

NYC Department of Housing Preservation & Development
Division of Housing Incentives
Low Income Housing Tax Credit Program

INSTRUCTIONS FOR COMPLETING THE
ELECTRONIC FINANCIAL UPDATE FOR IRS FORM 8609

Purpose

The purpose of this document is to provide guidance on the most efficient method to complete the electronic Financial Update for the IRS Form 8609.

To begin claiming Tax Credits, your organization must obtain a completed IRS Form 8609 from the Housing Credit Agency that allocated the credits (HPD). The 8609 Form states the maximum annual amount of credits the project is entitled to claim, and must be filed with the owner's tax return.

The Financial Update must be submitted to HPD to request an 8609 Form. HPD is required by law to re-evaluate the tax credit needs of each project at the time the building(s) is/ (are) placed in service. The Financial Update is your certification to HPD of the final costs of the project, and enables HPD to determine the final credit amount for the 8609 Form.

To reduce the reporting burden, in 2009 HPD instituted the electronic form process that captures project information on a per building basis and summarizes project data.

System Requirements

This document requires users to have at minimum Microsoft Office Excel 2003 to facilitate ease of use. If you are using an earlier version of Excel, use of this form will require an upgrade to Microsoft Office Excel 2003 version or later. Support for other platforms is not available and will impede the review and approval process.

Use of Computer Generated Forms. Applicants must use the current HPD version of the Financial Update. Forms may be obtained from the HPD website: http://www.nyc.gov/html/hpd/html/developers/low_income.shtml. If you are unable to submit the 8609 electronically, please contact the Tax Credit Unit immediately to discuss alternatives. The Financial Update includes a basic error check component to aid in the completion of the application and a review checklist. **Please reconcile your submission against all legal documents submitted and your CPA certification.** HPD reserves the right to reject any submission that does not comply with these requirements.

Validation Process. To ensure the accuracy and integrity of the data submitted, the electronic form has a validation process imbedded in the electronic file. This process will ensure that the hard copy submission is identical to the electronic submission. Submissions that fail the validation process will be returned to the applicant. This will delay the processing and issuance of the Form 8609.

General Instructions

This form was designed to reduce the amount of calculations needed to successfully complete the Financial Update and captures, totals, and summarizes the information provided. It is suggested you take time to familiarize yourself with the form in its entirety before beginning the data entry process.

You may notice cells are shaded in different colors – white, light blue, yellow, and gray. These colors serve to differentiate the cell functions.

- White cells with blue fonts are standard data entry cells. Enter information regarding your project in each cell according to the description provided.
- Light blue cells are auto-calculation cells that total inserted information, while pre-populating various areas of the application. This reduces the amount of data entry and calculation errors.
- Yellow cells serve dual purposes: to differentiate between sub-categories in the form or highlight areas that require special attention.
- Gray cells do not allow any data input.

The Excel workbook has specially designated tabs for data entry. Each tab is a spreadsheet that serves a specific function and auto-feeds various areas of the application to minimize data entry errors. There are built in error messages to assist you in completing the form. Please refer to the Specific Instructions section of this document for more information on tab names and instructions.

When to Submit: The Financial Update should be submitted as soon as: (1) your project has been placed in service (for multiple building projects, all building in the projects must be placed in service and submit the Financial Update together); (2) all development costs have been incurred; **(3) the regulatory agreement and all final loan documents have been finalized and recorded;** (4) your CPA has completed the audit and final certification of total development costs and eligible basis. (This usually occurs after a Temporary Certificate of Occupancy has been obtained and rent-up of tax credit units is well underway or complete.)

As the 8609 Form is needed to begin claiming credits, please consult your CPA or syndicator to determine which year the project will begin claiming credits. Financial Updates should be submitted well in advance of when the 8609 forms are needed for tax filing.

Financial Updates should be submitted to HPD between April 1 and the end of the first week of December. Absolutely no submissions will be accepted after the first week of December. Financial Updates are processed in the order received. Please be aware that the minimum processing period is 60 days for HPD to review Financial Updates, complete the credit analysis and issue the 8609 Forms. **Submissions after this date will only be accepted on a case by case basis and is subject to available capacity.**

How Many Forms to Submit: Although carryover allocations are made on a project basis, 8609 Forms must be issued separately for each building in a project, along with a project summary. This electronic process reduces the reporting burden by capturing both individual building data and summary project data in one electronic form. **NOTE:** Projects funded using the HPD NEP Program are required to submit an individual electronic Financial Update for each building in the cluster, because each building is considered a separate project for tax credit purposes.

