

# Multifamily Program Guidelines

2019 - 2020

*Revised March 2019*



**KHC** | Kentucky  
Housing  
Corporation  
*Investing in quality housing solutions.*

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## Introduction and General Information

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Kentucky Housing Corporation (KHC) offers a competitive funding process to create affordable housing in conjunction with our development partners. Through this process, KHC administers federal and state resources to enable the development and rehabilitation of safe, affordable housing for Kentucky families.

These guidelines instruct applicants how to apply for multifamily resources available through KHC's competitive funding application, and explains review processes and program criteria.

### *Application Materials*

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The underwriting model and other KHC-provided forms required to complete the application are located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org). **It is the applicant's responsibility to identify and utilize all KHC-provided forms necessary to submit a complete application.**

### *Information Sharing*

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KHC may share all project-related information, including the application, attachments, technical submission documents, and other pertinent materials with other participating funders participating throughout the life of the project. KHC will not share personally identifiable information unless specifically authorized by the applicant.

### *Program Administration*

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In KHC's administration of the Housing Credit program and other state and federal funding programs, KHC must make decisions and interpretations regarding project applications. KHC is entitled to the full discretion allowed by law in making all such decisions and interpretations, and shall resolve any conflicts, inconsistencies, or ambiguities, if any, in the Multifamily Guidelines, Qualified Allocation Plan (QAP), scoring workbook, or other program documents, that arise in administering, operating, or managing the reservation and/or allocation of the Housing Credit and other KHC multifamily programs. KHC may take all other actions and impose all other conditions which are required by law or which in the opinion of KHC are necessary to ensure the complete, effective, efficient, and lawful allocation and utilization of the Housing Credit and other KHC-administered programs. Such conditions may include imposing more stringent conditions than are required by the Code or other federal laws applicable to each project for receipt of Housing Credits and other funding sources administered by KHC throughout the required compliance period and/or other applicable periods.

As additional guidance, KHC may publish Multifamily Questions and Answers (Q&A). Any such Multifamily Q&A (as may be amended from time to time) are hereby incorporated by reference. Applicants are advised that adherence to all provisions in the Guidelines and QAP, as applicable, is a requirement to participate in KHC's multifamily programs. The Guidelines and QAP are intended to provide sufficient information to prospective applicants, however, due to the complexity of the program and the housing development process in general, not every potential circumstance can be covered. Applicants are strongly encouraged to seek input from KHC's Multifamily Programs staff regarding any situation not explicitly addressed in the Guidelines or QAP prior to submitting an application. However, KHC staff can only provide general review – applicants remain solely responsible for the contents of their applications.

**All questions regarding these Guidelines, the QAP, application, underwriting, or scoring workbook should be emailed to [multifamily@kyhousing.org](mailto:multifamily@kyhousing.org).**

To accurately underwrite a project, KHC must determine that proposed costs are reasonable based on an examination of all building construction hard costs, soft costs, and land costs identified in the underwriting

model, regardless of how or by whom the costs are proposed to be paid. KHC may require additional explanation, documentation or information pertaining to any portion of the application and/or underwriting model even if the Guidelines and/or QAP do not specifically require such information, explanation, or documents. All information submitted pursuant to the QAP and Guidelines must be satisfactory to KHC. If KHC requests additional information from an applicant, such information must be promptly submitted within the appropriate timeline(s).

If appropriate for the project, KHC will redirect applicants away from the 9% LIHTC round and into the Tax-Exempt Bond financing + 4% Tax Credits route (TEB route) which may be accompanied with KHC debt financing sources. If a project is redirected to the TEB route, it will not continue through the 9% review and scoring process.

KHC's decision to allocate Housing Credit and/or other resources to a project in no way warrants or represents to any sponsor, investor, lender, or other person or entity that a project is, in fact, viable. KHC makes no representations to the owner or anyone else regarding adherence to the Code, Treasury Regulations, or any other laws or regulations governing the Housing Credit program. No member, officer, agent or employee of Kentucky Housing Corporation shall be held personally liable concerning any matters arising out of, or in relation to, the allocation of Housing Credit or other KHC resources.

### *Amendments to the Guidelines or QAP*

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KHC may amend the Guidelines or QAP as needed on a case-by-case basis for the purpose of clarification, ensuring compliance with the Code or regulations, or any change necessary to affect the spirit and intent of KHC's multifamily programs as determined by KHC. Amendments may reflect changes, additions, deletions, interpretations, or other matters necessary to comply with the Code or other program regulations. Amendments are not limited to, but may perform such acts as cure ambiguities, supply information on omissions, correct inconsistencies, or facilitate the allocation of Housing Credits or other KHC resources that would not otherwise be allocated. All amendments will be effective immediately.

### *Environmental Review*

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Applicants for HOME, NHTF, and/or Risk-Sharing funds will be required to contract with a KHC-approved person or firm for performance of the required environmental review. A list of KHC-approved environmental review preparers is published on KHC's website.

**Once the funding application has been submitted to KHC, applicants cannot proceed with the purchase of the property, start any part of the construction, or disturb the soil in any way until the environmental review is complete and an environmental clearance has been issued.**

Applicants will be required to provide to KHC and the selected environmental contractor certain documents related to the environmental review, which are outlined in [Chapter 5: Technical Submission Stage](#). The environmental contractor will use these documents to determine a project's impact on the environment. As the responsible entity, KHC is required to maintain copies of all documents relative to the completion of the environmental review; therefore, when the environmental review is complete and full environmental clearance has been achieved, the environmental contractor who performed the review must forward the entire package of all documents utilized during the review to KHC.

For questions regarding environmental reviews or the review process, please contact KHC's Compliance Department at [mfcreviews@kyhousing.org](mailto:mfcreviews@kyhousing.org). More information regarding environmental review requirements can be found on [HUD's website](#).

## Eligible Project Types

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Multifamily projects of any size are eligible to apply for one or more sources of KHC financing available through the funding process. The following are examples of eligible project types:

- Family Housing
- Elderly Housing
- Special Needs Housing
- Permanent Supportive Housing

KHC has allocated Housing Credit in a Nonprofit Supportive Housing Pool to address the need for permanent supportive housing. KHC's permanent supportive housing program is designed to help certain populations attain housing that is decent, safe, and integrated into the community. To qualify for this set-aside, the project must provide supportive services to at least 50 percent of the units for populations including homeless, adults with disabilities, persons with drug/alcohol dependency, foster children exiting the foster care system, survivors of domestic violence, the Olmstead population, and veterans.

Applicants must submit a supportive housing service plan, along with letters of service commitment from service providers and letters of referral commitment from agencies making referrals to the project.

## Funding Sources Available

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The following funding sources are available for multifamily housing production for the 2020 funding process. Please refer to the QAP for Housing Credit pools and set-asides.

### 9 PERCENT HOUSING CREDIT PROJECTS

Funding Source	Projected Amount Available
HOME Investment Partnerships (HOME) Program	\$1,000,000
Affordable Housing Trust Fund (AHTF)	\$1,500,000
Risk-Sharing	Amount Available Based On Demand

### NON-HOUSING CREDIT PROJECTS

Funding Source	Projected Amount Available
HOME Investment Partnerships (HOME) Program	\$1,000,000
Affordable Housing Trust Fund (AHTF)	\$1,000,000
Small Multifamily Affordable Loan (SMAL) Program	\$1,000,000

***\*KHC reserves the right to reallocate funds between the Housing Credit and Non-Housing Credit set-asides in order to fund the maximum number of projects possible.***

## Funding Request Limitations

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Projects requesting 9 percent Housing Credits are limited to a combined amount of HOME and/or AHTF in an amount equal to the lesser of \$35,000 per unit or \$500,000 per project. Furthermore, the maximum allocation of AHTF per project may not exceed \$300,000.

