MBOH
Montana Board of Housing

2016 Qualified Allocation Plan for Housing Credits in Montana

MONTANA BOARD OF HOUSING

HOUSING CREDIT PROGRAM

2016 QUALIFIED ALLOCATION PLAN (QAP)

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All Exhibits are located at: Montana Department of Commerce – 2016 QAP Exhibits

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 credit 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 November 17, 2014 meeting, the MBOH Board considered and approved public notice and distribution of the proposed 2016 Qualified Allocation Plan (QAP). Public notice of the proposed 2016 QAP and the opportunity for public comment was published and distributed on November 17, 2014 with oral comments received at a public hearing December 16, 2014. At its January 9, 2015 meeting, after considering written and oral public comment on the proposed 2016 QAP, the MBOH Board approved the proposed 2016 QAP for submission to and approval by the Montana Governor. The Governor of Montana, Steve Bullock, approved the plan as the final 2016 QAP on _______________.

MBOH annually makes available for reservation and Allocation its authorized volume cap of credit authority subject to the provisions of this QAP. http://housing.mt.gov/About/MF/lihtcallocation.mcpx 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.

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, Carryover Allocations 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 forms provided and including the items specified in Exhibit C to this QAP with respect to a Carryover Allocation.

"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 legal control over a property for purposes of an HC Project.

"Acquisition/Rehab" means Acquisition of a property with one or more existing buildings and renovation meeting Montana's minimum Rehabilitation standard of one or more existing buildings on the property as part of an HC Project.

"Allocation" means an Initial Allocation, Carryover 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, Carryover, Carryover Allocation, 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.

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

"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 Allocation, according to the specific requirements of this QAP.

"Carryover Allocation" means a conditional allocation of HCs based upon an MBOH Carryover determination, which allocation is conditional upon the Applicant performing all conditions and requirements for Final Allocation as set forth in the Applicable QAP, the Carryover Allocation 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.

"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.

"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.

"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.

"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."

"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 or entity 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, 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.

"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 and in accordance with the requirements of this QAP, for purposes of obtaining IRS Form 8609(s).

"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 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 included by the Applicant in the UniApp which are not included as professional work and fees, interim costs, financing fees and expenses, syndication costs and Developer's fees.

"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 Allocation 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 an executed buy/sell agreement, option to purchase or written agreement to lease 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 in the form shown in Exhibit D.

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

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

"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.

"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 Part X, "Project Uses."

"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 "QCT" means an area designated as such by HUD.

"Qualified Management Company" means a Management Company that 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; or (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 (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 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 Cost Per Unit thresholds specified in Section 3 of this QAP.

"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 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 Allocation 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 Allocation 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, for purposes of the Soft Cost Ratio, a Project with 24 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, and (2) 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-Cost-to-Hard-Cost Ratio" or "Soft Cost Ratio" means total Soft Costs divided by total Hard Costs as calculated in the UniApp.

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

"Total Project Cost" or "Total Development Cost" mean all costs including building, Acquisition, site work, construction and Rehab, professional work & fees, construction/interim fees, permanent financing fees, Soft Costs, syndication costs, Developer Fees and Project reserves, as 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.

"UniApp" means the Uniform Application and Supplement available on the MBOH website at: http://housing.mt.gov/FAR/housingapps.mcpx.

"UniApp Supplement" means the Supplement portion of the UniApp.

"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.

The housing credits are Awarded each year for a ten-year period. Hypothetically, a Project Awarded $100,000 in tax 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 Tax Exempt Bond Financed Projects discussion in Section 3, Montana Specific Requirements, below.

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 the greater of either $6,200 (**see specific higher requirements for Montana below in "Substantial Rehabilitation" in Section 3, Montana Specific Requirements**) Hard Costs per rental unit or an amount which is not less than 20% 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 the Project divided by the number of units within the Project.

Acquisition and Substantial Rehabilitation

For an existing building which is acquired and Substantially Rehabilitated, the tax 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 specific requirements for Montana below.

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 as defined in this summary).

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 “Utility Allowances” in Underwriting Assumptions and Limitations in Section 3 below) 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. 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 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 Allocation – Carryover Provision

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 2016 for 2016 credits Awarded in January 2016), or
- Obtain a Carryover Allocation 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 2018 for 2016 credits Awarded in January 2016); contingent upon meeting 10% requirements (see 10% Test in Section 10 below for specific requirements).

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 tax credits, including non-deductible interest, of at least a portion of the tax 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 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 protection period.

