



Arizona Department of Housing

State Housing Trust Funds
4% LIHTC with Workforce Housing Units
FY2024 Notice of Funding Availability

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I. Introduction

The Arizona Department of Housing is pleased to announce a FY2024 State Housing Trust Fund Notice of Funding Availability (NOFA). New construction projects financed with 4% Low Income Housing Tax Credits (LIHTC) will be eligible for gap financing from the State Housing Trust Fund. The available resources under this NOFA include \$6 million dollars in State Housing Trust Funds (SHTF).

Funding Availability

Fund Type	Total Amount Available
State Housing Trust Fund	\$ 6,000,000
<i>TOTAL</i>	<i>\$ 6,000,000</i>

This NOFA will remain in effect until further notice is posted on the Publications page of ADOH’s website.

Additional Documents Incorporated Herein by Reference. The following documents provide additional compliance requirements for the funding sources in this NOFA and are incorporated herein by reference. If this funding is coupled with other federal funding, please note the CFR’s applicable to that funding source, as is it will be referenced and in full force and effect. The NOFA may be more restrictive than the regulations in these documents. In the event that these or other requirements are inconsistent, the most restrictive requirements shall govern.

- 2022-2023 Qualified Allocation Plan (QAP) pursuant to LIHTC, including all forms and exhibits thereto
- 2024-2025 QAP pursuant to LIHTC (as currently adopted or as amended and adopted), including all forms and exhibits thereto
- Arizona Department of Housing Funding Agreement, Loan Documents, Subordination Agreement, and Land Use Restrictive Agreement

1.1 Changes to the NOFA

Modifications to the NOFA. ADOH may modify this NOFA, including its compliance and monitoring provisions, from time to time, or for any other reasons as determined by ADOH: 1) to reflect any changes, additions, deletions, interpretations or other matters necessary to comply with the Code of Federal Regulations; 2) to respond to changes in the market for Affordable Housing; 3) to insert such provisions clarifying matters or questions arising under this NOFA as

are necessary or desirable and that are contrary or are inconsistent with this NOFA; or 4) to cure any ambiguity, supply any omission or correct any defect or inconsistent provision with this NOFA or the laws and regulations governing the funding sources being made available in this NOFA.

NOFA Clarifications. ADOH will periodically post written clarifications to this NOFA on its website. The clarifications elaborate on the meaning of the text within this NOFA and may sometimes add additional guidance on how to interpret this NOFA. NOFA clarifications are to be considered a part of this NOFA. Applicants are responsible for checking the clarifications and submitting an Application that is in conformance with the clarifications. Requests for clarification must be made in writing via email or letter via US Mail and will be responded to in the written clarifications to the NOFA on ADOH's website.

II. **Application**

2.1 **Application Selection Criteria and Fees**

A. Selection Criteria

Projects deemed eligible pursuant to this NOFA will be awarded in accordance to the following priorities until the funding has been exhausted:

1. 4% LIHTC projects providing workforce housing units (80% AMI) that will be located on state-owned land.
2. 4% LIHTC projects providing workforce housing units (80% AMI).

B. Tiebreakers

In the event more than one application falls into the same priority, and there are not enough SHTFs remaining for all, ADOH will make awards based on the following in descending order:

1. Greatest total number of workforce housing (80% AMI) units in the project;
2. Greatest total number of LIHTC units.

C. Fees

A non-refundable gap financing application fee in the amount of \$1,500 is due with the Application for 4% Low Income Housing Tax Credits. Fees may be remitted through the ADOH Payment Portal or via check with the hard copy materials specified in Section 2.2 below to the following address:

Arizona Department of Housing
Attn: Rental Programs Administrator
1110 West Washington Street, Suite 280,
Phoenix, AZ 85007

2.2 Application and Submittal Format

Applicant must submit one (1) electronic copy of the complete 4% LIHTC Application pursuant to the applicable QAP with all exhibits and forms via the ADOH Portal, along with an ADOH Gap Financing Application form. Materials for each Tab shall be submitted and organized to correspond to the Tabs in the applicable QAP. An updated Form 3 or Application Workbook must be submitted in both Excel and PDF formats along with an ADOH Gap Financing Application.