For non-Housing Credit projects, due to the limited supply of gap financing, KHC will limit the amount of HOME and/or AHTF funds to no more than the applicable HOME maximum subsidy limit for a one-bedroom unit multiplied by four. Of that combined amount, no more than \$300,000 may be from AHTF.

Projects may have more than four units; however, the HOME and AHTF request may not exceed the HOME maximum subsidy one-bedroom limit multiplied by four. For AHTF-only projects, the maximum AHTF allocation may also not exceed \$300,000.

Program	Eligible Applicants & Activities	Summary of Program Requirements
<b>Housing Credit (Low Income Housing Tax Credit)</b>	<ul style="list-style-type: none"> <li>• Housing Credit is not a source of funds; it is an allocation of federal tax credits the project owner sells to an investor.</li> <li>• Eligible applicants are nonprofits, for-profit entities and local governments. However, for-profit involvement is required to access credits.</li> <li>• Eligible activities are new construction, rehabilitation and/or preservation of low-income rental housing.</li> </ul>	<ul style="list-style-type: none"> <li>• An investor purchases the Housing Credits, which they claim against their federal income tax liability for ten years. The resulting equity from the purchase of credits is used to finance the project.</li> <li>• The property must remain affordable for a minimum of 33 years.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> </ul>
<b>Affordable Housing Trust Fund (AHTF)</b>	<ul style="list-style-type: none"> <li>• AHTF is for gap financing only.</li> <li>• Eligible applicants are nonprofit organizations. The nonprofit must be a part of the ownership entity and materially participate in the project for the term of the loan.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> </ul>	<ul style="list-style-type: none"> <li>• AHTF requests can be in the form of an amortizing or deferred due-at-maturity loan.</li> <li>• AHTF loans are <b>non-recourse</b>.</li> <li>• The minimum affordability period will not be less than 30 years; however, the term of the loan shall not exceed 30 years.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> </ul>
<b>HOME Investment Partnerships (HOME) Program</b>	<ul style="list-style-type: none"> <li>• HOME is for gap financing only.</li> <li>• Eligible applicants are nonprofit organizations and for-profit entities.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> <li>• HOME is a federal program and all federal cross-cutting regulations apply (24 CFR, 92.350 – 92.358).</li> </ul>	<ul style="list-style-type: none"> <li>• HOME funds can be used for construction and permanent loans. HOME cannot be used for refinancing.</li> <li>• HOME is a <b>recourse</b> loan.</li> <li>• HOME funds must be secured with a mortgage and may be structured as an amortizing loan or deferred due-at-maturity loan.</li> <li>• The affordability period and loan term shall not exceed 30 years.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> </ul>

<p><b>National Housing Trust Fund (NHTF)</b></p>	<ul style="list-style-type: none"> <li>• NHTF is for gap financing only.</li> <li>• Eligible applicants are nonprofit organizations and for-profit entities.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> <li>• NHTF is a federal program and is subject to all the same federal cross-cutting regulations as the HOME program, except for Davis-Bacon wage rate requirements.</li> <li>• Any project seeking to utilize NHTF must have project-based rental assistance.</li> </ul>	<ul style="list-style-type: none"> <li>• NHTF funds can be used for construction and permanent loans. NHTF funds cannot be used for refinancing.</li> <li>• NHTF is a <b>recourse</b> loan.</li> <li>• NHTF funds must be secured with a mortgage and may be structured as an amortizing loan or deferred due-at-maturity loan.</li> <li>• The minimum affordability period will not be less than 30 years; however, the term of the loan shall not exceed 30 years.</li> <li>• Eligible households must have incomes at or below 30% of the area median.</li> </ul>
<p><b>Small Multifamily Affordable Loan (SMAL) Program</b></p>	<ul style="list-style-type: none"> <li>• Eligible applicants are nonprofit organizations, for-profit entities and units of local government.</li> <li>• Eligible properties must have eleven units or less.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> </ul>	<ul style="list-style-type: none"> <li>• SMAL can be used for construction loans and permanent mortgage loans. SMAL cannot be used for refinancing.</li> <li>• The interest rate will not be lower than 3.5% and the maximum LTV is 90%. There is a 1% origination fee.</li> <li>• The term of the loan shall not exceed 30 years. SMAL is a <b>recourse</b> loan.</li> <li>• Eligible households must have incomes at or below 120% of the area median.</li> </ul>
<p><b>Tax-Exempt Bonds Utilizing 4% Housing Credits</b></p>	<ul style="list-style-type: none"> <li>• KHC is the designated bond issuing authority for all housing projects within the Commonwealth of Kentucky.</li> <li>• Eligible applicants are for-profit and nonprofit developers; however, a member of the development team must have prior experience with KHC's Tax-Exempt Bond program to apply.</li> <li>• KHC issues the bonds with proceeds going to a developer for the purpose of constructing affordable housing.</li> <li>• Repayment of the bond financing comes from revenue generated by the project.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> </ul>	<ul style="list-style-type: none"> <li>• Because bonds are tax-exempt, developers can obtain an interest rate that is typically lower than market rate.</li> <li>• Bonds can be short term (24 months) or long term (up to 40 years).</li> <li>• Bond projects utilizing at least 51% of bond proceeds to fund eligible project costs are eligible for 4% Housing Credits to generate equity for the project.</li> <li>• Tax-Exempt Bond projects are subject to payment of additional fees. Refer to <a href="#">Chapter 1: Project Timelines and Fees</a> for additional fee requirements.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> <li>• The Tax-Exempt Bond program utilizes the IRS Section 142 rent and income limits, which can be found in the <a href="#">Novogradac Rent &amp; Income Calculator</a>.</li> </ul>

<b>Risk-Sharing</b>	<ul style="list-style-type: none"> <li>• Risk-Sharing provides permanent financing for projects of 5 or more units; construction loans not currently allowed.</li> <li>• Eligible applicants are nonprofit organizations, for-profit entities and units of local government.</li> <li>• Risk-Sharing is a mortgage insurance program in conjunction with HUD. All federal cross-cutting regulations apply.</li> <li>• Eligible activities are new construction, acquisition with new construction, acquisition with rehabilitation and rehabilitation of existing rental units.</li> </ul>	<ul style="list-style-type: none"> <li>• The loan term may not exceed 40 years and the maximum loan-to-value is 90%.</li> <li>• Loan interest rate is determined periodically as established by KHC.</li> <li>• There is a 1/2% monthly mortgage insurance premium (MIP).</li> <li>• Risk-Sharing loans are <b>non-recourse</b> and must be utilized with Housing Credits.</li> <li>• Eligible households must have incomes at or below 60% of the area median.</li> </ul>
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### *Maximum Credit Cap Requirements*

All users are restricted to a maximum of **\$1,500,000** in annual Housing Credit based on their involvement in projects as the applicant/developer, general partner, guarantor, or any other party receiving 25 percent or more of the developer fee as evidenced in the application, developer/consultant certifications and final cost certifications.

“**Users**,” to which the credit cap applies, are general partners, parent organizations of general partner entities, affiliates of the general partner, or managing members of entities to which Housing Credits have been awarded. “**Affiliate**” is any entity that directly or indirectly controls another entity or has a controlling interest in the entity.

“**Controlling Interest**” is defined as the possession – direct or indirect – of the power to direct, or cause the direction of, the management and policies of an entity, whether through the means of ownership, position, contract, or otherwise. In addition, “**controlling**” means the possession – direct or indirect – of the power to direct, or cause the direction of, the management and policies of an entity, whether through the means of ownership, position, contract, or otherwise. These definitions do not include the relationship of syndicator or limited partner.

- Organizations acting as users, general partners, or developers are limited to a maximum of \$1,500,000 in annual Housing Credits based on the determination made by KHC in the capacity of Development Team review.

