



Happy New Year! Thank you for your partnership and commitment to affordable housing in Illinois!

On December 6, the Authority released pending guidance on transactions seeking 4% Low-Income Housing Tax Credits. In addition to public comments, over 60 individuals attended the listening session at the Authority on December 17. Thank you for the collaboration and insight provided in the written comments and listening session. The Authority has thoughtfully reviewed the feedback and made several amendments to its guidance.

In the spirit of continued collaboration, the Authority is inviting the public to provide final written comments on its amended pending guidance. Written comments should be sent to the Authority by **5:00 p.m. on January 17, 2020** via [Multifamilyfin@ihda.org](mailto:Multifamilyfin@ihda.org). Only written comments will be accepted. The Authority plans to release its final guidance no later than January 31, 2020.

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## **Guidance on Requests for Tax-Exempt Bonds and 4% Low-Income Housing Tax Credits**

### **Background:**

Over the past few years, the Illinois Housing Development Authority (Authority) has seen an increase in applications seeking to use tax-exempt bonds (TEBs) and 4% Low-Income Housing Tax Credits (LIHTC), including many related party transactions involving properties with Housing Assistance Payment (HAP) contracts.

This guidance provides additional information related to the review and underwriting of such applications. As of the effective date of this guidance, applicants with an approved PPA for a proposed transaction that (i) has not been presented to the IHDA board or (ii) has been presented to the IHDA board, but has not yet closed, may not be subject to each parameter referred to in the guidance. The Authority will assess transactions with approved PPA's on a case-by-case basis and apply elements of the guidance in its sole, but reasonable discretion.

### **As a Reminder:**

The [Developer Resource Center](#) section of the IHDA website contains a variety of useful tools and documents, including the [2020-2021 Qualified Allocation Plan](#), to assist with preparing a Preliminary Project Assessments (PPA) as well as a full application. PPA's and Low-Income Housing Tax Credit (LIHTC) applications must be submitted via the Multifamily Portal at <https://mfportal.ihda.org>. To better serve our environment, IHDA no longer accepts paper applications. In order to gain access to the Multifamily Portal, please submit a [MF Portal Account Request Form](#) from the IHDA website or you may find the form at <https://ppa.ihda.org>. If you require assistance with the Multifamily Portal, please contact [mfportalhelp@ihda.org](mailto:mfportalhelp@ihda.org).

## **GUIDANCE ON REQUESTS FOR TAX-EXEMPT BONDS AND 4% LOW-INCOME HOUSING TAX CREDITS**

Please note the following with respect to applications seeking to use TEBs and LIHTC in connection with the acquisition and rehabilitation of developments.

### **PRELIMINARY PROJECT ASSESSMENTS (PPA)**

#### ***Concept Meeting***

The Authority will require a concept meeting. During the meeting, sponsors should be prepared to discuss the proposed financing, condition of the property, proposed scope of work, unit mix, tenant population, market, long-term plan for the asset, and the distribution and uses of cash out (on related party transactions). A site visit may also be required as part of the PPA review.

Sponsors should email [Multifamilyfin@ihda.org](mailto:Multifamilyfin@ihda.org) to schedule a concept meeting. Meetings may be scheduled prior to or after submission of the PPA in the Multifamily Portal but must be held prior to the Authority's approval of the PPA.

#### ***Additional Documentation***

The documentation listed below is required as part of the PPA review and is in addition to the standard PPA forms. If the documentation below is not provided to the Authority, or a PPA is otherwise determined to be incomplete, the Authority reserves the right to forgo completing its review of the application until the information is made available or the Authority may provide a conditional approval subject to receipt and thorough review of any missing or additional information required, and any other documents that would assist with the review of the proposed transaction.

- 1) Prior three years of audited property financials and current year-to-date property financials.

2) A draft IHDA Common Application or a copy of the development's anticipated construction budget, sources and uses, operating budget, unit mix with AMI levels, and a 40-year proforma, including trended replacement reserves based on the 2020-2021 QAP.

3) Current HAP contract, if applicable, with information on HAP renewal options and anticipated rents.

4) A purchase contract if available. If the purchase contract is unavailable, documentation detailing the anticipated purchase price.

