



# MULTIFAMILY BOND FINANCING GUIDELINES

*Approved by OHFA Board: April 19, 2017*

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The Ohio Housing Finance Agency is an Equal Opportunity Housing entity. Loans are available on a fair and equal basis regardless of race, color, religion, sex, familial status, national origin, military status, disability or ancestry. Please visit [www.ohiohome.org](http://www.ohiohome.org) for more information.

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## Change Log

This following change log only lists major revisions, updates, and clarifications. Be advised this is a non-exhaustive list of changes and interested parties are urged to read the full text of this document.

- Update AHFA tabs that must be completed
- Updated required supporting document list
- Clarified payment timing for compliance monitoring
- Clarified public notification requirements
- Updated indemnification requirements
- Updated layout and style

## Program Information

The Ohio Housing Finance Agency (OHFA or Agency) provides financing and resources to develop housing for low- and moderate-income Ohio residents. By issuing multifamily bonds, proceeds fund construction and mortgage loans that create and preserve affordable multifamily rental housing units.

These Multifamily Bond Financing Guidelines inform developers who will use multifamily bonds exclusively, or in combination with other Agency resources. Multifamily bonds may be utilized in conjunction with OHFA's Housing Tax Credit (HTC) program, including non-competitive (4 percent) HTC and Housing Development Assistance Program (HDAP). Projects financed by multifamily bonds are ineligible for competitive (9 percent) HTC.

HTC program requirements are provided in the most recent Qualified Allocation Plan (QAP) available on OHFA's website at [www.ohiohome.org](http://www.ohiohome.org) and in Section 42 of the Internal Revenue Code (IRC). Applicants seeking non-competitive HTC or other OHFA financing, including Housing Development Gap Financing, must consult the guidelines and requirements for those programs. All guidelines are available on the OHFA's website.

OHFA requires Applicants retain an experienced development team, including legal counsel, in all multifamily bond financing phases.

If tax-exempt bonds are issued, issuance of bonds may require use of private activity volume cap (see below).

### A. State Of Ohio Private Activity Volume Cap Requirements

To promote private activities benefiting the public, IRC Section 142(d) permits issuing tax-exempt multifamily bonds for new construction or acquisition/rehab multifamily housing projects. The Ohio Development Services Agency (ODSA), Office of Energy administers Ohio's private activity volume cap.

Additional volume cap is available from OHFA; upon depletion of OHFA's volume cap, additional volume cap may be available from ODSA. Applicants should consult legal counsel regarding the need for and availability of volume cap.

### B. Agency Private Activity Volume Cap

OHFA currently has a volume cap allocation for housing purposes and may choose to allocate bond volume cap for the issuance of its multifamily bonds. By separate letter accompanying the Affordable Housing Funding Application (AHFA) submission, the Applicant may seek a volume cap allocation from the Agency. OHFA will permit the reservation of volume cap in an amount up to 115% of the anticipated amount of the bonds. The Applicant should consult with legal counsel regarding the volume cap requested.



## C. Construction Wages

Any housing Applicant receiving financing from OHFA may be required to pay laborers and mechanics employed on the project prevailing wages as established by the Ohio Department of Commerce Bureau of Wage and Hour. State prevailing wage is covered under Ohio Revised Code Section 176.05. OHFA recommends that Applicants consult with legal counsel to determine the impact of this provision on the proposed project. All Applicants must submit a statement acknowledging the requirement to comply with the prevailing wage statute.

## Application Process

There are three phases in OHFA's review of requests for the issuance of multifamily bonds:

- Phase I: Multifamily bond issue preliminary approval pursuant to a Preliminary Resolution (if required or desired);
- Phase II: AHFA submission; and
- Phase III: Multifamily bond issue final approval pursuant to a Bond Resolution.

Additional processes may vary depending on the resources being requested.

## A. Preliminary Resolution

A Preliminary Resolution may be required if an Applicant will reimburse a development for expenditures incurred prior to the issuance of bonds with bond proceeds. It is also required if the Applicant seeks volume cap from the ODSA.