Multiple Building Projects: If a project consists of multiple buildings, which received a single project allocation, all buildings in the project must be submitted simultaneously using a single financial update. According to IRS Code IRC §42(g)(7), two or more qualified low-income buildings may be included in a multiple-building project only if they: (1) are located on the same tract of land (unless all of the dwelling units in all of the buildings being aggregated in the multiple-building project are low-income units); (2) are owned by the same person for Federal tax purposes; (3) are financed under a common plan of financing; and (4) have similarly constructed residential units.

To complete the Financial Update form for individual buildings, **all costs must be allocated on a per building basis**, either using a square foot calculation or some other consistent method. The sum of all the costs for the individual buildings must equal the costs on the project summary.

Determining Final Costs: The Financial Update must use figures certified by your CPA to be the final development costs and eligible basis. The CPA must certify financial data for each building receiving tax credits, as well as a project summary. To complete the Update form for individual buildings, all costs must be allocated per building, either using a square foot basis or some other consistent method. The sum of the costs on the individual buildings must equal the total costs provided on your CPA certification of costs and should agree with the Development Budget tab on the Excel workbook.

Before submitting the Financial Updates, check with your syndicator to make sure all development and syndication costs have been included. Be aware that the amount of your credit allocation was based on the costs shown in your original tax credit application. If your Financial Update omits any costs, your final credit allocation could be reduced as a result of your error, which, under the terms of the partnership agreement, may result in penalties to the sponsor or general partner.

Incurred Costs: Only costs actually incurred may be included on the Financial Update. Do not submit Financial Updates until all costs have been incurred, audited and certified by a CPA.

Developer Fees: For tax credit calculation purposes, the developer fee cannot exceed an amount equal to 10% of acquisition costs + 15% of improvements costs. In addition, costs normally associated with developer's overhead will be included toward the developer fee calculation.

Building Identification Numbers (BIN): Under IRS rules, tax credit identification numbers must be assigned to each building in a tax credit project by the allocating agency. **If your project received 9% credits, refer to the Carryover Allocation document issued to the owner as BINs were assigned during the Carryover Allocation process.** If your project is financed using 4% credits and tax-exempt bonds, call HPD's Tax Credit Unit regarding the BIN **before** submitting the Financial Update. This identifier must be provided on the Financial Update, as well as any documents remitted to the IRS. **Do not leave this item blank, or substitute numbers assigned by the NYC Buildings Dept., or other agencies.**

Determining the Correct Credit Rate: In calculating the tax credit amount, use the correct credit rate, which may differ from the rate used for original project underwriting. Credit rates fluctuate monthly, but the rate is usually "elected" or "rate locked" in advance. For 9% competitive projects, refer to your Credit Reservation Agreement for the credit month and year you elected. For 4% as of right projects, refer to the rate lock form submitted after receiving your Determination of Credit Eligibility (DOCE). *If a rate lock form was not submitted to HPD, the rate in effect on the placed in service date must be used.* If you do not know the applicable credit rate, contact HPD or your syndicator.

Loan Documentation: Loan amounts shown on the Financial Update should be the same as reflected in the permanent commitment letters. Attach copies of final and recorded loan documents (e.g. mortgage and note) to substantiate the final loan amounts for 8609 submission. Tax-exempt bond projects must attach documentation for all permanent financing sources (including purchase agreements for 421(a) certificates or air rights) that were not submitted with the original tax credit application.

Placed in Service Date: By IRS definition, a building is generally considered placed in service when it is first placed in a condition or state of readiness and available for occupancy (tenant occupancy is not a condition of a property being placed in service). The placed in service date is usually evidenced by a certificate of occupancy (temporary certificates of occupancy also meet this requirement). Be sure to provide an exact placed in service date for each building, which cannot be later than the day you sign and submit the Financial Update.

