



OREGON HOUSING *and*
COMMUNITY SERVICES

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503-986-2000 | www.oregon.gov/OHCS

**Affordable Rental Housing Projects with
4% Federal Low Income Housing Tax Credits
with or without
OHCS Issued Private Activity Bonds
2023-7**

**Notice Of Funding Availability (NOFA)
Intake Application Procedures**

Intake Application Period Open Date: June 14, 2023

Pre-Application Survey Due By: June 21, 2023

Intake Application Due Date: July 21, 2023
Intake Application Due Time: 4:00 PM PST

Version 1.0



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1.0 INTRODUCTION

1.1 Purpose

The Oregon Department of Housing and Community Services (“OHCS” or “Department”) is seeking **intake applications (“Intake Applications”)** during this NOFA Intake Application open period for the new construction, or the acquisition and/or rehabilitation of proposed multifamily residential rental housing developments (“Projects”) that will use 4% Federal Low Income Housing Tax Credit (“LIHTC”) and Private Activity Bonds to serve qualified low-income households.

1.2 Funding Sources

In addition to 4% Federal Low Income Housing Tax Credits, other funding sources that may be solicited in association with this NOFA are limited to the following:

- A. Oregon Private Activity Bond (PAB) Authority
- B. Oregon Affordable Housing Tax Credits (OAHTC)

To participate in this NOFA, applicants must intend to use the 4% LIHTC. It is the responsibility of the Applicant to have read the contents of this document, the LIHTC Program manual, the currently applicable Qualified Allocation Plan (QAP), and all intake application materials, and understand the requirements for each funding source for which the Applicant applies.

This NOFA Intake Application process and the 4% LIHTC Program are being administered in accordance with Oregon’s 2022 Updated Qualified Allocation Plan (QAP), as updated from time to time, and the Internal Revenue Code of 1986, as amended (the “Code” or “IRC”). For more information about Oregon’s Low Income Housing Tax Credit Program, please visit our website: <https://www.oregon.gov/ohcs/development/pages/low-income-housing-tax-credits.aspx>

Applicants and related LIHTC Program participants, including lenders and tax credit equity investors, expressly waive any claims, causes of action or other remedies against OHCS with respect to a disqualification, cancellation, or modification as described above as a condition of Applicant’s filing of its Intake Application or Applicant’s participation in the LIHTC Program.

1.3 Definitions

For purposes of this NOFA, the following terms shall have the following meanings:

Agreement Documents: means the funding documents, the final form of which are satisfactory to OHCS, in consultation with the Oregon Department of Justice, and executed in connection with the Project.

Recommendation: includes any recommendation of funding allocated under this NOFA, contingent on submission of complete Intake Application and subject to approval by the OHCS Finance Committee and the Housing Stability Council.

Applicants: means persons or entities submitting an Intake Application responsive to this NOFA.

Culturally Responsive Organization “CRO”: means an entity that comprehensively addresses power relationships throughout the organization through the types of services it provides, how it maximizes language accessibility, its human resources practices, (e.g. who the CRO hires, the skills the employees bring to the CRO, and how employees are prepared and held accountable), its cultural norms, its governance structures, and policies, its track record in addressing conflicts and dynamics of inclusion and exclusion, and its relationships with racial groups in the region, including its responsiveness to expectations. A Culturally Responsive Organization is one that is dynamic, on a committed path to improvement, and hardwired to be responsive to the interests of communities of color, provide services to communities of color and staff of color. Culturally Responsive Organizations hire and train culturally and linguistically diverse staff to meet the needs of the diverse communities they serve. *¹

Electronic Signature: An electronic signature, in the case of the Intake Application and Full Application, is typing your name into the signature field and submitting any applicable application documents. With such signature, Applicant attests that it will meet and comply with all the requirements and conditions of the NOFA and any additional supplied materials.

Inclusionary Zoning: Also known as inclusionary housing. A municipality and/or county planning ordinance that requires a given share of new construction units be affordable to households with low to moderate incomes.

Master Plan: A large, planned residential project envisioned with mixed-use residential housing space, commercial space, public green spaces, and/or other services in the initial design. The master plan may include Inclusionary Zoning requirements.

Multifamily Tax Subsidy Projects (“MTSP”): The MTSP Income Limits are used to determine qualification levels as well as set maximum rental rates for projects funded with tax credits authorized under section 42 of the Internal Revenue Code (the “Code”) and projects financed with tax exempt housing bonds issued to provide qualified residential rental development under section 142 of the Code.

Permanent Supportive Housing (“PSH”): is rental housing that is deeply affordable to households with extremely low incomes and provides comprehensive on-site tenancy support services. PSH must be designed and prioritized for households experiencing chronic homelessness, and units must be filled through a community’s Coordinated Entry process or approved alternative approach emphasizing equity and racial justice.

