NORTH DAKOTA housing FINANCE AGENCY

2015-17 HOUSING INCENTIVE FUND (HIF3) ALLOCATION PLAN

The Housing Incentive Fund program is contingent on legislative authorization. Any approvals to and from the program prior to authorization are contingent on the program being in full force and effect on July 1, 2015, and thereafter, and sufficient funding being available for any such approvals.

North Dakota Housing Finance Agency
2624 Vermont Avenue
PO Box 1535
Bismarck, ND 58502-1535

800/292-8621 or 701/328-8072
800/366-6888 (TTY)
www.ndhfa.org · hfainfo@nd.gov

Housing Incentive Fund Tax Credit
Biennial Allocation Plan

I. INTRODUCTION

North Dakota Housing Finance Agency (the Agency) is dedicated to maximizing housing opportunities for all North Dakotans and proactively addressing the housing needs of low and moderate income households.

The North Dakota Sixty-Second Legislative Assembly authorized the creation of a Housing Incentive Fund (HIF) under Chapter 54-17 of the North Dakota Century Code (NDCC) and named the Agency as its administering Agency. Chapter 57-38 and Section 57-35.3-05 of NDCC were amended to allow for a credit against state income and financial institution taxes equal to the contribution to the HIF. The 2011 Special Legislative Session amended the NDCC to allow a taxpayer to claim a credit equal to the amount contributed into the fund in the year of the contribution. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess may be carried forward to each of the ten succeeding taxable years. Contributions into the HIF are held at the Bank of North Dakota (BND). Eligible contributors into the HIF are defined as individuals, corporations, financial institutions, and any business with a potential for a North Dakota state income tax liability, or any individual or entity interested in helping to address the shortage of affordable housing. The HIF was reauthorized and expanded by the Sixty-Third Legislative Assembly. For the 2015-2017 Biennium, $30,000,000 of tax credits are expected to be available to all eligible contributors, with the possible addition of up to $20,000,000 general fund appropriation to the HIF, which would make available $50,000,000 for the development of affordable multifamily rental units throughout the state.

Within thirty days after the date on which a taxpayer makes a contribution to the HIF, the Agency will issue a Tax Credit Certificate (Certificate) to the taxpayer and a copy to the State Tax Commissioner. Information contained on the Certificate will include the name, address and social security number or federal taxpayer identification number of the taxpayer that made the contribution; the dollar amount of the contribution; and the date the payment was received by the HIF.

Contributions into the HIF may be made on a project-specific basis or on a general pool basis to be used to fund projects statewide. Once a contribution is made and a Certificate issued to the taxpayer and State Tax Commissioner, the contribution is irrevocable. Contributors wishing to make project-specific contributions are advised that if the project ultimately is not completed, that their contribution will be allocated to another project in the state in the sole discretion of the Agency.

A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity making a contribution to the HIF is considered to be the taxpayer and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. Potential investors are advised to consult with their tax counsel and/or accountant prior to making a contribution to the HIF.

The Agency is responsible for developing guidelines for use of the HIF. These guidelines were developed with input from our partners and stakeholders and finalized through a public hearing process and are hereafter referred to as the Biennial Allocation Plan (the Plan).

II. DEFINITIONS

Difficult to develop areas are defined as those developing communities with a population of not more than 20,000 individuals and can demonstrate an unmet housing need or housing shortage.

Eligible applicants are defined as units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; and nonprofit organizations and for-profit developers. Individuals are not eligible to receive direct assistance from the HIF.

Essential Service Worker is defined as an individual employed by a city, county, school district, medical or long-term care facility, the state of North Dakota, or others as determined by the Agency who fulfills an essential public service.

Extremely Low Income is defined as households with incomes of not more than 30 percent of area median income (AMI).

HIF Assisted Unit is defined as a housing unit that benefits from financial assistance from the HIF. The number of HIF assisted units in a project will be calculated in proportion to the amount of HIF assistance in relation to the cost of construction. For example, if a 10 unit project has a total cost of $1,000,000 and receives $200,000 in HIF assistance, then 20 percent of the units, or 2 units, are considered to be HIF assisted.