Each Tab shall be one (1) separate easy to read document in PDF format and named as follows: "Project name - Tab # - Name of Section". Tabs with large documents should be bookmarked or in a PDF Binder to clearly show each exhibit required in the Tab. Applicants who are not ready to close will receive a conditional Determination of Qualification in accordance with the applicable QAP based upon the updated LIHTC Application. Applicants who are ready to close must also submit the materials required under the applicable QAP to receive a Determination of Qualification.

Each Application must comply with the format and content of this NOFA. ADOH may reject any Application or Application information that does not conform to the requirements of this NOFA.

Applicants shall make every effort to ensure that documents submitted are easy to read, and wherever possible shall convert original electronic documents to a PDF format, rather than scan them. Documents that are not easy to read, in ADOH's sole discretion, shall be rejected by ADOH. ADOH, in its sole discretion, may request that such documents be replaced with legible documents.

ADOH may engage a third party or cost estimator to verify cost reasonableness. Funding will be allocated up to the verifiable gap, which is not to exceed the State Maximum Investment Per Unit.

2.3 Eligible Projects and Other Eligibility Requirements

ADOH will evaluate all Applications in accordance with this NOFA. ADOH shall deny any Application that fails to meet eligibility requirements regardless of its score. **The following criteria must be met in order to meet the eligibility requirements:**

A. Application Submittal

One (1) complete 4% LIHTC Application organized in the prescribed sequence and format mentioned above, ne ADOH Gap Financing Application and other materials specified in this NOFA.

B. Authorized Signatures

All documents that require a signature must be signed by the Applicant's authorized representative. Electronic signatures are permitted if preceded by "/s/" or other indications that an electronic signature is intended. Applicant must be an existing legal entity authorized to conduct business in Arizona and in good standing with the applicable Arizona state agency for the type of Applicant entity. ADOH will not consider forms signed on behalf of an entity that is not duly formed or by a representative without authority. The Applicant's authorized representative must sign the ADOH forms rather than an attached signature page.

C. Eligible Recipients

1. Non-Profit Organizations
2. For-Profit Organizations
3. Local Jurisdictions
4. Tribes and Tribally Designated Housing Entities

D. Project Team Disqualification

ADOH may disqualify any Applicant, Owner, or Person with a Controlling Interest in either such entity, Agent, or management agent who:

1. Is not an existing legal entity authorized to conduct business in Arizona and in good standing with the applicable Arizona state agency for the type of entity;
2. Has been found to be directly or indirectly responsible for any other project within the past five (5) years in which there is or was uncorrected noncompliance with state or federal rules, regulations or standards for more than three (3) months from the date of notification by the ADOH;
3. Has outstanding compliance issues with ADOH;
4. Has been involved in any ADOH project where there has been a Material Change in the project, general partners, or managing members, that ADOH did not approve in writing;
5. Has been removed by the ADOH from the ownership of a project that is subject of an Application;
6. Has failed to make Satisfactory Progress on previous and/or current projects; or
7. Has past due ADOH loan payments for which no deferral is currently pending.

E. Eligible Projects

Only the following Projects are eligible under this NOFA:

- New construction 4% LIHTC projects that include workforce housing units (80% AMI) selecting the Average Income Test under IRC Section 42(g)(1)(C)

Application Deadline and Eligible Award Amount

Project Type	Application Deadline	Amount of Gap the Project is Eligible For
New Construction 4% LIHTC Projects	April 30, 2024 4:00 PM MT	Up to \$6,000,000

F. Eligible Area Median Income Requirements

Fund Type	AMI Requirements for Set-aside Units
State Housing Trust Fund	80% AMI

2.4 Threshold

Applications must include a minimum “Threshold” of information in the 4% LIHTC Application to advance to the underwriting stage. Additional requirements and exhibits pursuant to the ADOH Gap Financing Application are listed below. ADOH may make written inquiries in order to verify and or clarify the information submitted. ADOH may also verify representations, information, and data in an Application with public information, independent reports, and statistics available through recognized subscription services.

