



ARBOR

Growing Financial Partnerships



HUD LIHTC Pilot Program

Section 221(d)(4) and Section 220 Loans



HUD published the Section 221(d)(4) and Section 220 New Construction and Substantial Rehabilitation Multifamily Projects with Low Income Housing Tax Credits (“LIHTC” or “Tax Credit”) Pilot Program Housing Notice H 2019-03 on February 21, 2019 (“Notice”). The Notice does not change any of HUD’s underwriting terms for a Section 221(d)(4) and Section 220 loans, but does change the way HUD processes the loan applications.

PROCESSING TRACKS:

The New Pilot introduces two modified processing tracks for Section 221(d)(4) and Section 220 new construction and substantial rehabilitation projects:

- Expedited Approval Process track (30 days from application submission to commitment, targeted 60 days from commitment to closing)
- Standard Approval Process track (60 days from application to commitment, targeted 60 days from commitment to loan closing)

ELIGIBILITY REQUIREMENTS APPLICATION TO BOTH TRACKS:

- FHA loan may not exceed \$25 million
- Straight to Firm Application submission
- Development team experience with HUD multifamily experience plus LIHTC experience.
- 2530s must be resolved prior to submission of application
- Tenant relocation okay, but cannot exceed 9 months.
- Environmental Report/Phase I Environmental Site Assessment is required. Lead-based paint abatement must be specified for projects built before 1978.
- HUD Pilot Loan Committee Review required, but do not need to go to National LC or Regional LC. The Pilot Loan Committee will be administered by HUD HQ.

EXPEDITED APPROVAL PROCESS:

Eligible Project/Transaction Types:

- 9% LIHTC new construction with loan to cost < 65% and, 90%+ units w/LIHTC restrictions and rents 10% below market.
- 4% and 9% LIHTC sub rehab project with loan to cost < 75%, with at least 90% of the unit's project based Section 8 HAP contracts, with at least 15-years remaining on HAP contract (or 15 years if PBVs)

Other Conditions/Requirements:

- 200 units or less for both new construction and sub rehab.
- Appraisal report – USPAP and MAP compliant. Report prepared for HFA compliant with both USPAP and MAP Guide may be submitted with Firm Application.
- Market Study – not required for projects with 90%+ PBRA. See other MAP Guide requirements. If required, a market study that has been prepared for the borrower by a third-party market analyst is acceptable.
- Typical environmental risk factors such as the following are acceptable with remediation plans: radon, asbestos, lead based paint, removal of intact UST with no evidence of release and soil contamination, previously contaminated sites with No Further Remediation or No Further Action letter at residential standards.
- Construction Monitoring: HUD will approve initial and final draws; HUD will approve permission to occupy and conduct inspections as directed in MAP Guide. HUD will not have to approve change orders or construction cost increase over 5% between Firm Commitment and Initial Endorsement (lender may approve if certain items are met), escrow releases (IOD, Working Capital and all other escrows). Lender is responsible for these items, pursuant to Notice. See Housing Notice.
- Streamlined review of plans and specs for Civil Rights Laws, applicable accessibility requirements, and lead safety requirements.

STANDARD APPROVAL PROCESS:

- 4% or 9% LIHTC, sub rehab projects being re-syndicated with LIHTC/tax exempt bonds, without Section 8 rental assistance. Deals must have reached end of their initial compliance period.
- The LTC ratio for sub rehab, 4% or 9% LIHTC projects without Section 8 Project-Based Rental Assistance less than 75%
- 90%+ units w/LIHTC restrictions, rents 10% below market. Sustained occupancy of 85% or greater for previous 6 months and DSC of 1.0. Effective gross income no greater than 110% of last full calendar year before application, and expenses no lower than 90% of prior year's operating expenses.
- Application review similar to MAP Guide review, however, review process can /should begin prior to submission of Firm Application.

Other Conditions/Requirements:

- Projects with more than 200 units are acceptable under Standard Approval Process.
- Appraisal report – USPAP and MAP compliant.
- Market Study that has been prepared for the borrower by a third-party market analyst is acceptable.
- For Standard Approval Process certain environmental conditions that will require extensive analysis and consideration by HUD may be considered; such as (1) noise measurement above 65dB, (2) historic properties, (3) contamination that will require construction period site remediation beyond typical risks allowed under Expedited Review Process track, (4) floodplain or wetland project sites that do not meet an exception under 24 CFR section 55.12(b) or (c), (5) Acceptable separation distance (ASD) risks from Above Ground Storage Tanks (AST), (6) Acceptable separation distance risks from high pressure pipelines, (7) property built before 1978 and not having been found to be lead-based paint free. See complete list in Notice.
- Construction Monitoring: HUD will approve initial and final draws and will approve permission to occupy and conduct inspections as directed in MAP Guide. HUD review of: change orders or construction cost increase over 5%, escrow releases (IOD, Working Capital and all other escrows) might not be required. See Housing Notice for further clarification.
- Streamlined review of plans and specs and costs. Plans will be reviewed for Civil Rights Laws, applicable accessibility requirements, and lead safety requirements.
- HUD will be flexible on using G702/703 forms for trade breakdown and work progress forms, instead of HUD Trade Payment Breakdown (HUD form 2328) and Contractor's Requisition (HUD form 92448). Use of G702/703 form is optional.

INELIGIBLE PROJECTS:

- . Projects involving Historic Tax Credits or New Market Tax Credits
- . Projects involving adaptive re-use of non-residential structures
- . Projects involving significant demolition with new construction or rehabilitation
- . Projects involving gut rehab

SEE NOTICE FOR COMPLETE REQUIREMENTS FOR
SECTION 221(d)(4) AND SECTION 220 LIHTC PILOT PROGRAM.

hud.gov/sites/dfiles/OCHCO/documents/LIHTCPilotNotice022119.pdf