Low Income is defined as households with incomes of not more than 80 percent of AMI.

Moderate Income is defined as households with incomes of not more than 140 percent of AMI.

Multifamily is defined as any building or group of buildings totaling four or more permanent residential rental units (minimum 6 month leases) operated as a single housing project and at least twenty percent of the units restricted for occupancy by persons or families of low and moderate income.

Oil and Gas Producing Counties are those counties which are members of the North Dakota Association of Oil and Gas Producing Counties. As of the date of the Plan, those counties are: Adams, Billings, Bottineau, Bowman, Burke, Divide, Dunn, Golden Valley, Hettinger, McHenry, McKenzie, McLean, Mercer, Mountrail, Renville, Slope, Stark, Ward, and Williams.

Rent Restricted is defined as rent, including utilities and tenant-based rental assistance, that does not exceed the applicable published Maximum HIF Rent Limits (not 30 percent of the particular family's income) which are calculated based on an assumed 1.5 persons per bedroom (single person in an efficiency).

Restricted Unit is defined as a housing unit that is subject to income, rent, and, for ESW units, employment, restrictions enforced through the HIF Land Use Restrictive Agreement. The number of restricted units will always be at least equal to or greater than the number of HIF assisted units.

Total Development Cost is defined as the all-in cost of developing the project including acquisition, pre-development costs, hard and soft construction or rehab costs, financing costs, developer fees, and reserve account capitalization.

Very Low Income is defined as households with incomes of not more than 50 percent of AMI.

III. GENERAL PROVISIONS

Available Tax Credits

A maximum of $30,000,000 in tax credits are available to help capitalize the HIF3 program. Tax credits will be awarded on a dollar-for-dollar basis in exchange for contributions to the HIF in the two taxable years beginning after December 31, 2014. All contributions to the HIF must be received by December 31, 2016. Successful applicants for assistance from the HIF will be expected to actively solicit and secure contributions to the fund to help capitalize their HIF award. Furthermore, potential applicants are encouraged to solicit and secure contributions to the HIF, bearing a preference for their project, in advance. (See Scoring category I.) Any general fund appropriation during the biennium will be added to the credit authority.

Eligible Uses

Eligible uses of assistance from the HIF are limited to:

1) New construction, rehabilitation, acquisition, or adaptive reuse of a multifamily housing project.

2) Gap assistance, matching funds or accessibility improvements.

3) Retirement of market rate debt to enhance unit affordability.

4) Purchase of publicly-owned essential service worker housing.

5) Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary financing or to make the project feasible.

6) Rental assistance, emergency assistance, or targeted supportive services designated to prevent homelessness.

Eligible Projects

HIF proceeds may be used for expenses related to any of the following:

1) New construction of multifamily rental housing units.

2) Substantial rehabilitation of existing uninhabitable multifamily buildings requiring a minimum of $40,000 in hard rehabilitation costs per unit.

3) Substantial rehabilitation of a project that is at risk of becoming uninhabitable/obsolete because of age and deterioration and requiring a minimum of $80,000 in hard rehabilitation costs per unit.

4) Substantial rehabilitation of existing uninhabitable units when a minimum of 50 percent of the units in the building are uninhabitable due to flooding or other natural disaster and require a minimum of $40,000 in hard rehabilitation costs per uninhabitable unit.

5) Adaptive reuse of existing non-residential buildings that create additional housing units.

6) Use of HIF to retire debt and convert market rate units to income and rent restricted units affordable to households of low or moderate income; applications under this eligible use for

properties with existing HIF Restricted Units will be evaluated and scored on the impact of only the additional HIF Restricted Units being converted from market rate.

7) The acquisition and rehabilitation of existing HUD or USDA affordable housing where the current owner is opting out of their federal contract and HIF funding is required to prevent the loss of the affordable inventory.

8) The purchase, by a private entity, of existing publicly-owned essential service worker housing, resulting in divestiture by the public entity while maintaining or increasing the supply of affordable housing for essential service workers.

Items 6 and 7 of this definition will be strictly interpreted and applicants considering this use of HIF funding are advised to contact the Agency prior to submitting an application.

Only permanent multifamily rental properties with a minimum of 4 units are eligible.