If a Preliminary Resolution is desired or needed, the Applicant must submit a project executive summary to OHFA no later than the 15th day of the month preceding the desired OHFA Board approval date. A template for the Executive Summary is available on the OHFA website. Applicants should consult with their legal counsel to determine whether a Preliminary Resolution is required.

Upon OHFA's review of the Executive Summary, OHFA Issuer counsel shall prepare a Preliminary Resolution for OHFA staff to present at the next available Multifamily Committee and OHFA Board meetings for consideration and approval.

OHFA does not commit to issue bonds by adopting a Preliminary Resolution. OHFA retains discretion to issue multifamily bonds and any such issuance depends on the Applicant's successful AHFA submission and the OHFA Board's final Bond Resolution adoption.

## B. Affordable Housing Funding Application

### Multifamily Bonds Only

Applicants seeking multifamily bonds final approval without HTC must provide written notice to the Agency and its Issuer Counsel at least 60 days before the desired OHFA Board approval date. OHFA may require the Applicant to conduct a planning meeting with OHFA staff describing the project and giving an estimated AHFA submission date. **Applicants must include OHFA Issuer Counsel on all correspondence related to the multifamily bond transaction.**

The Applicant must submit a complete AHFA, available on the [OHFA website](#), no less than 45 days before the desired OHFA Board approval date. For purposes of this section, a complete AHFA shall mean compliance with the following tabs in the AHFA:

- Instructions
- Transmittal
- Project Information
- Budget
- Proposal Summary
- Development Team Review
- MFBP
- Program Certification

All documents specified in the Multifamily Bond submission checklist must accompany the AHFA including but not necessarily limited to: Proposal Summary, Capital Needs Assessment (rehabilitation only), Scope of Work (rehabilitation only), and Public Notification. The Applicant shall also submit all of the following, including supporting documentation where OHFA requests:

1. Evidence of the Applicant's ability to develop, construct, market, and manage multifamily rental housing, including resumes of all development team members;
2. A statement confirming that the housing development:
  - a. Will serve a public purpose;
  - b. Will provide safe, decent and sanitary housing;
  - c. Will benefit its occupants through savings resulting from multifamily bond financing; and,
  - d. Depends on obtaining this financing as critical to the success of the project.
3. A letter detailing the bond financing structure.
4. A calendar outlining anticipated actions and responsible parties for closing the transaction.
5. Applicable fees payable to OHFA at application.

Upon receipt of a complete AHFA, including all required supporting documentation, OHFA staff will review application materials within 30 days. Staff reviews, which may include a site visit, are used to prepare a final project executive summary for presentation to the OHFA Board.

### **Multifamily Bonds And Non-Competitive Housing Tax Credits**

Application deadlines and submission requirements for developments that will leverage 4 percent Housing Tax Credits are established in the QAP. Per these deadlines, AHFA application windows are limited to four times per year.

When an Applicant is ready to seek final approval, they must contact OHFA no less than 45 days before the application deadline to schedule a planning meeting with OHFA staff describing the project and giving an estimated AHFA submission date. In its discretion, OHFA may waive this requirement for Applicants with prior OHFA experience. Applicants may not submit the AHFA and supporting documents until after this meeting is complete. **Applicants must include OHFA Issuer Counsel on all correspondence related to the multifamily bond transaction.**

Applicants should evaluate preparedness before submitting an application for review and consideration. Applications that are not able to move forward in a timely fashion may be returned to the Applicant for submission at a later date.

Upon receipt of a complete AHFA, including all supporting documentation, OHFA staff will review application materials within 30 days. Staff will prepare a presentation for the OHFA Board using the information from their review and the site visit.

### **Bond Resolution Phase**

After the Agency completes its review, OHFA staff will notify all Applicants that the application will be presented to the OHFA Board for final consideration. The Applicant may request the month in which they wish to be scheduled for OHFA Board approval. The OHFA Multifamily Committee meets the second Wednesday of each month and the OHFA Board meets the third Wednesday of each month.

Bond counsel will distribute to transaction participants all bond documents, closing documents, and exhibits no later than the 30th day of the month preceding the desired OHFA Board approval date. All documents must be substantially complete prior to the OHFA Board meeting.