Procore™ Workcenter: is a secure web-based portal developed by ProLink Solutions™. OHCS establishes a project specific “workcenter” for each funding application/project. Project specific Procore™ Workcenters serve to facilitate secure electronic document submission and project team task management and it acts as a project communications hub for the project team and Department staff assigned to the project.

Private Activity Bond (“PAB”) Authority: Private Activity Bonds are bonds issued by or on behalf of the State or Local Government for the purpose of providing special financial benefits for qualified projects. If the bonds meet specific criteria the interest earned may be tax-exempt. Private activity bonds are sometimes referred to as Conduit Bonds. The authority specified in this definition is the bond authority directly allocated to Oregon Housing and Community Services via biennium senate bills (currently 2021 SB 5505), but this NOFA accounts for any future allocations to OHCS for this specific purpose. Projects requesting to be financed with 4% LIHTC will be allocated

¹ Adapted from Curry-Stevens, Ann, Marie-Elena Reyes & Coalition of Communities of Color (2014). *Protocol for Culturally Responsive Organizations* s

PAB subject to availability. All project PAB recommendations of award in this NOFA are subject to final approval by the OHCS Finance Committee, the Housing Stability Council, and if necessary, the Oregon Private Activity Bond Committee.

Qualified Nonprofit Organizations: means a nonprofit organization described in Section 501(a) and Sections 501(c)(3) or 501(c)(4) of the Code, that has as one (1) of its exempt purposes the “fostering of low-income housing”. Further, the organization must materially participate (meaning, as described in IRC Section 469(h), it must be involved on a regular, continuous, and substantial basis) in both the development and operation of the project throughout the project compliance period². The organization must not be affiliated with or controlled by a for-profit organization, entity, or individual but may be part of a partnership.

Qualified Census Tract / Difficult to Develop Area “QCT/DDA”: Areas designated by HUD via congressional mandate to provide a maximum basis boost up to 130% for projects sited in the applicable census tracts. More specifically, Low-Income Housing Tax Credit Qualified Census Tracts must have 50 percent of households with incomes below 60 percent of the Area Median Gross Income (AMGI) or have a poverty rate of 25 percent or more. Difficult Development Areas (DDA) are areas with high land, construction, and utility costs relative to the area median income.

Qualified Culturally Specific (QCS) Organizations / Developers is defined as being an organization that is designed to serve historically underserved communities representing “least likely to apply” for housing occupancy.

The QCS Organization must:

be representative of a community or significant segments of a community and provides affordable housing to low- and very low-income households; and

demonstrate primary target populations served to be “least likely to apply,” meaning there is an identifiable presence of a specific demographic group in the housing market area, but members of that group are “not likely to apply” for the housing without targeted outreach, including marketing materials in other languages for limited English proficient individuals, and alternative formats for persons with disabilities. Reasons for not applying may include but are not limited to insufficient information about housing opportunities, language barriers, or transportation impediments.

Single Asset Entity “SAE”: is a separate legal entity formed specifically to hold one asset. OHCS requires that each project be owned by a single-asset entity duly organized under the laws of the State of Oregon, or if allowed by OHCS, duly authorized to conduct business in the State of Oregon.

Sponsor means any entity that represents an applicant or co-applicant in a proposed or funded project.

1.4 Application Parameters

- A. Applicants must be applying for 4% LIHTC with either OHCS issued PAB or commitment from another qualifying agency to issue PAB. Only those sources of funding listed under Section 1.2 of this NOFA may be requested in conjunction with 4% LIHTC funding.

² The compliance period is referenced in IRC Section 42 as the first 15 years after placed in service or through the duration of the extended use period, whichever is longer. See LIHTC Compliance Manual.

Intake Applications with multiple project sites in different counties that cross Geographic Regions as described in section 1.5 (A) will be evaluated in the Geographic Region with the greatest number of units in the Project, however, evaluation will incorporate information from all sites, and both evaluation and fund recommendation of award will be based on a weighted unit distribution average.

1.5 PAB Set-Aside Categories and Authority

To be eligible for 4% LIHTCs, all intake applicants must select and compete in one of the set-asides listed below. If after recommendations for award are made, there are remaining resources in either-set aside, PAB left unrecommended will divert to the other set-aside category for possible recommendation of award before being considered for carryforward.

Percentages of the available PAB will be divided among the following Set-Aside Categories:

- A. **Portland/Metro Pool Set-Aside: sixty-five percent (65%) of the PAB Authority is allocated to Portland/Metro region.** OHCS established Portland/Metro Region set-aside to ensure access for projects sited within Multnomah, Washington, and Clackamas counties. (QAP 2022, p.9)
- B. **Balance of State Pool Set-Aside: thirty-five percent (35%) of PAB Authority is allocated to the Balance of State region.** OHCS established **Balance of State Region** ("Balance of State") set-aside to ensure access for projects sited in any Oregon county not listed in the Portland/Metro set-aside. (QAP 2022, p. 9)

OHCS has Private Activity Bond authority stipulated in Senate Bill 5505 (SB 5505-A). The following amounts are for reference and any Recommendation of Award is subject to PAB availability and OHCS approval.