A. Floodplain (4% Workbook Tab A)

- a. Projects in a Floodway or 100-Year Floodplain
 - 1) Projects with any improvements located in a Floodway (crosshatched in the A zone of a Flood Insurance Rate Map (“FIRM” map) are ineligible for an award of ADOH funding under this NOFA.
 - 2) Projects on parcel(s) of land that include a floodway, but in which the portion of the parcel that is a floodway remains undeveloped are not eligible for ADOH funding under this NOFA.
 - 3) Projects located in a 100-Year Floodplain (dark shaded A zone of a FIRM map) may not be eligible for ADOH funding under this NOFA.

B. Funding Sources (4% Workbook Tab D)

1. Letters of Interest or Intent shall agree to the terms, conditions and repayment schedule of the ADOH Gap Financing included in this NOFA and ADOH loan documents.

2. Applicant must insert a Certification that there is no pending litigation against the Owner, Developer and (if applicable) Co-Developer that could affect the Project.
3. Insert a Management Plan prepared by the Property Manager that includes:
 - a. Financial Plan – indicating how rents will be collected, and how the Project’s financial operations will be managed;
 - b. Physical Management – indicating how the physical project will be managed by describing planned/preventative maintenance activities, work order system response, ongoing unit inspections, and maintenance of Uniform Physical Conditions Standards;
 - c. Occupancy Management – Describe how the units will be advertised/marketed, the intake and application process in accordance with the Tenant Selection Policies and Criteria below (including certification and documentation of eligibility to occupy the unit), if an how a waiting list will be maintained, how occupancy standards (i.e., house rules or standards of conduct) will be enforced, and how re-certification and turnover will be managed;
4. Evidence of Rental Assistance award, if applicable.

C. Historic (4% Workbook Tab L)

- a. Historic Structures
 - 1) Projects with Historic Structure(s) must submit the documentation evidencing that the Section 106 review process under 16 U.S.C. 470 *et seq.* has been completed and that there is No Adverse Effect, and that the scope of work meets the Secretary of the Interior’s Standards for Rehabilitation.

D. Marketing Plan (4% Workbook Tab B)

This section is not included in the LIHTC 4% Application Workbook, Checklist Tab, however please insert this in Tab B. This in an additional requirement of this NOFA.

- a. Marketing Plan
 - 1) Please submit a proposed marketing plan for the project. Please inform the Department how you plan to advertise or market to the general public, as well as to workforce housing professionals including but not limited to teachers, United States military personnel, veterans, first-responders, and other income qualified prospective tenants.

3.2 Loan Closing

A. Loan Documentation

Among other documents necessary to obtain a Lender's policy with endorsements required by ADOH and properly secure its loan, Applicant will be required to execute the following documents in connection with ADOH's financing:

- ADOH Funding Agreement
- Promissory Note
- Conditions, Covenants and Restrictions ("CC&Rs")
- Deed of Trust

LIHTC Land Use Restriction Agreement that prohibits a request for Qualified Contract until such time as the Period of Affordability for the ADOH Gap Financing has been completed and the ADOH Gap Financing loan has been repaid in full. **The Department's loan documents will be used on all transactions. The Department is only open to reviewing minor changes to the approved documents. Any major changes to the Department's documents will be denied. Please review these documents ahead of applying for ADOH gap financing.**

Prior to the closing on ADOH financing, Applicant is not permitted to close on any other financing pursuant to the Project or begin construction (this only applies to applicants that have not closed at the time of applying for gap financing). If applicable, other financing will be required to close in conjunction with the ADOH loan.

ADOH Subordination Agreement

The Department will execute ADOH's form of subordination agreement to a senior lender. ADOH requires each lender that is providing financing subordinate to the funding under this NOFA to execute ADOH's form of subordination agreement. In the event that Freddie Mac or Fannie Mae are in the deal, the Department will use their form of subordination agreement subject to the Department's modifications.

ADOH Funding Agreement and CC&Rs

The Funding Agreement will expire when the Project passes final inspection by ADOH after construction is completed and all State assisted Units are leased. Upon expiration of the Funding Agreement, all real property under Applicant's control that was acquired or improved in whole or in part with SHTF funds must be fully compliant with the encumbrances and obligations described in the Declaration of Conditions, Covenants and Restrictions ("CC&Rs"). The CC&Rs will be recorded in a superior position to any other financing on the property for a Period of Affordability based upon the most restrictive source of ADOH funding to the Project.