An “**organization**,” to which this cap applies, is defined as the actual entity indicated in the application and any parent organization or affiliate of such entity (see the preceding paragraph for definitions of affiliate and other applicable terms). This restriction includes any applications in which such organization is indicated as a general partner or developer. If a developer enters any additional projects after reservation agreements are issued, these will count against their cap for the following year. Full disclosure of relationships between all Development Team members must be included in the application.

At the time of reservation and allocation, each general partner and developer must execute a certification that their participation in Housing Credit projects is limited to the maximum credit cap amounts. **If an entity does not fully disclose all participation, then such entity may be suspended from participating in the Housing Credit program for one year from the date of discovery by KHC, as noted in KHC’s suspension and debarment policy.**

KHC reserves the right to determine to which entities the maximum credit cap may apply. Any such determinations shall apply only to the applications received in the current funding round and shall not be bound or limited by any determinations made by KHC for any previous year. The annual credit amount for each project will be applied to each general partner, developer, guarantor, or consultant (earning 25 percent of the developer fee or more) regardless of ownership interest. Thus, a 51 percent general partner will have the entire project credit amount applied toward its cap, rather than 51 percent of the credit amount. **However, Tax-Exempt Bond projects are not restricted to this cap.**

## *Project Funding Stages*

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All applications for resources administered by the KHC Multifamily Programs department will proceed in the following stages. These stages, along with documentation requirements, are discussed in greater detail throughout this manual.

1. Initial Contact/Technical Assistance
2. [Development Team Capacity Application Stage](#)
3. [Application Submission and Scoring Review Stage](#)
4. [Technical Submission Stage](#)
5. [Pre-Construction/Pre-Closing Stage](#)
6. [Closing and Construction Stage](#)
7. [Construction Completion/Placed-In-Service Stage](#)
8. [Land Use Restriction Agreement and 8609 Stage](#)

### **1. Initial Contact/Technical Assistance (TA)**

To submit an application, a member of the development team must have developed, operated, and completed a project that is now in the affordability stage with compliance and has developed at least four rental units with KHC. However, if no member of the development team meets this qualification, then a member **must** request application technical assistance (TA). **Applicants must have completed a technical assistance meeting before requesting access to the Universal Funding Application (UFA) system.** If more than three years has elapsed since its last KHC-funded multifamily project, the applicant/developer is strongly encouraged to attend a TA meeting. KHC may require a TA meeting prior to application submission for any developer. Developers new to KHC who are resubmitting an unsuccessful application from a previous funding round must contact KHC to determine if a TA meeting is required.

A representative of the development entity, as well as the person on the development team who is responsible for the preparation and submission of the application and consultant (if applicable) must attend the TA meeting. Because KHC's design and construction requirements will be discussed at the meeting, it is highly recommended that the architect also attends.

To schedule a TA meeting, a written request must be submitted to [multifamily@kyhousing.org](mailto:multifamily@kyhousing.org), including a brief description of the potential project. **All TA meetings must occur no less than 60 days prior to the application submission deadline.** *NOTE: Requesting or attending technical assistance training does not guarantee the project will be awarded funds.*

## **2. Development Team Capacity Application Stage**

KHC will conduct a review of the experience and capacity of development team members prior to making the UFA system available. The result of the [development team capacity review](#) will determine whether an organization may participate in the upcoming program year and/or if any scoring issues may be present. Parties participating in the project must resolve outstanding fees or other payments due to KHC prior to KHC issuing a capacity approval.

In determining whether to approve the Development Team Capacity Application, KHC will consider all issues relevant to the development team member's ability to successfully develop or manage the project or to properly expend KHC resources.

KHC may solicit feedback from other states where the applicant or other members of the development team developed or managed projects, as well as confirming through the System for Award Management website at [www.sam.gov](http://www.sam.gov) that no member of the development team has been debarred or suspended from doing business with the federal government.

## **3. Application Submission and Scoring Review Stage**

KHC will score applications in accordance with the applicable scoring workbook based on the information contained within the application and the submitted attachments, including the underwriting model. Refer to [Chapter 3: Application Process, Review, and Requirements](#) for more information.

## **4. Technical Submission Stage**

Once an applicant receives a preliminary approval letter from KHC, the project will then enter the [technical submission stage](#) and additional evidentiary documentation must be submitted. The required technical submission documents are grouped into categories which may be uploaded independent of each other.

## **5. Pre-Construction and Pre-Closing Stage**

When the technical submission stage is complete, all documents have been reviewed and approved, and final underwriting is complete, the project is ready to proceed to the [pre-construction and pre-closing stages](#). There are two separate checklists of items that must be received and approved prior to the loan/equity closing and start of construction; the items on these two checklists may be uploaded independent of each other. A pre-construction conference will be required to discuss the inspection and draw request process. **The developer should include their assigned KHC project representative or specialist when regularly-scheduled closing conference calls begin to occur between the owner, equity investor, and other partners in the project so that KHC can stay abreast of the project status as it moves toward the closing date.**

## **6. Closing and Construction Stage**

Once the project has had its applicable loan and equity closings and all required pre-construction and pre-closing items have been submitted and approved, the project will be transferred from the project specialist to KHC's post-closing staff. During the [closing and construction stage](#), all executed closing documents will be submitted to and reviewed by KHC's Legal Department for accuracy and completeness. Post-closing staff will oversee the project throughout the construction phase, monitor construction inspections, and process draw requests for KHC funds.

## 7. Construction Completion/Placed-In-Service Stage

Upon completion of the project's construction or rehabilitation and issuance of the certificate(s) of occupancy, the project will be in the [construction completion/placed-in-service stage](#). At that time, additional completion documents must be submitted to KHC and a final inspection will be conducted. Upon KHC's approval of the documents required on the construction completion/placed-in-service checklist, as well as the final inspection and resolution of any punch list items, the final 10 percent retainage of KHC funds may be requested.

## 8. Land Use Restriction Agreement and 8609 Stage

Once the construction of a Housing Credit project has been completed and all the Construction Completion/Placed-In-Service documentation has been received and approved, Housing Credit projects may request the Land Use Restriction Agreement (LURA) – or extended use agreement – and the IRS Form(s) 8609 for the project. The [LURA and 8609 documentation](#) must be submitted to KHC no later than 6 months from the project's completion date, as evidenced by a certificate of occupancy or an architect's certification of substantial completion.

## *Administrative Waivers*

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Applicants seeking a waiver to any KHC policy or requirement must submit a waiver request and pay a fee. A separate waiver must be submitted for each KHC policy or requirement for which a waiver is being requested – two or more waivers may not be combined into a single waiver request form. Waivers requested prior to application submission must utilize the [Waiver Request Form](#). Any waivers requested after application submission must be submitted via the UFA system. **Multiple waiver requests for the same project or by the same developer for multiple projects may be considered a capacity violation and affect scoring in future funding rounds.**

## CHAPTER 1: Project Timeline and Fees

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All projects are held to the timeline outlined below. All times noted are Eastern time zone. If the timeline dates are not met, the applicant will incur penalties or lose the funding associated with the project.

### *Project Timeline*

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#### Development Team Capacity Application

Applicants must submit the Development Team Capacity Application in the same calendar year as the funding application but not less than **60 days** prior to the funding application submission deadline, or 60 days prior to preapplication submission for Tax-Exempt Bond projects. Previously-approved development team members are not required to complete the Development Team Capacity Application during the applicable approval period.

#### Application Submission

The dates for the Universal Funding Application (UFA) for 9% Housing Credit applications are as follows:

- **Opens: Friday, May 17, 2019**
- **Closes: Thursday, August 15, 2019, 12 noon, ET (submission deadline)**

#### Technical Submission

Technical submission items are due approximately **90 days** from the date of the preliminary approval letter – the actual date will be noted in the letter. Please note: firm commitments as noted in [Chapter 5: Technical Submission](#), must be submitted by the technical submission deadline given in the preliminary approval letter. No extensions will be granted for submission of firm commitments for non-KHC resources.