Funding Source	Total	Portland/Metro	Balance of State
PAB Authority¹	Total: 2023: \$100,000,000	\$65,000,000 65%	\$35,000,000 35%
4% LIHTC²	Subject to project structure, and IRC §42(h)(4)(B)	-	-
OAHTC³	Cap set at request to apply OAHTC on \$6M in permanent debt.	-	-

1- PAB authority: PAB is subject to availability and award order. PAB offered in this cycle is accessible through the Private Activity Bond Committee (PABC) allocation and all projects should estimate their closing prior to End of Year 2023 – projects awarded are considered recommended until approved by OHCS Finance Committee, the Housing Stability Council and, if applicable, PABC. A recommended allocation of PAB allows the project to be placed on a closing schedule. Be aware that projects are not allowed to ask for more than 55% of their total project financing in PAB. Projects that have any OHCS resources not specifically named in this offering are required to have their bonds issued through OHCS.

2- 4% LIHTC: IRC Section 42 (h)(4)(B) stipulates that the funding of a qualified residential building with tax exempt bonds allows for the generation of 4% tax credits. When at least 50% of the project costs are financed with tax exempt bonds, tax credits can be generated utilizing 100% of eligible basis. If project costs are financed with less than 50% of tax-exempt bonds, then tax credits can only be generated on eligible basis financed with tax exempt bonds. It is the applicant's responsibility to track their bond expenditures. Any later requests for second bond issuances are subject to availability, will have all applicable fees applied and could jeopardize future funding opportunities.

3. OAHTC: funding requests cannot exceed \$6M of the total permanent debt figure stipulated by a potential lender in a letter of interest.

1.6 Reservation Process

A. Intake Application Ranking Process: Intake Applications submitted in response to this NOFA are reviewed and then competitively ranked in accordance with the QAP prescribed Award Order. The following describes the process of Intake Application evaluation:

1. Pass the Administrative Review (described in Section 3.1 below).
2. Pass the Readiness to Proceed Criteria (described in Section 3.2 below)
3. Placement onto a pipeline list sorted by PAB set-aside and ranked by Award Order (described in section 3.3 below).

OHCS, at its sole discretion, may choose **not** to award all available resources, to allocate rescinded resources, or to forward allocate where appropriate.

Intake Applications that have the highest ranking after Award Order has been applied within each set-aside category will be recommended for funding as set-aside resources allow. Remaining resources available in either set-aside will fund the other at OHCS discretion.

In the event of a tie or inability to fully fund a project in either of the set-asides, OHCS will apply the post-award order prioritization rules described below in Section 3.3.B in making LIHTC/PAB recommendation of awards.

2.0 INTAKE APPLICATION REQUIREMENTS

2.1 Pre-Application and Intake Application Access

The NOFA application process is a two-step process that requires submission of a pre-application survey and an Intake Application. Upon recommendation of award, project teams will work with their assigned production analyst to provide all due diligence items needed to complete the Full Application before final approvals are given.

2.2 Pre-Application Form Process

Complete the "2023 4% LIHTC / PAB Pre Application Survey" – The survey is available here

<https://app.smartsheet.com/b/form/ed36c93fc52a4c6dad8b8af6cdd2ac5c>

The survey is required for a project to be considered under this NOFA.

Note: This action will alert OHCS staff to generate a Procorem WorkCenter or confirm the appropriate submission folder for the 4%/PAB Intake Application and attachments. If the applicant has been awarded other OHCS resources in 2023 or earlier, there will be no submission materials required, but applicant is expected to complete the Pre-Application Survey. To clarify, applicants meeting this definition will not have to submit a new intake application.

OHCS intends to have a Procorem WorkCenter, and credentials created and/or confirmation of submission folder within 5 business days of receiving the pre-application survey. Applicants are expected to follow the Procorem instructions that will arrive in an email invitation letter to log into the assigned Workcenter.

2.3 Intake Application Submission

Intake Applications and associated charges for the NOFA period must be submitted and postmarked no later than:

July 21, 2023, at 4:00 PM PST

- 1. Intake Applications:** Application, along with all required materials and documentation, must be uploaded to your Procorem Workcenter no later than the due date and time: July 21, 2023 at 4:00 PM PST.
- 2.**
 - Applications in response to this NOFA period can **only** be submitted through Procorem. All application materials and documentation must be uploaded in full by the required date and time. No exceptions will be permitted. Applicants should plan their application upload accordingly.
- 3. Charges:**
 - All applicants must submit application charges via mail. OHCS will not accept electronic payments or hand delivered checks.
 - Applicants must submit the Application charges to the address below, along with the transmittal form provided as part of the application materials in the Application Excel Workbook. All submissions of Application charges must be postmarked no later than **July 14, 2023, at 4:00 PM PST**. If the Application charge is not postmarked by the Application deadline, the Application will be automatically rejected and considered ineligible for funding.

