

New York City – Department of Housing Preservation and Development
Low Income Housing Tax Credit
Information Sheet for 2020 9% Funding Round
Posted: March 24, 2020

Thank you for taking the time to read this information sheet regarding the 2020 9% Low Income Housing Tax Credit funding round. For public health reasons due to COVID-19, we have substituted our traditional pre-submission conference with this information sheet. We are also available to answer questions via email if you have follow-up questions. Please take the time to read the entire document and ensure that the person completing your tax credit online application reviews it as well. This document includes important and helpful information, including links to relevant documents and contacts.

Note that the dates provided below may change as adjustments in response to the pandemic are made. Please check this website regularly as we will update if new information becomes available.

Important Dates

Application Deadline: April 15, 2020 by 4pm – includes electronic submission as well as the signature pages and application fee.

Cure Date: Approximately 2 weeks after application deadline, an analyst will send you a cure letter. The cure letter outlines any missing threshold items or issues. The letter will include only threshold items, not scoring items. Documentation for all scoring items must be submitted with the original application and meet the standards outlined in the Qualified Allocation Plan (QAP).

Anticipated Award Announcements: End of May 2020

Important Timing Considerations
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HPD has \$1.9m in 2020 credits and \$16.3m in 2021 credits available for this funding round. HPD will determine the appropriate credit year for each project based on a project's construction type and the projected construction timetable outlined in the application. The projected construction schedule should be realistic.

Projects receiving 2020 credits, must be able to meet Carryover* by 12/31/2020 and Place in Service** by 12/31/2022.

Projects receiving 2021 credits must be able to meet Carryover by 12/31/2021 and Place in Service by 12/31/2023.

Projects requiring UDAAP or ULURP approval, must receive final approval by 5/26/2020 (that is, 40 calendar days from the application submission deadline as specific in the QAP).

***Carryover Allocation:** HPD must issue a Carryover Allocation by December 31st of the credit year. Projects receiving 2020 credits must be issued the Carryover Allocation by 12/31/2020. HPD sets an administrative deadline for submission, usually around September 15th, to account for processing time. Carryover can be met by incurring at least 10% of the project's reasonably expected basis.

****Place in Service:** Projects must Place in Service by December 31st of the second year following the credit year. Projects receiving 2020 credits must Place in Service by 12/31/2022. The definition of Placed in Service is different for new construction and rehabilitation projects. For new construction projects, Placed in Service is achieved by obtaining a Temporary Certificate of Occupancy. For rehabilitation projects, Placed in Service is achieved by incurring at least \$6,000 per unit in costs.

Projects that do meet these important dates, will not meet the IRS requirements for a tax credit allocation.

Important Program Documents

HPD Low Income Housing Tax Credit website: <https://www1.nyc.gov/site/hpd/services-and-information/lihtc.page>

Qualified Allocation Plan (QAP): This is your guide to HPD's Low Income Housing Tax Credits. The requirements, scoring, process and expectations are detailed in the QAP. It can be found at: <https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/2020-qualified-allocation-plan.pdf>

2020 Notice of Credit Availability (NOCA): This document outlines this year's set aside (40% of its 2021 credits), and specifies the criteria for meeting the set-aside. The NOCA can be found at: <https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/2020-notice-of-funding-availability.pdf>

Tax Credit Application: All applicants are required to submit an electronic application. The application can be found at: <https://webapps.hpdnyc.org/Taxcredits/Login.aspx>

Tax Credit Staff and Contact Information

Christina Duran – Executive Director – wrayc@hpd.nyc.gov
Ann Mary Labib – Deputy Director – labiba@hpd.nyc.gov
Ronald Sanchez – Senior Analyst – sanchero@hpd.nyc.gov
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Fees

Application Fee:

- not-for-profit organization - \$1,000,
- for-profit company - \$2,000
- Application fees must be paid by wire transfer or ACH. Please email Christina Duran at wrayc@hpd.nyc.gov for wiring instructions.
- Physical checks will not be accepted.