## **Minimum Requirements for Agency Review**

The following sections set forth the minimum requirements for multifamily bond financing. Additional requirements for developments combining HTC and HDAP resources with multifamily bonds can be found in the most current HDAP Consolidated Guidelines and in the most current QAP, all of which can be found on the OHFA website, [www.ohiohome.org](http://www.ohiohome.org).

### **A. Program Fees**

Applicants should anticipate payment of the following fees in conjunction with a bond issuance:

<b>Fee</b>	<b>Amount</b>	<b>Due</b>
Application Fee	New applications with HTC: See QAP	At submission
Closing Fee	One-Tenth of 2% of the bond amount or, \$3,000, whichever is greater	At closing
Program Compliance Monitoring Fee	New applications with HTC: See QAP	Initial payment up-front, payments annually thereafter

The Applicant are responsible for all other issuance costs including Underwriter, Trustee, Rating Agencies, Lender, Compliance Administrator, Bond Counsel, and any other party fees required to complete the issuance. OHFA may assess fees with respect to other programs, including the HTC, HDL, and HDAP programs. There is no application fee for refunding applications.

## B. Conduit Financing

The Applicant must specify at application whether the multifamily bonds will be publicly offered, privately placed, or directly purchased by the bond investor.

### Public Offerings

To publically offer multifamily bonds, they must receive an investment-grade rating (BBB or better) from a nationally recognized rating agency.

### Private Placements & Direct Purchase

OHFA will only permit private placement or direct purchases bonds which do not carry an investment grade rating if in minimum denominations of \$100,000 to sophisticated investors. All bond transfers subsequent to their initial issuance are subject to the foregoing requirements.

Bond purchases are restricted to investor(s) who provide a letter indicating that, as purchaser, the investor(s) qualifies as a sophisticated investor for purposes of Regulation D of the Securities Act of 1933, and that the bonds will only be sold to sophisticated investors who will sign a similar letter for purposes of Regulation D of the Securities Act of 1933.

At a minimum, the letter of intent and the letter of assurance must include the following information regarding the bond issue:

1. Bond amount;
2. Bond term;
3. Expected bond interest rate and, if variable rate, the index used to calculate such rate;
4. Mortgage rate and amortization period, if applicable;
5. Bond amortization period;
6. Any interest rate hedge;
7. Conditions which would lead to the conversion of variable-rate bonds to fixed-rate bonds and the security to be used as the basis for rating such fixed-rate bonds; and
8. Any required reserves or conditions to be imposed upon the borrower.

OHFA retains all discretion to accept or reject such letters.

## C. Public Notice Procedures

Prior to consideration by the OHFA Board, Applicants must satisfy both of the following public notice requirements

### TEFRA Notice of Public Hearing

Applicants must provide notice of the Tax Equity and Fiscal Responsibility Act (TEFRA) public hearing as follows:

1. The TEFRA notice of public hearing will provide information about the project, including its name, location, identity of the owner and approximate size of the bond issue as well as the time and place of the public hearing;
2. If new construction or adaptive reuse, the hearing must be held in the county where the project is or will be located. The location of the hearing must be acceptable to OHFA. The Applicant is



required to notify persons in the following jurisdictions:

- a. The political jurisdiction(s) in which the project will be located; and
- b. Any political jurisdiction(s) whose boundaries are located within one-half mile of the project's location.

## Public Notification Letter

Applicants must also issue public notification letters as follows:

1. Applicants must state their intent to develop a project using OHFA bond financing. The notification letter must be sent via certified mail, return receipt requested, and dated no later than fifteen days prior to the date of the public hearing. A copy of the letter and receipt for certified mail should be included with the request for final approval. The letter must include:
  - a. The project's address;
  - b. The number of units;
  - c. The nature of the project;
  - d. All state programs utilized in the project financing structure;
  - e. A statement regarding the recipient's right to submit comments;
  - f. The address of OHFA and person to whom to direct comments; and
  - g. The date, time, and location of the public hearing.
2. The persons to be notified are:
  - a. The chief executive officer and the clerk of the legislative body for any city or village (i.e. mayor and clerk of council);
  - b. The clerk of the board of trustees for any township;
  - c. The clerk of the board of commissioners for any county;
  - d. State Representative(s);
  - e. State Senator(s).

