing projects serving households with the lowest incomes and demonstrating the most need:

- **1<sup>st</sup> Tiebreaker** - Projects with the greatest % of total project units targeted at the lowest income tenants
- **2<sup>nd</sup> Tiebreaker** - Projects with the longest waiting list
- **3<sup>rd</sup> Tiebreaker** - Projects in a QCT/DDA
- **4<sup>th</sup> Tiebreaker** - Projects located in an area that has not received an allocation of credits in the last five years

### p. 52 - On-Site Inspections

New language in the 2017 QAP proposes that MBOH may schedule on-site inspections with *minimal notice*. Federal guidelines require that ample time must be given in the notification of a site visit by a state allocating agency. While ample time is not defined, we can assume the intent is to allow housing authorities and management agents enough time to notify residents of inspections in accordance with their internal policies.

We recommend that MBOH provide no less than two weeks notice of an on-site inspection. This will allow housing authorities and management agents to notify the tenants in writing and to confirm that occupancy staff will be available for the visit.

Should MBOH retain the “minimal notice” language, we request that this term be defined in the QAP with a very specific timeframe so as to maintain a consistent standard for inspection notification.

Thank you for considering our comments. Please feel free to contact us with any questions. We look forward to continuing our collaboration with MBOH.

Sincerely,



Bryan Schuler  
VP for Housing Development

## ATTACHMENT II

Public Comment on 2017 QAP received from Ashley Bland.

Email: [ashley@travois.com](mailto:ashley@travois.com)

Telephone: (816) 994-8970

Title: Director, Design & Construction Services

Organization: Travois

Mailing Address: 310 W. 19th Terrace

Kansas City Missouri 64108

Comment Body: These comments relate to the green building scoring category. We suggest removal of this scoring category. While we are very much committed to green building and energy efficiency in our projects, we feel that the inclusion of a competitive category creates an atmosphere where projects must include advanced green building techniques in order to be competitive, which drives up project costs and can hurt the project in other cost related scoring categories. We believe that the inclusion of practical green building measures (such as enhanced building envelope, energy efficient equipment and low flow plumbing features) will still be included in our project and others because ultimately they are of benefit to the Owner/Tenants in the form of reduced utility and operations costs.

If the scoring table is to remain, we suggest additional options for points. As it is currently written, a number of the items are reasonable and realistic for projects to incorporate while keeping a low cost per square foot. However, due to the limited number of points available, for a project to receive full 100 points, it would also need to commit to one or more costly features such as photovoltaics or solar hot water heaters. We would like to propose some additional categories for scoring to allow developers greater flexibility in achieving full points while managing construction costs.

1. I noticed in a newer version of the checklist, points are available for efficient irrigation. What if projects are not including sprinkler systems? Is the use of native or drought tolerant plants an acceptable alternative?
2. If solar hot water heaters are worth 10 points (based on the newer version of the checklist), could the use of an energy efficient traditional tank type (or tankless) hot water heater be considered for 5 points? This could be an energy star rated model, or a heater with a .95 EF (Electric), .99 EF (Electric tankless) .65 EF (Gas) .8 EF (Gas Tankless) rating or better.
3. HVAC equipment – could the use of energy efficient heating (and/or cooling) equipment be added for 5-10 points? Along with improving the building envelope (which you recognize via the points for insulation and enhanced windows), using energy efficient equipment is the most cost effective and realistic way to reduce utility costs for the very low income tenants in our projects. The requirement could be based on the use of an energy star rating, or HVAC system furnaces with 14 SEER rating. Furnaces should be a least 92 AFUE.
4. Installation of Water conserving fixtures- Toilets with 1.28 GPF or less, bathroom faucets at 1.5 GPF or less, shower heads and kitchen faucets at 2.0 GPF or less would be another good point category
5. Install Energy Star light fixtures.
6. Improve U value of roof system by 15% over the current IECC requirements for climate zone
7. Install a energy-recovery ventilator (ERV) in the dwelling unit for fresh air.

## ATTACHMENT II

**From:** [Bair, Mary](#)  
**To:** [Guariglia, Kellie](#)  
**Subject:** FW: KIN Recommendation Response  
**Date:** Friday, March 11, 2016 11:01:20 AM

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**From:** Brensdal, Bruce  
**Sent:** Wednesday, March 9, 2016 1:07 PM  
**To:** Mitchell, Doug  
**Cc:** Tuttle, Marty (DOC); Hoffmann, Bill; Bair, Mary; Collette, Stacy  
**Subject:** FW: KIN Recommendation Response

Doug: Here is my proposal:

Small Business & Downtown Recommendation #3: Direct the Montana Board of Housing to set aside 10% of annual low-income housing tax credit (LIHTC) funding to historic downtown residential projects.

The Board of Housing does not have specifically identified projects in historic downtowns as a priority in awarding Housing Credits. However, these projects do very well when competing in the general pool of projects due to the fact we prioritize development that is close to services, functional community engagement, existing neighborhoods and those that are actually historical in nature. Examples of projects we have funded in the past include Acme – Billings, Palace Hotel & Lenox – Missoula, Main Street – Ronan, Miles Building – Livingston and the Guardian Apartments – Helena. We are not aware of any project that has been proposed for downtown development that was not funded.

In support of the KIN recommendation the staff will be recommending the addition of language to the 2017 Qualified Allocation Plan (QAP) in Section 9 – Evaluation and Award under Award Determination Selection Standard ...

The awarding of points to Projects pursuant to the Development Evaluation Criteria is for purposes of determining that the Projects meet at least the minimum Development Evaluation Criteria required for further consideration and to assist the MBOH Board in evaluating and comparing Projects. Development Evaluation Criteria scoring is only one of several considerations taken into account by the MBOH Board and does not control the selection of Projects that will receive an Award of Housing Credits. In addition to any other Selection Criteria specified in this QAP, the MBOH Board may consider the following factors in selecting Projects for an Award of Housing Credits to qualify Projects:

- The geographical distribution of Housing Credit Projects;
- The rural or urban location of the Projects;
- The overall income levels targeted by the Projects;
- The need for affordable housing in the community, including but not limited to current Vacancy Rates;
- Rehabilitation of existing low income housing stock;

## ATTACHMENT II

- Sustainable energy savings initiatives;
- Financial and operational ability of the Applicant to fund, complete and maintain the Project through the Extended Use Period;
- Past performance of an Applicant in initiating and completing tax credit Projects; Cost of construction, land and utilities, including but not limited to costs/credits per square foot/unit;
- The frequency of Awards in the respective areas where Projects are located. and/or
- If the project is being developed in or near a historic downtown neighborhood. ✓

The above proposal recognizes the importance of these types of projects without needing a specific set-aside. Furthermore, we will track Housing Credit issuance and development in historic downtown areas as a matter of practice and resource for community partners.

**Comments to Montana Board of Housing**  
**Draft 2017 Qualified Allocation Plan**

Submitted By: **Mountain Plains Equity Group, Inc.**  
2825 3<sup>rd</sup> Avenue North, Suite 600  
Billings, MT 59101

Date: March 11, 2016

**Comment #1:** MPEG proposes to modify the current QAP language on Page 19.

*The current QAP language reads as follows:*

**Required Blower Door and Infrared Testing for Projects Awarded Credits**

*“For New Construction Projects Awarded HCs: Blower door tests must be completed on every Single Family Project unit. On Multi-Family Projects, blower door tests must be completed on the greater of twenty percent (20%) of units (such units to be selected by MBOH in conjunction with the testing provider) or the number of units required by State building codes (weather or not the State building code has been adopted in the Project’s jurisdiction). Proof of such testing demonstrating compliance with the state building code standard (CFM50) must be submitted to MBOH to qualify for issuance of Form 8609(s). The Developer or Builder must notify MBOH at least one week in advance of the date and time that blower door testing will be performed and MBOH staff must be permitted to attend and observe the testing.”*

*As substitute and replacement language in this section, MPEG would like to propose the following for consideration by the MBOH.*

**For New Construction Projects Awarded HCs: Blower door tests be completed on every Single Family Homes Projects (unit per building) to meet the current requirements of the State of Montana building code. On Multi-Family Projects (two or more units per building), blower door tests must be completed to meet the current requirements of the State of Montana building code. Compliance with the State of Montana building code will be evidenced to MBOH by the submission of the Final Certificate of Occupancy for the project.**

**Comment #2:** MPEG proposes to modify the current QAP language on Page 50.

*The current QAP language reads as follows:*

**Final Allocation/8609**

- Certification of required blower door or infrared test results (if not previously submitted);

*As substitute and replacement language in this section, MPEG would like to propose the following for consideration by the MBOH.*

- Certification of required infrared test results for acquisition/rehab projects (if not previously submitted).

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## Rationale

MPEG's proposed language is a product of many concerns and issues that have, or could potentially arise under the current QAP language. MPEG's reasoning and concerns are as follows:

- 1) Blower door testing is a relatively new method of measuring energy efficiency in buildings, a circumstance that is especially true for multi-family apartment buildings/units. Blower door testing was first adopted by the State of Montana building code on November 7, 2014 under the International Energy Conservation Code 2012 (*IECC 2012*). When the IECC 2012 was adopted the Administrative Rule also made two changes to the blower door testing requirements:
  - a. To change the requirement from 3 air changes per hour (ACH) to 4 ACH; and
  - b. To delay the blower door testing requirements for one year.

These changes were made because of the challenges of blower door testing in Montana and more specifically because of the challenge presented in multifamily units. The industry as a whole is still struggling with how to implement this test in apartment buildings/units. This is an issue the LIHTC and market-rate development community nationwide is struggling with, not just Montana.