1. Applicant must submit the following documents for ADOH’s review at least ten business days prior to closing:
 - a. Executed ADOH Funding Agreement
 - b. Final draft settlement statement from title company
 - c. Final draft Lender’s title policy in favor of ADOH
 - d. Executed Payment and Performance Bond that is acceptable to ADOH
 - e. Executed construction contracts (general contractor and subcontracts)
 - f. Title company acceptance of final escrow instructions that includes the recording priority of all documents to be recorded in conjunction with the closing
 - g. Acceptance of the ADOH Subordination Agreement from all subordinate lenders
2. In addition to the above, ADOH will require that all financing documents from other sources are executed and deposited into escrow at least 48 hours prior to closing.

Additional subcontractor contracts, if any, shall be required prior to commencement of the work to be performed by the subcontractor.

III. General Regulations

4.1 False Filing

An Application, including all exhibits, appendices, and attachments thereto, made to ADOH for an award of funding including any materials filed at a later time with ADOH in connection with an Application, is considered to be an “instrument” for the purposes of A.R.S. § 39-161. According to that statute, knowingly including any false information in or with the Application is a class 6 felony. Such an act may also result in barring the Applicant and Development Team members from future awards of ADOH funding and low-income housing Tax Credits. In addition, false filing may be subject to the provisions of A.R.S. § 13-2311 (designating as a class 5 felony the conduct of business with any department or agency of this state by knowingly using any false writing or document).

4.2 Satisfactory Progress

- A. Applicants who have previously received ADOH funding and or Tax Credits must make Satisfactory Progress and be in substantial compliance with the requirements of federal law with respect to all prior Projects before ADOH may consider a new Application.

- B. ADOH shall monitor both the progress and quality of construction. If progress or quality has not been satisfactory to the ADOH, ADOH shall require corrective action be undertaken by the Applicant. ADOH may also report significant deficiencies to any other funding source or other members of the Project team, and the Project may be subject to revocation of funding due to lack of Satisfactory Progress.

4.3 Disclaimer and Limitation of Liability

- A. ADOH makes every effort to ensure that the references in this NOFA are accurate. All references in this NOFA to cells, line items and columns on forms are subject to amendments as forms are updated periodically. All references to URL webpages are subject to amendment as they are periodically updated by their webmasters.
- B. Applicants, Development Team members, and other financing sources participate in ADOH programs at their own risk. No member, officer, agent, or employee of ADOH or the State will be liable for any claim arising out of, or in relation to, any Project, including claims for repayment of construction, financing, carrying costs, or consequential damage or loss of any kind incurred by an Applicant, Development Team member, lender or any other Person.

Disclosures. Public disclosure of Applications shall be as provided by Title 39, Chapter 1 Article 2 of the Arizona Revised Statutes. Applicants must only enter confidential information such as taxpayer identification numbers at the specific locations required by the Application materials. All information included in an Application submitted to ADOH is subject to disclosure to the public unless specifically exempted from disclosure by statute. Applicants must redact confidential information from documents if the information is not specifically required by ADOH. ADOH may redact information or withhold records that are protected from disclosure pursuant to Arizona law.

4.4 ADOH Funding Agreement

Terms between Owner and ADOH will be further memorialized in the executed ADOH Funding Agreement. Template Funding Agreements will be posted to the ADOH website for interested parties to review.

4.5 Forms

The Gap Financing Application for Low Income Housing Tax Credit Projects Financed with Tax Exempt Bonds is hereby incorporated into this NOFA and is to be included with the LIHTC Application, as directed in this NOFA. It is posted on the Department's website at <https://housing.az.gov/documents-links/forms/rental-development-bonds>.

4.6 Definitions

Definitions in the QAP applicable to the funding year shall apply to this NOFA. Terms that are not specifically defined in the QAP shall be interpreted using common meanings typically accepted in the multi-family housing development industry, but will be ultimately be interpreted by ADOH in its discretion.

IV. Underwriting

ADOH will underwrite the Project in accordance with the applicable QAP. Where additional requirements are applicable, they are noted below.

5.1 Underwriting Financial Evaluation Requirements

A. ADOH Loan Terms.

ADOH Gap Financing must be used for construction and permanent financing. In the event that a Funding Agreement has been executed, and all or a portion of the funds are not necessary, ADOH may reduce Low Income Housing Tax Credits (if applicable) to the amount necessary for feasibility based upon its underwriting.