#### Carryover Submission

Carryover documentation for Housing Credit projects must be submitted no later than the Thursday before Thanksgiving each year. Late submissions will incur a one-time fee of \$1,000.

#### Project Closing

Applicants have **one year** from the date of KHC's preliminary approval letter to close with their equity investor and on all KHC loans associated with the project. If the project does not close by this date, KHC's preliminary award to the project shall expire and be null and void and of no further force and effect.

### *Project Fees*

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**All fees outlined below are non-refundable, whether in whole or in part.** All fee payments must be submitted electronically via the UFA system. For fees that represent a percentage of the Housing Credit allocation, the fee amount should be rounded to the nearest whole dollar, using standard rounding rules.

## Development Team Capacity Application Fee

The development team capacity application fee must be submitted for each entity on the development team for which approval is being requested (owner, developer, co-developer, management company, consultant). Each member must complete a separate development team capacity application and pay the applicable fee as outlined below:

- \$250 per each nonprofit entity
- \$1,000 per each for-profit entity

## Application Fee

- \$2,500 per pool for nonprofit applicants (Housing Credit only)
- \$3,500 per pool for all for-profit applicants (Housing Credit only)
- \$3,500 per property for Tax-Exempt Bond projects. Portfolio projects must pay an application fee for each property.
- \$250 for non-credit project submissions from nonprofit developers
- \$500 for non-credit project submissions from for-profit developers

The application fee is charged for each project submitted. If applying for two different Housing Credit pools with the same application, two fees will be required. Application fees will not be returned for incomplete applications or applications that do not meet minimum threshold.

## Initial Inspection Fee

Projects proposing the rehabilitation of existing rental housing, whether in the New Supply or the Existing Supply pools, must pay an initial inspection fee of \$250 per property for non-credit projects, and \$1,000 per property for Housing Credit projects. A KHC construction analyst will conduct an initial inspection of the property to determine if the level of rehabilitation proposed is required or sufficient to keep the property viable.

## Market Analysis Review Fee

A market analysis review fee of \$1,000 must accompany each Housing Credit application. If applying in more than one pool with the same application, only one market analysis review fee is required. Portfolio transactions will require a separate market study and market analysis review fee for each property.

## Housing Credit Reservation Fee

A reservation fee of 9 percent of the amount of Housing Credit reserved for a project is due to KHC within two weeks from the date of the preliminary award letter. Failure to pay the reservation fee within this time frame will result in the Housing Credit award being recaptured. **No extensions will be granted for the reservation fee.**

## SMAL Origination Fee

An origination fee of 1 percent of the mortgage amount will be charged and is due at the loan closing.

## Technical Submission Extension Fee

Projects may request a maximum of three, 30-day extensions. The first extension fee is \$500, the second extension fee is \$1,000, and the third extension fee is \$2,000. There is no fee for projects only receiving HOME funding (no other KHC resources). Extension fees must be paid prior to the expiration of the deadline. **All requested extensions may be considered in the Capacity/Performance Scorecard for future funding applications to KHC.**

## Closing Extension Fee

KHC may consider a request for a 30-day extension to the closing deadline, and if approved, an extension fee shall be payable to KHC on or before the expiration of the current conditional award. **All requested extensions may be considered in the Capacity/Performance Scorecard for future funding applications to KHC.**

- Housing Credit Projects (4% and 9%): The closing extension fee will be 1 percent of the preliminary credit award. The extension fee doubles for each additional extension request (2 percent for the second request, 4 percent for the third request, etc.). This includes Tax-Exempt Bond projects.
- Non-Credit Projects: The closing extension fee is \$500 per extension.
- HOME-Only Projects: For projects only receiving HOME funding (no other KHC resources), an extension fee is not charged due to HOME regulations.

## Early Closing Fee

Any applicant who proceeds with the closing of any property acquisition, loan, and/or equity prior to KHC issuing its final underwriting approval and issuance of the final credit reservation letter (if applicable) must pay an Early Closing Fee of \$7,500 *in addition* to any other fees applicable to and associated with such closing and will be subject to a capacity score reduction for future funding rounds.

## Early Start Fee

Applicants who request and receive approval from KHC to begin construction activities prior to receiving a Notice to Proceed from KHC must pay an Early Start Fee of \$5,000. Please refer to KHC's [Early Start of Construction policy](#).

## Unauthorized Early Start Fee

Applicants who begin any construction activities prior to receiving a Notice to Proceed or a signed Early Start authorization letter from KHC must pay an Unauthorized Early Start Fee of \$7,500. Starting construction prior to receiving authorization from KHC will also result in a capacity violation for future funding rounds.

## Construction Inspection Fee

KHC will charge a one-time one and one quarter percent (1.25%) construction inspection fee for all Housing Credit projects. The fee will be based on the credit allocation amount awarded to a project. This fee is due and payable before the start of any construction activities and must be incorporated into the project budget.

## Re-inspection Fee

KHC will charge a re-inspection fee of \$500 under the following circumstances:

- Units for which a KHC inspector must perform more than one final inspection due to the project not being 100% complete.
- Failure to have work ready for inspection at the scheduled site visit appointment time.
- Failure by the Development Team to provide a representative on the project site during the inspection.
- Unsuccessful attempts due to the Development Team not coordinating the inspection with tenants, or other involved parties, which renders the unit inaccessible for inspection.
- A hazard exists at the project site which endangers the welfare of the inspector. Examples: bed bug infestation, poisonous snake infestation, uncontrolled animals, etc.

KHC will not charge a re-inspection fee if the owner provides the KHC construction analyst a minimum 48-hour written cancellation or reschedule notice, or for follow up inspections to verify correction of deficiencies observed during any previous interim inspection.

All re-inspection fees must be paid prior to KHC signing future draw requests or issuance of the IRS Form(s) 8609.

## Administrative Waiver Fee

KHC will charge a \$500 fee for each waiver requested to any policy or requirement contained in the QAP or the Multifamily Guidelines. The fee is due at the time the waiver is requested; no waiver will be considered until the waiver fee has been received by KHC.

## Changes to Project Design Fee

Owners must notify KHC in writing in advance of making changes to the project design during development (e.g., site plan or location, pledged amenities, revisions to scope of work or materials, number of affordable units, substitution of one pledged amenity for another, etc.). **KHC will charge \$500 for each change request.** There will be no fee for non-Housing Credit projects; however, KHC still requires written notification of such changes.

## Credit Exchange (Swap) Fee

Applicants exchanging an allocation of credit must pay a \$6,000 fee in addition to a new reservation fee as identified in the QAP for the year of the exchange.

## Carryover Extension Fee

Owners who do not submit the required carryover documentation by the deadline as outlined in the [Housing Credit Carryover](#) section must pay a one-time fee of \$1,000.

## Late Submission of 8609 Application Fee

Owners who do not submit the 8609 application and all required attachments within 6 months of project completion must pay a one-time fee of \$1,000. The completion date is evidenced by a certificate of occupancy or an architect's certificate of substantial completion (if rehabilitation).

## Reissuance of 8609 Fee

Owners must pay \$1,000 for each instance of correcting and reissuing an IRS Form 8609 (unless made necessary due to KHC error). The 8609(s) will not be reissued until the fee is paid.

## Compliance Annual Report/Monitoring Fee

An annual fee will be assessed for KHC's compliance monitoring. Applicable fees must be submitted with the compliance monitoring annual report. The annual fee for projects to be examined by KHC is determined by KHC's Compliance Department and the [fee schedule](#) is on KHC's Asset Management web page. A late filing fee will be assessed as specified in the fee schedule. Compliance monitoring fees are subject to periodic adjustment and will apply to all projects participating in the Housing Credit program. KHC may implement a compliance monitoring fee on other KHC-financed projects as program regulations allow.