- 2) The blower door test was designed to measure the air tightness of a building. It evaluates how well the building envelope performs against conditioned air leaking to the outside or unconditioned air infiltrating to the inside of a building. The test is intended to be a measure of energy efficiency between conditioned (interior) space and unconditioned (exterior) space. Under the current QAP, it could be interpreted the blower door test is required to be performed on a unit-by-unit basis for multi-family apartment buildings (*rather the building as a whole, which is allowed by the State Building Code*). Testing a building for compliance under this scenario is flawed because any given unit may have as little as one truly exterior plane (an interior ground floor unit on a two-story slab on grade apartment building) that is measuring interior to exterior air leakage or infiltration. But that same unit has four planes that are being tested as conditioned space to conditioned space while the adjacent units are **not** pressurized. So, one could argue that only 20% (1 exterior plane out of 5 possible) of the test on that unit actually measures the air tightness between conditioned and unconditioned space. If the building were tested as a whole (4 walls and 1 roof), 100% of the test would be measuring air tightness between conditioned and unconditioned space. Measuring air leakage between individual living units is contradictory to the intent of the IECC and therefore the State Building Code.
- 3) Under the current QAP language, the blower door test is directly tied to the issuance of the Form 8609. Under the State Building Code, a project will have to pass the blower door test requirements to be issued a Certificate of Occupancy (CO). The CO is also required by MBOH for the issuance of Form 8609. By removing the blower door requirements from the Form 8609 requirements in the QAP, developers and builders are allowed to work directly with building inspectors and construction professionals on this issue. The building inspectors encounter this issue frequently and will have the most current requirements and information, as well as experience with this test. Under our proposed language, MBOH would not have to be adjusting to the ever changing requirements of the State Building Code, thereby saving the MBOH both the time and money that would be required for staff members to study and attend training sessions on blower door testing. Because projects will still have to meet the blower door testing requirements under the State Building Code, the Certificate of Occupancy would serve as proof that the property satisfied the blower door testing requirements.

## ATTACHMENT II

- 4) Furthermore, under the current QAP language, there is the possible scenario of the building inspector issuing a Certificate of Occupancy, but MBOH holds up the issuance of the Form 8609 (due to the QAP imposing a higher blower door testing standard than the State code). Then what happens? The entire project is terminated due to a highly subjective and new test? What is the punishment if the blower door test is not met? Demolition of the project? A fine? Ineligibility for the developer to apply for HTC's in future rounds? This type of scenario could become a very serious matter and have negative impacts on projects that are unintended.
- 5) If the issuance of Form 8609 continues to be tied directly to the blower door test (as under the current QAP language), there could indeed be very negative implications for future LIHTC projects. Syndicators will view this requirement as a risk, and therefore are likely to hold more equity back until issuance of Form 8609 occurs. The consequence of this decision is to force the project to carry more construction loan interest, making projects more costly. Beyond the view of investors and syndicators, the actual design of projects will most likely be effected. Heating systems that involve individual wall units will be less favorable even if they are far less expensive; wall units create another hole in the building envelope, and when measuring units individually, this design feature can be a detriment. In short, rather than risking issues with the blower door test, developers are likely to use more expensive HVAC systems, further increasing the project costs. This same principle stands true for many aspects of a project, not just the HVAC systems; features such as larger windows, additional exhaust fans or hoods, etc. could be viewed as a potential liability. If the goal is to provide quality affordable housing, then this requirement looks to be counterproductive as currently written.

### **Comment #3: Page 25 - First Award Round**

Letter of Intent Submission – First Monday in July 2016

MPEG notes this date is July 4, 2016. As a holiday, this date could cause delivery issues.

### **Comment #4: Page 39 Housing Needs Characteristics – Community Input**

The language has now been modified so that 10 points will be awarded for each of the items.

- 1) Neighborhood meetings held expressly for this application with attendance rosters and minutes.
- 2) Local charrettes held expressly for this Application with supporting documents, concept drawings, and input from community.
- 3) Other appropriate form of community input specifically designed to gather community input for this application.
- 4) City or County Commission meeting.

Although MPEG agrees that all of the above are valuable and important activities for projects to be successful, breaking the scoring down to points for each activity instead of the awarding the whole 40 points for one of the qualified activities seems to create busy work for developers. We would ask what value to the project is being added by essentially holding the same meeting four separate times in a community? This carrot will add additional travel and time to the already lengthy and expensive process of putting a project together ... all to chase points. MPEG proposes that the QAP language is NOT modified to include this new scoring format for the *Community Input* section.

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**Comment #5: MPEG proposes to modify the current QAP language on Page 55.**

*The current QAP language reads as follows:*

### **Ownership/Management Changes**

“Written notification of changes to property management companies, managers, site managers, or changes to points of contact must be submitted to MBOH prior to or immediately upon implementation of the change. Changes not received by MBOH prior to change or immediately upon change will result in a \$10.00 per day fee until written notification is received. If no notification is received MBOH will research and identify the date of the change, and impose late fees based upon such date. No change in Management Company shall be acceptable unless it results in a Qualified Management Company assuming management of the property. Replacement of a management company with a company that is not a Qualified Management Company or failure to timely submit such notification to MBOH may trigger issuance of a Form 8823. All management companies, whether in place or being hired, must meet Qualified Management definition.”

*As substitute and replacement language in this section, MPEG would like to propose the following for consideration by the MBOH.*

**Written notification of changes to property management companies, or changes to points of contact must be submitted to MBOH prior to or immediately upon implementation of the change. Changes not received by MBOH prior to change or immediately upon change will result in a \$10.00 per day fee until written notification is received. If no notification is received MBOH will research and identify the date of the change, and impose late fees based upon such date. No change in Management Company shall be acceptable unless it results in a Qualified Management Company assuming management of the property. Replacement of a management company with a company that is not a Qualified Management Company or failure to timely submit such notification to MBOH may trigger issuance of a Form 8823. All management companies, whether in place or being hired, must meet the Qualified Management definition.**

The only change to the language is to remove “managers” and “site managers” from the first sentence. The change of site managers can be frequent at times as people change jobs or the Property Management Company moves people around. Many times we as owners are not even aware of this change. The change of the site manager is an internal business activity of the Property Management Company as a whole, not a property ownership decision. It is understood that MBOH is trying to eliminate complication when trying to contact a property for information, but the Property Management Company’s home office (*regional manager*) should be the contact point for this purpose. To fine a property for the normal business operation and decisions of the Property Management Company doesn’t seem justified.

## ATTACHMENT II



March 11, 2016

Montana Board of Housing  
P.O. Box 200528  
Helena MT 59620-0528

**RE: Montana draft 2017 Qualified Allocation Plan**

Dear Ms. Blair,

The National Housing Trust is a national nonprofit organization formed to preserve and revitalize affordable homes to better the quality of life for the families and elderly who live there. The National Housing Trust engages in housing preservation through real estate development, lending and public policy. Over the past decade, NHT and our affiliate, NHT-Enterprise Preservation Corporation, have preserved more than 25,000 affordable apartments in all types of communities, leveraging more than \$1 billion in financing.

The Trust fully acknowledges and appreciates the entire set of preservation policies and programs established by the Montana Board of Housing (MBOH) and the comments below refer directly and specifically to MBOH's draft 2017 Qualified Allocation Plan (QAP) as it relates to the Low Income Housing Tax Credit (Housing Credit) program. We appreciate the opportunity to comment on Montana's draft 2017 QAP.

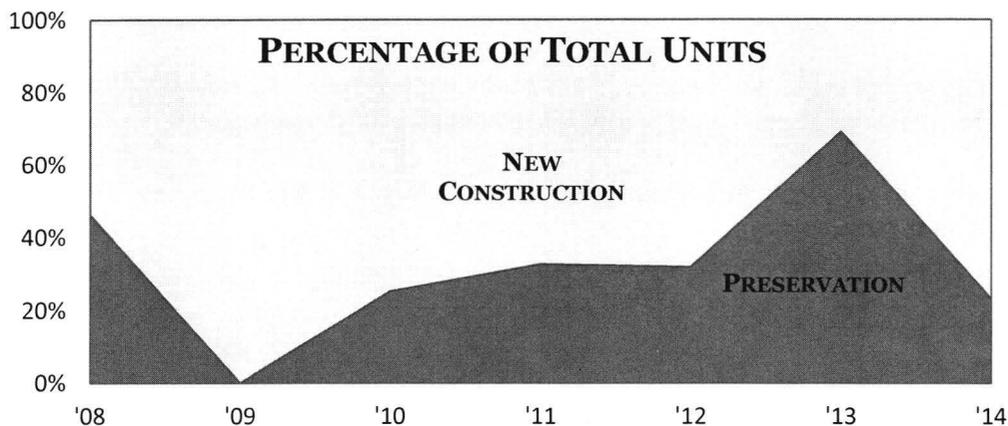
Though the Trust is pleased to see points awarded to the preservation of affordable housing, we're concerned that the existing Development Evaluation Criteria aren't a strong enough indication of MBOH's intents for awarding Housing Credits. Per MBOH's draft 2017 QAP, the Development Evaluation Criteria "does not control the selection of Projects that will receive an Award of Housing Credits" (page 51). Rather, the Criteria serve mainly to separate eligible applications from ineligible applications instead of being used to evaluate and rank potential projects. This lack of transparency in the allocation process makes it difficult for potential applicants to know how competitive their project will be and, ultimately, how likely it will be that they will be awarded Credits. In fact, Montana is one of only three states that do not use a numeric scoring system to directly determine award recipients in their Low Income Housing Tax Credit allocation process. **We urge MBOH to establish a point-based, competitive scoring system in**

## ATTACHMENT II

**the final 2017 QAP that is used to clearly and definitively rank and select projects for receiving Housing Credits.**

Introducing a competitive scoring system can also help reinforce agency priorities and better promote MBOH's affordable housing goals. Montana has a varied track record regarding preservation efforts using Low Income Housing Tax Credits. As *Figure 1* indicates, between 2010 and 2014, over 20% of the units that received Housing Credits were preservation. In 2013, there was a spike to over 60% of units being preservation, while in 2009, zero units were preserved with the competitive 9% Housing Credit. This variability may, in part, be due to the lack of defined, objective criteria for project selection. Establishing a scoring system by which to rank projects and make awards based on these rankings would better signal to potential developers MBOH's commitment to preserving existing affordable housing.

*Figure 1.*



As you consider these recommendations, you can discover how other states are approaching each of these issues in their Qualified Allocation Plans by searching PrezCat ([www.prezcat.org](http://www.prezcat.org)), an online catalog of state and local affordable housing preservation policies. We would be also be happy to work with you to flesh out some of these ideas, and identify options that work best for the preservation of affordable housing in Montana.

Thanks you for the opportunity to comment on this important issue in the State of Montana.

Sincerely,

Michael Bodaken  
President

National Housing Trust

1101 30<sup>th</sup> Street, N.W., Suite 100A • Washington, D.C. 20007 • 202-333-8931

## ATTACHMENT II

Public Comment on 2017 QAP received from Shyla Patera.

Email: [shycpat0530@gmail.com](mailto:shycpat0530@gmail.com)

Telephone: (406) 781-1885

Title: IL Specialist

Organization: North Central Independent Living Services

Physical Address: 1120 25TH Avenue North East

Black Eagle Montana 59414

Comment Body: I Shyla Patera submit the following comments regarding the Qualified Allocation plan: Accessible and affordable housing should be a basic cornerstone for all Montanans. To that end NCILS supports the inclusion of visitability and universal design principles in the QAP and encourages awarding of points to encourage these building practices. When building community amenities, please consider accessibility for all when designing of apartment communities. Parking for Montanans with disabilities their attendants and families can be an issue in some cities due to the allotments of parking spaces in planning for units.