Submission Process

METHOD 1 – ELECTRONIC SUBMISSION:

a) Submit the electronic version of the Excel workbook to the HPD email address HPDLIHTC@hpd.nyc.gov using the link provided on the “Cover Page” tab of the Excel workbook. Alternatively, save a copy on your computer and send it as an email attachment to the same email address.

b) Save all of the required exhibits and supporting documents onto a USB flash drive and deliver to HPD (See the Required Exhibits section below). The flash drive becomes the property of HPD and will be used to facilitate archival of your submission.

c) The “Submission” tab of the Excel workbook must be printed out, signed and notarized by an authorized signatory of the General Partner. Only the Submission Tab of the workbook should be submitted as a hard copy exhibit. The printed page should be an exact replica of the electronic Excel version submitted. To ensure data integrity, validation codes have been embedded into the submission page to verify that the certification provided is identical to the electronic version of the workbook submitted via email. ***Please note - this is the preferred method of submission for the Financial Update.***

METHOD 2 – HARD COPY SUBMISSION:

a) Submit the electronic version of the Excel workbook to the HPD email address HPDLIHTC@hpd.nyc.gov using the link provided on the “Cover Page” tab of the Excel workbook. Alternatively, save a copy on your computer and send it as an email attachment to the same email address.

b) The “Submission” tab of the Excel workbook must be printed out, signed and notarized by an authorized signatory of the General Partner. Only the Submission Tab of the workbook should be submitted as a hard copy exhibit.

c) Provide a copy of all required legal documents. See the Required Exhibits directly below for more details.

Required Exhibits: A hardcopy of the following **must** be submitted along with the Financial Update Submission Page:

1. Exhibit A - Syndicator's Review – Letter from the syndicator confirming they have reviewed this submission.
2. Exhibit B - Equity Verification – Statement from syndicator or investor of the final gross and Net Equity amounts to be invested in the project. This information must be reconciled against the Equity Tab in the Excel workbook.
3. Exhibit C - CPA Cost Cert – The CPA certification must state that the CPA has reviewed and audited the **Total Development Costs** and **Eligible Basis**.
4. Exhibit D - Loan Documentation – Loan amounts shown on the Financing Tab of the Excel workbook should be the same as reflected in the original financing commitment letters unless the loans have subsequently been amended by the lender (s). If your loan amount has changed from what was shown on your original Tax Credit Application, you must attach amended loan documents (e.g. commitment letter, mortgage, and note) to verify. Tax-exempt bond projects must attach documentation for all permanent financing sources (including purchase agreements for 421a certificates or air rights) not submitted with the original tax credit application. Be sure to include a copy of any loan commitment or note that has been amended. **If there has been any change to the documents since initial application, be sure to include an updated, fully executed version with your submission. NOTE:** All financing documentation must be fully executed and/or recorded as necessary to satisfy this requirement.

5. Exhibit E - Rent Roll – A rent roll current as of the date of the Financial Update. The rent roll must be consistent with the Unit Distribution tab of the Excel workbook. The rent roll must also be consistent with the final, recorded regulatory agreement. At minimum, HPD suggests the following information provided in columns on a per unit basis: apartment number, tenant name, unit size (number of bedrooms and square footage); rent information (contract rent and tenant portion); unit designation (tax credit low income or very low; HOME unit low income or very low; or market unit). Provide totals for each column described above. The instructions for the suggested format can be accessed using this link: <http://www.nyc.gov/html/hpd/downloads/pdf/Rent-Roll-Instructions-new.pdf>
6. Exhibit F - Deed – Copy showing the limited partnership or limited liability corporation has taken title to all parcels in the project. Include the executed beneficial nominee agreement if an entity other than the partnership has title to the property. **NOTE:** Deeds and other documents evidencing title must be fully executed and/or recorded as necessary to satisfy this requirement.
7. Exhibit G - Regulatory Agreement – Copy of latest regulatory agreement confirming the number of tax credit units and very low income unit requirements. Please be aware that discrepancies between the regulatory agreement and rent roll significantly delay the review process. Be certain to reconcile unit counts and unit types against the rent roll prior to submission. **NOTE:** The regulatory agreement must be fully executed and/or recorded as necessary to satisfy this requirement.
8. Exhibit H - Cash Flow Projection – Submit a hard copy of the projected cash flow representing at minimum, the income and expenses for the 15 year tax credit compliance period.
9. Exhibit I – Allocation Fee – Submit a certified check or money order payable to “NYC Dept. of Finance.” Use the table below to ascertain the fee due prior to issuance of 8609 forms.