Ineligible Projects

Projects under construction or in the pipeline that have existing commitments of funding from the Agency or other similar funding sources are generally not eligible for consideration unless:

1) The applicant can adequately demonstrate that HIF funding will allow rents to be reduced from present proposed market rate levels to levels which are affordable to households at or below Moderate Income.

2) The applicant can adequately demonstrate a change in circumstances such that funding from HIF is now needed (i.e. a substantial increase to total development costs since commencement of the project).

Maximum HIF Award

Generally, Net Allocations from the HIF for a single eligible project (comprised of one or more buildings) and that receives no other equity under the 9 percent federal Low Income Housing Tax Credit program (4 percent federal Low Income Housing Tax Credit projects would be eligible) will be limited to the lesser of a) the equity required to secure project financing and make the project feasible; or b1) 30 percent of total development cost with a maximum award of $3,000,000; or b2) 50 percent of total development cost with a maximum award of $3,000,000 if the project is designed to serve populations requiring permanent supportive services. Exceptions to these maximums may be made on a case-by-case basis at the sole discretion of the Agency to accomplish overall program goals such as meeting the housing needs of essential service workers or extremely low to low income households.

If the project is benefiting from the 9 percent federal Low Income Housing Tax Credit program, then the maximum award from HIF will be the lesser of a) the equity required to secure project financing and make the project feasible or b1) $200,000; b2) $300,000 if the project is located in a difficult to develop area with a demonstrable appraisal gap; or b3) $400,000 if the project is designed to serve populations requiring permanent supportive services. Adjustments to these amounts may be made at the sole discretion of the Agency for projects subject to a floating credit rate below 9 percent to the extent that it fills the gap created by a lower rate with a maximum award of $600,000. In any of these four scenarios, the maximum assistance from the HIF will be limited to not more than 30 percent of the development cost (50 percent of total development cost for permanent supportive housing projects). Exceptions to these maximums may be made on a case-by-case basis at the sole discretion of the Agency to accomplish overall program goals such as meeting the housing needs of essential service workers or extremely low to low income households.

Priority will be given to projects that can demonstrate a reasonable ability to utilize HIF contributions within the required timeframe. Applicants are encouraged to make preliminary contacts with potential contributors prior to making an application for the HIF.

Recognizable Costs

NDHFA reserves the right to reject an application if: Recognizable total development costs exceed $180,000 per unit for purposes of determining gap assistance from the HIF. The Agency, in its sole discretion, may waive these cost caps due to, for example, high construction cost area, required atypical infrastructure or features such as parking ramps or historic rehabilitation elements, etc.

Combined builder profit, builder overhead and general requirements cannot exceed 14 percent of the hard construction costs. A developer fee cannot exceed 15 percent of total development cost net of the developer fee, acquisition, and any permanent financing costs.

When the Developer and the Contractor are the same entity, in addition to the fee limits stated above, the combined sum of Developer Fee, Contractor Profit, Contractor Overhead, and General Requirements may not exceed 20 percent of the total development cost, less the Developer Fee.

Reserves

Once occupied, all properties will be required to establish and maintain a replacement reserve account for the term of the HIF loan. This account, separate from the project's operations account, will be set aside in a federally insured financial institution or the Bank of North Dakota. The replacement reserve requirement will be $300 per unit per year, inflated at 3 percent per year. This replacement reserve account shall not be used for operations or routine maintenance and upkeep expenses, but instead is to be used for the replacement of short-lived capital assets (i.e. replacement of roof, windows, heating systems, parking surface, etc). Written permission must be received from NDHFA before the owner may withdraw from the replacement reserve account.

All properties will be required to establish and maintain an operating reserve account, set aside in a federally insured financial institution or the Bank of North Dakota, at an amount equal to two (2) months of operating expenses and hard debt service. The operating reserve account shall be separate from the project's replacement reserve and operations accounts, and shall be fully capitalized during the development phase, as part of total development cost. Written permission must be received from NDHFA before the owner may withdraw from the operating reserve account. A line of credit from a federally insured financial institution may be accepted in lieu of the above.