SECTION 3 - MONTANA SPECIFIC REQUIREMENTS

Eligible Applicants

An Applicant who previously received an Award of credits for its first tax credit Project in Montana may not receive an Award of credits for another Tax 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 tax 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. If an 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 outstanding late fees due and payable to MBOH, the Applicant is not eligible to apply for credits.

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 tax credit.

At Application, expected proceeds must be estimated by the Applicant. **Within 30 days after equity sources are committed, the Applicant must provide MBOH with a copy of the commitment or agreement.** 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 funding 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 form attached below as Exhibit C.

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 tax credit amount for a particular Project. These cost limitations are based upon and in accordance with NCSHA standards.

Cost Per Unit/Cost Per Square Foot

Cost Per Unit and Cost Per Square Foot are subject to the specific limitations provided in other sections of this QAP. In addition, MBOH will evaluate 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 the area of the state and the community where the Project will be located in this review.

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 are unreasonable.

Development cost analysis will be done on Total Development Costs, including land costs, whether or not any such costs are eligible for the credit financing.

Cost Per Unit may not exceed $230,000 per unit. Applications exceeding this limit will be returned un-scored and will receive no further consideration, and the application fee will not be refunded.

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 or 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 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 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 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 tax 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 between 1.15 and 1.25. DCR’s outside this range 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 properties) 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 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 amount equal to at least $250 per unit annually for New Construction developments for Elderly Properties and $300 for other New Construction and Rehabilitation developments, until the replacement reserve equals at least $1,000 per unit. Upon Allocation of tax credits, the Project has five years to attain and must then maintain replacement reserves in at least that amount per unit. 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 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.

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).
- Levered handles for exterior and interior doors (except exterior swing doors).
- 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.
- Lever style faucets for laundry hook-up, lavatory and kitchen sink.
- A minimum of a ground level half-bath with a 30X48 inch turn space (also required in Rehabilitation unless waived by staff for structural limitations or excessive cost, etc.).
- No-step entry to all ground floor 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 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.

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.

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 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 each full unit 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.

Substantial Rehabilitation

Montana's minimum 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 must also include a list of items to be included in each unit (i.e., replaced, refinished, repaired, upgraded, etc.) in the rehabilitation 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 tax credits outside the state's tax credit allocation volume cap. Applications may be submitted at any time and are not limited to the application schedule in Section 4, below. 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 tax 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 Homeownership

Several supplemental Application documents are required for Projects that include eventual homeownership. The Application must address how the Owner will administer the transfer of ownership to a qualified homebuyer at the end of the Compliance Period. Second, the Application must either identify the price at the time of the title transfer or a reasonable process to determine the price. Third, the Application must document that the potential owners will be required to complete a homebuyer counseling program. The Applicant must 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 tax 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 tax credits if MBOH determines that an increase in tax credits is necessary to achieve the Project’s feasibility. MBOH staff may recommend an Award of tax credits, and the MBOH Board, at the time it considers authorizing reservations of tax 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 tax credits calculated at up to 130% of eligible basis. Applicants must justify the need for the requested basis boost in the narrative and support documentation. Considerations justifying a need for a basis boost are:

- Qualification of the Application for the Small Rural Project set aside pool;
- Qualification of the building location for Rural Development funding;
- 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;
- The Project includes historical preservation or Preservation of existing affordable housing; or
- 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, 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 costs 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.

Rural Development Projects

For Rural Development Projects, MBOH requires a copy of the final USDA Rural Development cost certification, as well as the Accountant Certification of tax credit eligible and qualified basis, and the Owner's certification. While a USDA Rural Development Project may be technically eligible for an amount of credit, such Projects frequently will receive an Award less than the maximum amount of credit, because less credit is required to fill the financing gap. MBOH will Award no more than the amount of credit determined necessary to make the Project feasible.

Information Request and Release Policy

General Program Information

All general program information will be provided as requested either by mail, facsimile, email, or on the MBOH website. General information may include, but is not limited to, program terms and guidelines, income and mortgage limits, funds availability, Project lists, etc.

Request Procedure

If requesting information from an Application and/or compliance file, a written request must be submitted and must include a description of the specific information or documents being requested. The requestor will be charged and must pay the costs of providing such documents according to the Department of Commerce Public Records Request Response Guidelines effective July 1, 2012, or as amended.

Policy on Confidentiality and Disclosure of Information

Information submitted to the Board is subject to the public's right to know guaranteed by the Montana Constitution except where the demands of individual privacy clearly exceeds the merits of public disclosure.