Filling Out the Application

Applicants can begin working on the application at any time. You must first create an account before you are able to log in to the system. The tax credit application is created on a platform that is shared with your development team, and the email address and password used are shared with all team members that may need to review or amend your application. Please use an email address and password that you can share with your team members. Below are some tips:

1. **The tax credit application contains 14 tabs.** As you complete all the information in each tab, it will change color from gray to green indicating that all the information has been provided and the tab is complete. You can move freely between tabs 1-7, even if the previous tabs are not complete (ex. you can partially fill in tab 1 and then skip ahead to tab 5). However, tabs 1-7 must all be complete (tabs 1-7 must show as green) before the system allows you to work on to tab 8. The reason for this is tabs 1-7 collect essential data to complete validations and calculations on the remaining application tabs. You are able to go back to tabs 1-7 and change information at any time prior to submission but all fields must be completed in order to move forward to tab 8.
2. **All fields must have a value.** If a particular field does not have a value for your project, fill in the cell with "0". Please note that every cell must have a value or that tab will not turn green. This is the number one reason that people call us for help with the application – they cannot get to the next tab because at least one cell blank was left blank.
3. **All uploads marked as required must have an upload to move to the next tab, but uploads cannot be changed after the application is submitted.** If you want to move on to the next tab but don't have a required upload on the previous tab, you can upload a blank page as a placeholder – just remember to go back and upload the correct document when it is available (and before you submit the application). Applicants are unable to change uploads after submission so use caution if you do upload blank documents as a strategy to be able to move forward in the application.
4. **Choose your contact person carefully.** The contact person listed in the application should be someone that actively checks their email and is able to respond quickly to follow up requests.
5. **Minimum Set Aside Option:** Projects must elect a Minimum Set Aside from one of the following options:

a) **20/50:** 20% of all units must be set aside at 50% AMI. Note that if this option is chosen, no units above 50% AMI will be recognized as tax credits units. (It is rare to choose this option), or

b) **25/60:** 25% of units must be set aside at 60% AMI (most common option), or

c) **Income Averaging:** At least 25% of units must average out to 60% AMI. Any units 0-80% can be included in that average and must be in 10% increments as follows: 20%, 30%, 40%, 50%, 60% 70% and 80%. More information on HPD's Income Averaging policy, please see: <https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/hpd-hdc-income-averaging-policy.pdf>

Threshold Requirement Tips

HPD will evaluate whether the project meets threshold requirements based on documents and affirmations included in the application. Threshold requirements must be met by the end of the cure period. For projects that do not meet the threshold requirements HPD will cease review of their application and the project will not be eligible for credits awarded in this funding round.

All of the following threshold items below must be met (see QAP for more detailed information):

1. **Rent and Income Restrictions** – Project must conform to rent and income restrictions outlined in Section 42 of the Internal Revenue Service.
2. **Readiness** – Owner must have the legal ability to develop the property as evidenced in the documents submitted. This requirement also applies to projects that need UDAAP / ULURP approval. Please refer to page 13 of the QAP for greater detail.
3. **Soft financial commitments** – A soft commitment must be submitted for all sources of financing. The commitment must be dated within 90 days of the application deadline, executed, on letterhead and must include the dollar amount.
4. **Ownership structure** – All entities in the ownership structure must be identified.
5. **Regulatory Agreement** – Applicant must affirm in the application that it agrees to a) waive its right to a Qualified Contract and b) enter into a 30-year regulatory term as required by the IRS with an option to extend the affordability period for an additional 30 years (see QAP, page 15 for additional details).
6. **Housing Needs** – IRS requires that each project submit a Market Study to show the need for low income housing. You can submit HPD's Market Study to meet this requirement. The Market Study is located on the Tax Credit website. Please download it and submit it with your application. It can be found at:
<https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/market-study.pdf>