Applicants must consult with Bond Counsel to determine any additional requirements pursuant to Section 147 of the Internal Revenue Code.

## D. Indemnification

All bond issuances indemnify the Agency including its members, directors, officers, agents, and employees such that they are held harmless from any claim or suit of whatever nature. In addition to the indemnification, the Applicant will be responsible for any costs including but not limited to fees assessed by the Agency, legal fees, reasonable counsel's expenses, and other expenses incurred. A clear statement of OHFA's indemnification must appear in resolutions and all relevant bond documents.

## E. Financing Commitments

Firm commitments for all financing sources and credit enhancements are not required for the OHFA Board's consideration of a Bond Resolution. The Bond Resolution will expire 6 months after its adoption, provided that the Agency, in its sole discretion, may permit an extension of up to three months.

## F. Resumes Of All Development Team Members

The Applicant shall submit resumes for each development team member, including the Applicant, General Partners, various counsels, and controlling entities with the application and request for reimbursement resolution. The resumes should state the professional experience of the participant and the number of multifamily projects completed or in process. Principal participants, such as Controlling Partners, Bond Underwriters, Lenders, Trustees, or Servicers, unknown or less familiar to OHFA, may be required to submit further documentation evidencing experience or background.

Participants must comply with any and all applicable Federal and State securities laws.

## F. Bond Refunding Applications

To apply for refunding approval, Applicants must submit an application meeting all requirements of the application checklist no later than 45 days preceding the month in which action is requested.

# Preparation for Closing on Multifamily Bonds

## A. Calendar

In anticipation of closing the transaction, the Applicant must submit a proposed calendar to OHFA outlining the dates for document review and closing. In addition, the Applicant must arrange for closing and execution of the appropriate documents with OHFA.

Before final bond resolution approval, OHFA, Bond Counsel, and Issuer's Counsel must review and approve all major financing documents. Bond and Underwriter's Counsel must coordinate with OHFA Issuer Counsel in preparing these documents. OHFA and Issuer's Counsel will review the draft documents for compliance with OHFA program requirements.

# Post-Closing Activity

## A. Final Documents

No more than 30 days after the multifamily bond closing date, the Applicant must provide OHFA a final transcript relating to the multifamily bonds, including, but not limited to, any offering statement copies, all documents executed by OHFA, and all opinions delivered in connection with the multifamily bond issuance or sale. The Applicant must also provide the contact information for the development team identified in the "Minimum Requirements for Agency Review" section above.

## B. Monitoring

OHFA requires all owners submit an Annual Owner Report and Operating Survey. Forms and information necessary to comply with this requirement are on the OHFA website, including the DevCo Online Management System. OHFA reserves the right to conduct site visits upon reasonable notice to the owner at any time in the transaction process.

In addition to meeting the requirements set forth in these Multifamily Bond Financing Guidelines, Applicants must also meet the requirements of the HTC program and the HDAP program, if utilizing those resources.

## C. Other Reporting Requirements

The Office of Planning, Preservation and Development maintains Agency records on each project financed with multifamily bonds. In connection with maintaining those records, OHFA requires owners furnish the following reports without fee to the Agency:

1. Trustee's reports of bonds outstanding must be furnished to the Office of Planning, Preservation and Development within 5 calendar days following the end of each month.
2. Trustee (or owner of the bonds, if the bond structure does not involve a Trustee) must agree to confirm balances annually as of June 30 and at other times as requested.

The Trustee must make its records reasonably available to OHFA upon request.

## D. Agency Information Sources

OHFA's website contains important, easily accessible program information such as program dates, general multifamily bond information, and downloadable files such as the Multifamily Bond guidelines, HTC guidelines, HDAP guidelines, AHFA, and Compliance Monitoring resources. It is the Applicant's responsibility to regularly browse the website to obtain current information on OHFA's programs.

### **Contact information for the Agency is as follows:**

Ohio Housing Finance Agency  
Planning, Preservation and Development  
57 East Main Street  
Columbus, Ohio 43215

Telephone: 614.387.2869

Website: [www.ohiohome.org](http://www.ohiohome.org)