We encourage strong advertising of accessible features when advertising new construction through the Multiple listing services or through [MontanaHousingSearch.com](http://MontanaHousingSearch.com).

Affordability of all housing is a major issue. NCILS encourages flexibility in how Montanans fund rental and new construction.



March 11, 2016

Montana Board of Housing  
Submitted electronically

Thank you for the opportunity to comment on the proposed 2017 Qualified Allocation Plan. My comments are below.

**Section 1- Definitions, page 6.**

*“Qualified Nonprofit Organization” means, with respect to a Project, an organization exempt from federal income tax under Section 501(c) (3) or (4) of the Internal Revenue Code, which is not and during the Compliance Period will not be affiliated with or controlled by a for-profit organization, ...*

And

**Section 8 - Threshold Requirements, page 33, #17.**

*For Applications for Projects involving Qualified Nonprofit Organizations and seeking to qualify for the non-profit set aside under Section 7, include: (a) a copy of the IRS determination letter documenting such organization’s 501(c)(3) or (4) status; (b) an affidavit by the organization’s managing partner or member certifying that the organization is not and during the Compliance Period will not be affiliated with or controlled by a for-profit organization*

Comment: Every nonprofit involved with a project funded by LIHTC is “affiliated with” a for-profit organization – the LLC or LP formed to own the LIHTC project. Further, some nonprofits have for-profit affiliates that help generate income for the nonprofit. Please strike “affiliated with or”.

**Section 1- Definitions, page 8.**

*“Substantial Change” means a substantial change in the Project from the Project as set forth in the Application, and includes a change in or to:*

- *A member of the Development Team;*
- *Participating local entity;*
- *Quality or durability of construction;*
- *Number of units or unit composition;*
- *Site or floor plan;*
- *Square footage of Project building(s);*
- *Project amenities;*
- *Income or rent targeting;*
- *Rental subsidies;*

## ATTACHMENT II

- *Target group;*
- *Project location;*
- *Sources and Uses (to the extent any line item changes by 10% or more);*
- *Common Space square footage, location or purposes;*
- *Housing Credits required for the Project;*
- *Extended Use Period;*
- *Any Application item or information required by the Applicable QAP;*
- *Any item that would have resulted in a lower Development Evaluation Criteria Score under the Applicable QAP; and*
- *Any other significant feature, characteristic or aspect of the Project.*

Comment: Minor changes to the site plan, floor plan and square footages should not be considered Substantial Changes. Please strike them or add a qualifier for a percentage such as the qualifier for Sources and Uses – “to the extent any line item changes by 10% or more”. During preparation of full architectural drawings and applications for building permits, it is common for cabinets or doors to be moved inches or feet which is a floor plan change. It is common for the square footage of units and buildings to be adjusted slightly, and sometimes even buildings are moved on the site by a few feet. These should not be considered substantial enough to require board approval. They should also not warrant negative points as called for on page 44 for “demonstrated management weaknesses”

### **Section 3 – Montana Specific Requirements, Underwriting Assumptions and Limitations, Debt Coverage Ratio, page 16.**

*For Projects whose DCR is projected to trend downward through the first 15 years of normal operation, the DCR should be between 1.10 and 1.50 during the entire first 15 years of normal operation i.e., the 15-year period that begins with year 1 as shown on the DCR calculation of the UniApp.*

Comment: A 1.5 initial DCR is not sufficient to stay above 1.15 for 15 years for many projects with low rents and operating costs within the \$3,000 to \$6,000 per unit operating cost.

### **Section 3 – Montana Specific Requirements, Underwriting Assumptions and Limitations, Additional Underwriting Assumptions, page 17.**

*The following underwriting assumptions will be used by MBOH for underwriting of all Applications:*

- *Vacancy rates: 10% - 20 units and less, 7% - more than 20 and up to 50 units, 5%- more than 50 units or 100% project based rental assistance;*
- *Income Trending: 2%;*
- *Expense Trending: 3%;*
- *Reserves Trending: 0%;*

Comment: I applaud the proposed income and expense trending, as it is in line with what is commonly required by other funders and investors. However, many funders and investors require reserve trending up at the same rate as other expenses, so MBOH’s requirement of 0% will mean the project cannot both

## ATTACHMENT II

meet MBOH's requirements and that of investors. Furthermore, complying with the investor-required trending of reserves contributes to projects being unable to stay below 1.50 DCR in year 1 in order to maintain a 1.15 by year 15, which is addressed above.

### Section 9 – Evaluation and Award, Development Evaluation and Scoring Criteria, page 44

#### 9. Percentage of Credits Funding Total Project Cost (from minus (-) 50 to a positive 50 points possible)

Projects proposing Total Project Cost to be funded by Housing Credits at the following levels will be assigned negative points (minus (-) 50) or awarded positive points (50 points) as follows:

- New Construction (NC) equal to or above 75% minus (-) 50 points;
- Rehabilitation (Rehab) equal to or above 70% minus (-) 50 points;
- Combined NC/Rehab equal to or above 72.5% minus (-) 50 points;
- New Construction (NC) below 75% 50 points;
- Rehabilitation (Rehab) below 70% 50 points;
- Combined NC/Rehab below 72.5% 50 points;

Percentage numbers will not be rounded upward or downward for purposes of this Section. A Project is entitled to points in only one of the 3 categories New Construction, Rehabilitation and Combined New Construction/Rehabilitation.

Comment: Please strike this section. While it may be appropriate to award points based on other leveraged funds, it would make more sense to do on a sliding scale rather than a 100 point do-or-die spread. Further, the percentages selected seem arbitrary, and don't reflect the most common financial structures in Montana as evidenced by only five or 19 projects in the last round being able to win the proposed points.

The practical result of this will be to either:

- 1) favor projects with low total costs so that 25% of the total is a small amount of funding. Of the five projects (out of 19 submitted) in the last funding round that would have met this test to win positive points, four of them had per unit costs of under \$170,000 and total project costs of under \$4.7million; or
- 2) favor projects with an unusual ability to secure large amounts of soft financing (for example 25% of \$200,000 unit x 30 units = \$1.5 million). The fifth project in the last round that would have met this test to win positive points was freedom's Path, which had secured a soft loan of \$2.5million, a scale which no other project came close to meeting.

Sincerely,



Eileen R. Piekarz

## ATTACHMENT II



March 11, 2016

Mary Bair, Board Members  
Montana Board of Housing  
PO Box 200528  
Helena MT 59620-0528

RE: Homeword comments on DRAFT **MBOH 2017 QAP**

Dear Board of Housing:

Thank you for your consideration of our comments regarding the current draft of the 2017 QAP. We reached out to our accountants and others for feedback and wanted to supply as much detail as possible. Please let know if you have any question in regards to the follow feedback.

### **Definitions:**

- Please add the concept and definition of “Expense Coverage Ratio” – this is for the projects that have no hard debt for various reasons, for example: special populations, smaller projects, and certain markets. It should also be an option to illustrate a project with no debt within the UNI APP. This should then be considered with underwriting assumptions.
- “Large Project” is defined as more than 24 low-income units. The definition of small projects has been redefined as 20 units or less. There’s a four (4) unit disparity between the two and needs to be consistent.
- “Small Project” – Consider staying with definition of 24 units.
- “Soft-Cost-to-Hard-Cost Ratio” or “Soft Cost Ratio” – this definition includes utilizing donated land value to correct for an issue we discussed at the QAP retreat. This is helpful. The value of donated land needs to be incorporated into the UNI APP for the calculation, but not show as a project expense. Also, projects with deeply discounted land should represent the full land value in this calculation, but the reduced price should be used in the Uses portion of the UNI APP for proper cost calculations.
- Under “Substantial Change” – Site, floor plan, SF of Project Building, and Common Space SF are all listed as Substantial Changes. From what point in the project does this need to be finalized? Our concern is that, a housing tax credit application typically includes a schematic design. An applicant typically doesn’t spend the full architectural expense before applying for HCs. Floor plans and design change throughout the process of developing the full contract documents. At what point is it an update to MBOH vs a “substantial change” that has to be approved by the Board? There needs to be clarification around the stages of development and how detailed we need the plans to be before we apply. The more detail up front, the more risk involved in cost of design development for the application. Could there be a way to communicate schematic design level and then update MBOH

## ATTACHMENT II

Homework 2017 QAP Comments, Page 2 of 6

officially when the plans are finalized. Given the section regarding **Developer Knowledge and Responsiveness**, clarification on “Substantial Change” is important.

**Page 9 – paragraph 4:** “...through a limited liability limited partnership (LLLP) or other legal structure, be a...”

### **Page 14 – Development Cost Limitations**

We understand and agree with the need for the Cost limitations. Suggested limits on Total Cost per Unit and Hard Cost per Unit make sense, but the dollar amounts are outdated. You did a good job basing the numbers on the rough costs of current projects. The MBOH needs to identify a process for how the numbers will be calculated and adjusted annually (i.e. based on industry standards on increases of construction costs; variables in location, etc.). By the time this QAP is utilized, the identified limits will be one to two years old. In the last year we saw a 20% increase. For this point, we reached out to our general contractor, Jackson Contractor Group, who estimates on a regular base and has access to estimating software, resources, etc. They are currently seeing additional cost increases. They discussed this question internally and said that they would use a 5-10% annual increase each year. We also discussed costs for locations like Big Sky or other high cost areas that are in need of affordable housing. There would be a 2-3% increase for high cost communities. With that information we would propose the cost limits be raised to reflect appropriate increases because the 2017 QAP addresses projects that will be bid or estimated a year from now. The Hard Cost limit then could be reasonably adjusted from \$175,000 to **\$192,500** (10% increase – compromise from seeing 20% increases last year, captures the annual potential). The Total Project Costs should also reflect a 3% increase from \$230,000 to **\$249,150** (\$175,000 increased by 10%, the remaining soft costs \$55,000 increased by 3% (\$230,000 - 175,000)). Further, please note the \$230,000 per unit limit has been in the QAP since 2013, since which time costs of construction have solidly risen by at least 25%.

Something to consider: In the body of the QAP, the cost limitation dollar amounts are listed twice. If you only state it once, it's less to have to watch for on the next update. Reference to the defined amount would be helpful.