7. **Applicant Qualifications** - Applicants must complete all questions under the Applicant Qualifications section. A “yes” response to any of the questions requires an explanation of the circumstances.
8. **Enterprise Green Communities Criteria** – Applicant must affirm in the application that it agrees to comply with Enterprise Green Communities Criteria. See QAP (page 16) for additional details. This criteria can be found at: <https://www1.nyc.gov/site/hpd/services-and-information/enterprise-green-communities-criteria-egcc.page>
9. **HPD Benchmarking Protocol** – Applicant must affirm in the application that it will comply with Local Law 84.
10. **Income Averaging** – Projects requesting to elect Income Averaging must submit required documentation along with their application. The required documentation can be found here: <https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/hpd-hdc-income-averaging-policy.pdf>
11. **Standalone projects** – These are projects not receiving any capital subsidy from an HPD loan program. These projects must meet additional marketing and design requirements. Owners submitting an application for a standalone project, should contact Christina Duran (wrayc@hpd.nyc.gov) to discuss these requirements (which are also outlined in the QAP, page 15).
12. **Site Control** – All projects must evidence through documentation that an entity represented on the organizational chart has current control of the site to be developed, and it will be transferred to the ultimate entity receiving credits. Projects that are submitting negotiation letters or letters from their loan programs should ensure the negotiable dates are current and not expired.

Note regarding appraisals: An appraisal is required if a project has acquisition costs exceeding \$500 per unit (even if acquisition credits are not being applied for). One independent appraisal is required for projects appraised at up to \$20m. Projects exceeding \$20m in appraised value must submit two independent appraisals. HPD appraisals are accepted. All appraisals must list the “as-is value” as it exists in the market today. See the QAP (page 23) for more information regarding acquisition and appraisals.

Scoring Criteria

Scoring criteria and pertinent details are outlined in the QAP (pages 17-21). HPD has also included the points associated with each criteria. Below please find some notes worth mentioning on select criteria (the numbers below correspond to the criteria number in the QAP):

#A5 – All applicants should indicate they are willing to accept tenant applications from the public housing waiting list. This will be an automatic point.

#C1, Concerted Community Revitalization Plan - Follow the instructions closely in the QAP. It is up to the applicant to make a strong case for these points. Please submit detailed documentation and justification along with your Plan.

#D2, Participation Diversity – It is the applicant’s responsibility to detail and justify the points by providing statistics, examples, numbers and descriptions of programs that showcase diversity. Please see the QAP for additional details.

#E1, E2 and E3, Project Readiness – In order to get these points, applicants must upload supporting documentation as part of the Tax Credit application. Do not assume that because another unit in HPD may have a copy of one of these documents, the Tax Credit Unit will have it. It is up to the applicant to make the case for points by providing documentation directly as part of the application.

#F, Special Priority Points – HPD’s Commissioner may issue points to projects determined to be an important initiative or unique opportunity to meet the basic local housing objectives.

After the Tax Credit Unit completes scoring all projects that met the threshold requirements, projects are then ranked in score order. Credits are awarded based on the score. HPD creates two buckets – one for projects applying under the set aside and a general pool. 40% of the 2021 credits will be allocated to projects meeting the set aside requirements. Any unused credits from the set-aside pool will be transferred to the general pool. The general pool will include the remaining 2020 credits, 60% of the 2021 credits and any unused credits from the set-aside pool.