Send Application Charges to:
Oregon Housing and Community Services
4% LIHTC/PAB Application Charge
Attn: Financial Services
725 Summer St. NE, Suite B
Salem, OR 97301

Applications that OHCS determines to be substantially incomplete or not meeting all submission requirements of this NOFA will be deemed "non-responsive" and rejected. All non-responsive Applications will be confirmed following review by the OHCS Senior Tax Credit Programs Manager and the Development Resources and Production Assistant Director.

Applications that are complete and meet all submission requirements of this offering will be evaluated in accordance with the process described in section 3.0 (Evaluation Process).

2.4 NOFA Questions

Inquiries relating to the NOFA process, its administration, or the substantive technical portions of the offering should be directed to: MFNOFA@hcs.oregon.gov

The last day to submit questions relating to this offering is July 14, 2023.

Please note "2023-7 4% LIHTC/PAB" in the subject line. Frequently Asked Questions (FAQs) and answers will be posted on the OHCS website and NOFA work centers at regular intervals during the time that the NOFA response period is open. When appropriate, revisions, substitutions, or clarifications shall be issued as a Technical Advisory and considered a revision to this NOFA.

Changes or modifications to the offering requirements will **ONLY** be recognized if in the form of a written Technical Advisory (TA), issued by OHCS. OHCS shall post the TAs on OHCS' Housing Development page: <https://www.oregon.gov/ohcs/development/Pages/technical-advisories.aspx>

3.0 EVALUATION PROCESS

If an Intake Application passes the requirements of Administrative Review, including timeliness and completeness, the Application will be further reviewed for satisfaction of all Readiness to Proceed Requirements. If the Application fails to pass Administrative Review or meet the Readiness to Proceed Requirements listed below, the Application will be deemed non-responsive and will be rejected. Applicants will be notified by email of this determination. Projects that satisfy the Readiness to Proceed Requirements will then be placed on the "4% Pipeline List" for this NOFA and ranked according to the award order and prioritization described in section 3.3 and consistent with the applicable Qualified Allocation Plan.

3.1 Administrative Review

Each Intake Application will be reviewed for timeliness and completeness of the NOFA requirements. OHCS reserves the right to pursue clarification of any information in an Intake Application that is deemed substantially complete. The following are Pass/Fail criteria, all of which must be met to pass the Administrative Review process:

- Excel Application Proforma and Tabs (completed and compliant with underwriting requirements)
 - a. Project Narratives
 - b. Project Details
 - c. Development Schedule
 - d. Development Team
 - e. Budget Sources
 - f. Construction Cost SOV
 - g. Budget Uses

- h. Rents and Incomes
- i. Operating Budget
- j. Commercial Operating Budget (if applicable)
- k. Developer Fee
- l. LIHTC Calc (Site Entry)
- m. LIHTC Calc (Summary)
- n. Multifamily Bonds
- o. OAHTC Calculation (if applicable)
- p. MWESB Engagement Strategy
- q. Applicant Agreement
- r. Authorization Acceptance
- s. DEI Agreement
- t. Board Resolution (if applicable, organizational document)
- u. Ownership Integrity
- v. Application Charge Transmittal
- Evidence of Site Control
- Zoning Confirmation Form
- Site Review Checklist
- Building Permit Timeline Disclosure
- Investor Letter of Intent
- Lender(s) Letter of Intent
- Utility Allowance Verification
- Preliminary Title Report
- Master Plan, with applicable Inclusionary Requirements Documentation (Jurisdictional)

3.2 Readiness to Proceed Requirements

After passing Administrative Review, an Application must satisfy all Minimum Readiness to Proceed Benchmarks. For additional LIHTC Program Requirements, please see the current OHCS Qualified Allocation Plan (QAP) and OHCS LIHTC Compliance Manual. The following are Pass/Fail criteria, all of which must be met for the Application to be placed on the 4% project pipeline for ranking:

A. Financial Close Deadline

All applicants are required to have a development schedule demonstrating an ability of the project reach financial close before end March 2024. Please note that projects should propose as realistic a close date as possible to maximize their potential for project recommendation.

This information should be disclosed on the “Development Schedule” tab of the electronic application. Applicants should assure that supporting evidence in the form of additional documentation support their estimated close date.

Please note: the NOFA Intake Application will be assessed for financial close dates by the month. If a project is recommended for funding, an official close date will be set after the Intake Application is processed.

Rules regarding close date changes will be based on the OHCS assigned official close date - not the application’s proposed date. (QAP p.17)

B. Zoning

The proposed project must be able to meet the current zoning criteria as established by the local development code or have completed all Zone Change or Conditional Use approvals prior to the date of the Application. The applicant must provide a Certification of Zoning Compatibility executed by the appropriate local planning authority with the funding Application. **Projects that need and have not completed changes to site zoning designation will not be recommended for funding.**

Applicants are strongly encouraged to work closely with their local zoning departments to obtain proof of appropriate zoning for the project.