## Tax-Exempt Bond Fees

In addition to the fees outlined above, Tax-Exempt Bond projects are also subject to the following fees:

- Pre-Application Fee: \$1,000 per project.
- Credit Allocation Fee: 9% of the requested 4% credit allocation. Owners will pay additional fees if the amount of 4% Housing Credit increases prior to issuance of Form(s) 8609. The credit allocation fee is due at closing of the partnership.
- Issuer Fees: Fee shall be based on the initial inducement amount at \$2.50/\$1,000 of bond principal amount or quarter point for all bond issues rated "A" or better (private placement or publicly offered) and \$5.00/\$1,000 of bond principal amount or half point for unrated private placement of bonds. Half of the initial issuer's fee is due within two weeks of inducement resolution, with the remaining balance due at the bond closing. **No extensions will be granted for the issuer fees.**
- Annual Issuer Fees: \$1.25/\$1,000 face value of outstanding bonds or an eighth point (covers annual compliance and financial reviews). The first year's Annual Issuer Fee based on the full bond amount shall be due and payable at the bond closing with annual payments thereafter as long as bonds are outstanding.
- Issuer's Counsel: \$1.00 per \$1,000 of principal amount of bonds, with a minimum of \$12,500 (one-time fee paid at closing).
- KHC Administrative Fee: \$5,000 one-time fee. The administrative fee is due at closing; however, in the event the project fails to close, this fee will remain due.
- Reinducement Fee: If a project must be reinduced, a fee of \$1,000 per project will be charged.
- Inducement Extension Fee: \$500 for the first inducement extension; \$1,000 for each subsequent extension.

## Risk-Sharing Fees

An application fee of \$3,000 for each Risk-Sharing project is due to KHC within **two weeks** from the date of the preliminary approval of funding, along with the 9% Housing Credit reservation fee. This fee is in addition to the standard application fees outlined above. At the time of loan closing, the following fees are due:

- Commitment fee of 3 percent of the loan amount.
- Upfront mortgage insurance premium (MIP) equal to 0.5 percent of the loan amount will be due at the closing of the permanent mortgage. There is also a monthly MIP of 0.5 percent.
- Closing fee of \$5,000. The title policy cost is not included in the closing fee.
- Custodian fee of \$6,500, which includes the first year annual fee of \$2,250, acceptance fee of \$2,250, and outside counsel opinion fee of \$2,000.
- Mortgage reserve deposit equal to the first two (2) full loan payments.
- Interest reserve subaccount deposit equal to the first full month's interest payment based on KHC's current interest rate.

## Recovery Kentucky Fees

Recovery Kentucky projects will be charged an annual project oversight administrative fee by KHC.

- The annual fee is \$14,000 for projects with KHC-administered vouchers
- The annual fee is \$7,500 for projects with non-KHC administered vouchers

## Modifications to Legal Documents

If modifications are necessary to a project's KHC legal documents at any time after loan and/or equity closing and for any reason other than an error by KHC, the following fee structure will apply:

- First modification occurrence: \$1,000 fee
- Second modification occurrence: \$2,000 fee
- All subsequent modifications: \$4,000 fee each occurrence

For projects only receiving HOME funding (no other KHC resources), no modification fees will be charged due to HOME regulations; however, modifications to KHC legal documents may be considered in future capacity scoring on all projects.

## CHAPTER 2: Development Team Capacity Application

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KHC will conduct a capacity review on all development team members (owner, developer, co-developer, consultant, and management company) prior to the submission of an application for funding. Each member of the development team must complete the Development Team Capacity Application within the [Universal Funding Application \(UFA\)](#). Approved development team members will receive a certification of their approval to participate in KHC-assisted multifamily projects, which will be valid **for one to four years**, at KHC's discretion. **Any changes to approved development team members, including officers, management, or key staff members with whom KHC has direct contact, must be disclosed in writing to KHC at the time the change occurs. At KHC's discretion, the capacity approval may be modified or rescinded based upon its assessment of the significance of the change(s).**

### Development Team Capacity Application Timeframe

The capacity application is not tied to a specific funding application; however, the capacity application must be completed in the same calendar year as the funding application. Development team members previously provided with an approved capacity certification are not required to complete the Development Team Capacity Application; however, a copy of the approval certification for each member must be uploaded with the UFA. Any development team member who has not received a capacity approval letter must complete the Development Team Capacity Application, which must be submitted to KHC no later than **60 days** prior to the funding application submission due date. **KHC reserves the right to require a capacity review of any development team member at any time.**

### Eligible Applicants

To submit an application, a member of the development team must have either:

- Developed, operated, and completed a project that is now in the affordability stage with compliance and has developed at least four (4) rental units with KHC; or
- **Attended a technical assistance meeting with KHC.**

KHC limits new applicant/developers or applicant/developers new to Kentucky to one funded project for the current funding cycle. Unless otherwise approved by KHC, new applicant/developers will be limited to one outstanding award until the initial awarded project **has achieved 100 percent construction completion and IRS Form(s) 8609 have been issued before a subsequent application may be submitted.**

Applicant/developers who have previous experience with KHC's Housing Credit program are restricted only by the Housing Credit cap. For an applicant/developer to be considered experienced with KHC, they must have constructed and placed in service a KHC multifamily property within the past 5 years.

### Suspended/Debarred Parties

**Any parties suspended or debarred pursuant to KHC's [suspension and debarment policy](#) shall be ineligible to participate in any project that receives KHC resources.** If an entity is determined to be ineligible to participate in a KHC-assisted project, any related-party entity will also be ineligible.

### Organizational and Credit Review Documents

All members of the development team must submit the following documentation based on its organizational structure. Development team members acting solely in the role of consultant are only required to submit organizational documents; credit review documents are not required.

## **Corporation:**

### ***Organizational Documents***

- Articles of Incorporation, and any amendments
- Bylaws, and any amendments
- Kentucky Secretary of State Certificate of Existence
- Corporation's Tax Identification Number

### ***Credit Review Documents***

- Current Financial Statements – 2 years' Balance Sheet, Profit & Loss and Cash Flow Statements
- Business Credit Report Authorization
- Most recent one-year business tax return

## **Nonprofit Corporation:**

### ***Organizational Documents***

- Articles of Incorporation, and any amendments
- Bylaws, and any amendments
- Kentucky Secretary of State Certificate of Existence
- IRS 501(c)(3) status letter (must be the final status determination letter, if one has been issued)
- A current listing of the Board of Directors and their current occupations.

### ***Credit Review Documents***

- Current financial statements – 2 years' Balance Sheet, Profit & Loss and Cash Flow Statements
- Business Credit Report Authorization
- Most recent IRS Form 990

## **Limited Liability Company:**

### ***Organizational Documents***

- Operating Agreement, and any amendments
- Articles of Organization, and any amendments
- Manager Managed or Member Managed (indicate where in Articles or attach)
- Kentucky Secretary of State Certificate of Existence
- LLC's Tax Identification Number

### ***Credit Review Documents***

- Current Financial Statements – 2 years' Balance Sheet, Profit/Loss & Cash Flow Statements
- Business Credit Report Authorization
- Most recent one-year business tax return

**Note: A new LLC will require individual members' financial reports and credit reports**

## **Government Entity:**

### ***Organizational Documents***

- Resolution from Appointing Authority
- Bylaws, and any amendments

### ***Credit Review Documents***

- Current financial statements – 2 years' Balance Sheet, Profit & Loss and Cash Flow Statements

## Partnership:

### ***Organizational Documents***

- Partnership Agreement (General and/or Limited) and any amendments (need Certificate of Limited Partnership for LPs)
- Kentucky Secretary of State Certificate of Existence
- Partnership's Tax Identification Number

### ***Credit Review Documents***

- Current credit report(s) for general partner(s) reflecting recent transactions
- Current financial statements (2 years' Balance Sheet, Profit & Loss and Cash Flow Statements)
- Business Credit Report Authorization
- Personal Credit Report Authorization

**Note: A new Partnership will require individual partners' financials and credit reports**

**Foreign Entity:** In addition to the above, all foreign entities must provide copies of their qualification to do business in the Commonwealth of Kentucky.