Washington State does not include land or capitalized reserves in their Total Development Cost (TDC) and we would recommend the same for Montana. The MBOH Board comments during the Feb 8<sup>th</sup> meeting indicated they want to know every cost in each deal so we'd suggest if that remains within the QAP, to define it as Total Project Cost (not Total Development Cost). We recommend adopting a waiver process for TDC – Washington State has an example on their website of the Waiver of the Total Development Cost Limits (<http://www.wshfc.org/mhcf/9percent/2016PreapprovalRequests.htm>). They establish different TDC limits for different areas of the state, four (4) in total: King County, Pierce/Snohomish, Metro Counties, and Balance of the State. We would recommend the same for Montana since we have a diverse state with diverse markets. They also have recognized TDC calculations for different bedroom sizes. See the policy at: <http://www.wshfc.org/mhcf/9percent/2016application/c.policies.pdf>.

### **Page 15 – Limitation on Soft Costs**

The large project size is defined differently in definitions. Define one place to avoid errors. 24 units seems more reasonable for small project maximum.

# ATTACHMENT II

## **Page 16 – Debt Coverage Ratio and Expense Coverage Ratio**

DCR & ECR – this was a detailed discussion at the January meeting. The syndicators believe that the DCR/ECR should not drop below a certain point for the first 15 years. While we all know that income and expenses do not increase at a predictable and constant percentage rate for 15 years as shown in the UNI-APP for 15 years, the 2% on income and 3% on expenses is a safer assumption as described in Additional Underwriting Assumptions. However, as discussed at length in January, there should be two simple limits on DCR/ECR, one on first year in an upward trending pro-forma, one at year 15 for a downward trending pro-forma. On small projects especially, this ratio increases or decreases more quickly. This dual parameter is the safest way to ensure operational stability. We would suggest the same limits discussed with syndicators in January:

On upward trending pro-forma – year one is a minimum 1.15

On a downward trending pro-forma – year 15 the DCR minimum to be 1.10

## **Page 17 - Additional Underwriting Assumptions**

Our syndicators are more restrictive on some points – vacancy at 10% for 30 units or less (depending on unit mix); 7 to 8% generally on the rest for our Montana markets.

DCR needs to also include ECR – some projects will not have and should not have hard debt if long term operational stability is a priority.

Operational expenses per unit will change over time. The range should be monitored for relevancy.

\*\*on any of these, if assumptions that are different are being mandated by a funder or syndicator, those assumptions need to be allowed to be explained and accepted, as applicable.

**Page 20 – 130% Basis Boost** –The draft 2017 QAP has no suggested changes to the considerations justifying the boost. However, hearing staff's concern that this is being overly used by applicants, perhaps there are incremental boosts for various considerations?

## **Page 25 – Second Award Round**

With the opportunity to apply to the national pool for additional tax credits, the Board should have the priority to award all credits during the first round. However, if awarding all credits leaves a project short, then serious consideration needs to be given to reserving the credits for a second round of applications. Maybe this has to be analyzed more to better understand what is tolerable. Note: projects will vary as some probably have more flexibility than others in terms of sources/uses. This is why having a "slate" of projects could make sense, rather than projects getting voted on one by one – randomly by Board preference.

During the January QAP feedback session, there was detailed discussion on using the second round to clean up the conflicts that come with the last project funded in the round. Just cutting off some units or making it work with a shortfall of credits on some projects isn't necessarily feasible and could unnecessarily tie up a portion of the credits that eventually get returned because the project sponsors could not fill the funding gap. It also creates more burden on staff as they must then re-do the underwriting. The second round was proposed to be done 30 days later (meeting the following month) and only the invited applications from the first round could apply – showing a partial request or that they fixed or improved on any issues with their

# ATTACHMENT II

Homework 2017 QAP Comments, Page 4 of 6

application from the first round. Was any consideration taken on this front? The draft looks like a full second round. The revised 2<sup>nd</sup> round considered above would be more efficient for Board, staff and applicants. This would still put their preferred/invited projects to the test to show their projects can succeed with the funding remaining.

## **Page 26 - ...cont. from pg. 25 Board Consideration and Determination Process**

This is a good proposed process. The Board can select from a large pool and then the invited applicants can move forward and incur the expense of a full application and move their project forward the next step. For the Board to make good choices, they have to know more and have enough options from which to choose. The letter will only give so much information. There may be issues that arise as the next step is taken, the full applicant may not meet threshold or have something come up that knocks the project the wrong direction or it goes a direction the Board didn't anticipate. A chosen applicant may not in fact submit a full application for one reason or another. For these reasons, we propose that the Board recommends both (1) 150% of credit value worth of projects minimum AND (2) 10 projects at a minimum. This will ensure choices are available at the time of application.

Additional thought on the language proposed on the bottom of page 25, top of page 26. MBOH provides an outline for the Letter of Intent, thereby establishing expectations for what should be included. While that exhibit will become a form, the language in the 2017 QAP may lead the reader to think the letter of intent has nothing to do with being selected for invitation to apply. What if someone gave you little information in the letter of intent or didn't speak to all the points? Could MBOH be challenged with still considering it for selection under Selection Criteria?

## **Page 28 – Maximum Credit Award**

We like the ability to help projects that come across a life safety issues. Southern Lights may have been able to benefit from that option. Good addition.

## **Page 29 – Small Rural Projects**

See comments above about 24 unit cut-off and definition related to large projects.

## **Page 40 – Preservation of or Increase in Housing Stock**

This section changed to 50 points, it was not corrected in the body of this section.

## **Page 42 – Participation of Local Entity (60 total points)**

The scale of points available for things like donation of land or waiver of fees by local government seems disproportionate to other items in this section.

## **Page 43 – Tenant Populations with Special Housing Needs**

With the explanation given at the QAP retreat, we understand why this section has the 25% limits. The question is simply, how can a YWCA do a domestic violence focused project and be able to limit who can live there for safety purposes?

## **Page 44, Section 10a: Demonstrated Poor Track Record**

# ATTACHMENT II

Homeward 2017 QAP Comments, Page 5 of 6

There is not really a clear definition of “Poor Track Record”. This seems subjective and easy to get an affidavit from someone disgruntled with a project to make a statement saying the developer did a poor job. Out-of-state developers that may have never needed to respond to an MBOH inquiry letter, but they may have in their home State and had many violations? Is there a mechanism for cross-checking?

## **Page 45, Section 10b: Demonstrated Management Weakness**

The comment provided above, relative to the definition of “substantial change”, is applicable here. This section seems like potential trouble for MBOH. Does the developer remain in the project in Montana? It seems like a lot of these could be hard to prove/enforce. As an example, 8823 is issued to a Project – not to the developer. How can Homeward ever be issued an 8823? Yet we could be negatively impacted because we are also GP in the joint project. An out-of-state developer or new organization could avoid this issue. There is no clear statute of limitations. If a Homeward project got an 8823 this year, would HW get minus points on next application (Is this clear)? If an application is submitted, does the penalty accrue? If Homeward got another demerit next year, are they cumulative? In regards to “substantial and numerous 8823’s”, numerous is vague and the more projects an applicant owns, the more there is potential for 8823s.

## **Page 45, Section 10c: Method of Assigning Negative Points**

This section does a good job of trying to start to address the clarification and giving staff the ability to assess; it may help with our concerns expressed above.

## **Page 55, Ownership/Management Changes**

It seems like allowing a 3 to 5 day grace for notification on staffing changes would be more realistic considering not everyone gives a 2 week notice but might just walk out, and the overriding concern if that happens will be dealing with the staffing issue, not notifying people who don’t really have an immediate need to know. This is especially true for site staffing which can have high turn-over. Homeward will look to include the requirement in our property management contract. This may be a way to help enforce the need to communicate changes to all parties as soon as possible.

## **Other:**

As discussed, we need a list of fees and dates/milestones – as an attachment

There was a request to have Greg Gould to dig into requiring the Replacement Reserves be kept with the project for an acquisition rehab project. While the intent is good, it needs to be addressed keeping in mind that some sellers will not care that you require the reserves stay, they will be willing to let the property go to market, regardless. Would it make sense to require the reserves stay, but if that is not possible in the negotiation to secure the property, the developer proposing the project must show that they are funding the replacement reserves as part of their project – capitalize the reserve up front as part of the project? The size of the capitalization can be discussed. The QAP states that a minimum of \$1000/unit is required to be maintained. The initial capitalization for preservation projects could be \$1000/unit up front minimum.

## ATTACHMENT II

Homeword 2017 QAP Comments, Page 6 of 6

### From our accountants:

Does MBOH change forms randomly from time to time? It seems to be one format for a few years then switch back. The sample forms (Owner's Letter of Certification, etc.) have several misspellings, grammatical and other errors. The language in the 10% and Cost Certification forms uses terms inaccurately or inexactly. If the forms do not have to be approved as part of the QAP, we could ask some tax credit accountants to review and provide specific recommendations.

One thing that would be very helpful is if MBOH would conduct a seminar on their expectations of how the forms/schedules should be completed and provide some examples. We would definitely sponsor a seminar in Missoula!

If you have any questions or concerns about the issues we have identified in these comments, please do not hesitate to ask for additional clarification.

Sincerely,



Andrea Davis  
Homeword Executive Director



Heather McMilin  
Homeword Housing Development Director

## ATTACHMENT II

Public Comment on 2017 QAP received from Tracy Menez.

Email: [tmenez@hrdc9.org](mailto:tmenez@hrdc9.org)

Telephone: (406) 585-4890

Title: Special Projects Officer

Organization: HRDC IX

Mailing Address: 32 S TRACY AVE

Physical Address:

BOZEMAN Montana 59715

Comment Body: HRDC IX has reviewed the proposed 2017 Qualified Allocation plan and submits the following comments.

- 1) HRDC IX supports the revised application process utilizing LOIs followed up by invitations to apply.
- 2) We are concerned with adding a cap to the number of units for small, rural setaside projects. Projects are already subject to a cap in credits requested; placing a cap on units will simply reduce the potential number of units served statement.
- 3) Regarding updated language requiring the non-profit status to include "documentation that one of the exempt purposes of the organization includes the fostering of low-income housing", we are unsure what would be considered adequate documentation. Does this need to be included in bylaws or in the 501c3 letter, or is there an alternative manner to demonstrate that affordable housing is within the non-profit's purpose (strategic plans, etc.)?
- 4) HRDC IX supports simplification of the amenity point awards, but would advocate for the inclusion of a category labeled other that could be approved by staff to accommodate a project's unique needs.
- 5) HRDC IX continues to differ with MBOH regarding the local entity point process. We appreciate the clarification of how points can be earned. We propose that, for items (i) and (ii), projects with a non-profit partner that also provides the housing and community services outlined in the QAP be provided with the full point credit for those items. In many communities, the non-profit developer is the primary provider of tenant screening, referrals, and community services. Even in communities with the presence of strong partners, we would advocate for awarding points on established MOUs between organizations, rather the requiring project-specific contracts. For the remaining items in this ranking, we would recommend a system to weight contributions.