This form will be an attachment to the NOFA and available through the Procurement Workcenter

C. Proof of Site Control

All applicants are required to provide satisfactory documentation of control over their proposed project location evidenced by one (1) of the following:

- a. a recorded deed or conveyance showing the Applicant is the owner of the site,
- b. a valid purchase and sale agreement,
- c. a valid option to purchase,
- d. a valid option for a long-term lease, that is satisfactory to OHCS, or
- e. other evidence satisfactory to OHCS.

The applicant or project SAE must be the named entity on the document providing evidence of site control. The site control document should also identify the exact same area as the Project site listed in the Application and the exact same cost for the land and/or existing buildings for the Project referenced in the development budget provided with the Application. If the site descriptions in the Application and the site control document are not the same, the Applicant must provide a narrative description and supporting documentation to clarify how the area and cost for the Project site were established.

OHCS will accept only one (1) Application for a specific site, regardless of whether Applications are submitted by the same Applicant or by multiple Applicants and regardless of whether the Applications are for the entire site or parts of the site. **If there is more than one (1) Application received for the same site, or any part of the same site, OHCS may disqualify one (1) or all the Applications.** The *non-refundable* Application charge for each Applicant will be retained by OHCS.

This form will be an attachment to the NOFA and available through the Procurement Workcenter

D. Site Feasibility

Applicants must complete the site review checklist with information that shows that the project is feasible.

This form will be required with pre-application form submission.

E. Development Pro Forma Review

The Pro Forma must satisfy the following requirements:

1. Include realistic and available resources on the “Budget Sources” tab of the pro forma.
2. Demonstrate no gaps in project financing.
3. Demonstrate all other funding is committed to the project with documentation.
4. It is prohibited to list OHCS resources not already awarded.
5. Contingencies should be within allowable limits.
6. Commercial costs should be listed in the correct column.
7. Construction inflation should be at least 3%
8. Sources listed as “fundraising” or “capital campaigns” will receive a threshold review failure on any impacted criteria. Sources already derived from those mechanisms are allowable and should be listed as cash in the sources.
9. Developer Fee must be within allowable limits.

This form is included in the NOFA excel application.

F. Operating Pro Forma Review

1. Project must have a primary debt service coverage ratio (DCR) that is within allowable OHCS target guidelines: (1.15-1.30) unless permanent debt underwriting requires a variance. If a variance is needed, please provide supporting evidence. If OAHTC's are requested, a minimum DCR of (1.20) must be demonstrated.
2. If there is no permanent debt to the project then cash flow must be positive throughout each of the first 20 years.
3. In mixed-use projects, no commercial income may be used to support the low-income residential project.

This form is included in the NOFA excel application.

3.3 Award Order Rankings

A. After Projects successfully pass the Administrative Review and meet the Readiness to Proceed Requirements, projects will be sorted and ranked into four categories as described below. The following are the ranking categories in the order of priority:

1st Awarded – Housing Authority Owned Projects. Defined as a project that demonstrate that the sponsor or co-sponsor is a housing authority and that meets at least one (1) criterion from **both** List A and List B.

- a. List A:
 - Site control and 100% ownership interest in sole General Partner
 - Managing Entity (51% or greater ownership) plus the site is located on Housing Authority-controlled land.
- b. List B:

- A loan representing the lesser of 10% of total resources or \$5 million.
- Project-based rental assistance for the greater of 25 units or 25% of the total units.

2nd Awarded – Significant Local Funding Projects. Defined as a project that has the lesser of 10% of its total project resources or \$5 million dollars from a local jurisdictional gap subsidy source.

3rd Awarded – OHCS or Federally Funded Projects. Defined as a project that meets at least one of the following requirements:

- a. Has a confirmed reservation of an OHCS capital subsidy resource.
- b. Has federal capital funding.

4th Awarded – Without Other Subsidy Projects. Defined as a project without any of the other funding sources identified in the 2nd and 3rd award order categories.

Recommendations for funding will start at the first award order category and then continue down the list until resources are insufficient to fund the next project. OHCS reserves the right consistent with the language of the Qualified Allocation Plan to divert resources not utilized in one set-aside category to the other set-aside category. Projects similarly ranked and without sufficient resources will use the post-award order prioritization rule (see below at section 3.3.B)

B. Post Award Order Prioritization Rule: If after the competitive ranking of projects, two or more project are similarly ranked and there are insufficient resources to fully fund all of the similarly ranked projects, the following will be used to prioritize resources between projects.

1. First prioritization will go to the applicant that is a Qualifying Culturally Specific Organization/ Developer. See page 11 of the QAP or the definitions section for requirements.
2. Second prioritization will go to the project that has the highest percentage of units restricted to residents at 30% MTSP Area Median Income and rents limited to 30% of MTSP Area Median Income.
– OR –
a project that has the highest percentage of units with state or federal project-based rent assistance.
3. Third prioritization will go to projects that have been awarded or have a reservation of PSH resources including: rental assistance and supportive operations funding for the purposes of supporting people experiencing chronic homelessness.