Information contained in an Application or compliance file is subject to disclosure as described in the Board's administrative rule, ARM 8.111.203, which follows:

> 8.111.203 CONFIDENTIALITY AND DISCLOSURE OF INFORMATION
>
> (1) Information submitted to the board by private parties is generally open to public review and disclosure. Therefore, applications, financial information and other information submitted to the board under any of its programs are subject to inspection and copying by interested members of the public except as provided in this rule. Some information may be protected from public disclosure. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure.
>
> (2) If a person or entity submitting information to the board considers any of that information confidential and wishes the information documents to be withheld from public disclosure, the submitting party must identify which part of the information is considered confidential upon their submission and the basis upon which the party believes the information should be withheld from public disclosure.
>
> (3) The type of information which may be withheld from the public disclosure is very limited. If individual documents are not specified and a basis not identified, the board will deem all the information submitted to the board as subject to public disclosure. A submitting party should consult with legal counsel to determine what information

may be protected and for what reason. A statement that all information submitted by a submitting party is confidential will be considered ineffective.

(4) The board will take reasonable steps to protect information designated as confidential from public disclosure and for which a reasonable basis is stated for the confidentiality. If information has been designated as confidential and a basis for confidentiality stated, upon receiving a request to review any such information board staff will notify the submitting party of the request in writing by United States mail at an address provided by the submitting party. The notice will identify the party making the request, and the stated purpose for the request.

(5) It is the responsibility of the submitting party upon receipt of the notice to take such action as is necessary to protect the information from disclosure, including obtaining a court order protecting the documents from disclosure if necessary. If the board does not receive an order from a court of competent jurisdiction ordering the board to maintain confidentiality of the requested information or the board is not notified of other arrangements made between the requesting and submitting parties within 10 days from the date of the notice of the request, the information will be disclosed to the requesting party. The board will not assert the right of confidentiality for a submitting party in a court of law.

(6) Any information not designated as confidential with a specified basis for confidentiality will be subject to public disclosure without notification to the submitting party.

(7) Tenant certifications, income information and information in individual loan files are confidential and will not be disclosed to the public. (8) If a requesting party wants copies of information maintained by the board, and depending on the number of copies to be made, the board may require the requesting party to provide for their own copying, either by making the copies with a copier and paper provided by the requesting party or by paying the expense of a copy service to make the copies.

Information in compliance files and Application information submitted to the Board prior to the effective date of the rule (June 8, 2001) will not be disclosed until the person who submitted the information is given notice of the request and the opportunity obtain an order protecting the information from disclosure as provided in ARM 8.111.203.

Compliance File Policy

If the information or documents being requested are from an Application, the Project Owner will be notified of the request by telephone or facsimile, the Project Owner will be told the identity of the party making the request. If the Project Owner believes that its Application contains trade secrets, confidential or proprietary information, it is the Project Owner's responsibility to obtain a court order protecting their documents from release. If the Board does not receive a court order within 10 calendar days from the day the request is received by the Board, the documents will be released to the person requesting them.

Tenant Certifications and Income Information will be considered confidential and will not be released.

Individual Loan Files

Personal financial information will be considered confidential and will not be released.

Ex Parte Communication Policy

In instances where the Board of Housing acts as a quasi-judicial body, its members should refrain from ex parte contact with parties who will be appearing before it or their representatives.

Additionally, any ex parte communication made where a quorum of the Board is present, outside of a meeting or hearing scheduled for the purpose of entertaining the issue before it, would violate Montana's open meeting requirements and the right of public participation under Article II, section 8 of the Montana Constitution and § 2-3-203, MCA. A quorum of the Board is defined as a majority of the membership. See § 2-15-124(8), MCA.

The policy when the Board is sitting as a quasi-judicial body is:

- Not to receive any evidence, individually, or collectively, except as a part of the public record at a publicly noticed meeting or hearing scheduled for that purpose.
- If a member is not able to avoid receipt of information or contact with parties outside of a public meeting or hearing the remedial action in that instance is for the Board member to disclose at the public meeting or hearing the full content of the information received.
- Avoidance of ex parte communications is preferred over relying on the public disclosure remedy because an incomplete or inaccurate conveyance of the ex parte contact, even if inadvertent, may bias the outcome and subject the Board action to challenge.

All information an Applicant wants distributed to board members should be provided to staff who will disburse consistently to all members.

SECTION 4 - APPLICATION CYCLE

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

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.