5) Current Physical Needs Assessment (PNA), using the Authority's [Standards for Property Needs Assessments](#).

a. If the PNA is unavailable at the PPA stage, documentation describing the condition of the property and anticipated construction budget.

b. The Authority will review the PNA prior to closing to finalize the property condition and scope of work, which may also include adjustments to basis. The PNA should be submitted at the same time as the plans and specifications for IHDA's plan review for the transaction, generally required 60 days prior to closing to allow enough time for review and comments. The Authority will thoroughly review the PNA to ensure that the proposed scope of work and replacement reserves adequately address the development needs.

6) Additional items as reasonably required based on the development.

### **UNDERWRITING**

In connection with the Authority's underwriting and, if funded, the ongoing management of developments, the Authority will consider the following criteria as part of the review of applications seeking to use TEBs and LIHTC, including transactions with a related-party that have cash-out/equity.

1) Cash-out and realized developer fee for related-party transactions cannot exceed hard cost construction expenses, including hard cost contingency. Only earned fee paid during the construction and lease-up period and at conversion to the permanent period will be included (i.e., the calculation will not include deferred developer fee).

a. If the combined cash-out and developer fee earned at closing exceeds this amount, then the Authority reserves the right to limit the amount of cash-out and/or require a seller note for the difference.

- b. If a seller note is required, the note will be structured in consideration of the first mortgage lender's requirements (e.g., the note will consider lien position, payment structure, loan-to-value (LTV), and debt service coverage ratio (DCR), and other reasonable requirements).
- 2) The Authority reserves the right to limit the developer fee basis to the lesser of the amount calculated using the base developer fee calculation in the QAP or the Authority's discretionary cap (currently \$2,000,000). The Authority anticipates exercising this right on projects with cash out exceeding hard construction costs.
- a. The Authority may allow additional fee to be earned, but the additional fee will not be basis-eligible and must meet the QAP requirements for any minimum amount of deferred fee and repayment of the deferred fee over the initial compliance period.
- 3) Once an appraisal is available, the Authority will use the value of the property for purposes of determining eligible basis and the developer fee.
- a. Appraisals must adhere to the Authority's [Appraisal Guidelines](#).
- 4) The Authority will review any historical property refinancing, sale, or transfer to determine if there was any prior cash-out paid.
- a. The Authority reserves the right to limit or deny credits if it is determined that a refinancing, sale, or transfer occurred to avoid cash-out limitations in this guidance.
- 5) Once the PNA is received and reviewed, the Authority reserves the right to reduce the appraised value used to determine acquisition basis by the amount of any deferred maintenance and immediate needs identified in the PNA, or other reasonable items as determined by the Authority.
- a. If the proposed scope of work includes items that are not recommended for replacement (i.e., items are not immediate needs or deferred maintenance), the Authority may remove those items from the basis calculation and require additional reserves to complete the work in the future as indicated by the PNA.
- 6) Developments will be required to conduct a PNA every five (5) years to ensure capital needs are met and reserves are sized appropriately (expense paid by the property). Reserves will be adjusted based on the findings of the PNA. Borrowers will be responsible for notifying the lenders, investors, and any other stakeholders in the deal of the requirement to potentially re-size (increase) reserves in subsequent years.
- a. Exceptions for conducting a PNA every ten (10) years will be considered if warranted for the deal.
- 7) Additional items as reasonably required based on the deal.

**Please note:**

The Authority expects transactions to be structured so that the immediate rehabilitation, capitalized reserves, and ongoing deposits are sufficient to maintain the property for more than fifteen (15) years. Sponsors wishing to resyndicate in fewer than twenty (20) years will need to supply justification for the resyndication. The exit of a Limited Partner at the end of the initial compliance period will not generally be sufficient justification for resyndication.

Please be reminded that subordinate resources are scarce. Sponsors who have received unrestricted proceeds/cash-out on properties financed with resources administered by the Authority should remain particularly mindful of this scarcity when submitting future applications that request subordinate resources.

The Authority reserves the right to order third-party reports directly and/or to provide the applicant with a qualified list of procured vendors.

Any plan & cost reviews and draw inspection reports engaged by transaction stakeholders (e.g., lenders and investors) will be required to be shared with the Authority sufficiently prior to closing to allow review. If the development is funded, reviews and reports must be shared throughout construction.

In the event the transaction is ultimately presented to the Members of the Authority (IHDA Board), Authority staff will provide the IHDA Board with a detailed disclosure of all fees, sources and uses, cash-out/equity generated, beneficiary names, related-party interests, date of last syndication (if applicable), and any identity of interests.