Thank you to the staff and board for this opportunity to comment. As always, we appreciate all of your efforts to provide affordable housing resources for our communities.

## ATTACHMENT II

Summit Housing Group, Inc.  
283 W Front St., Ste. 1  
Missoula, MT 59802  
Phone 406-541-0999 X2  
Fax 406-541-0997

March 11, 2016

Montana Board of Housing  
Attn: Mary Bair  
PO Box 200528  
Helena, MT 59620

Dear Ms. Bair:

This letter is to provide our public comments on the MBOH Low Income Housing Tax Credit Program Proposed 2017 Qualified Allocation Plan QAP. Following are our comments, page references are to the page numbers of the proposed QAP document:

1. Pg. 3; Common Area definition; definition should be noted to include any manger unit(s). In other sections of the QAP, "units" are discussed and used for calculations and while these unit references are implied to mean "low-income units" they are not always noted as "low-income units", so the other references to just units can cause a misunderstanding. Including manager units in this Common Area definition removes any ambiguity.
2. Pg. 4; Elderly Property definition; the Fair Housing definition allowing an elderly project for age 55 tenant units allows up to 20% of the units to be occupied by all tenants under age 55. The definition should read "...Project that will limit a minimum of 80% of its tenants to households that include at least one individual age 55 or older or 100% of its tenants in which all household members are age 62 or older." Without some reference to the Fair Housing requirement for the age 55 project, you are limiting the Elderly Property to absolutely requiring one tenant to be 55 or older and if one age 55 tenant dies and leaves a remaining tenant under 55, then such tenant will need to be evicted.
3. Pg. 4; Extended Use Period definition; doesn't the IRS require a 15 year Compliance period and an additional 15 years? The second 15 year term is not anything the Applicant chooses, it is force upon them. Through the QAP process the Extended Use Period can be optionally further extended. I will discuss this further in my comment #13.
4. Pg. 5; Hard Cost Per Unit definition; in relation to my comment #1 above, it seems this definition is in relation to low-income units and shouldn't include a manger's unit.
5. Pg. 5; Large Project definition; is noted here as more than 24 low-income units. With the Small Project definition being reduced from 24 to 20 units or less, what do you call a Project with 21 to 24 low-income units? The remainder of the QAP discusses Small Projects as 20 low-income units or less. Therefore, I believe the Large Project definition should be defined as a Project with more than 20 low-income units. See my comment #15.

## ATTACHMENT II

6. Pg. 5; Housing Credits and Low-Income Housing Tax Credit definitions; seems like this is doubling up and that the Housing Credits definition could be deleted and the Low-Income Housing Tax Credit could include in its definition "...referred to in this QAP as Housing Credits, HCs or Credits."

7. Pg. 6; Operating Expenses definition; seems to me that this would be better defined to include as the end "...or operate a property, not including expenses for amortization, depreciation or mortgage related interest."

8. Pg. 6; Project Square Footage; "common areas" should be the defined "Common Areas". Many areas of the QAP do not have defined terms appropriately capitalized throughout. I suggest a search of the QAP for defined terms that should be capitalized. I've also noted various capitalized terms in the QAP that I cannot find defined anywhere in the QAP.

9. Pg. 6; Qualified Management Company definition; states is means a "Management Company". Where is a Management Company defined? Other parts of the QAP intermix references to Management Company and management company.

10. Pg. 11; Eligible Basis section; "common areas" references should be "Common Areas".

11. Pg. 12; Need for Allocation; "housing credit" should be "Housing Credit".

12. Pg. 12; Carryover Provision: "housing credit" should be "Housing Credit" and 2017 "credits" should be 2017 "Credits" and Timing for Obtaining Carryover Commitment 2017 "credits" should be 2017 "Credits".

13. Pg. 12; Compliance Period; this also relates to my comment #3. It states "the Applicant must specify an additional period of 15 or more years". The Applicant is required by IRS for an additional period of 15 years, which with the Compliance Period is the IRS required Extended Use Period. An Applicant can elect through the QAP scoring process to specify a period in addition to the required 15 years for an "additionally extended Extended Use Period.

I believe this is a key issue as it relates to the final paragraph in this section. The QAP states that because the Applicant indicates an Extended Use Period beyond the Compliance period it forfeits the right to request MBOH locate a non-profit qualified buyer. Pg. 37, points item #1 notes that federal law requires a 30-year or longer Extended Use Period and then has the Applicant chose at a minimum the 15 year federally required minimum 15 years beyond the initial 15 years for -0- points. Because of this forced 15 year election for the required 15 additional period beyond the Compliance Period you are violating the federal tax credit provision that allows a Project the right to request MBOH locate a non-profit qualified buyer 15 years after the Compliance Period. I understand and agree that a Project should waive the right to request MBOH locate a non-profit qualified buyer if it offers an extended Extended Use Period beyond the required additional 15 year term, however, a Project that offers no more than the federally required term cannot and should not be required to give up its federal right due to the state's attempt to preempt that right.

14. Pg. 15; Contractor's Overhead, General Requirements and Contractor Profit; where are Construction Costs and Total Construction Costs defined?

## ATTACHMENT II

15. Limitation on Soft Costs; relates to my item #5. Refers to a Large Project with more than 20 units and should be consistent with the definition of a Large Project, currently defined as more than 24 units.

So what happens if Applicant either makes its application with the proper Soft Cost Limit or makes a change to their Soft costs due to a HBOH application request but then at Final Allocation the Soft Cost Limit is exceeded? Will there be negative points allocated on a subsequent application? This should be addressed in this section, otherwise it is easily addressed at application but has no consequences for subsequent reality.

16. Pg. 16; Debt Coverage Ratio; currently as written seems to be really mixed up. If a project is trending upward through the first 15 years, why should the first year of operations be allowed to have a DCR of up to 1.50? If first year can start at 1.50, by year 15 the DCR could be astronomically high. The first year DCR should be left as the original 1.25 for this situation and it doesn't matter what year 15 ends up with as a DCR.

What is intended as an applicable downward trend for this next part? For Projects trending downward through the 15 year term, if you allow an initial first year of 1.5 and the trend is minimally downward and ends year 15 at 1.40, is that reasonable cause to allow such excessive earnings by such Project?

Now it all depends on what you are trying to accomplish. Are you concerned about the first year of operations or the 15 year term? If concerned about a 15 year downward trending Project, a backwards look should be taken where year 15 would allow a 1.10 minimum and then the first year results by default calculations involving the required inflation rates can be anything up to a maximum 1.50.

This section needs serious further review.

The last paragraph "... (which may require upward adjustment for Small Projects)" should also include Small Rural Projects and then should the following reference to "debt service coverage" be left as is or changed to "DCR"?

Pg. 16; Replacement Reserves; I suggest it begin as "Replacement reserves must be contributed to in an amount equal to at least \$300.00 per low-income unit annually" as the first word Minimum isn't needed, the "built up" doesn't seem applicable and the "unit" should be better defined to either be the low-income units or state "unit, including any manager unit(s)..."

17. Pg. 17; First paragraph states replacement reserves should take into account a realistic rate of inflation, yet the Additional Underwriting Assumptions has Reserves Trending at 0%. The inconsistency needs to be corrected.

18. Pg. 17: Additional Underwriting Assumptions; The allowance for up to \$6,000 of annual per unit operating expenses seems very generous, except for possible exceptions for special needs or supportive housing developments, and could lead to abuses of the tax credits.

19. Pg. 19; Smoke-Free Housing; inconsistent references to Management Company, which is not defined, and management company.

## ATTACHMENT II

20. Pg. 20HBOH Discretionary Basis Boost; last line should read "...may be considered in an Award of Housing Credits...?"
21. Pg. 40; Preservation of or Increasing; First sentence states 20 points. How do you earn the additional 30 points this category increased from 20 to 50?
22. Pg. 44: This new scoring gives an unfair advantage to non-profit organization that have the ability to procure soft funding. The only alternative for profit developers for additional funding sources is a deferral of the development fee. On all of our deals we are maximizing debt proceeds while still having to be competitive and setting aside lower income bands. Nonprofits do not have this issue as they have the opportunity to fill the gaps through other sources. It is our opinion that this scoring criterion should be removed completely.
23. Pg. 50; Placed in Service; is defined here and given the short PIS. Second paragraph reference to "placed in service" should be either Placed in Service or PIS. There are also other references in the QAP to "placed in service" that should be either Placed in Service or PIS.
24. Pg. 56; First paragraph references to "Management Company" should be "management company".

I was given this redline draft QAP about noon today and informed we needed to comment by 5:00pm today and apologize that I haven't been able to really get a detail proofing of this document in that short of a time and may have missed various items.

Thank you for the opportunity to comment on the proposed 2017 QAP.