An Applicant for tax-exempt financing under the volume limitation on private activity bonds also seeking an Award of 4% Credits outside the state's tax credit allocation volume 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 and are not limited to the competitive allocation rounds listed below.

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. Complete Applications must be received at MBOH's office by 5:00 pm Mountain Time on the Application submission date specified below.

First Allocation Round:

- Letter of Intent — First Monday in **August 2015**
- Board Review and Discussion — **Next** MBOH Board Meeting
- Application Submission — First Monday in **October 2015**

- o Applicant Presentations application submission — **Next** MBOH Board Meeting after
- o Award Determination — **January 2016** MBOH Board Meeting

Second Allocation Round (if any):

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

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. The MBOH Board may ask questions of Applicants and discuss proposed Projects but there will be no Applicant presentations and the MBOH Board will not make any Award determination at this meeting. MBOH Board questions and discussion are for purposes of assisting Applicants in presenting better Applications, and shall not be binding upon MBOH in any later Award determination or other MBOH process.

At the MBOH Board's meeting in the month of Application submission, MBOH will provide an opportunity for Applicants to make a presentation to the MBOH Board regarding their Projects and Applications and will provide an opportunity for public comment on proposed Projects and Applications. Applicant presentations will be limited to 10 minutes or less.

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.

Carryover Commitment

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.

SECTION 5 - FEE SCHEDULE

Letter of Intent

The Letter of Intent fee is $1,000.00 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, 2016 for 2016 credit Awards made in January 2016). 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 tax credits may be used to increase the amount of tax 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.

An Application and Reservation fee of 9% of the additional tax 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 returned.

Compliance Fees

See Section 12 - Compliance Monitoring

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 tax 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, MBOH will estimate the amount, 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.

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;
  - 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
  - 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, and (2) 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.

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 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 should read this Qualified Allocation Plan (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. If a Letter of Intent has not been submitted with respect to an Application according to the requirements of this QAP, MBOH will return such Application un-scored along with the application fee and such Application will not be further considered. All Letters of Intent must be submitted in the format included as Exhibit D-1 and D-2. The Project Location, type (e.g., family or elderly), and Developer specified in the Letter of Intent may not be changed in the 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

Applicants must commission a full market study as outlined in Exhibit B.

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 Cycle). Applicants must use the most current form of the Uniform Application and Supplement available on the MBOH website at: http://housing.mt.gov/FAR/housingapps.mcpx

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 returned.

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. 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 meet the threshold 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 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 Exhibit D-1 and D-2.

Applications must:

1. Include the application fee;

2. Be received by the applicable deadline;

3. 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;

4. Be substantially complete, and include all of the following documents, information and items. All the below listed items 5 through 26 must be correctly completed and submitted for the Application to be considered substantially complete:

5. The fully completed, current UniApp as posted on the MBOH website.

6. Specify the Qualified Management Company that will provide property management service to the Project and provide written evidence of 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 written evidence of the replacement company's commitment to provide management services.

7. Market Study prepared and signed by a disinterested third party analyst, with certificate (included in Exhibit B) 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 Exhibit B.

8. Land or Property control through lease, ownership or a legal form of option to purchase.

9. Evidence from applicable local zoning authority of proper zoning addressed (zoning place, planned unit development, zoning change requested) unless no zoning requirements exists. If no zoning requirements exist provide documentation from the proper authority. Acquisition/Rehabilitation Projects may provide evidence of no change in zoning requirements.

10. Utilities Documentation of Availability. Acquisition/Rehabilitation Projects need only provide documentation for expected additional load.

11. A preliminary financing letter from a lender indicating the proposed terms and conditions of the loan must be included. 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. A letter of interest from an equity provider including an anticipated price based on the market at time of application.

13. All Applications for land and/or Acquisition transactions must include a comparative market analysis ("CMA") or an appraisal done by an independent (non-related) party. A CMA or appraisal is not required on leased land.

14. Full scale Capital Needs Assessment for Rehabilitation Applications, on the USDA Rural Development Capital Needs Assessment (CNA) template or similar form and a scope of work for the Project.

15. For Applications proposing Rehabilitation or if existing units are being replaced, a preliminary relocation plan addressing the logistics of moving tenants out of their residences and providing temporary housing during the Rehabilitation and returning tenants to their residences upon completion of the Rehabilitation.

16. A site plan, and a design professional's preliminary floor plan and elevations for the Project.

17. Profit or non-profit status.

18. If a not-for-profit Owner proposes a property tax exemption, documentation of intent to conduct a public hearing must be submitted with the Application and conducted by the Owner. Without documentation of such intent, the Project will be underwritten as if no exemption was received. Documentation of public hearing(s) must be submitted prior to issuance of the Carryover Commitment.