Mandatory Set-Aside

Under the HIF, a minimum of 25 percent of the fund must be used to assist developing communities with a population of not more than 20,000 individuals to address an unmet housing need or alleviate a housing shortage. This mandatory set-aside will be applied in each funding round. If insufficient applications are received in any given funding cycle to fill this mandatory set-aside, funding will cease and applicants will be advised to re-submit in a future round.

IV. APPLICATION PROCESS

Applicants must apply (using Agency forms) to receive a conditional commitment of financial assistance from the HIF program. Applications will be solicited and evaluated for possible funding on a quarterly basis. The complete application, including a $500 non-refundable processing fee, must be received by 5:00 p.m. (Central Time) on the closing date to be eligible for consideration in the funding round. The application rounds will be as follows until fund has been obligated:

		Maximum Amount of HIF Assistance Available:
Round 1:	May 30, 2015	Up to $50,000,000 providing the mandatory set-aside and the essential worker priority are met.
Round 2:	September 30, 2015	Balance of available HIF assistance.
Round 3:	December 31, 2015	
Round 4:	March 31, 2016	
Round 5:	June 30, 2016	
Round 6:	September 30, 2016	
Round 7:	December 31, 2016	
Round 8:	March 31, 2017	
Round 9:	June 30, 2017	

Fees

A nonrefundable processing fee of $500 must accompany the proposal. Successful applicants will be charged an origination fee of 5 percent of the amount of HIF assistance which shall be due at the time of the first draw of HIF funds.

Threshold Requirements

When an application is received, it shall first be reviewed for eligibility to be scored and ranked. In order to be eligible for scoring and ranking, the application must be complete and include the following information, unless waived by the Agency for good cause. Application packages missing any of the following threshold items after the application deadline will be deemed incomplete and will be given reasonable time to submit the missing information. However, a 5-point deduction will be assessed during the scoring process for each missing item.

A. Ability: NDHFA must be satisfied that those who will develop, own, and operate the property are familiar with, and prepared to comply with, the requirements of the HIF program. In addition, the Applicant must demonstrate that all members of the development team have the experience, ability, and financial capacity, in their respective roles, to undertake, comply, maintain and manage the property. NDHFA may require the Applicant to provide financial statements as deemed necessary. Applicants with limited experience in the development, ownership, and management of multifamily rental property are encouraged to partner with an experienced developer or sponsor. Misrepresentation of any information about the experience or financial capacity of any property team member will be grounds for denial.

B. Market Conditions: Applicants must demonstrate to NDHFA's satisfaction that the community supports the project and has an unmet housing need or shortage. An in-house or 3rd party market analysis must be submitted demonstrating the demand for the proposed project. Examples of in-house submissions include, but are not necessarily limited to, community housing demand analysis or letters identifying the number and type of units needed from local community leaders and either major employers or trade organizations.

C. Demonstrated Site Control: Evidence that the Applicant has, and will maintain from the start of the application review process until the land is acquired, direct site control. This will also include a sketch plan of the site as it would look when developed.

D. Zoning Availability: Evidence that the appropriate zoning will be available must be provided (i.e. a letter from a city official stating that appropriate zoning is in place or forthcoming.)

E. Utilities Availability: Evidence must be provided to demonstrate that appropriate utilities (water, sewer, electricity, natural gas) will be available to the project site and will have adequate capacity. (i.e. a letter from a utility company or city official stating appropriate utilities are in place or forthcoming.)

F. Financial Projections: A 15-year pro forma financial projection for the property shall accompany the application using the income, expenses, replacement reserves, and debt service as represented in the application. The rental income should reflect the vacancy rate as stated in the application.

   The reasonableness of development costs and operating expenses in relation to other similar developments will be assessed in evaluating the financial feasibility of applications.