1. Loan Payment Terms:

All loans awarded under this NOFA shall be secured through a Deed of Trust and accrue simple interest annually at 3% as of the date the loan closes. The term of the loan will be 20 years. The annual payment shall be the greater of: (1) an annual simple interest hard payment to be determined by ADOH during underwriting (no less than \$1,000.00) or (2) 50% of Surplus Cash Flow.

If other local governmental lenders are providing sources of funds to the project, the Department is willing to reduce its split of Surplus Cash Flow. In this instance, the Department will require a minimum of 25% Surplus Cash Flow.

The Department's definition of Surplus Cash Flow in the loan documents matches the Department's underwriting and will be used without any major changes in all loan documents.

2. Subordinate Debt

Subordinate debt, including ADOH Gap Financing, shall fall below the first lien holder's permanent loan, secondary hard debt, the cost of Supportive Services, the investor's asset management fee, and Deferred Developer Fee in priority of payment. Local Government financing may follow ADOH Gap Financing in priority of payment. All soft financing, including Seller Carryback loans and related party loans shall fall below ADOH Gap Financing and Local Government financing in priority of payment.

3. Maximum State Investment:

Applicants may apply for ADOH financing with the following maximums based on the project type. ADOH may engage a third party or cost estimator to verify cost reasonableness and only allocate funding for up to the verifiable gap, which is not to exceed the State Maximum Investment Per Unit.

Project Type	Financing Maximum
New Construction 4% LIHTC Projects	\$6,000,000

The Maximum State Investment per Assisted Unit permitted is the HOME Maximum per Unit Subsidy Limits which are published by HUD. The most recent limits, found in the following table, were published on April 7, 2023. (The Maximum State Investment per Unit is a ceiling.)

MAXIMUM STATE INVESTMENT PER UNIT				
Unit:	0 bedroom	1 bedroom	2 bedroom	3 bedroom
Maximum:	\$173,011	\$198,331	\$241,176	\$312,005

4. Period of Affordability:

The required Period of Affordability for Projects will be 20 years for SHTF.

B. Development Budget

Applicants shall disclose all uses of development funds. Costs are limited to those that are necessary to build the Project. All sources, including reserves and contingency items, must be funded from cash sources that are dedicated to the Project. Letters of credit and cash from operations are not acceptable financing sources to cover financing gaps in the Development Budget.

C. Pro-Forma

Applications must:

- Use an Asset Management Fee as provided in the Limited Partnership Agreement or Operating Agreement, but no greater than \$10,000 increasing annually at 3%;
- Show at least the minimum gap financing hard payment of \$1,000.

D. Developer Fee and Deferred Developer Fee

Applications must list developer fees between a minimum of \$200,000 and a maximum of 15% of total eligible basis (as calculated in the ADOH underwriting workbook). These totals are inclusive of any consulting fees.

Deferred Developer fees must be sustainable and repaid by project cash flow within 15 years. In the event the deferred developer fee is paid back sooner than projected in the pro-

forma, then the Department's gap financing loan must be paid down before any other related party loans.

E. Eligible Uses of SHF

SHF may be used only for reasonable and customary construction costs (or acquisition and rehabilitation costs of properties to be improved).

**FY2024 SHTF Workforce Housing 4% LIHTC NOFA
Attachment A**

Project Name: _____

Please place a checkmark by the statement below in which your Project qualifies and provide the supporting evidence as of the gap application deadline as an attachment to this document.

Please submit this attachment at the beginning of Tab A in your application submittal.

_____ 4% LIHTC Projects providing workforce housing (80% AMI) units that will be located on state-owned land.

_____ 4% LIHTC projects providing workforce housing (80% AMI) units.

Please complete the following:

The project has the following amount of workforce housing units (80% AMI): _____

The project has the following amount of LIHTC units: _____

I understand by submitting my 4% LIHTC project under this NOFA that I am electing to the Average Income Test under 26 U.S.C. Section 42(g)(1)(C).

I hereby certify that I am authorized to bind the Applicant and the foregoing statements are true and correct as of the date the Gap Application was submitted to the Department under this NOFA.

Applicant Signature: _____ Date: _____

Printed Name: _____

Title: _____