19. Specify the Extended Use Period.

20. If Project is targeted for Eventual Homeownership, provide supplemental Application documents and information specified in the "Eventual Homeownership" portion of Section 3.

21. Specify selected minimum set aside (20-50) or (40-60).

22. Copy of the public notice and proof of publication meeting requirements under "Public Notice" below in this section.

23. 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 round of competition. 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, stipulation of minimum age (i.e., 55 or 62 and over).

25. 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 page and paragraph.

26. Completed and signed indemnification and Exhibit E release forms included in this QAP.

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

A Tax Credit Applicant must place an advertisement in the local newspaper of the intent to apply, and by doing so, encourage public comment to be submitted 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 response. The advertisement must be published twice within a seven-day period. A copy of the notice, annotated with 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 application cycles above).

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.

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.

MBOH staff may query an Applicant or other persons regarding any concerns related to a tax 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 tax 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.

Tax 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 tax 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:

- 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 tax 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 credit 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 prior to issuing IRS Form(s) 8609. Neither the selection of a Project to receive an Award of tax 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 1330 available points to qualify for further consideration. Developments not scoring the minimum Development Evaluation Criteria score of 1100 of the total possible 1330 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 1330 available points to qualify for further consideration. Non-competitive developments not scoring the minimum Development Evaluation Criteria score of 850 of the total possible 1330 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.

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 Homeownership" 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. 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.

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 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*)**: 40 points will be awarded for this Community Input if evidence provided in the Application and in response to MBOH inquiries indicates community input regarding the proposed Project was gathered through: (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; and/or (iii) other appropriate form of community input specifically designed to gather community input for this Application. In order to obtain the available points under this bullet item, there must be 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. Documented community outreach efforts will also be considered.

- **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, 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.

- **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.

- **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* (*240 points possible*)

Preservation of or Increase in Housing Stock (20 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 Track 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;

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.

MBOH staff will verify claimed subsidies with funding source.

Amenities (40 points possible):

Applications will be awarded 10 points for each 3 of the following higher quality amenities that will be provided at no charge to tenants in the Project up to a maximum of 40 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 amentities for purposes of meeting the 3-amenity requirement to obtain an award of 10 points.
These amenity items are:

Units: Amenities must be identified on a per unit basis.

Dishwasher	Washer/dryer hookups
Disposal	Washer/dryer provided in unit
Microwave	Carport/garage

Extra Storage outside unit	Air conditioning
High quality cabinets	High quality flooring
Patios or Balconies	N/A

Community:

Computer(s) for tenant use	Play area
Community room	Community garden
Basketball hoop/pad	Car plug ins
Outdoor community area	Library
On site manager	Laundry room
Use of existing terrain and landscaping that matches the surrounding area to enhance the grounds for innovative accessibility	

Amenities listed above (dishwasher, washer/dryer, microwave, carport/garage, extra storage outside unit, etc.) 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 worksheet Exhibit F. 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 this letter 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 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 one member of the Management Company and one member of the Development Team (other than the Management Company) who is directly and actively involved with the Project that has been trained and maintains certification by a Nationally Recognized LIHTC Compliance Training Company. 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 (certificates must be attached with each Application) (***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 Exhibit H. 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 (***50 points possible***)

A proposal involving significant participation by a Local Entity separate from the Developer must be evidenced by a signed agreement to participate. 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. Examples of significant participation include Local Entities providing: on-site tenant services, such as screening and referring tenants or providing supportive services, through a formal written agreement, which agreement must be extended or replaced so that an agreement remains in place for the duration of the Extended Use Period (with such agreement preserving the Owner's right to cancel the agreement and obtain a replacement agreement with a new servicer if existing servicer is unable to provide the services); donation of land or sale at a reduced price to enhance affordability; use of grant money to develop infrastructure or for other uses; or significant fee waivers on city fees. Monetary or other material support will also be considered. Note: Information submitted during each round of Applications will be compared to other Applications within the same round. 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 a connection with or support from some part of the local community and how it will benefit the property. Points will not be awarded for the same item in both this Development Evaluation Criteria 7 and Development Evaluation Criteria 4, 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 (Application must describe the strategy that will be used to market available units to disabled persons throughout the Extended Use Period).