3.4 Evaluation Summary

After Administrative Review (see Section 3.1) eligible Applications will be reviewed for Readiness to Proceed Requirements (see Section 3.2). After the review of Readiness to Proceed Requirements, eligible Applications will be placed onto the 4% Project Pipeline list according to award order rankings. (see Section 3.3)

The final selection of Applications recommended for an award, if any, will be from those Applications that rank highest according to the four categories outlined in section 3.3. The Qualified Allocation Plan specifies that projects recommended for award will continue in the underwriting process and will be required to submit a complete application with all outstanding due diligence items for assignment of a financial closing date.

Those projects recommended for funding and able to maintain their readiness benchmarks will move forward with official award approvals given at the appropriate time through OHCS's Finance Committee and the Housing Stability Council.

3.5 Recommendation of Award

Applicants, if any, for which OHCS makes a recommendation of funding ("Recommendation") pursuant to this NOFA will be designated as Eligible Awardees in the conditional commitments issued by OHCS ("Eligibility Confirmation Letter"). All resources are conditional in nature, contingent upon the terms specified therein and, continued compliance with OHCS requirements and the specifics contained in this NOFA. All final approvals for requested resources will be completed by the Housing Stability Council, subject to the continuing availability to OHCS of the described funds or tax credits, the continuing authority of OHCS to disburse or allocate such funds, and the successful negotiation, execution, and recording (as required) of the Agreement Documents.

3.6 Notice of Intent to Issue Reservation Letter.

Applicants who receive a Recommendation of Award Letter will be notified in writing (electronic or otherwise) of OHCS's final determination and successful Applicants will receive a notice of intent to issue a funding Reservation Letter. Information related to the reservation letter will also be posted on the OHCS website.

<https://www.oregon.gov/ohcs/development/Pages/nofa-reservation-letter-attachments.aspx>

Applicable charges and fees are listed on the OHCS website at:

<https://www.oregon.gov/ohcs/development/Documents/admin/OHCS-Charges-Table.pdf>
<https://www.oregon.gov/ohcs/development/Documents/admin/manual-general-policy-guidelines.pdf>

4.0 Other Applicable Terms

4.1 Post-Recommendation of Award Process Details

After applicants are notified of the OHCS recommendation of award, the next steps in the process will be as follows:

- Written notice of their official recommendation of award from the program manager
- Assignment to a production analyst, who will provide a checklist of additional required due diligence items to fulfill, satisfying the QAP requirement for a complete 4% application (QAP, p. 16).
- Written notice of applicant's status in the pipeline and tentative resources assigned.
- Submission by applicant of those detailed items representing additional due diligence items by the assigned deadline.
- Approval of resources by both the OHCS Finance Committee and the Housing Stability Council.
- Department assignment of a financial closing date for bonds and/or a reserve an allocation of 4% LIHTC
- Continued underwriting and department compliance through the construction period.
- Timely completion of required project documents also referenced in section 5.0 of this NOFA.

4.2 Recommended Resource Amounts

Applicants should represent in their application a requested amount for all resources that is accurate and feasible. Any erroneous or otherwise omitted critical budget items that create funding gaps will be the responsibility of the applicant to correct and could jeopardize the project's completion. For awards funded by the issuance of PAB, the department will adjust the recommendation of award by adding a 10% escalation independent of figures in the pro forma. OHCS expects project teams to monitor their budgets and only request the 10% escalation in the event of project necessity. All PAB increase requests should be submitted via written request to the assigned production analyst explaining the specifics of the project's situation and the applicant must supply any requested documentation in a timely fashion. Requests for increases beyond the pre-approved 10% are considered a delay in the project's readiness and could compromise a project's place on the bonds close calendar.

Applicants requesting additional PAB or any other department resources after their financial close, will need to document the reasons why the project requires additional resources and provide any other requested documentation in a timely fashion. Project applicants should be aware that all applicable fees will be charged to the applicant for any additional issuances. All PAB increase requests, and additional issuances are subject to PAB availability and department approval.

4.3 Intake Application Process for OHCS NOFAs opened 2022 or later

Any applicants that received a reservation of funding from an OHCS NOFA offering 4%/PAB opened 2022 or later are not required to submit application materials for this NOFA. Instead, materials submitted in connection with the applicable NOFA will be reviewed and projects will be automatically sorted into the pipeline. The post-award process will be the same as stipulated at section 4.1 for all other applicants.