| Subject to QAP dated 2004 – 2007 | Subject to QAP dated 2008 or later |
|---|--|
| 4% of requested credit amount payable at 8609 filing | 5% of requested credit amount <ul style="list-style-type: none"> • 2.5% payable at Carryover Allocation or DOCE Issuance • 2.5% due at 8609 submission |

10. Exhibit J - Certificate of Owner Entity - Submit the certificate of incorporation, including state seal page and filing receipt, of the final ownership entity claiming credits. In addition, submit IRS tax ID verification.
11. Exhibit K – Green Communities Final Certification - Projects issued credits under the 2010 Qualified Allocation Plan or later are required to have the final certification for Enterprise Green Communities in place before issuance of an 8609.

Complete Submissions: Incomplete submissions cannot be reviewed by HPD. **Please be certain all required attachments are included in your submission** and that all information requested on the Financial Update is provided. If you have any questions about what is required, please call HPD’s Tax Credit Allocation Unit at (212) 863-5184.

Owner Responsibility: HPD will hold the owner ultimately responsible for the submission and accuracy of the Financial Update. The contact person provided by the owner should be someone who is able to answer questions about the 8609 Financial Update or provide additional information.

Financial Updates should be submitted to:
Low Income Housing Tax Credit Unit
NYC Dept. of Housing Preservation & Development
100 Gold Street, Room 9 Y
New York, NY 10038
(212) 863-5184

Specific Instructions

This form is designed to accommodate projects that have up to 20 buildings. This allows you to submit one Financial Update form for your entire project (NEP projects must submit one Financial Update per building).

Application Tab

Section A. Applicant Information

Identify the Sponsor/Developer, Owner (entity receiving tax credits), complete Owner Address, Owner TIN, Project Name, and HPD Program. Select the type of credit requested. For 9% projects only, enter the amount as per the carryover allocation issued by HPD.

Section B. Contact Information

Identify the name, phone number, and email address of the primary contact person responsible for answering questions regarding the Financial Update for 8609.

Section C. Syndicator Information

Identify the syndicator name, address, city, state, zip code, contact person, phone number, and email address.

Section D. CPA Information

Identify the CPA name, address, city, state, zip code, contact person, phone number, email and address.

Building Tab

Section E. Building Information

For each building associated with the entity identified in Section A, provide the PHN (address number), street, city, zip code, borough, block number, lot number, and building identification number (BIN) as provided by HPD, placed in service dates for Acquisition and/or Rehab, Temporary Certificate of Occupancy date and Rent - Up Status percentage. **Please refer to your Carryover Allocation for the BIN for your project.**

Please ensure the entry in this section is accurate, or there will be errors throughout the Financial Update.

Unit Distribution Tab

Section F. Unit Distribution

The building addresses on this page are automatically filled in using data from the "Building" tab of the workbook.

For each building entered on the Building tab, enter the number of units for each bedroom type in the corresponding income range. Use the column "Super Unit" to include the unit in the total building unit count. For projects with HOME funds, be sure to enter the number of HOME units. *Please verify this information against the rent rolls and regulatory agreement to ensure accuracy.*

Development Budget Tab

The building addresses on this page are automatically filled in using data from the "Building" tab of the workbook.

Section G. Development Budget

This page consists of blocks of columns for the project summary and individual building costs. The project summary block has light blue columns, and will total and summarize the information for Buildings 1 - 20. Each "block" includes four columns: Total Costs, Acquisition Basis, Rehab Basis and Total Eligible Basis.

Use the "Other (Specify)" line to include any cost not delineated in this section. *Be sure to enter all "Other (Specify)" descriptions where necessary.*

Using the figures provided by your CPA, first record in the appropriate white cells the total costs associated with the each building. Second, distribute the costs to either acquisition basis or rehab basis as necessary. The total eligible basis for each building cannot exceed the total costs for each building.

Qualified Basis Tab

Section H. Qualified Basis Analysis

Most of the data on this tab is auto-populated using data provided on the Development Tab.

Calculation of Maximum Credit Amt.

Line 1. Eligible Costs –

Data is pulled from appropriate column on the Development Tab.

Lines 2 through 4.

Manual entry required.

Line 5. Auto-calculation of lines 1 – 4.

