theCredential

My Property Received a 2nd Allocation… What, Why, Who and How?

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Now, What Do You Need to Know?

So, your property received a 2nd Allocation of tax credits. Now, what do you need to know if you are assigned to manage a Low-Income Housing Tax Credit (LIHTC) property with a 2nd Allocation of LIHTC or 4% Tax-Exempt Bond funding, also known as a Resyndication?

Property managers who are not involved in the LIHTC allocation application submission and approval process may have many questions about the 2nd Allocation and where to start with ensuring program compliance.

Questions properties should consider include:

- How do you manage the old and new LIHTC program requirements in the Extended Use Agreement(s)?
- Will the new funding sources include other affordable housing programs with requirements that conflict with the LIHTC program?
- What income and rent Limits apply?
- Did the allocating agency's procedures allow relaxing LIHTC program certification requirements (full-time student, annual recertifications, etc.) for your property past the compliance period, post year-15?
- Do existing residents have to be re-qualified by completing a new tenant certification with supporting income verification for the new LIHTC allocation?
- Will the unit count remain the same?

It is important to review the project documents to understand how to manage the old and new program requirements in the property. The property requirements for the allocation are included in the Extended Use Agreement.

What is the Extended Use Agreement (EUA)? The Extended Use Agreement (EUA) is a restrictive covenant between the developer and the allocating agency, which outlines the LIHTC and program requirements. The EUA occupancy requirements may be listed as a percentage of the total low-income units or a whole number. All EUA program requirements must be maintained until the agreement ends or the Allocating Agency amends the agreement.

Why Would a Property Receive a 2nd Allocation?: A 2nd Allocation can only occur once the initial 15-year compliance period has ended. Properties nearing the end of the 15-year compliance period may consider applying for a new LIHTC allocation for funds to preserve and improve the property features, making it more marketable and sustainable to meet the current and future housing needs.

Although the terms 2nd Allocation and Resyndication are generally used interchangeably, they are separate actions that result in extending affordability and habitability for a property.

Who Are the Partners Involved in the 2nd Allocation?

1. **The Allocating Agency Approves the 2nd Allocation** in the 9% LIHTC competitive application process or issues funding for a 4% Tax-Exempt Bond application.

   The allocating agency's primary mission is to grow and preserve affordable housing. It reviews and approves LIHTC applications under the state's Qualified Allocation Plan (QAP), which includes the state's priorities for building and preserving affordable housing.

   The 9% LIHTC application is a competitive process. Applications are submitted for review and awarded to projects that align with the state's QAP priorities and provide the most affordability for the longest time. Each Allocating Agency may have different application schedules. Usually, the 9% LIHTC competitive application process occurs at least once annually, with an application deadline to submit applications for the Allocating Agency review.

   The Allocating Agency that issues the 4% Tax-Exempt Bond financing may require a competitive application like the 9% LIHTC application process or accept applications for funding at any time.

   Please review the allocating agency's written guidance to confirm the application requirements and submission deadlines.

2. **Resyndication,** alternatively, describes when the project developer coordinates with investor partners and other financial resources to generate the cash equity needed to complete the project in exchange for the tax credits ***a 2nd time***. The application process

with the allocating agency for the 2nd Allocation is the same. However, the property's ownership and equity providers may be different in the Resyndication.

The property owner (developer) usually works with a syndicator, which operates as a broker connecting the developer who was issued the tax credits with investor groups or financial institutions. In exchange for the tax credits, which are used as a dollar-for-dollar reduction in their federal tax liability, the syndicator provides the financing and cash needed for the property rehabilitation.

The syndicator also provides continued compliance and asset management oversight of the LIHTC property to ensure it has adequate resources to construct, rehabilitate, and operate. It will also conduct regular property inspections and monitoring to identify and report potential issues and intercede so its investor groups will continue receiving the tax benefits throughout the 15-year compliance period.

How do you Manage a 2nd Allocation? What happens with the original program requirements when the property receives a 2nd Allocation? Allocating agencies may not terminate the federal and state program requirements in the original EUA, requiring all income, rent, and program requirements to continue until the initial EUA term expires. A separate EUA may be issued with the 2nd Allocation program requirements, or the original EUA may be terminated and incorporated into the 2nd Allocation EUA, resulting in overlapping extended use periods.

The new funding may include 9% Tax Credits, 4% Tax-Exempt Bond financing, HOME, Housing Trust Fund, or other affordable housing programs to fund the project improvements. Each program has its own affordability reporting and certification requirements. Property managers must satisfy the requirements for all programs and apply the most restrictive income, rent, and verification standards to maintain compliance included in their property and should attend training annually.

2nd Allocation Agreement Terms: The LIHTC allocation requires a 30+ year affordability commitment with a set number of low-income units meeting income and rent restrictions and ongoing habitability requirements, ensuring the property buildings, systems, and unit conditions are safe and sanitary. Due to the competitive nature of the tax credits, the 2nd Allocation may include an additional income or rent affordability layer along with a longer term beyond 30 years.

Please contact your Allocating Agency about their procedures for managing the EUA terms and conditions for the 2nd Allocation.

IRS 8609 Forms: The allocating agency will issue a new set of IRS 8609 forms for the 2nd Allocation, which usually include the same assigned Building Identification Number (BIN) used for the original 8609 forms. The 8609 includes important property information used to track program deadlines, which is required for ongoing management and monitoring of program compliance. It also establishes the program compliance required throughout the property's extended use period.

The Allocating Agency completes the information in Part I, based on information reported by the property, including:

- the allocation date on Line 1a, which sets the deadline for the LIHTC property to be ready and available to lease to qualified households and
- The place in service on Line 5a sets the deadline by which the Agency must schedule the initial property inspection and records review.