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

If an entity or individual participating in a Project has a demonstrated poor track record with respect to developments in Montana or in another state, MBOH may assign negative points. For purposes of determining a participant's track record, MBOH may contact community officials, Developer team references, credit bureaus, other state tax credit administering agencies and any other sources as MBOH deems appropriate. As much as 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) for failure to respond within 10 working days of MBOH letter of inquiry. (***Up to Minus (-)200 points possible***)

Applicants, Consultants, Developers, Owners or other Development Team members with past demonstrated management weaknesses, including but not limited to those 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 been trained in a certified compliance training program;

- Has not retrained management on compliance 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 significant changes to previous tax credit applications; or
- Has significantly diminished the quality and long term viability of a previous Project by lowering costs below a reasonable level.
- Any member of the Development Team has outstanding late fees due and payable to MBOH.

* Indicates federally mandated criteria

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 tax credits as provided in this QAP.

Award Determination Selection Standard

The MBOH Board will select those Projects to receive an Award of tax 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 Exhibit G) 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 tax 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 tax credits to qualifying Projects:

- The geographical distribution of tax 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 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 tax 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 tax 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 tax 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 Allocation 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 Allocation or Final Allocation of tax 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 tax 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 tax 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 is issued by MBOH, the Reservation Agreement must be signed and returned on or before the 25th 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 Allocation or Final Allocation of tax credits.

MBOH will revoke an approved tax credit Reservation 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

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, 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.**

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 tax credits;
- Reasonableness of the development and operation costs;
- Projected Rental Income and Operational Expenses;
- Debt Coverage Ratio; and
- Tax Credits required for financial feasibility of the Project.

Deadline for submission of the required 10% information is the end of the twelfth month following the credit Award. 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 tax 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).

New Construction and substantial 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 not substantial (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, 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 CPA's Cost Certification and Owner's Statements (available in Exhibit C);
- Exhibit C Sponsor Certification 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/equity 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.**

SECTION 11 - DEVELOPER/APPLICANT RESPONSIBILITIES

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 and Carryover Allocation 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 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 10th, April 10th, July 10th & October 10th 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 listed, the report will be returned. The report 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
- Grand Opening date (at least 2 weeks' notice)

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 immediately notify MBOH in writing of any proposed substantial changes in the Project. MBOH must review and approve any proposed substantial changes to the Project, including but not limited to changes to:

- Applicant, Developer, HC Consultant or any other principal participant in the Project;
- Quality of construction;
- Unit composition;
- Target group;
- Location;
- Required information presented in the Application.
- Sources and Uses (refer to Section 3).
- Any change that would have affected the Application scoring under the Applicable QAP.

Specific approval by the MBOH Board is required for substantial changes. Requests must be submitted to MBOH with proper justification at least 30 days before the change is expected to take place. MBOH review and Board approval of changes must be completed prior to the change taking effect. Changes completed without MBOH Board 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 tax credit 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/About/MF/manuals.mcpx

Compliance Fees

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 Owner's Certification of Continuing Program Compliance is not received by the deadline, a late fee of $100.00 or 25% of the compliance monitoring fee, whichever is greater, will be charged.

Failure to provide corrections on noncompliance so that they are received by MBOH by the deadline will result in a $25.00 per day fee until all required documentation is received by MBOH. A one-time extension will be granted if a written request is submitted to MBOH no later than 10 days prior to the deadline. If 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 <u>first year of the credit period</u> must be retained for <u>at least 6 years</u> beyond the due date for filing the federal income tax return for the <u>last year of the Compliance Period</u>. 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).

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 to 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

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. 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.

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 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 offered within Montana.

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-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 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 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.

Exhibits

All Exhibits available at:	http://housing.mt.gov/About/MF/2016qapexhibits.mcpx
Exhibit A	High Cost Areas
Exhibit B	Full Market Study Requirements
Exhibit C	10% and 8609 Letters and Forms 10% Cost Certification – Independent Auditors' Report 10% Owner's Statement – 10% Carryover Cost Certification Final Cost Certification – Independent Auditors'' Report Owner's Statement – Final Allocation Owner's Statement – Acq/Rehab Final Allocation Exhibit A Itemized Action Cost and eligible Basis (New Construction) Exhibit A Itemized Action Cost and Eligible Basis (Acq/Rehab)
Exhibit D-1	Letter of Intent Template
Exhibit D-2	Attachment to Letter of Intent
Exhibit E	Release of Information Form and List of States and Properties
Exhibit F	Green Checklist
Exhibit G	Statistical Data
Exhibit H	Cold Weather Development and Construction Experience