

Tab 23 Federal LIHTC Syndication Information & Historic Credits

Information provided in the Application regarding the syndication of the Tax Credits must be confirmed in writing by the appropriate party. Refer to Section 3.2.11 (Upholding Right of First Refusal Agreements) and Section 3.2.14 (Tax Credit Equity Investor) of the Qualified Allocation Plan when preparing the response to this Tab. requirements. Public offerings must be verified by the syndicator issuing the public offering. The offering must be registered with the Securities Exchange Commission ("SEC"). The syndication letter must state the amount of the anticipated pay-in, the amount of Tax Credits upon which the pay-in is based, the ownership percentage of the limited partner, and an estimated pay-in schedule. NOTE: The anticipated pay-in schedule must be based on the reserves being funded in accordance with the Agency's requirements which are as follows:

For Agency loan applicants, the Development Contingency Fund, tax and insurance escrows must be deposited with the Agency at closing. All other reserves and escrows (operating, supportive services, rental subsidy, etc.) must be funded at initial occupancy. For all other applications, all reserves and escrows must be funded prior to the submission of the cost certification package. Bank statements or other documentation will be required evidencing that the accounts have been established.

In addition, the syndication letter must include a statement that the Investor has reviewed the Application, including the proposed rents and operating expenses used in preparing the operating budget. If the letter of intent does not include this statement, the Agency may underwrite the application utilizing the current rents and operating expense levels obtained from its data base. If a rent increase is pending with HUD or RD and the letter of intent doesn't include the required language, the current rents may be utilized during underwriting.

For developments seeking Tax Credits and anticipating the use of Federal Historic Rehabilitation Tax Credits, and/or Commonwealth of Pennsylvania Neighborhood Assistance, Enterprise Zone State Tax Credits, or Energy Credits, the syndication letter must provide the total credits, investment amount and pay-in schedule for each Tax Credit. If the syndicator is also providing an internal bridge loan, the terms and conditions of the loan must be provided.

Private offerings must be verified by each of the investors whether corporate or individuals. The letter(s) from the investor(s) must state the equity contribution for each type of Tax Credit and the amount and type of Tax Credits upon which the pay-in is based.

Syndication costs for both public and private offerings must be identified. The Agency retains the right to request additional information on any potential investment, private or public.

If the investor is charging an asset management fee/investor service fee, the investor letter must state that the fee is to be paid yearly as a project operating expense with defined terms. If the fee and terms are not listed in the letter and included in the operating budget, it may not be paid from project operations. Inclusion of a capitalized Asset Management Fee is not permitted in the Capital Budget.

The Agency will underwrite the development based upon amounts set forth in the syndicator's letter and may establish minimum gross equity pay-in standards during processing. Applicants will be notified regarding any equity adjustments during processing.

Furthermore, the Agency may require updates as it deems appropriate during processing in order to verify the equity commitment. Prior to making a conditional reservation of tax credits, the Agency may require documentation demonstrating evidence of a commitment of equity to the development.

All applicants are expected to be thoroughly familiar with the "At Risk Rules" of Section 42(k) of the Code. If the applicant has indicated a type of financing such as related party financing, seller financing, or a nonprofit loan that might come under the At Risk Rule provision, the applicant must submit a certification as to why this type of financing is not in violation of the At Risk Rules. The certification must be provided by the owner, acknowledged by the investor, and must provide specific reference to the appropriate section of the Code or relevant accounting procedures which permits this type of financing to remain in basis.