## Development Team Capacity Application Attachments

All required KHC-provided forms are located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org). It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*. The following items must be uploaded with the online application for KHC to complete the capacity and credit review:

### **1. Organizational Documents**

All members of the development team must submit the organizational documents outlined above based on their respective organizational structure. Newly-formed general partner entities and guarantors are required to provide this information at the application stage. Nonprofit organizations participating in the development, ownership or management of the project must also provide a copy of their final IRS 501(c)(3) determination letter.

### **2. Credit Review Documents**

All members of the development team, except members acting solely in the role of consultant, must submit the credit review documents outlined above based on their respective organizational structure. Newly-formed general partner entities and guarantors must provide this information at the application stage.

KHC will order a business credit report on development team members as applicable. The credit documentation is reviewed to demonstrate creditworthiness. Other than for cash pledged or guarantees provided, the review is to find a track record that the proposed development team member has a history of managing finances in an efficient manner and is an acceptable risk to KHC to develop and manage a project. KHC may request additional financial information as needed. KHC may perform a subsequent credit review of the developer when a funding application requesting a KHC loan is submitted.

All business financial statements must be compilation statements or audited financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP). If submitting compilation statements, there must be a certification contained with the statements certifying that they meet the requirements for a compilation statement.

**3. Spreadsheet Summary of All Projects Under Construction**

Developers must submit a spreadsheet summary of all projects under construction in any state (in any stage of completion), including their status and expected completion date.

**4. Development Team Resumés and Organizational Chart(s)**

Each member of the development team must submit a full organizational chart, staff roster, and resumés of principal officers/members within the organization, focusing on their affordable housing development experience. Newly-formed general partner entities are required to provide this information at the application stage.

**5. Out-of-State Experience Certification (Developers and Management Companies)\***

All applicants/developers and management companies must submit a copy of the Housing Finance Agency (HFA) review for projects financed with HFA resources in other states. There is a separate form for developers and management companies. KHC may contact a state HFA directly to obtain additional information, as well as request additional information from a developer or management company regarding their activities in another state.

## CHAPTER 3: Application Process, Review, and Requirements

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KHC offers a competitive application for Housing Credit, AHTF, HOME, NHTF, SMAL, and Risk-Sharing funds. KHC will fully review and score only those applications for which the self-scores and any applicable tie-breaker criteria indicate the projects are likely to be awarded. Applications will be reviewed in accordance with required thresholds, capacity of the development team, project design, and financial feasibility, as well as adherence to the multifamily guidelines. Any issues that could delay the project must be resolved before submitting an application.

It is the applicant's responsibility to submit all required documentation to adequately support its application. Any material deficiency in the application or omission from the mandatory submissions, not cured pursuant hereto, will result in an immediate rejection of the application. In addition, the application must meet all eligibility requirements set forth in the Code. KHC may reject or return any application at any time during the allocation process. Applicant's failure to: i) provide complete and/or accurate information during the application process; ii) pay compliance fees; iii) adhere to project attributes pledged on the original application; or, iv) resolve any outstanding issues with any other KHC programs may impact scoring or result in the rejection of the application and being barred from further participation in KHC programs. Failure to follow all required procedures throughout the allocation process could jeopardize the final allocation or result in Housing Credit or other KHC resources being recaptured.

**Throughout the period beginning with the date of application submission and the date upon which KHC publicly announces the awarded projects, applicants must immediately notify KHC of any material change to a project and/or any issue(s) that may affect the applicant's willingness to proceed with such project. Failure to notify KHC in a timely manner of any such changes and/or issues, may result in the denial of the application, a three-year reduction in capacity scoring of all parties involved, and/or any other penalties KHC deems appropriate.**

### Guarantors

KHC may require a guarantor for projects allocated KHC resources (excluding Housing Credit only projects). The guarantor may be any entity or individual, other than the borrower (if the borrower is a single asset entity) and general partner(s)/managing member of the ownership entity, which has adequate financial resources and capacity to accept liability for completion of the project or repayment of all KHC resources in the event of default or termination of the project. Guarantees to KHC must be effective for the life of the loan. Guarantors must submit the documentation identified in the capacity and credit review attachment checklist in Chapter 2 at full application submission.

If the applicant is applying for funds that require a guarantee, the appropriate financial documents will be reviewed to confirm the ability to guarantee the level of funding requested. If funds are being pledged to the project, bank statements must be provided to verify adequate funds are currently available.

### *Application Preparation*

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The application is created and submitted through KHC's online [Universal Funding Application](#) (UFA) system. Step-by-step instructions for completing the application can be found in the Frequently Asked Questions (FAQ) tab in the UFA. A complete application must be transmitted to KHC. KHC will send an email notification to the applicant once the application has been transmitted successfully.

Applicants must consider the following:

- All questions within the UFA that are applicable to the project type and resources requested must be fully answered. It is not acceptable to simply reference another document or another section of the application to obtain the answer.
- Applicants must list within their application the project amenities that will be included in the project to enhance the tenant's accommodations and increase the marketability of the project. All amenities provided must be appropriate for the tenant population served.
- Applications must be submitted in the current application version for the type of KHC resources requested.
- Current versions of all application attachments must be uploaded to KHC's online system as part of the application submittal. **The quality of the uploaded documents must be clearly legible.**
- Each application must be for an eligible project type and propose an eligible activity.
- All applicants must request all KHC funds required for the project in one application. Previously-funded projects cannot access additional funds, including Housing Credits, through the competitive application process.
- Only one application and one underwriting model will be accepted per project. Applicants cannot present different scenarios of a project's development budget in the same application submission. However, Housing Credit applicants may apply in up to two (2) pools within the same application. An application fee is required for each pool if applying in more than one pool.
- Applicants requesting HOME, NHTF, or Risk-Sharing funds must also submit to the Kentucky State Clearinghouse through the Department for Local Government's online system at [https://kydlgweb.ky.gov/eClearinghouse/16\\_echHome.cfm](https://kydlgweb.ky.gov/eClearinghouse/16_echHome.cfm). Successful submission to the Clearinghouse system will generate a confirmation that includes the State Application Identification (SAI) number. A copy of this confirmation is a required checklist attachment for the KHC application.
- New construction and rehabilitation projects must meet the requirements of the latest edition of the Kentucky Building and/or Residential Code. The developer and/or builder must comply with local zoning, rules, regulations, ordinances, Universal Design and Minimum Design Standards as adopted by KHC, Housing Quality Standards (HQS) and all applicable federal rules and regulations, including the Fair Housing Act.

### **Uploading Documents:**

Applicants must upload all required application documentation through the UFA portal by **12 noon ET on Thursday, August 15, 2019**. Physical copies of documents on an external flash drive are not necessary unless the documents cannot be uploaded due to the file size being greater than **150** megabytes. Any flash drive containing documents that cannot be uploaded must be identified with the project name and developer name. The flash drive must be received by **5 p.m. ET on Friday, August 16, 2019** at:

**Kentucky Housing Corporation  
Multifamily Programs Department  
1231 Louisville Road, Frankfort, KY 40601**

Documents that will be shared among multiple funding applications (e.g., financial statements, organizational documents, etc.) can be stored in the Document Repository. Documents held in the Repository can be attached to any application by a team member.