G. Capital Needs Assessment: A Capital Needs Assessment (CNA) must be submitted with an application package involving rehabilitation (including adaptive reuse projects). The CNA must be completed by a competent, independent third party acceptable to the Agency, such as a licensed architect or engineer, as well as an interview with available on-site property management and maintenance personnel to inquire about past repairs and improvements, pending repairs, and existing or chronic physical deficiencies. The assessment will include a site visit and a physical inspection of the interior and exterior of all units and structures. The assessment will consider the presence of environmental hazards such as asbestos, lead paint and mold on the site. The assessment will include an opinion as to the proposed budget for recommended improvements and should identify critical building systems or components that have reached or exceeded their expected useful lives. If the remaining useful life of any component is less than 50 percent of the expected useful life, immediate rehabilitation will be required unless capitalized. If the remaining useful life of a component is less than the term of the HIF loan, the application package must provide for a practical way to finance the future replacement of the component. The assessment will examine and analyze the following:

   - Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, and gas and electric utilities and lines.

   - Structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system, and drainage.

   - Interiors, including unit and common area finishes (carpeting, tile, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors.

   - Mechanical systems, including plumbing and domestic hot water; HVAC, electrical, lighting fixtures, fire protection, and elevators.

H. Appraisal: An application package involving acquisition costs or equity contribution of real estate which exceed 15 percent of the total development costs, must include an appraisal of the subject property, completed within 6 months of the date of the application by a state Certified General Real Property Appraiser, that supports the amount of acquisition.

An applicant may request a waiver to allow submission of the CNA and/or appraisal at a later date if there are other funding sources in the project which would otherwise require the applicant to incur additional costs for multiple reports because of timing issues. In all cases, the CNA and appraisal will be required prior to issuance of a financial award. Applications granted such a waiver by the Agency shall not be subject to the 5-point scoring deduction for the waived items.

Scoring Criteria

Each application meeting the threshold requirements will be reviewed and assigned points according to the following selection criteria. Representations made by applicants for which points are given will be binding and will be monitored through the annual compliance review process. Applications must achieve a minimum score of 120 points to be considered for funding. Applications will be placed in one of two categories for funding purposes; 1) targeted set-aside and 2) general pool. Based on ranking, projects will be selected for a conditional commitment. Once a property is selected, the Agency will determine the amount of HIF to be awarded, which may not equal the amount requested in the application.

In the event of a tie between two or more projects when insufficient program funds remain to fund each one, the first tie breaker will be for the project(s) that best meets the mandatory set-aside; the second tie-breaker will be the number of total units in the project that are income and rent-restricted for extremely low, very low, and low income households.

A. Acquisition of Existing Publicly-Owned Housing for Essential Service Workers 40 points

40 points will be awarded for applications that acquire existing publicly-owned rental units currently being used to house essential service workers with a long range plan to lease these units to employees of the school or political jurisdiction.

B. Creation of Additional Units for Essential Service Workers Range of 10-40 points

Up to 40 points will be awarded to applications creating additional housing units for essential service workers of moderate income or less, located in oil and gas producing counties or in counties which can demonstrate impact from energy:

50% of total units…….40 points
40% of total units…….30 points
30% of total units…….20 points
20% of total units…….10 points

C. Serves Extremely Low Income Households 20-40 points

Up to 40 points will be awarded to properties with units both income and rent restricted for households at or below 30 percent of area median income. Elections made in this category will be incorporated into the Land Use Restrictive Agreement and will be binding, at a minimum, for the term of the HIF loan.

20% of total units income and rent restricted at or below 30% of AMI – 40 points

15% of total units income and rent restricted at or below 30% of AMI – 30 points
10% of total units income and rent restricted at or below 30% of AMI – 20 points

For purposes of applying the 30 percent rent restriction under this category, an exception for exceeding the 30 percent rent may be granted for Section 8 project-based rental assistance where it can be shown that additional rents are necessary to make the project feasible and that the tenant-paid portion of the rent will not exceed the published HIF rent limit. This exception will not apply for Section 8 tenant based rental assistance.

D. Serves Very Low and Low Income Households 25 points

25 points will be awarded to properties with all HIF assisted units income restricted at or below the 80 percent area median income and rent restricted at or below the 50 percent area median income level. Elections made in this category will be incorporated into the Land Use Restrictive Agreement and will be binding, at a minimum, for the term of the HIF loan.