Sincerely,



Patrick Klier  
Vice President

**HOUSING DIVISION – MONTANA BOARD OF HOUSING**

301 S. Park Avenue, Room 240 and via Webinar – Helena Montana 59601  
May 23, 2016

**ROLL CALL OF BOARD**

**MEMBERS:** J.P. Crowley, Chairman (Present)  
Bob Gauthier (Excused)  
Doug Kaercher (Present)  
Ingrid Firemoon (Excused)  
Jeanette McKee (Present – by phone)  
Pat Melby (Present)  
Sheila Rice (Present)

**STAFF:** Bruce Brensdal, Executive Director  
Ginger Pfankuch, Accounting & Finance Manager  
Vicki Bauer, Homeownership Program  
Mary Bair, Multifamily Program  
Stacy Collette, Operations Manager  
Penny Cope, Marketing and Public Relations  
Mary Palkovich, Servicing Program  
Jeannene Maas, Homeownership Program  
Charlie Brown, Homeownership Program  
Danyel Bauer, Homeownership Program  
Rena Oliphant, Multifamily Program  
Bob Vanek, Multifamily Program  
John Schroeck, TBS8

**COUNSEL:** Greg Gould, Luxan and Murfitt

**UNDERWRITERS:** Mina Choo, RBC Capital

**OTHERS:** Alex Burkhalter, Housing Solutions LLC  
Andrea Davis, Homeward  
Heather McMilin, Homeward  
Liz Mogstad, RMDC  
Amy Fitzpatrick, MDOC  
Brian Barns, DPHHS-MFP  
Carol Lechner, Rural Development  
Maney Mc Cleary, CAPNM  
Angela Paullin, CAPNM  
Revonda Stordahl, Public Housing Authority of Butte  
Jenni Howell, CAPNM

Katie Gonsalves, Habitat for Humanity of Gallatin Valley  
Nicole Antoino, Salish Kootenai Housing Authority  
Su-San Perez-Tenas, Salish Kootenai Housing Authority  
Colleen Tenas, Salish Kootenai Housing Authority  
Melissa Lesmeister, Helena Housing Authority  
B. Sue Carothers, RMDC  
Carla Adair, RMDC  
Sue Skinner, RMDC  
Lori Ladas, RMDC  
Jim Morton, HRDC, XL  
Leslie Baldwin, Summit ILC  
Kathy Plettenberg, MDOC  
Barb Watson, HOPWA Program  
Lisa Tedder, Stockman Bank  
Andrea Davis, Homeward  
Vincent R. Fleger, Attorney  
Gwen Thomson, Thomas Development  
Troy Maugehreck, Thomas Development  
Andrew Schank, Thomas Development  
Lori Davidson, Missoula Housing Authority  
Don Sterhan, Mountain Plains Equity Group, Inc  
Gene Leawer, GL Development  
Mark Shelburne Novogradac & Company LLP  
Lori Christopherse, Opportunity Bank MT  
Hermina Harold, Trust Montana/North – Missoula CDC  
Heidi West, City of Missoula, City Council  
Stephanie Crider, MDOC-CDD  
Jennifer Wheeler, Glacier Bank

*These written minutes, together with the audio recordings of this meeting, constitute the official minutes of the referenced meeting of the Montana Board of Housing (MBOH). References in these written minutes to tapes (e.g., Tape 1 – 4:34) refer to the location in the audio recordings of the meeting where the discussed occurred. The audio recordings of the MBOH meeting of this date are hereby incorporated by*

*reference and made a part of these minutes. The referenced audio recordings are available on the MBOH website at [Meetings and Minutes](#) .*

### **CALL MEETING TO ORDER**

Chairman JP Crowley called the Montana Board of Housing (MBOH) meeting to order at 8:31 a.m. (0:00). JP called for a quick round of introductions for those present in the meeting.

Bruce Brensdal noted some technical elements including this meeting has a conference call and will be recorded. All participants were directed to use a microphone for any and all comments.

Chairman asked for any public comment not on the agenda (8:38am). No public comment was made.

### **FINANCE PROGRAM**

Ginger provided a finance program update (8:38)

#### **Investment Diversification**

As of March 31, 2016, we had 26% of our investments in Money Market accounts earning from 10 basis points (0.10%) to 16 basis points (0.16%). 45% of our investments were in Federal Home Loan Bank discount notes earning from 28 basis points (0.28%) to 65 basis points (0.65%). The remaining 29% is invested in various other investments as listed on the dashboard.

#### **Weighted Average Yield Trend**

The weighted average yield has leveled out for the month of March with the Money Market rates remaining steady and few new investments being made with the upcoming bond calls.

#### **Portfolio Maturity**

26% of our portfolio is currently available and 56% will be available within the next year. We are anticipating over \$6 million in principal payments for bonds that are maturing and over \$8 million in interest payments. We are also anticipating bond calls in excess of \$20 million. The amounts that are currently available and those that will mature in May will be used, in part, for the June bond calls.

### **HOMEOWNERSHIP PROGRAM**

Vicki Bauer brought to the Board the Homeownership Dashboard with loan production and delinquency information for the month of April. She provided a comparison between loan and MCC production between FY 2015 and FY2016 through the end of April. Production has almost doubled since we have been able to offer a below market

rate. She also indicated that Board of Housing would be giving out lender awards as part of the housing conference. The Top Producing Lender statewide was First Interstate Bank, Glacier was the Top Producing Lender in Special Programs, Mann Mortgage was the Top Producing Lender in the MCC Program, Don Kessler with Opportunity Bank was the Top Loan Officer Statewide and Carla Weber with Glacier Bank was the Top Loan Officer for the Northwest region.

### **MORTGAGE SERVICING UPDATE (8:45)**

Mary Palkovich gave the Board an update for internal servicing – July 2014 and January 2015 we have increased in the portfolio number of loans. The number of delinquent loans has decreased, the first time since last June, and MBOH Servicing is lower than the national numbers for the delinquency ratio. Mary forecasts the same trend for our portfolio.

### **MULTIFAMILY PROGRAM**

Mary Bair brought to the Board the

Reverse Annuity Mortgage Interest Rates (8:47)

Proposing that we lower the interest rate – historically at 5% - proposing to lower interest rate to match 80/20 homeownership program rates – at this time at 4% and float with that rate, but stay at 5% or below without board action.

Balance of \$900,000 in the program now, and payoffs are coming in at a good rate which will increase the balance. We will have more monies to lend.

Bob made the motion to approve. Sheila seconded the motion.

JP asked for comments, seeing none, the vote was taken and the Board voted unanimously. (8:50)

Mary provided a brief update on the Makoshika project and the potential of removing that project from the tax credit program. She also noted there are ARRA funds to address and to clear up. More information will be given the Board at the time it is available.

Mary noted that the Multifamily dashboard is pretty different this time, listing the findings on all of the tax credit projects from the audit/site visits. She asked the board to consider it and she will streamline the reporting to make it easier for the board. Bob and JP and others noted they liked the new report.

## EXECUTIVE DIRECTOR UPDATE

(8:52) Bruce provided an update on policies he and Greg have been working on. Prior to, the policies were part of the allocation plan, and they have chosen to remove them and set them out as general policies. There are two policies of note for consideration and request for adoption by the Board.

Ex parte communication policy -not a change in policy but a clarification to the language and make it more functional. Greg offered explanation – staff versus board – giving people opportunity to access information. Information – great, but not when the board is getting ready for action

No substantive decision off the record – it will be on public record.

Note – statutory citation – 2-15-102 – correction to be made to the policy.

Second policy is the policy on information requests and release. Like the earlier policy, the request is to move the policy out of the QAP and set as a general policy. The legislature amended the public record laws in the legislature last session. Information to the board is public information and subject to disclosure – such as a tax credit application. There are areas of confidentiality that will be protected – individual privacy – which outweighs public right to know. Trade secret information, financial information or business plans – those may be protected and not disclosed.

See policy here\*\*\*\*

### Questions from the board

Pat asked what are the policies and procedures for information requests? Greg stated that he did discuss with the council for the department of commerce and their position was to initiate communication with owner of information and have them decide what is proprietary.

Pat asked, who is responsible for defending against private information – is it the agency or owner of the information? Greg responded that he was not certain. Traditionally handled, the owner of the information is contacted. Bruce concurred with the assessment.

Bruce stated that we will do training with the board and public annually on ex parte – and other policies as applicable. If people have questions, call and ask board staff or Greg, and we will make sure we are all doing this correct.

Pat move to adopt the policies with the change to the statute.

Sheila seconded the motion.

A call for questions or comments was made by JP.

Greg noted at 9:04 that on information requests, language was left out of the paragraph near scope - public information is any information prepared owned used or retained by the board relating the except\*\*\*

Pat amends the motion to include the language as modified by Greg.

Sheila seconded the motion.

The Board voted – Unanimously to approve both policies.

Stacy provided a brief update on the strategic plan noting dates were added as well as specific steps to follow through. Penny noted the Housing Conference.

Mary Bair stated that the loan made to southern lights on rehab efforts was being paid back this week. 9:07 am

JP – called the meeting to close – at 9:08am

10 minute break, then 4% tax credits.

Meeting adjourned at 9:08 a.m.

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Sheila Rice, Secretary

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Date

# BOARD AGENDA ITEM

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## PROGRAM

Multifamily Program

## AGENDA ITEM

Administrative Rule of Montana (ARM)

Consideration of ARM 8.111.602 and 8.111.603 amendments and comments

## BACKGROUND

The ARM is amended as the QAP changes. The 2017 QAP was approved by the governor and then proceeded to the ARM process. Public hearing was held on May 26, 2016 and no comments were received.

The written comment period closed at 5 PM on Friday June 3, 2016.

No written comments were received.

No Action is required by the board.

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

Purchase Price Limit Review and Income Limit Approval

## BACKGROUND

The Board's Administrative Rules require that each June, or at other times as necessary, the Board is to review, establish and revise income limits for lower income persons and families in need of housing assistance under the Board programs.

The Internal Revenue Service released Revenue Procedure 2016-25 containing safe harbor numbers to be used in establishing average area purchase prices to be used with regard to mortgage loans financed with tax-exempt bonds. This procedure also establishes the new U.S. average purchase price. The new average area purchase prices and U.S. average purchase price are to be used in computing the high housing cost adjustment to the income limits.

The purchase price limits for our program are determined by multiplying the safe harbor limits by .9 for non-targeted areas or 1.1 for targeted areas, the new purchase limits are attached for your review. With the new Statewide Purchase Price, the VHLP limit will be reduced to \$242,795, which is 95% of the Board's statewide limit.

To determining our income limits we have the option of applying the new high cost area adjustment to either the 2015 or 2016 HUD median income numbers. Staff has reviewed both calculations and has determined that using the 2015 numbers allows us to set higher income limits, there by assisting more borrowers.

## PROPOSAL

Staff requests that the Board approve the attached income limits based on the 2015 HUD median income numbers.

# 2016 MBOH Income and Purchase Price review

Page 1

## Income Limit Review:

Board Reviews annually, per Administrative Rules

### Historical Formula:

Based on statewide, or local area median income (greater of the two)

#### Non-targeted areas

Family of 1 or 2	100%
Family of 3 or more	115%

#### Targeted areas

Family of 1 or 2	120%
Family of 3 or more	140%

### Current Formula:

Historical formula, adjusted by ARRA provisions concerning areas with high housing costs. Current formula allows HFAs to calculate income limits based on either 2015 or 2016 data, but must select one data year per county.