Part II of the IRS 8609 form is completed by the property owner and includes:

- the confirmation of the "project" on Line 8b,
- the credit and compliance period start date on Line 10a, and
- the minimum set-aside on Line 10c.

Let's look at an example of the timeline of important dates for a 2nd Allocation and parallel EUA terms.

Year	First Allocation Important Dates
2001	Allocation - Acquisition/Rehab 40-60 Minimum Set-Aside
2003	First Year of the Credit Period (include 2003 as the first year) Placed in Service Date Year (IRS 8609 Form)
2017	End of the 15-year Compliance Period (2003 + 14 years)
2032	End of the EUA (2003 + 29 years)

Year	2nd Allocation Important Dates
2019	2nd Allocation of 4% Tax-Exempt Bond 40-60 Minimum Set-Aside
2022	First Year of the Credit Period (include 2022 as the first year) Placed in Service Date Year (IRS 8609 Form)
2036	End of the 15-year Compliance Period (2022 + 14 years)
2056	End of the EUA (2022 + 34 years)

2001 EUA Occupancy Requirements

130 Units	% of units	# of units	% of area median gross (AMGI)
Income	100%	130	60%
Rent	33.33%	44	50%
	66.67%	86	60%

2019 EUA Occupancy Requirements

130 Units	% of units	# of units	% of area median gross (AMGI)	
Income	33.33%	44	50%	Round Up the Lower Restriction
	66.67%	86	60%	
Rent	10.42%	14	40%	Round Up the Lower Restriction
	45.83%	60	50%	
	43.75%	56	60%	

In the example, the 2nd Allocation includes additional income and rent restrictions through 2056 and an additional five (5) years of affordability for a total of thirty-five (35) years, meeting the agency's mission of preserving and expanding affordable housing.

Using the same example, what if the occupancy requirements were reversed? If the allocating agency does not terminate or amend the lower income and rent restrictions in the EUA, then the property must maintain the forty-four (44) units with household income qualified at or below 50% AMI and fourteen (14) units with rent at or below the 40% AMI rent limits until the original EUA term expires in 2032.

2001 EUA Occupancy Requirements

130 Units	% of units	# of units	% of area median gross (AMGI)	
Income	33.33%	44	50%	Round Up the Lower Restriction
	66.67%	86	60%	
Rent	10.42%	14	40%	Round Up the Lower Restriction
	45.83%	60	50%	
	43.75%	56	60%	

2019 EUA Occupancy Requirements

130 Units	% of units	# of units	% of area median gross (AMGI)
Income	100%	130	60%
Rent	33.33%	44	50%
	66.67%	86	60%

Effective 1/1/2033, the property may lease the 50% income-restricted units and the 40% rent-restricted units at the 60% AMI income and rent limits through the end of the EUA in 2056. The same delay in using the higher income and rent limitations may also be required for properties choosing the Average Income Test in its 2nd Allocation. Contact your Allocating Agency for guidance on applying and managing the old and new program requirements.

In addition, the property may be required to manage other federal affordable housing or rental assistance programs that require a different affordability period, tenant qualification standards, required forms, and reporting requirements. It is important to know the requirements for blended affordable housing programs and apply the most restrictive requirements.

Tenant Certifications for 2nd Allocations: Generally, households qualified at the time of move-in in a LIHTC property remain qualified low-income households for a 2nd Allocation of tax credits if the following conditions are met:

1. The owner has maintained documentation verifying the initial household eligibility. **This rule applies even if the current household income is over the applicable published limits in use at the property.**
2. The rent has been restricted throughout the tenancy.
3. The household is not fully comprised of full-time students, or all students meet one of the five (5) student exceptions.
4. The household includes at least one (1) original household member.

Do you know:	**Where to Start?**
Where to find the LIHTC program requirements? Where can you find the 4% Tax-Exempt Bond program requirements?	For 9% Tax Credits, review the Extended Use Agreement (EUA) or Land Use Restrictive Covenants (LURC) For a 4% Tax-Exempt Bond, review the Regulatory Agreement or Declaration of Restrictive Covenants.
The new Allocation Date?	The IRS 8609 form Part I, *Line 1a *Line 1a may be blank for 4% Tax-Exempt Bond
The new Placed in Service Date?	The IRS 8609 form Part I, Line 5a
The new LIHTC Credit year and the start of the Compliance Period?	The IRS 8609 form Part II, Line 10a
The new Minimum set-aside?	The IRS 8609 form Part II, Line 10c
Income and Rent Restrictions	HUD Multifamily Tax Subsidy Program Limits
The 4% Tax-Exempt Bond program rules for the initial qualifying tenant files for the 2nd Allocation? 4% Tax-Exempt Bond Qualified Project Period requirements?	**No Safe Harbor is granted for existing LIHTC-qualifying tenant certifications**. New tenant income qualifications are required for the initial qualifying records under the 4% Tax-Exempt Bond program. Contact the Allocating Agency that issued the 4% Tax-Exempt Bonds for specific guidance on the

The requirements for meeting the 4% Tax-Exempt Bond 10% and 50% Occupancy Test?	required forms and deadlines for reporting initial occupancy and confirmation of meeting the minimum set-aside.

A 2nd Allocation works for the allocating agency, developers, and qualified households who all benefit from properties continuing to provide quality affordable housing for an additional 30+ years. Understanding the moving parts and program requirements will ensure success in managing the 2nd allocation. With the right teams, knowledge, training, and planning for now, what, why, who, and how, a 2nd Allocation is a sustainable option for growing and preserving affordable housing.

When in doubt, please contact the allocating Agency for guidance on managing the program requirements and rules that apply to a 2nd Allocation. The agency welcomes "hypothetical" questions that help its partners maintain the program standards for habitability and eligibility.

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