4.4 Financial Closing Delay Procedures

Applicants are allowed a one-time project financial close date change, no more than 30 days from their originally assigned close date. Requests to use this allowance must be submitted to OHCS in writing to the projects Production Analyst. This one-time change must be initiated by the applicant. Financial close date changes initiated by OHCS will not constitute the use of this allowance. (QAP, p. 17)

4.5 Project Gaps and Financing Structure Changes

OHCS reserves the right to remove projects from the 4%/PAB pipeline, in the event of projects gaps that OHCS deems infeasible to overcome. Such gaps include, but are not limited to, projects applying for other OHCS resources after their PAB and 4% recommendation, projects with proposed financial structure changes that materially alter the character of the application, or other circumstances that OHCS deems to materially alter the original application.

4.6 OHCS Discretion to Change Timelines and QAP Requirements

OHCS reserves the right to waive, change or alter any timelines, processing and other QAP requirements, at its sole discretion, to encourage and/or facilitate the financing of tax-exempt and 4% LIHTC financed projects, including, but not limited to, implementing application pauses and blackout dates, re-allocation of returned resources, increasing allocations of 4% LIHTC and PAB, and adjusting readiness benchmarks. (QAP, p. 17)

5.0 GENERAL TERMS AND CONDITIONS

5.1 Funding in this NOFA is subject to the continuing availability to OHCS of the described funds or tax credits (collectively or individually without distinction), the continuing authority of OHCS to disburse or allocate such funds, and the successful negotiation, execution, and recording (if required) of relevant documents in a manner satisfactory to OHCS.

5.2 OHCS may require additional information to determine whether or not an application satisfies relevant criteria. Any necessary clarifications or modifications normally will be made before OHCS makes any Reservation and may become part of the Agreement Documents.

5.3 Submission of an Application by an applicant or acceptance by OHCS of a submitted Application neither constitutes an agreement of any kind between OHCS and the applicant nor does it secure or imply that the applicant will be selected for receipt of a Reservation of funds.

5.4 To the extent that other funding sources have additional or other requirements, the most restrictive requirements will apply to the project.

5.5 All costs associated with an applicant's submission of an application are the sole responsibility of the applicant and will not be borne to any degree by the State of Oregon.

5.6 Successful applicants will be required to maintain appropriate levels of insurance and to comply with all applicable OHCS Program Manuals and all other OHCS policies, including execution of the Agreement Documents.

5.7 OHCS reserves the right and option to amend any Reservation Letter and other related documents that result from a Reservation made pursuant to this NOFA. All such amendments will be in writing and must be signed by authorized parties. Applicants may only apply for funding of one (1) phase of a multi-phase project under this NOFA.

5.8 OHCS assesses an application charge. A check for the Application charge must be received by the Application due date.

5.9 Oregon Revised Statutes ("ORS") 60.701 requires foreign corporations to be registered with the State of Oregon, Office of the Secretary of State, before conducting business in the state. A foreign corporation (ORS 60.001) means a for-profit corporation incorporated under a law other than the law of the State of Oregon. If a foreign corporation is selected for an Agreement pursuant to this NOFA, it must register to do business in Oregon.

5.10 OHCS reserves the right to:

1. Amend this NOFA prior to the closing date.
2. Amend the deadline for submitting Applications;
3. Determine whether an Application substantially complies with the requirements of this NOFA;
4. Waive any minor irregularity, informality, or nonconformance with the requirements of this NOFA;
5. Obtain from and/or provide to other public agencies, upon request, references regarding the Applicant's performance;
6. At any time prior to execution of the Agreement Documents (including after announcement of a Reservation), reject any Application that fails to comply with the requirements of this NOFA;
7. Reject all Applications received and cancel this NOFA upon a finding by OHCS that such cancellation would be in the best interest of the State;

8. Use adherence with components of the Applicant's Application and this NOFA as scoring criteria in future multifamily funding solicitations;
9. Withdraw any funding source from this NOFA; and
10. Waive any term or condition of this NOFA for good cause as determined by OHCS.

5.11 This NOFA and one (1) copy of each original Application received, together with copies of all documents pertaining to a Reservation, will be kept by OHCS and made a part of a file or record, and be available for disclosure pursuant to the Oregon Public Records Law, unless otherwise exempt.

5.12 The Oregon Public Records Law exempts purported trade secrets from disclosure only so far as they qualify as bona fide trade secrets, and the exemption in ORS 192.345 from disclosure applies only "unless the public interest requires disclosure in the particular instance". Therefore, non-disclosure of a document or any portion of a document submitted as part of an Application may depend upon official or judicial determination made pursuant to Oregon law.

5.13 The Applicant will be required to assume responsibility for performance required by the Agreement Documents, whether performed by the Applicant, a representative, assignee or subcontractor.

5.14 An Applicant or potential Applicant seeking to challenge any aspect of this NOFA is subject to and must comply with the provisions of Oregon Administrative Rule (OAR) 813-005-0025, which provides:

**"813-005-0025
Solicitation Protests; Administrative and Judicial Review**

(1)(a) With respect to any solicitation conducted by the department, an applicant or potential qualifying applicant may protest or otherwise challenge such solicitation process by first requesting administrative review as herein specified.