## Purchase Price limits:

Follows highest allowable limits under program as new limits are released  
**(no Board action required)**

### Formula:

Non-targeted areas:	90% of the greater of, Average Area Purchase Price (AAPP), or Statewide average purchase price
Targeted areas:	110% of the greater of Average Area Purchase Price or statewide average purchase price

County / area	2016 Average Area Purchase Price (AAPP)	2015 Purchase Price Limit	2016 Purchase Price Limit	amount of change
Beaverhead	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Big Horn	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* Blaine	\$ 283,971.00	\$316,177	\$312,368	(\$3,809)
Broadwater	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Carbon	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Carter	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Cascade	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* City of Great Falls	\$ 283,971.00	\$316,177	\$312,368	(\$3,809)
Chouteau	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Custer	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Daniels	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Dawson	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* Deer Lodge	\$ 283,971.00	\$316,177	\$312,368	(\$3,809)
Fallon	\$ 296,386.00	\$258,691	\$266,747	\$8,057
Fergus	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* Flathead	\$ 315,663.00	\$351,463	\$347,229	(\$4,234)
Gallatin	\$ 362,651.00	\$330,366	\$326,386	(\$3,980)
Gallatin Census Tracts 6 and 11.01	\$ 362,651.00	\$403,780	\$398,916	(\$4,864)
Garfield	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Glacier	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Golden Valley	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Granite	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* Hill	\$ 283,971.00	\$316,177	\$312,368	(\$3,809)
Jefferson	\$ 300,000.00	\$273,293	\$270,000	(\$3,293)
Judith Basin	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Lake	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Lewis & Clark	\$ 300,000.00	\$273,293	\$270,000	(\$3,293)
Liberty	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Lincoln	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* Lincoln Census Tr 2	\$ 283,971.00	\$316,177	\$312,368	(\$3,809)
Madison	\$ 340,964.00	\$310,610	\$306,868	(\$3,742)
McCone	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Meagher	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* Mineral	\$ 283,971.00	\$316,177	\$312,368	(\$3,809)
* Missoula	\$ 303,614.00	\$330,000	\$333,975	\$3,975
Musselshell	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Park	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Petroleum	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Phillips	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Pondera	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Powder River	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Powell	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Prairie	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Ravalli	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Richland	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Roosevelt	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Rosebud	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* Sanders	\$ 283,971.00	\$316,177	\$312,368	(\$3,809)
Sheridan	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
* Silver Bow	\$ 283,971.00	\$316,177	\$312,368	(\$3,809)
Stillwater	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Sweet Grass	\$ 303,614.00	\$276,585	\$273,253	(\$3,333)
Teton	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Toole	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Treasure	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Valley	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Wheatland	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Wibaux	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)
Yellowstone	\$ 283,971.00	\$258,691	\$255,574	(\$3,117)

\* Targeted Areas

County / area	Highest allowable income limits June 2015				High Cost 2016 (2015 income; 2016 AAPP) formula based on 2015 incomes				amount of change			
	Non Targeted		Targeted		Non Targeted		Targeted		Non Targeted		Targeted	
	1-2 Person	3+ Person	1-2 Person	3+ Person	1-2 Person	3+ Person	1-2 Person	3+ Person	1-2 Person	3+ Person	1-2 Person	3+ Person
Beaverhead	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Big Horn	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
* Blaine			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
Broadwater	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Carbon	\$64,200	\$73,830			\$ 64,200.00	\$ 73,830.00			0.00	0.00		
Carter	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Cascade	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
* City of Great Falls			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
Chouteau	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Custer	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Daniels	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Dawson	\$65,400	\$75,210			\$ 65,400.00	\$ 75,210.00			0.00	0.00		
* Deer Lodge			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
Fallon	\$69,600	\$80,040			\$ 69,600.00	\$ 80,040.00			0.00	0.00		
Fergus	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
* Flathead			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
Gallatin	\$80,888	\$93,021			\$ 75,853.71	\$ 87,231.76			(5,034.22)	(5,789.35)		
Gallatin Census Tracts 6 and 11.01			\$82,320	\$96,040			\$ 82,320.00	\$ 96,040.00			0.00	0.00
Garfield	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Glacier	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Golden Valley	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Granite	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
* Hill			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
Jefferson	\$79,300	\$91,195			\$ 79,300.00	\$ 91,195.00			0.00	0.00		
Judith Basin	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Lake	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Lewis & Clark	\$73,600	\$84,640			\$ 73,600.00	\$ 84,640.00			0.00	0.00		
Liberty	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Lincoln	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
* Lincoln Census Tr 2			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
Madison	\$74,400	\$86,800			\$ 71,817.08	\$ 82,589.65			(2,582.92)	(4,210.35)		
McCone	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Meagher	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
* Mineral			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
* Missoula			\$77,760	\$90,720			\$ 77,760.00	\$ 90,720.00			0.00	0.00
Musselshell	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Park	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Petroleum	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Phillips	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Pondera	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Powder River	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Powell	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Prairie	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Ravalli	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Richland	\$66,200	\$76,130			\$ 66,200.00	\$ 76,130.00			0.00	0.00		
Roosevelt	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Rosebud	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
* Sanders			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
Sheridan	\$65,000	\$74,750			\$ 65,000.00	\$ 74,750.00			0.00	0.00		
* Silver Bow			\$75,360	\$87,920			\$ 75,360.00	\$ 87,920.00			0.00	0.00
Stillwater	\$69,100	\$79,465			\$ 69,100.00	\$ 79,465.00			0.00	0.00		
Sweet Grass	\$66,627	\$76,621			\$ 62,900.00	\$ 72,335.00			(3,726.65)	(4,285.65)		
Teton	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Toole	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Treasure	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Valley	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Wheatland	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Wibaux	\$62,800	\$72,220			\$ 62,800.00	\$ 72,220.00			0.00	0.00		
Yellowstone	\$64,200	\$73,830			\$ 64,200.00	\$ 73,830.00			0.00	0.00		

\* Targeted Areas

County / area	Highest allowable income limits June 2015				High Cost 2016 (2016 income; 2016 AAPP) formula based on 2016 incomes				amount of change			
	Non Targeted		Targeted		Non Targeted		Targeted		Non Targeted		Targeted	
	1-2 Person	3+ Person	1-2 Person	3+ Person	1-2 Person	3+ Person	1-2 Person	3+ Person	1-2 Person	3+ Person	1-2 Person	3+ Person
Beaverhead	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Big Horn	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
* Blaine			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
Broadwater	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Carbon	\$64,200	\$73,830			\$ 67,400.00	\$ 77,510.00			3,200.00	3,680.00		
Carter	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Cascade	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
* City of Great Falls			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
Chouteau	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Custer	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Daniels	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Dawson	\$65,400	\$75,210			\$ 65,200.00	\$ 74,980.00			(200.00)	(230.00)		
* Deer Lodge			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
Fallon	\$69,600	\$80,040			\$ 68,300.00	\$ 78,545.00			(1,300.00)	(1,495.00)		
Fergus	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
* Flathead			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
Gallatin	\$80,888	\$93,021			\$ 75,037.58	\$ 86,293.21			(5,850.35)	(6,727.90)		
* Gallatin Census Tracts 6 and 11.01			\$82,320	\$96,040			\$ 86,400.00	\$ 100,800.00			4,080.00	4,760.00
Garfield	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Glacier	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Golden Valley	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Granite	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
* Hill			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
Jefferson	\$79,300	\$91,195			\$ 78,500.00	\$ 90,275.00			(800.00)	(920.00)		
Judith Basin	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Lake	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Lewis & Clark	\$73,600	\$84,640			\$ 70,000.00	\$ 80,500.00			(3,600.00)	(4,140.00)		
Liberty	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Lincoln	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
* Lincoln Census Tr 2			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
Madison	\$74,400	\$86,800			\$ 71,429.09	\$ 82,143.46			(2,970.91)	(4,656.54)		
McCone	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Meagher	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
* Mineral			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
* Missoula			\$77,760	\$90,720			\$ 74,040.00	\$ 86,380.00			(3,720.00)	(4,340.00)
Musselshell	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Park	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Petroleum	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Phillips	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Pondera	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Powder River	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Powell	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Prairie	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Ravalli	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Richland	\$66,200	\$76,130			\$ 69,500.00	\$ 79,925.00			3,300.00	3,795.00		
Roosevelt	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Rosebud	\$62,800	\$72,220			\$ 61,800.00	\$ 71,070.00			(1,000.00)	(1,150.00)		
* Sanders			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
Sheridan	\$65,000	\$74,750			\$ 68,200.00	\$ 78,430.00			3,200.00	3,680.00		
* Silver Bow			\$75,360	\$87,920			\$ 74,040.00	\$ 86,380.00			(1,320.00)	(1,540.00)
Stillwater	\$69,100	\$79,465			\$ 71,200.00	\$ 81,880.00			2,100.00	2,415.00		
Sweet Grass	\$66,627	\$76,621			\$ 62,817.78	\$ 72,240.44			(3,808.87)	(4,380.21)		
Teton	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Toole	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Treasure	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Valley	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Wheatland	\$62,800	\$72,220			\$ 61,700.00	\$ 70,955.00			(1,100.00)	(1,265.00)		
Wibaux	\$62,800	\$72,220			\$ 64,500.00	\$ 74,175.00			1,700.00	1,955.00		
Yellowstone	\$64,200	\$73,830			\$ 67,400.00	\$ 77,510.00			3,200.00	3,680.00		

\* Targeted Areas

DRAFT



Mortgage loans made in Montana that stay in Montana

County or area:	Maximum Income Limits		Purchase Price Limits
	Small Household 1 or 2 people	Large Household 3 or more people	

* Blaine	\$75,360	\$87,920	\$312,368
Carbon	\$64,200	\$73,830	\$255,574
Cascade	\$62,800	\$72,220	\$255,574
* City of Great Falls	\$75,360	\$87,920	\$312,368
Dawson	\$65,400	\$75,210	\$255,574
* Deer Lodge	\$75,360	\$87,920	\$312,368
Fallon	\$69,600	\$80,040	\$266,747
* Flathead	\$75,360	\$87,920	\$347,229
Gallatin	\$75,854	\$87,232	\$326,386
* Gallatin Census Tracts 6 and 11.01	\$82,320	\$96,040	\$398,916
* Hill	\$75,360	\$87,920	\$312,368
Jefferson	\$79,300	\$91,195	\$270,000
Lewis & Clark	\$73,600	\$84,640	\$270,000
Lincoln	\$62,800	\$72,220	\$255,574
* Lincoln Census Tract 2	\$75,360	\$87,920	\$312,368
Madison	\$71,817	\$82,590	\$306,868
* Mineral	\$75,360	\$87,920	\$312,368
* Missoula	\$77,760	\$90,720	\$333,975
Richland	\$66,200	\$76,130	\$255,574
* Sanders	\$75,360	\$87,920	\$312,368
Sheridan	\$65,000	\$74,750	\$255,574
* Silver Bow	\$75,360	\$87,920	\$312,368
Stillwater	\$69,100	\$79,465	\$255,574
Sweet Grass	\$62,900	\$72,335	\$273,253
Yellowstone	\$64,200	\$73,830	\$255,574
All other Counties	\$62,800	\$72,220	\$255,574

\* Targeted Areas

DRAFT DRAFT

[www.housing.mt.gov](http://www.housing.mt.gov)



406-841-2840

DRAFT ONLY --- SCHEDULED FOR BOARD REVIEW 6/6/2016

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

Habitat Setaside Request

## BACKGROUND

Habitat requests an annual allocation of setaside funds each fiscal year, and at the end of the fiscal year, any unused portion of the allocation expires.