Calculation of Credits

If a project scores well enough to be allocated credits, **the amount of credits allowable will be the lower of these three methods:** a) amount applicant requests, b) Qualified Basis Analysis and c) GAP Analysis.

a) The amount the applicant requests in the application

b) Qualified Basis Analysis:

Eligible Basis less Any Grants less Excess Eligible Basis = Allowable Eligible Basis, then
Allowable Eligible Basis X Applicable Fraction X 130% Basis Boost = Qualified Basis
Qualified Basis X Credit Rate = Annual Credit Amount

Example:

\$1,100,000 (Eligible Basis)
- \$100,000 (Less Grants and Excess Basis over the \$300,000 per unit Eligible Basis cap)
\$1,000,000 (Adjusted Eligible Basis)

then

\$1,000,000 (Adjusted Eligible Basis)

X 1.3 (Basis Boost)

X 75% (Applicable Fraction)

\$975,000 (Qualified Basis)

X 9.00% (Credit Rate - all 9% are eligible to use a flat 9% rate)

87,750 (Annual Credit Amount)

Maximum Allowable Eligible Basis: There is a \$300,000 per unit cap on Eligible Basis. While HPD does not prohibit 9% projects from seeking a waiver of this cap, it is strongly encouraged that projects do not request a waiver.

Basis Boost: All 9% projects located in NYC are eligible for the 130% Basis Boost.

Credit Rate: All 9% projects are eligible to use the flat 9% credit rate.

Applicable Fraction: The lower of a) tax credit units to total residential rental units and b) total tax credit square footage to total residential rental square footage. The superintendent's unit is not included in this calculation since it is not a rental unit. It should not be included in the numerator or denominator of this calculation.

Example:

Unit Test		Square Footage Test	
Total Tax Credit Units:	75	Total Tax Credit Sq Ft:	8,000
Total Market Units:	<u>25</u>	Total Market Sq Ft:	<u>3,000</u>
Total Residential Rental Units:	100	Total Residential Rent Sq Ft:	11,000
Superintendent Unit:	<u>1</u>	Superintendent Sq Ft:	<u>500</u>
Total Units:	101	Total Sq Ft:	11,500
Applicable Fraction (75/100):	75.00%	Applicable Fraction (8k/11k):	72.72%

In this example, the lower of the two tests is the Square Footage Test so the Applicable Fraction for the project is 72.72%.

c) GAP Analysis:

Total Development Costs - Syndication Costs = Total Allowable Uses

Total Uses – Total Sources = GAP

GAP / Equity Pricing / 10 = Annual Credit Amount

Example:

\$10,100,000 (Total Development Costs)
- \$100,000 (Syndication and Partnership Costs)
\$10,000,000 (Total Allowable Uses)
- \$8,000,000 (Total Sources)
\$2,000,000 (GAP)

then

\$2,000,000 (GAP)
/ \$1.01 (Equity Pricing)
\$1,980,198 (Total 10-year Tax Credit)
/ 10 (Credits are taken annually for 10 years)
\$198,020 (Annual Credit Amount)

Comparing the two examples, credits would be issued using the Qualified Basis Analysis since it produced the lower amount of credits.

Developer Fee: HPD will recognize total Developer Fees in amounts not exceeding 15% of improvement costs and 10% of acquisition costs. For this purpose, “improvement costs” exclude Developer Fees, reserves, syndication and partnership expenses.

Reserves: All projects must show reserves. If the reserves are not shown on the reserve section in the budget (perhaps because they are included in the developer fee), please ensure that the HPD Analyst assigned to the project is aware so that we can a) be clear the project has reserves and b) ensure that we are evaluating the correct developer fee (less reserves) when calculating points for developer fee (see Developer Fee points in the QAP, page 23).

For projects receiving an allocation of credits, the applicant and HPD will execute a Credit Reservation Agreement (CRA). This is a binding agreement between the applicant and HPD. The person executing the CRA and all other legal documents must be an authorized signer for the applicant (sometimes this is not an Executive Director or someone that normally signs on behalf of a parent organization so please double check who is authorized to sign for applicant entity).

Questions and Follow Up

This information sheet includes helpful tips, but please reference the QAP for comprehensive information. If you need any assistance, please do not hesitate to contact Christina Duran – wrayc@hpd.nyc.gov or Ann May Labib (labiba@hpd.nyc.gov). We encourage you to ask questions prior to submission.

Best of luck to all of you!