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LOW-INCOME HOUSING CREDIT PROGRAM INSTRUCTIONS FOR ISSUANCE OF IRS FORM 8609 CERTIFICATION

(also DTF Form 625 for New York State Low-Income Housing Credit Program)

I. Compliance Monitoring Requirements

Section 42(m) of the Internal Revenue Code “Responsibilities of the Housing Credit Agency” requires DHCR, as a Housing Credit Agency, to implement a monitoring procedure to ensure an owner’s compliance with Low-Income Housing Credit Program (Credit) requirements.

Any project receiving at least one “IRS 8609: Low-Income Housing Credit Allocation Certification Document” for an improvement to a building will be subject to DHCR’s monitoring plan certification and monitoring fee billing.

Information regarding the DHCR’s compliance monitoring of low-income housing credit projects is available at the following toll free number: 1-800-432-4210.

II. IRS 8609: Credit Allocation Certification Document Requirements

If a project has entered service, to obtain the Low-Income Housing Credit Allocation Certification Document (“IRS 8609”), the project owner must submit a complete set of the following documents, attachments and exhibits from DHCR’s Unified Funding Application to both their DHCR Regional Office Project Manager and to Arnon Adler, LIHC Program Director, at 38-40 State Street, Albany, New York 12207 . Any document, attachment or exhibit that has already been submitted in its final form does not have to be resubmitted. However, the owner must ensure that any changes in financing or project configuration are fully updated on all documents, attachments or exhibits that reference that change.

A. For the *Project* as whole:

1. Copy of the Limited Partnership Agreement or Limited Liability Corporation Operating Agreement (which includes the “pay-in” schedule if the project is subject to one);
2. An updated “Proposal Summary” (Unified Funding Project Application Attachment F9);
3. An updated “Development Budget/Funding Sources” – separate Project Summary and building specific exhibits (Exhibit 3);

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4. An updated “Unit Rents/Maintenance Fees & Affordability” (Exhibit 4);
5. An updated “Project Income & Operating Budget” (Exhibit 5);
6. An updated “LIHC/SLIHC Qualified Building Information” (Exhibit 9), Sections B, C and D - Project Summary and Qualified Building -specific (see item B.3. below);
7. An updated “LIHC/SLIHC Project Summary” (Exhibit 10) including an updated Section C. “Use of Credit Proceeds”;
8. Evidence of compliance with special instructions (if applicable) as specified in a reservation, carryover allocation and/or regulatory agreement including, but not limited to:
 - Agreement(s) giving preference in tenant selection for the LIHC regulated units to persons from public housing waiting lists or other existing waiting lists for subsidized housing, and/or to persons and families whose current housing fails to meet basic standards of health and safety and who have little prospect of improving the conditions of their housing except in a project receiving LIHC.
 - An agreement with a not-for-profit 501(C)(3) or its wholly owned subsidiary to acquire the low-income portion of the project at a cost equal to or below the minimum permitted pursuant to the Internal Revenue Code for the purposes of a Qualified Contract.
 - An effective plan for existing tenants to purchase the project as part of a buy-out plan at the end of the compliance period.
 - An agreement or commitment in writing with an experienced social services provider to provide supportive services to project tenants with special needs, as set forth in the original application.
9. For projects which have received funding under one of New York City’s Department of Housing Preservation and Development multi-family rehabilitation finance programs, please submit proof that the fee requirement of such program has been paid;
10. A Copy of an executed LIHC Regulatory Agreement. The LIHC Regulatory Agreement (Extended Use Agreement) will be prepared by the project representative after the documents, attachments and exhibits in this section have been found to be satisfactory and after completion of the third underwriting. Documentation of the authority of the person who will sign a LIHC Regulatory Agreement with DHCR on behalf of the project owner, must be submitted in order to prepare the regulatory agreement. (Secretary’s certificate of resolution for corporations, partnership agreements for partnerships. All levels of authorization must be documented.) Proof of recording of the Regulatory Agreement in the county clerk’s office will be required. The Executed Regulatory Agreement and proof of recording must be forwarded to the LIHC Program Manager prior to release of the IRS 8609;
11. A Cost Certification, as further elaborated upon in item B.2. below, which includes an *overall summary of project costs*; and,

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12. Evidence that the project owner has closed on all sources of permanent financing.

B. For each ***Building*** in the project:

1. Evidence that each building in the project has entered service;
 - a. For new construction or rehabilitation of a vacant building, a Certificate of Occupancy is acceptable;
 - b. For a building that is undergoing rehabilitation ***and*** was occupied at the time of acquisition there are two different “placed in service” dates and each requires separate evidence.
 - i. For an occupied rehabilitated building claiming Credit for the acquisition portion of the building, the “placed in service” date for the acquisition is the date the building was acquired and the applicant must submit evidence that the acquisition has occurred. Acceptable evidence would be a deed.
 - ii. For an occupied rehabilitated building, the “placed in service” date for the rehabilitation portion of the building can be any point in a period of up to 24 months during which eligible rehabilitation expenditures are aggregated. Acceptable evidence for the rehabilitation portion of an occupied building is a statement by the owner indicating the date the owner has selected for “placed in service”.
2. Evidence of Costs:
 - a. Certifications of Costs by an independent accountant indicating costs by the same line items as shown in the “Development Budget” for the ***project as a whole and each building in the project***. Costs associated with the non-residential portion of a building should be specifically identified as non-residential. Certification by an accountant must include all costs that the owner expects DHCR to include in a determination of eligible basis (including soft costs and developer’s fee). Any costs not included or referenced in the accountant’s certification or the owner’s statement or under “build out cost” (see paragraph c below) will ***not*** be included in the final calculation of eligible costs for the IRS 8609.
 - b. If the project has included acquisition costs as part of the eligible basis, an accountant should include a statement indicating the value assigned to the land and the value assigned to the building.

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- c. If “build out costs” are included in eligible basis, the owner should submit a statement listing such items and the amounts. The items should be the same line item categories as shown on the “Development Budget”. “Build out costs” are development or construction costs incurred after a building is placed in service but which will be made through the end of the first year of the Credit period. “Build out costs” plus the Certification of the Costs should total the costs shown in the “Development Budget”.
 - d. If a building has multiple sources of financing and one or more of the financing agreements restrict the use of the funds to certain costs (e.g., commercial, non-rent restricted units, acquisition, etc.) such costs shall be separately identified and allocated to the appropriate source of financing.
3. As noted above, an updated “LIHC/SLIHC Qualified Building Information” (Exhibit 9); including:
 - an updated Section B “Determination of Qualified Basis”;
 - an updated Section C “Declaration of Public Subsidies”; and,
 - an updated Section D “Unit Information”.
 4. An updated “Site & Building Information” (Exhibit 8); and,
 5. As-built drawings for the entire project.

[The following item applies only to LIHC standalone projects proposing the renovation of existing housing which received a reservation or consistency letter dated July 1, 2004 or later]:

6. For projects financed by LIHC only (i.e., no other Housing Trust Fund Corporation or DHCR funding) which include the renovation of an existing structure(s), an updated Physical Needs Assessment Form, Part A and B, must be completed and submitted.

[The following item applies only to LIHC standalone projects proposing the renovation of existing housing for tenants other than solely senior citizens]:

7. For projects financed by LIHC only which include the renovation of an existing structure(s), an updated certification that all work was completed in compliance with all applicable federal, state and municipal laws, regulations or ordinances, as amended, pertaining to lead-based paint abatement must be completed and submitted.