Line 6. This line is auto-populated based on the Applicable Fraction portion of the spreadsheet. The Applicable Fraction (based on units) is pre-populated from the Unit Distribution tab. To complete this line, manually enter square footage amounts in the appropriate white cells as described on the form, ensuring the square footage for each unit type is included to determine the Applicable Fraction (based on sq. ft.)

Please ensure the entry in this section is accurate, it directly impacts the tax credit calculation.

Line 7. To elect the basis boost, select Yes from the drop down menu.

Line 8. This is an auto-calculation of lines 6 and 7.

Line 9. Enter the Credit Month and Year. For 9% projects, refer to your Credit Reservation Agreement. For 4% projects, refer to the rate lock form submitted after receiving your Determination of Credit Eligibility. If you did not lock a rate, you must use

the rate that the project was placed in service.

Line 10. Enter the Credit Rate applicable to Line 9. *Ensure the “Credit Month/Credit Rate” and “Requested Annual Credit Amount” entries are accurate*

Line 11. Auto-calculation of lines 1 – 10.

Line 12. Enter the amount of credits requested. This amount may differ from Line 11. *Please note: Square footage information must be filled in before the form will allow data entry in these cells. (See Line 6 and Applicable Fraction comments for further details)*

Applicable Fraction

See Line 6 above. Ensure the square footage entries are accurate. This directly impacts the credit calculation.

Financing Tab

Section I. Source of

Funds This section will capture the financing data for the project and each individual building.

Construction Financing – Project Summary

For each financing source, enter the Lender/Source. The most common sources of financing are listed for your convenience. Enter other sources of financing on the “Other (Specify)” lines. Enter the Interest rate, Term, and Annual Debt Service associated with the construction financing.

Be sure to include all categories of financing in this section as it pre-populates other sections of this spreadsheet.

Permanent Financing – Project Summary

For each financing source, enter the Lender/Source. The most common sources of financing are listed for your convenience. Enter other sources of financing on the “Other (Specify)” lines. Enter the Interest rate, Term, and Annual Debt Service associated with the permanent financing. *Be sure to include all categories of financing in this section as it pre-populates all other sections of this spreadsheet.*

Scroll down the page and enter the amount for each Public Funding Source. *Be sure to include all categories of financing in this section because this page pre-populates all other pages.*

Building 1 – 20

Scroll further down the page and using figures from your financing commitments, record in the white cells the **final**, commitment amounts attributable to each building. Enter the amount of funds and annual debt service for each source.

As each building in the project is updated, the Project Summary section will provide aggregate figures that should reconcile with the final, executed commitment documents.

Equity Tab

Section J. Gross and Net Syndication Equity

On a per building basis, enter the Equity Contribution from General Partner and Gross Syndication amounts. The data in the Project Summary column will aggregate the figures provided for each building.

Net Equity Payment Schedule

On a per building basis, enter the milestone, payment date and amount of net equity contributed to the project. The data in the Project Summary column will aggregate the figures provided for each building.

Reconcile both the gross syndication equity and net syndication equity figures against the documentation provided by your syndicator (on a per building basis).

Sources/Uses Tab

The information on this tab is pre-populated using information from the development budget, financing and equity tabs.

M&O Tab

Section K. M&O Budget

Enter annual amounts for Income and Expenses for the entire Project by filling in the white cells.

Aggregate Basis Tab

Section M. Aggregate Basis

For 4% As-of-Right projects only, enter the Tax-Exempt Bond amount and the amount attributed to the project's commercial costs.

Submission Tab

Section N. 8609 Financial Update Electronic Submission Page

Applicant Information

Verify all of the information in this section. It is pre-populated using data from the Applicant Information tab.

Buildings and Credits

Verify all of the information in this section. It is pre-populated using data from the Building Information and Qualified Basis tabs.

CPA License Verification

Fill in the CPA verification section. Be sure to include the CPA license number.

This page must be printed, signed and notarized. Send the page with original signatures as part of the submission exhibits.

NOTE: *A member of the General Partner must sign, date and notarize the Electronic Submission page for 8609 Financial Update.*

Electronic Submission

Upon completing a thorough review of the Financial Update for 8609, this form may be electronically submitted by clicking on the LIHTC link on the Cover Tab.

Alternatively, save as an Excel file and send as an attachment to

HPDLIHTC@hpd.nyc.gov