E. Addresses Housing Needs of Individuals of Moderate Income 5-25 points

A minimum of 20 percent of the total units in each multifamily project must be held for households of low and moderate income defined as 140 percent or less of area median income. Projects with 100 percent of the units income restricted at this level and rent restricted at the 80 percent area median income level will receive 25 points. Projects with at least 75 percent of the units serving low and moderate income households will receive 15 points. Projects with at least 50 percent of the total units restricted at this level will receive 5 points. A maximum of 25 points will be awarded in this category.

F. Addresses Housing Shortage in Developing Community with Population of 20,000 or less 25 points

25 points will be awarded to projects located in communities under 20,000 population and that can demonstrate an unmet housing need or shortage. An unmet housing need or shortage can be substantiated by reference to a third party housing needs analysis; a locally completed housing needs survey; or by letters from local community leaders, trade organizations or major employers supporting the need for additional housing units.

G. Need for Public Funds Range of 0-30 points

The applicant must be able to demonstrate, as part of the application package, that the project would not be feasible without financial assistance from the HIF. This will be evaluated in terms of the gap between cost of construction and amount of debt the project can reasonably obtain and support. Applicant must have provided information outlining both the short and long term financial feasibility of the project based on the maximums as set forth in the General Provisions section. A 15 year financial pro-forma must accompany the application. Project proposals will be underwritten to achieve a target debt service coverage ratio of 120 percent. Points will be awarded, at the sole discretion of the Agency.

H. Readiness to Proceed Range of 0-25 points

Applicant must have provided a timeline for completion of the project. Points awarded in this category are based on earliest achievable completion of the activity. Such things as letters of interest for both construction and permanent financing; ownership of the land; and availability of infrastructure will be considered in the award of points.

I. Generation of Private Capital Contribution — Range of 0-30 points

Applicant must have demonstrated the ability to raise capital through private contributions. Priority will be given to those proposals that have letters of interest or commitments from contributors for all or a part of the requested funding from the HIF. Special consideration will be given to those applicants who can demonstrate commitments for contributions into the HIF in excess of the total amount requested.

J. Rehabilitation of Existing Habitable Structures — 15 points

Proposals involving the rehabilitation of existing structures that are at risk of becoming uninhabitable or obsolete because of age and deterioration, and requiring a minimum of $80,000 per unit in hard construction costs may receive 15 points at the sole discretion of the Agency. Applicants may wish to consult with Agency staff before applying for points in this category.

K. Special Needs — 15-35 points

Properties in which units are set aside and rented to persons with special needs will receive up to 35 points. These special needs include:

1) Chronic or persistent mental illness
2) Drug dependency
3) Developmental disabilities
4) Physical disabilities (accessible units)
5) Homeless
6) Frail Elderly

10 percent of the total units............................ 15 points
15 percent of the total units............................ 25 points
More than 15 percent of the total units............35 points

To earn points in the Special Needs category serving residents with mental illness, drug dependency, developmental disabilities, who are homeless, or are frail elderly, a property must provide documentation that it meets all of the following requirements:

1) A need for the special type of housing based on market demand, the applicable *Consolidated Plan (either provide a narrative that cites page numbers and includes excerpts or mark applicable sections in the table of contents and provide the pages containing those excerpts – do not provide the entire Plan)*, and the findings of the local social service agency.

2) Third-party verification of the services appropriate to the targeted population.

3) A detailed commitment from a service agency to provide specific on-going services consistent with the needs of the targeted population.

To earn points in the Special Needs category serving residents with physical disabilities, a property must provide documentation that it meets all of the following requirements:

1) A need for the special type of housing based on market demand, the applicable *Consolidated Plan (either provide a narrative that cites page numbers and includes excerpts or mark applicable sections in the table of contents and provide the pages containing those excerpts – do not provide the entire Plan)*, and the findings of the local social service agency.