(b) With respect to any solicitation conducted by the department, an applicant may protest or otherwise challenge any department determination or order (collectively hereinafter, "determination") related to such solicitation by first requesting administrative review as herein specified.

(c) A timely, qualifying request for administrative review is necessary to satisfy the conditions of this section and a condition precedent to judicial review consistent with ORS 183.480.

(d) Failure to file a timely, qualifying request for administrative review with the department will constitute a failure to exhaust administrative remedies and terminate further rights to protest or otherwise challenge the solicitation process or any related department determination, including judicial review thereof.

(2)(a) An applicant under this section is a person or entity that makes an application (including delivery to the department under the terms of the solicitation) for a department funding award pursuant to a particular department solicitation.

(b) A potential qualifying applicant is a person or entity that qualifies to make an application for a department funding award under the terms of a solicitation with respect to the process of which it requests administrative review consistent with the terms of this section.

(3)(a) An applicant or potential qualifying applicant seeking to protest or otherwise challenge any aspect of a solicitation process (other than a department determination related thereto) must request review by the department within fourteen (14) days of the application due date of the solicitation.

(b) An applicant seeking to protest or otherwise challenge a determination by the department related to a solicitation must request review by the department of such determination within fourteen (14) days of the applicant receiving notice from the department of that determination.

(4) Any request for review under this section must be in writing, specifically identifying:

(a) The nature of the requestor's interest, including the facts showing how the requestor is adversely affected or aggrieved by the solicitation process or a department determination;

(b) The relief sought;

(c) Each of the grounds for review;

(d) An explanation for each of the grounds upon which relief should be granted; and

(e) Any supporting information the requestor desires to have considered by the department.

(5) The envelope containing the request for review MUST:

(a) Be marked PROTEST;

(b) Identify the solicitation number;

(c) Identify the closing time and date for acceptance of solicitation applications;

(d) Identify the department's contact person for the solicitation; and

(e) Be received by the department at its main Salem Office, Oregon Housing and Community Services 725 Summer Street NE, Suite B Salem, OR 97301, not later than 4:00 PM on the fourteenth (14th) day after the solicitation closing date or the applicant's receipt of notice from the department of the department determination from which review is requested, whichever due date is applicable under this section.

(6) The applicant will be deemed to have received notice of a department determination upon the sooner of:

(a) Three (3) days after the department's determination is mailed to the applicant;

(b) Two (2) days after such determination is posted to the department's website;

(c) Two (2) days after the list of successful solicitation applicants is posted to the department's website; or

(d) One (1) day after such determination is emailed to the applicant.

(7) The department may request additional information from the requestor with respect to its request and consider such other information as it deems appropriate.

(8) The department will endeavor to provide a written response to a timely, qualifying request for review within thirty (30) days.

(9) Judicial review of the department response to a timely, qualifying request for review shall be limited to those grounds the requestor raised with the department in its request for review.

(10) The filing of a request for review, or subsequent judicial review (if any), will not preclude the department from moving forward with the solicitation or the award of funding assistance thereunder. However, the department reserves the right to delay, terminate, modify, or take other action it determines to be appropriate with respect to a solicitation or any related award of funding assistance in response to a request for review or subsequent judicial review."

5.15 Reservations, Allocations, or Awards by OHCS (collectively known as "Determinations") may be subject to Housing Stability Council ("Council") review under ORS 456.561. Determinations, and the process of such Determinations, in which additional OHCS funding support is recommended are subject to Council review and are contingent upon Council approval of those Determinations. The Council may approve, reject, modify, or further condition funding awards submitted for its review, thereby directly or indirectly impacting OHCS' Determinations.

5.16 All Reservations made pursuant to this NOFA are subject to the successful negotiation, execution, and recording (if required) of any or all Agreement Documents. Projects that have only a leasehold interest in relevant real property must include, among relevant Agreement Documents, binding commitments executed and recorded by the landlord satisfactory to OHCS, including, but not limited to, restrictive covenants with respect to the ongoing use and operation of the real property and leasehold interest for affordable housing acceptable to OHCS.

5.17 OHCS may charge, and the applicant shall pay, legal and administrative costs reasonably anticipated or incurred by OHCS in negotiating and preparing Agreement Documents and other related documents. OHCS also may charge and Applicant shall pay any other fees allowed by OHCS administrative rules with respect to the Application, any ensuing Reservation, Award or Allocation, and Project operation. OHCS and DOJ charges may increase based on the complexity of organizational and financing structures.

5.18 Provisions stated in the form of a question in this NOFA shall be construed as required action by Applicants.

5.19 Projects that have only a leasehold interest in relevant real property must include documented commitments executed and recorded by the landlord satisfactory to OHCS including, but not limited to, restrictive covenants with respect to the ongoing use and operation of the real property and leasehold interest for affordable housing acceptable to OHCS.

5.20 OHCS reserves all other rights not specifically identified herein, including but not limited to rights, remedies, and requirements established in OHCS administrative rules or other law.