In June 2015 the Board approved an \$880,000 setaside for Habitat that expires 6/30/2016. As of May 30, 2016, with loan in process, Habitat has used \$706,316 leaving a balance of \$173,684 that will expire.

## PROPOSAL

As per the attached letter, Habitat is requesting a setaside for FY2017 of \$1,000,000 with an expiration date of 6/30/16.



*Habitat for Humanity of Gallatin Valley, Inc.  
Building Houses... Building Homes... Building Hope... Building Strong Communities*

230 Arden Dr., Belgrade, MT. 59714  
Office: 406-388-8225  
ReStore 406-388-2851 Fax 406-388-8226

May 19, 2016

Montana Board of Housing  
PO Box 200550  
Helena, MT 59620-0550

Mr. Chairman and Board Members,

As the representative of the Habitat for Humanity affiliates in the State of Montana I would like to thank you for your support over the past years. Due to your support we have been able to place qualified families into their new homes. While we do not build a large number of homes each year, those that we do place families in have strengthened those neighborhoods and brings tax dollars into the local community. Besides the financial benefits to the local community, we know clearly that children who have space of their own do better academically, socially and behaviorally.

Many of our families are the working low income wage earners that make up the backbone of our workforce but are in need of a helping hand up. Thank you for your support.

As we move into the next fiscal year, collectively, we would like to request from Montana Board of Housing your continued support in the amount up to 1,000,000 (1 million dollars) for our building program. As we know, the actual experience might be less because we rely heavily on volunteer builders and making sure families qualify financially.

These funds will enable us to continue to attack poverty housing in Montana and build stronger communities for all of our families.

Thank you for reviewing our request and Thank you for your favorable support.

Respectfully,

*David*

J. David Magistrelli,  
Executive Director  
Habitat for Humanity of Gallatin Valley, Inc.

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

Existing Setaside Extensions

## BACKGROUND

### Disabled Accessible Affordable Homeownership Program (DAAHP)

The DAAHP Program provides affordable loans to physically disabled borrowers and allows modifications to the home to make it more architecturally accommodating for their mobility limitations. Since July 2015 there has been one loan purchased in this program for \$49,857 and we have had some inquiries. This is an important setaside to have as an option for our borrowers.

## PROPOSAL

Currently there is \$862,950 available to fund DAAPH loans and the expiration date for the program is 6/30/2016. We would like remove the expiration date on this program making it a permanent element in the Homeownership Program.

## BACKGROUND

### Lot Refinance Program

The lot refinance program provides the permanent financing for new constructed homes that are built on lots where the homebuyer has title to and still owes on the lot and the title is encumbered. The purpose of this program is to promote the construction of new homes and encourage homebuyers to invest and save in the land in which to build their home.

These loans are not eligible for the Montana Board of Housing's Regular Bond program since the lot is being refinanced. No loans were purchased in this program in the last year although we do get inquiries from time to time

## PROPOSAL

Currently there is \$726,440 available to fund the lot refinance program and it expires 06/30/2016. We would like remove the expiration date on this program making it a permanent element in the Homeownership Program.

Board Meeting: June 6, 2016

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

80% Combined Setaside Request

## BACKGROUND

In April 2014, the Board approved \$5,000,000 million in funding from 2007A1 Pre-Ullman funds for a program to offer low-LTV uninsured loans at a 4% rate to homebuyers who are eligible for NeighborWorks MT 20+ Community Second program. This 80/20 structure was available only to the group of lenders selected by NWMT for the 20+ Community Second Program. The Program provided a first-position loan for 80% of the purchase price, and NWMT provides an amortizing second loan for the other 20%. This Program provides a valuable alternative to the current high cost of an FHA-insured loan. This setaside is set to expire 6/30/16.

The Board has been able to fund the 80% Combined loans out of the regular bond program in the past year since we have been issuing bond out of the SFI indenture where these kinds of loans are allowed. In the future, when we issue bonds out of the Single Family II indenture, it will be necessary for us to have an allocation of setaside funds established for this program.

## PROPOSAL

Staff requests that Board leave the existing 80% Combined Setaside intact and remove the expiration date on this program making it a permanent element in the Homeownership Program and allowing staff to use it as necessary when we issue bonds out of the SFII indenture.

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

MCC Resolution Approval

## BACKGROUND

The Mortgage Credit Certificate allows eligible homebuyers to receive a dollar-for-dollar reduction in their federal income taxes of up to 20% of the annual interest paid on their mortgage. Borrowers can file an amended withholding statement with their employer, and increase their monthly take-home pay by the amount of the credit. This additional income can be used to help qualify a borrower for a loan. The MCC can be attached to any loan statewide, except for a loan financed through any other Montana Board of Housing Program.

Attached is a Resolution for your consideration that authorizes the use \$36,000,000 in bond cap to provide \$9,000,000 of tax credit authority, it is a 4 to 1 trade off.

## PROPOSAL

Staff requests that the Board approve the attached resolution.

## RESOLUTION NO. 16-0606-S2

A RESOLUTION AUTHORIZING THE ISSUANCE OF MORTGAGE CREDIT CERTIFICATES ("MCCs"); APPROVING THE FORMS OF THE MCC PROGRAM GUIDE AND RELATED ITEMS; AUTHORIZING THE EXECUTIVE DIRECTOR TO FILE ONE OR MORE MCC ELECTIONS WITH THE INTERNAL REVENUE SERVICE; AUTHORIZING THE EXECUTIVE DIRECTOR TO DETERMINE THE MCC RATES, TERMS AND CRITERIA; AND AUTHORIZING THE EXECUTIVE DIRECTOR TO GIVE NOTICE AS REQUIRED BY THE FEDERAL TAX LAWS OF THE IMPLEMENTATION OF THE MCC PROGRAM.

WHEREAS, the Montana Board of Housing (the "Board") is authorized by Montana Code Annotated Sections 90-6-100 through 90-6-127 and Section 2-15-1814 (the "Act") to issue its bonds and to purchase mortgage loans in order to finance single-family housing which will provide decent, safe and sanitary housing for persons and families of lower income in the State; and

WHEREAS, the Board is an authorized issuer of "qualified mortgage bonds" described in Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"), and receives volume cap under Section 146 of the Code to issue such qualified mortgage bonds and other private activity bonds; and

WHEREAS, Section 25 of the Code and the regulations promulgated thereunder permit the Board to exchange its authority to issue qualified mortgage bonds and other private activity bonds for which it has volume cap in order to issue mortgage credit certificates under a qualified mortgage credit certificate program; and

WHEREAS, an MCC provides housing assistance in the form of a nonrefundable, federal tax credit, the value of which is equal to a portion of the mortgage interest paid by a homeowner on certain qualifying loans, and the holder of an MCC may apply this tax credit against his or her federal income taxes in each year the MCC is effective; and

WHEREAS, the Board desires to provide the widest range of alternatives to lower-income borrowers to enable them to finance the acquisition of single-family residences at the lowest effective cost to such borrowers (collectively, such alternatives are referred to as the "Single Family Programs"); and

WHEREAS, as part of the Single Family Programs, the Board currently administers an MCC program (the "MCC Program") and wishes to increase the amount available for MCCs; and

WHEREAS, in connection with such MCC Program, the Board desires to elect not to issue private activity bonds which it could otherwise issue (including from any unused carryforward of private activity bond authority from prior calendar years);

NOW, THEREFORE, BE IT RESOLVED BY THE MONTANA BOARD OF HOUSING, as follows:

**Section 1.** The Board approves and authorizes a continuation of the current MCC Program, pursuant to one or more elections, benefiting qualified homebuyers and homeowners who incur mortgage loans for eligible purposes. The parameters and purposes of this continued MCC Program shall be substantially similar to the Board's current MCC Program, and such parameters are hereby approved in substance, with such changes and modifications as the Executive Director, the staff and counsel to the Board deem necessary and advisable, and are incorporated by reference as part of this Resolution.

**Section 2.** The Board finds and determines that it is necessary to exchange its authority to issue up to \$36,000,000 of private activity bonds for the authority to issue MCCs. The Board directs the Executive Director to make one or more elections, pursuant to Section 25 of the Code, not to issue up to an aggregate of \$36,000,000 of private activity bonds (the "nonissued bond amount") that the Board is authorized and has volume cap available to issue (including any unused carryforward). The nonissued bond amount shall be allocated to a continuation of the current MCC Program. To effectuate the foregoing, the Executive Director is directed to file notice of such election or elections with the Internal Revenue Service, as required by the Code and the regulations.

**Section 3.** The Board authorizes the Executive Director to establish one or more credit rates (based on the criteria he deems appropriate pursuant to the following sentence) for the mortgage loans described therein, determine the program expiration date, select the types of mortgage loans for which MCCs may be issued, approve the terms and conditions on which participating lenders make loans that are eligible for MCC financing, and make other determinations as appropriate, all in accordance with the terms and provisions of Section 25 of the Code and the regulations thereunder and this Resolution. The Executive Director and the staff are hereby directed to further define the MCC Program parameters, as they deem appropriate and necessary to maximize the availability of lower cost financing to low- and moderate-income persons under the Single Family Programs.

**Section 4.** The forms of the MCC Program Guide and related items shall be substantially the same as those for the current MCC Program, which are hereby approved in substance, with such changes and modifications as the Executive Director and counsel to the Board deem necessary, appropriate and advisable.

**Section 5.** The Executive Director shall give notice to the public of the establishment of each MCC program as required by Section 25 of the Code and the regulations thereunder prior to the issuance of any MCCs under the MCC Program.

**Section 6.** The Board ratifies and approves the use of any unused private activity bond volume cap allocated to the Board (including any amount carried forward for the previous calendar years) in connection with the issuance of MCCs.

**Section 7.** This Resolution shall become effective immediately.

ADOPTED by the Montana Board of Housing this 6<sup>th</sup> day of June, 2016.

MONTANA BOARD OF HOUSING

By \_\_\_\_\_  
Chairman

Attest:

By \_\_\_\_\_  
Treasurer/Executive Director