



Missouri Housing Development Commission LIHTC Qualified Contract Application Instructions

A request for a qualified contract allows eligible owners of Low Income Housing Tax Credit properties to exit the tax credit program after the end of the initial compliance period (as defined in the Land Use Restriction Agreement (LURA)). The following procedure describes the terms and conditions owners must follow when requesting to exit the tax credit program:

An application may be submitted to MHDC at any time during or after the last year of the mandatory compliance period. MHDC will review the application to determine the owner's eligibility to further request a Qualified Contract by confirming the following:

1. The owner did not waive its right to request a Qualified Contract during the allocation of the tax credits;
2. The property's tax credit compliance period is in the last year of the mandatory compliance period;
3. The tax credit property meets the basic physical compliance standards that are necessary to claim credits;
4. The owner is willing to secure waivers of any purchase options and rights of first refusals connected to the property;
5. All pending 8823's have been resolved; and
6. The owner did not agree to an extended compliance period (additional compliance period).

The application must address each of the preceding items. If, after the review of the application, MHDC determines the owner is not eligible to submit a Request for Qualified Contract, MHDC will notify the owner of the reason in writing.

In addition to addressing basic eligibility as explained above, each owner shall certify in the application that it has all the necessary documentation to submit a Request for Qualified Contract. The application will not bind the owner to submit the request and does not start the mandatory waiting period. To assist MHDC in the review process, please provide the following:

1. Qualified Contract Request Notification (Exhibit QCP-2);
2. Qualified Contract Request Application (Exhibit QCP-3);
3. Adequate documentation to support Qualified Contract Request (i.e., copies of original 8609s with part II completed, evidence of corrected 8823s, interior and exterior photos, narrative description, location map, site plan, name and contact information of current owner and management company, etc.);

4. Evidence that all physical inspection items have been satisfactorily completed;
5. Qualified Contract Worksheets (Exhibit QCP-4) prepared by a Certified Public Accountant (CPA) based on the Qualified Contract Agreed Upon Procedures (Exhibit QCP-5);
6. Nonrefundable Administrative Fee as stated in the Qualified Contract Process Manual.
7. Adequate documentation to support QCP worksheets (i.e. loan statement's; K-1's; partnership agreements; financial statements; appraisals; assessed valuations; etc.)
8. Land Lease (if applicable);
9. Current Rent Roll;
10. Most recent 12 months of Operating Statements and most recent audit;
11. Letter from Investor-Limited Partner describing deal structure and potential exit strategy;
12. Copy of Title Commitment;
13. Most recent survey;
14. Most recent market study (if available);
15. Phase I Environmental (if available);
16. Physical Needs Assessment (if available); and
17. Appraisal, including fair market land value.

NOTE: MHDC will review the initial application within 30 days of receipt. The mandatory waiting period to find a buyer will not begin until all items required have been submitted, fully supported and approved by MHDC. The waiting period is defined as 365 days from the posting of the property on MHDC's website www.mhdc.com.

Example 1: Property submits application on 2/1/xx of Year 15 and the Request for Qualified Contract is posted on MHDC's website on 4/1/xx. The earliest the property may exit the program is 4/1/xx of Year 16.

Example 2: Property submits application on 9/1/xx of Year 15 and the Request for Qualified Contract is posted on MHDC's website on 11/1/xx. The earliest the property may exit the program is 11/1/xx of Year 16.

NOTE: If the property received gap financing from MHDC (i.e. HOME; MHDC Fund Balance; etc.), the Qualified Contract process will not be completed until the loan is paid off. Please be advised that any other program affordability periods will still be in effect.

Mandatory Compliance Period Ending Strategies

- Meet with General Partner to discuss their intent:
 - Sale at fair market value to developer/third party.
 - Donate the project to a 501(C) (3) affordable housing organization or tenant management corp.
 - Other options include utilizing Right of First Refusal or re-syndication.

- Review and prepare an abstract of the LURA:
 - Determine the last year of the mandatory compliance period;
 - Determine the Minimum Federal Set-Aside Election;
 - Under Include the section number here also if there is one. “Terms of the Agreement”, besides the mandatory compliance period, determine the number of years in the Extended Low Income Use Period;
 - Determine whether the development received an allocation from the Non-Profit Set Aside;
 - Determine if there is HOME money in the property and any associated restrictions;
 - Determine what percentage of the units are rent-restricted in accordance with the respective set-aside election;

- Review and prepare an abstract of the Partnership Agreement:
 - What does the partnership agreement say regarding the disposition of the property or the LP’s interest in the property?

- Prepare an analysis of the assets and liabilities of the partnership:
 - Obtain a third-party appraisal(including land value) on the property (with and without LIHTC restrictions);
 - Review the partnership and debt restrictions regarding reserves;
 - Review and summarize the types and terms of all the debt on the property and
 - Project the operations to the planned date of disposition or transfer.

Mandatory Compliance Period Ending Strategies cont.

- If necessary, discuss the disposition plan with local elected officials and business leaders and address resident concerns.
- Identify the tax consequences of the proposed disposition.

If the GP's intent is to sell the property to an owner who will operate the property as a market rate property (i.e. not subject to LIHTC restrictions) the GP must request assistance of MHDC and allow up to 365 days to find a Qualified Contract for the acquisition of the property subject to the LIHTC regulations.

- Submit the Qualified Contract Request Notification (Exhibit QCP-2); Qualified Contract Application (Exhibit QCP-3); Qualified Contract Worksheets (Exhibit QCP-4) prepared by a Certified Public Accountant (CPA) based on the Agreed Upon Procedures (Exhibit QCP-5); and all required supporting documentation as stated above in the LIHTC Qualified Contract Application Instructions.