2) Evidence that the unit/building configurations meet the specific needs of the targeted population, including accessibility features that may exceed the ADA standards but make a project more functional for people with a disability:

- Roll-in or walk-in showers in the bathroom
- If a bath tub is provided, transfer seat and bars installed in the shower/tub (a floor drain is helpful to drain water splashed onto the bathroom floor during transfer)
- Front-loading washing machines and dryers or machines with controls on the front
- Dishwasher
- Units on the ground level or elevators in the buildings
- Security doors with an automatic opener
- Access to garbage dumpsters
- Covered outside entries
- Kick plates on the apartment door to prevent damage from wheelchairs
- Apartment doors that are not too heavy for an individual in a wheelchair or using a walker and/or a hinge that stays open until the person closes it
- Hard-surface flooring or low-pile (1/2” max) carpet/carpet tile with firm or no pad
- Controls on the front of appliances
- Switches mounted on the front of the cabinets that control the garbage disposal, and light and exhaust fan over the stove top
- Lower-mounted upper cabinets with handles accessible to an individual in a wheelchair
- Roll-under bathroom and kitchen sinks
- Lower medicine cabinet

3) Certification from an architect or Applicant that the accessible units and common areas meet or exceed Federal Fair Housing Accessibility Guidelines.

Compliance monitoring activities will include reviewing marketing efforts targeted at the specific special needs population, as well as, for properties for residents with physical disabilities, confirming the inclusion of the accessibility features listed in this section.

L. Impact of HIF Award Unlimited points

Applications will receive 0.75 points for each restricted unit in the project.

V. AWARD PROCESS

Proposals received by the due date will be reviewed and ranked within an approximate 30 day timeframe. Successful proposals will be issued a 60 day conditional commitment of financial assistance from the HIF, consisting of a combination of cash and tax credits proportional to ultimate funding. Applicants will be required to reach certain benchmarks during this timeframe such as obtaining commitments for contributions into the HIF, construction and permanent loan commitments and other items identified in the Agency’s conditional commitment letter. A 60 day extension of the conditional commitment period may be granted, at the sole discretion of the Agency, if it appears that the applicant has reached all other benchmarks and is making progress in soliciting contributions into the HIF. Upon satisfactory review of these items, a financial award will be issued. The financial award will terminate 180 days from the date of the initial conditional commitment, if sufficient contributions are not made into the HIF for the project, so that the Agency is able to re-obligate the contributions within the biennium.

A. Required monthly progress reports from conditional commitment to financial award.

In order to assure that HIF funding is conditionally committed to projects which are proceeding according to the schedule presented in the application, each applicant receiving a conditional HIF commitment will be required to submit monthly progress reports. The report must describe the Applicant's actual progress to date together with an estimated timeline for future project activity.

B. Required quarterly progress reports from financial award to occupancy.

Upon NDHFA's issuance of a Financial Award to the project, the borrower must submit quarterly progress reports until the project has reached stabilized occupancy. The report must describe actual development progress to date together with a current development budget and estimated timeline for future activity and lease-up. Development costs which increase above the contingency listed in the HIF application must be disclosed in the progress reports along with an explanation as to how the gap is being filled. At NDHFA's discretion, information submitted with draw requests, such as site reports, may serve to satisfy the quarterly reporting requirement.

VI. ACCESS TO HIF FUNDS

Draws against a financial award can be made for costs incurred upon firm commitment of all other funding sources such as construction financing. A mortgage with recapture provisions, deed restriction, loan agreement, and promissory note must be executed prior to release of any HIF funds.

The borrower may request one or more draws of available HIF loan proceeds for payment or reimbursement of costs incurred toward the development of the project. Draws are requested by submitting to NDHFA a completed HIF Draw Request form together with an ACH authorization, documentation supporting the expenses claimed, general contractor's sworn construction statement, and architect's inspection or trip report. All disbursements are made by electronic funds transfer to the borrower's account of designated escrow agent.

Disbursement of up to 95 percent of the HIF loan proceeds may be made during construction of the project. A hold-back amount of 5 percent of the HIF loan proceeds will be retained until project completion. Disbursement of the hold-back amount will be made upon satisfaction of all conditions identified on the Borrower's Post-Closing Requirements document signed at closing including but not limited to final sworn total development cost certification, certificate of occupancy, completion certification, final lien waivers, and executed loan or grant agreements for all other permanent funding sources.