- Naming the document files:
  - Name the file exactly as it appears on the checklist; e.g., “1. Nonprofit Application Fee.pdf”. If you wish to add the name of the project to the file name, please add it at the end of the file name.
- Uploading document files:
  - Each required checklist item must have a document uploaded, except for those documents that are not applicable to the project. For non-applicable documents, you may click the “N/A” button.
  - All documents must be clearly and easily legible.
  - If you upload multiple versions of the same checklist item, be sure to delete all of them except for the most current version. Otherwise, multiple copies will upload and KHC will be unable to determine the most current version.
  - Developers submitting multiple applications are only required to submit one copy of their financial information; however, the developer must clearly identify within each application that the financials have been submitted.
  - The maximum file size for attachments is 150 megabytes. If an attachment exceeds 150 megabytes, it may be provided solely on the flash drive; however, a statement must be uploaded to the UFA system indicating the attachment is located on the flash drive.
    - Examples of attachments that may exceed the file size limit are building plans, specifications, PCNA, appraisals, market studies, and environmental reviews.
    - **Each document, including building plans, must have all pages contained in a single file per document type.** For example, all pages of the plans must be in one document, all pages of the PCNA must be in one document, etc.
    - **Please do not break large documents into several smaller files for the purposes of uploading to the online portal.**
- Cover sheets are not necessary; please do not upload cover sheets with your documents.
- Underwriting Model (UM) – be sure that you complete and upload the most current UM version and submit in Excel format.
- After all checklist items have been uploaded and the application has been submitted, the user will receive an email that the items have been successfully uploaded and received.
- To mitigate any potential problems with uploading documents due to system overload or other technical issues, it is recommended that you do not wait until the last day to upload the application attachments.
- For additional assistance with the online application, please contact KHC’s Terry Helton at [thelton@kyhousing.org](mailto:thelton@kyhousing.org), 502-564-7630 extension 253, or Diane Beidleman at [dbeidleman@kyhousing.org](mailto:dbeidleman@kyhousing.org), extension 368.

**The online application will close at 12 noon, ET, on Thursday, August 15, 2019.** Time is of the essence for application submission, and applicants are encouraged to not wait until the last few minutes to upload documents or to submit their application. KHC’s systems experience a high volume of activity as the application due date and time nears, which may cause for slower submission times.

**For the application to be complete, all required documentation must be provided; otherwise, the application will fail threshold requirements.**

## *Application Thresholds*

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KHC has established the following project requirements that must be met as a threshold to submit an application for funding. If any of the threshold requirements are not met, the application will not be reviewed or scored and will not be eligible for funding. KHC will notify the applicant if one or more of the thresholds are not met and the applicant will have three (3) days to appeal; however, no changes or additions to the original submission can be made to cure threshold deficiencies.

### **Thresholds for All Projects**

#### **Capacity/Performance Scorecard and Capacity & Credit Review**

Applicant and development team must pass KHC's Capacity/Performance Scorecard Review and Capacity & Credit Review processes.

#### **Complete Application**

The project must meet all application and checklist attachment requirements in accordance with the QAP and Multifamily Guidelines. The application must be fully completed with thorough responses to all questions that are applicable to the project type and KHC resources requested. Current versions of all required attachments must be uploaded to KHC's Universal Funding Application and all attachments must be clearly legible.

#### **No Single Family Homes**

Single-family **detached** homes are not eligible. This does not include **attached** townhomes, duplexes, triplexes, or other attached dwellings.

#### **Compliance with IRS Code, QAP and Multifamily Guidelines**

All applications must be consistent with the IRS Code Section 42, and KHC's QAP and Multifamily Guidelines, whether or not the specific provision is identified elsewhere as a threshold. If a waiver to any QAP or Guidelines provision has been secured in advance, the approved waiver must also be uploaded with the application.

#### **Notification of Public Officials**

**No less than thirty (30) days prior to the application submission deadline**, all applicants must send, by certified mail or equivalent, with return receipt requested, the Notification of Application for Funding form to the local mayor/county judge executive or other applicable chief executive officer, Kentucky state representative, and Kentucky state senator of the community where the project will be located. A searchable database of Kentucky state legislators is available on the [Kentucky Legislative Research Commission's website](#).

#### ***Required Documents:***

A copy of the completed Notification of Application for Funding form sent via an acceptable delivery method, as described above, to the mayor/county judge executive/other applicable chief executive officer, state representative, and state senator (or their designees) must be uploaded with the application documents. In addition, **signed proof of receipt dated no less than 30 days prior** to application submission must be uploaded with the application documents. **Methods of delivery other than those requiring a signed receipt will not be accepted.**

## **Fair Housing**

Applicants must identify within the UFA how the project will address at least one impediment to fair housing as identified in KHC's Analysis of Impediments to Fair Housing (AI).

## **Sufficient Market and Minimal Impact on KHC Portfolio**

When multiple projects are awarded in one jurisdiction, KHC may require an update of any of the projects' market studies to recognize and consider the other project(s) funded in that jurisdiction and any impact on the market's need for the units proposed. See *KHC's Market Study Guidelines*.

## **Qualified Contract**

Applicants must agree to forego the option of requesting to utilize the qualified contract process in perpetuity.

## **Compliant Underwriting Model (UM)**

The UM, as submitted with the application, must comply with the QAP provisions (if requesting Housing Credits) and Multifamily Guidelines. The UM must meet KHC's cash flow and debt service ratio requirements, the Sources and Uses must balance with no funding gaps, and all applicable hard and soft costs must be itemized regardless of how the cost is paid. The amounts budgeted for developer fee, general requirements, profit, and overhead must not exceed KHC's maximum limits. After its analysis, KHC must approve the UM and all associated attachments for the project to be scored.

## **Firm Non-KHC Funding Commitments**

Applicants must submit a firm commitment letter from **all outside funding sources identified in the KHC application and underwriting model**, with the exception of deferred developer fee. All letters must:

- Be specific as to the project seeking KHC funding;
- Identify the amount and terms of funding, including rate (actual and effective rate, if applicable). **If the letter references Prime Rate, the letter must identify the Prime Rate in effect as of the date of the letter;**
- Be on the funding source's letterhead;
- Be signed by the funding provider;
- Be dated within the 3 months preceding the KHC application submission date; and
- Identify the expiration of the commitment, if applicable.

Other non-KHC funds may include, but are not limited to, private bank loans, developer or GP contributions, reserve transfers, assumed debt (such as HUD or RD), Federal Home Loan Bank (FHLB), HUD Choice Neighborhoods, HOME or CDBG funds from a local government, donations of land, cash, materials, goods or services, waived fees/taxes, etc.

KHC may make exceptions to the firm commitment requirement for funds proposed from FHLB, Rural Development (RD), CDBG, HOME, and other HUD loans provided a letter of conditional commitment or intent to fund is submitted on the funding agency's letterhead. KHC may also make exceptions to the firm commitment requirement may be made for other funds provided by local, state or federal jurisdictions, if the developer submits evidence of an application for these funds and a written guarantee from the developer that if the funds are not awarded, the developer will contribute the amount of funds for which it applied and evidence its financial ability to do so.

## Firm Equity Commitment

Equity commitments must be specific to the project seeking Housing Credits from KHC and must:

- Contain the specific terms, including:
  - Credit pricing;
  - Amount of annual credit anticipated;
  - Total equity investment;
  - Pay-in schedule;
  - Equity investor's required amounts for replacement reserve, operating deficit reserve, and any other reserve accounts required by the investor; and,
  - Amounts of required fees and whether they are guaranteed or subject to cash flow, etc.
  - Income elections, including the income averaging option if elected by the owner
- Be on the equity provider's letterhead;
- Identify the project name; and,
- Be signed and dated within 3 months of the KHC application submission due date.

Projects utilizing Federal and/or State Historic Tax Credits must provide a letter of intent from an investor to purchase the credits. If the letter is for both Federal and State Historic Credits and/or Housing Credits, **the letter must identify each credit separately, along with the applicable pricing and equity investment for each.** For State Historic Tax Credits, if the owner plans to retain the State Historic Credit themselves, a statement must be provided to this effect.