VII. REPAYMENT OR RECAPTURE OF FUNDS

All HIF awards will be structured as a forgivable zero-interest loan with repayment terms determined on a project specific basis as necessary to achieve project feasibility. The term of the HIF loan will match the term of the lead debt financing, at a minimum of 15 years. Annual repayment of HIF funds may be calculated as all or a percentage of the project's net cash flow above a 1.30 debt service coverage ratio and remaining after payment of operating expenses, reserve capitalization, debt service.

If a project developed for essential service workers can demonstrate to the Agency's satisfaction that it is not able to maintain occupancy in the restricted units by the targeted employees throughout the term of the loan, and there exists a threat of chronic vacancy in the restricted units, the vacant units may, with the prior express written consent of the Agency, be filled by other qualified households at the same income and rent levels as were agreed to when initially funded.

Income targeting and rent restriction requirements will remain on the project for the term of the loan and will be enforced through a deed restriction on the land. In the event of a prepayment of the loan, the deed restriction will ensure the income and rent restrictions remain in place for the remainder of the term of the initial loan, unless waived by the Agency.

If a project can demonstrate to the Agency's satisfaction that it is not able to maintain occupancy in the restricted units by income-eligible households, and there exists a threat of chronic vacancy of the restricted units, the vacant units may, with the prior express written consent of the Agency, be released from the deed restriction following repayment of HIF funding.

A recapture of the HIF funds from the borrower will occur at any time during the term of the loan if the borrower fails to abide by the representations made in the application, unless waived by the Agency. In the event of recapture of the HIF funds, the deed restriction will remain in place for the remainder of the original term of the HIF loan.

VIII. COMPLIANCE MONITORING

Owners of HIF-assisted properties must remain in compliance with program guidelines throughout the term of the HIF loan. NDHFA will monitor all properties for compliance with HIF program requirements including those related to income and rent limits, cash flow, reserve accounts, insurance coverage, and property condition. Annual compliance monitoring will consist of a desk review of information provided by the project owner and/or a property inspection and review of documentation at the project location. A copy of the HIF Ongoing Compliance Monitoring Manual is provided to all HIF award recipients and is also available on NDHFA's website, www.ndhfa.org.

On a quarterly basis, owners of HIF-assisted properties must provide to NDHFA the following:

1) HIF Quarterly Report, found on the NDHFA website, www.ndhfa.org.

On an annual basis, owners of HIF-assisted properties must provide the following to NDHFA, at a minimum:

1) Rental Compliance Report (rent schedule for all Restricted Units), found on the NDHFA website at www.NDHFA.org.
2) Project-specific financial statements, including a balance sheet and statement of revenues and expenses (income statement).
3) Reserve account statements.
4) Proof of sufficient property and liability insurance coverage listing NDHFA as mortgagee.
5) Documentation supporting the current utility allowance being used (i.e., a copy of the utility allowance table from the local public housing authority).

NDHFA will charge each HIF-assisted property an annual fee to cover expenses incurred during normal and routine monitoring activities. The Fee is currently set at $50 per property, plus $35 per Restricted Unit. NDHFA reserves the right to adjust the annual fee as necessary. Additional fees may be assessed to properties determined to be in substantial noncompliance in order to cover the expense of additional monitoring. The HIF compliance monitoring fee should be included in the operating budget of applications for HIF assistance.

Developments which are subject to annual compliance monitoring fees for other programs administered by the Agency may be eligible for a reduction in their HIF compliance monitoring fee at the sole discretion of the Agency.

IX. DISCLAIMER OF NDHFA LIABILITY

NDHFA seeks to allocate sufficient HIF assistance to a project to make the project economically feasible. Such decision shall be made solely at the discretion of NDHFA but in no way represents or warrants to any Applicant, investor, lender, or others that the property is feasible, viable, or of investment quality.

No member, officer, agent, or employee of NDHFA shall be personally liable concerning any matters arising out of, or in relation to, the allocation of HIF assistance.

X. MODIFICATION TO THE ALLOCATION PLAN

The Executive Director may make minor modifications deemed necessary to facilitate the administration of the HIF or to address unforeseen circumstances. Further, the Executive Director is authorized to waive any conditions on a case by case basis for good cause shown. As a matter of practice, the Agency will document any waivers from the established priorities and selection criteria of the Plan and will make this documentation available to the public, upon request.