## Zoning

The project site(s) must be properly zoned. If no zoning exists, the applicant must submit an evidentiary letter from the governing entity.

## Flood Issues

For new construction, all portions of the project site(s) essential to the use of tenants (i.e. buildings, parking lots, entrance to the development, recreational areas, etc.) must not be in a floodplain. If any portion of the project site is located in a floodplain, flood insurance (as described below) is required on the property. To avoid the flood insurance requirement, the project site may be divided and a new plat or deed recorded to remove the portion of the property in the floodplain from the project site.

For rehabilitation of currently occupied rental housing where any portion of the property is located in a floodplain, the property must have federal flood insurance. If a portion of the project that is not essential to the tenants is located in the floodplain, then in order to avoid the flood insurance requirement, the project site may be divided and a new plat or deed recorded to remove the portion of the property in the floodplain from the project site. **Rehabilitation of vacant structures in a floodplain is not eligible.**

Flood insurance means insurance through the National Flood Insurance Program (NFIP). Projects not located in an NFIP area are ineligible. KHC requires an amount of at least the total KHC funds invested in the project, if KHC is in first lien position. If KHC is not in first lien position, then KHC requires an amount equal to the full replacement value of the property. KHC must be named as an insured on the policy.

## Capital Needs

All Housing Credit applicants for new construction/new supply, preservation/existing supply, or adaptive reuse projects must submit KHC's Excel spreadsheet "Capital Reserve Replacement Schedule" (CRRS)

from a qualified preparer. All preservation/existing supply and adaptive reuse projects, regardless of funding source, must also submit a physical capital needs assessment (PCNA) from a qualified preparer. The PCNA must incorporate or be consistent with the CRRS and be completed by a qualified preparer.

Persons qualified to complete the CRRS are:

- The project's architect
- Any firm/person that would meet KHC's qualification requirements for a PCNA

### **Building Plans**

Applications must include preliminary building plans. Submitting a copy of KHC's Minimum Design and Universal Design requirements will not satisfy this threshold.

### **Scattered Site Projects**

Scattered site projects must be of similar building design and unit type, and be within a defined footprint or neighborhood. Urban and rural (as defined by RD) scattered sites may not be intermingled in one project. Sites located in multiple counties are not permitted except for Tax-Exempt Bond projects.

### **Tenant Ownership / Lease-Purchase**

Applicants must provide a tenant ownership plan that demonstrates a viable homeownership strategy for residents to purchase the units at the end of the 15-year compliance period. The plan must detail the applicant's exit strategy and calculation of the estimated affordable purchase price for the unit and the pre-purchase counseling that will be required of the tenant. In addition, the plan must clearly show how the property will be managed during the compliance period and how the tenant's down payment and closing cost obligation will be handled.

The project must be 100 percent lease-purchase units and all units must be single-family dwellings on individual lots. The applicant must have ownership on all project sites; long-term leases are not allowed.

### **Thresholds for Preservation/Existing Supply Pool**

#### **Existing Supply**

The project must propose to preserve existing income-restricted affordable multifamily project(s). The rehabilitation of non-income restricted units is not eligible. Projects previously assisted with Housing Credits must provide evidence that the initial 15-year compliance period has expired.

#### **Documented Need for Rehabilitation**

The scope of necessary rehabilitation must be evidenced in the physical capital needs assessment.

#### **Age**

The property shall not have placed in service or undergone substantial rehabilitation in the last 20 years.

### **Thresholds for New Construction/New Supply Pool (Including Historic Adaptive Reuse)**

#### **New Supply**

Projects in this pool must create new income-restricted multifamily units, either through new construction, the acquisition/rehab of existing unassisted/unrestricted (market) units, and/or the adaptive reuse of non-residential structures.

## **Serving Families**

Applicants that choose "family" as the population to be served in the application must designate a minimum of 25% of the units with two or more bedrooms.

## **Serving The Elderly**

Applicants that choose "elderly" as the population to be served in the application must designate a percentage of units, consistent with the elderly selection (i.e., 80% 55 and older, 100% 62 and older or as defined by another federal or state housing program used in this project), that are garden style apartments, are located on the first floor, or higher floor units accessible by an elevator. The targeted population(s) must meet the applicable elderly definition.

## **Thresholds for Nonprofit Supportive Housing Pool**

### **Permanent Housing for Special Populations**

Projects competing in this pool must set aside a minimum of 50% of their units for tenant populations including homeless, adults with disabilities, persons with drug/alcohol dependency, foster children exiting the foster care system, survivors of domestic violence, the Olmstead population, and veterans.

### **Nonprofit Material Participation**

The applicant must comply with the material participation requirements by the nonprofit as defined in Section 469 of the Internal Revenue Code.

### **Service Plan for Target Residents**

Applicants proposing permanent supportive housing must provide a supportive service plan. The plan must thoroughly address all of the following:

1. The supportive service needs of the targeted population and the experience of the service provider with providing these services to this special needs population. A description of the agency's ability to provide case management services.
2. An explanation of how the services provided meet the target population's service needs.

## **Application Review Components**

**Scoring Criteria** – Applications will be scored as submitted, based on the criteria noted in the current scoring workbook. KHC will review and score each application based on the information presented and may contact applicants only to clarify information submitted with the application. Except as provided in the [Cure of Application Errors](#) provision of this section, KHC will not accept additional documentation or revisions to the application or underwriting model after application submission. Applications will be ranked according to their assigned score and those with the greater number of points receive priority in the award process. Although funds will be awarded to the highest scoring projects, KHC will make every effort to ensure funds are distributed geographically across the state. KHC may award funding to a lower-scoring project located in a congressional district where no other funds have been allocated. If KHC will contact the applicant if it experiences difficulties retrieving attachments that were uploaded to the UFA system.

**Financial Feasibility** – A project is financially feasible if viable under **all** (including federal, state, local, and/or KHC) program guidelines. **The application, underwriting model, and supporting documentation must all agree.** If a contradiction exists between the underwriting model and the application, the information in the underwriting model will be used to determine the financial feasibility. However, any discrepancies between the application, underwriting model, and supporting documentation may constitute an error in the scoring of the application.

**Market Need** – A [market study](#) is required to be submitted at the time of application and will be reviewed in accordance with KHC’s [market study requirements](#). Upon review of the market study, if it is found to have an acceptable market, then the project will continue to move forward. However, if the study is not acceptable, funds will not be allocated and the application will be denied. Market studies will only be accepted by firms that are on KHC’s approved list and are only valid **six months** from the date of the study.

## *Application Scoring and Review Process*

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Funding is based on a three-step process. Applications must pass all three steps before funding can be determined. Failure to meet the requirements of any step will result in the rejection of the application.

Incomplete applications will not be reviewed or scored, unless cured, following KHC policies. KHC must comply with federal or state regulatory and programmatic requirements of all resources administered; therefore, as new or updated guidance or requirements become available, KHC may from time to time alter the review process to comply.

### **Cure of Application Errors**

Applicants will be allowed to remedy no more than two (2) errors contained in the application or in any application attachment (excluding the KHC underwriting model) or required document including up to one (1) omission of any non-KHC document. If more than two errors – including up to one omission – must be addressed, the application will be rejected for not meeting threshold. The correction of any omission must be made within 24 hours of the time that KHC transmits the notification of such omission. The correction of any error, not an omission, must be made within 48 hours of the time that KHC transmits the notification of such omission. For example, if KHC sends an email at 10 a.m. on Tuesday notifying the applicant of an omitted document and the document is not uploaded into the UFA or received by KHC by 10 a.m. on Wednesday, the application will be rejected for not meeting threshold. This cure period is not intended to be an extension of time for the applicant to procure a required document. If the document submitted to cure the omission is dated after the date of the application or KHC determines that the document was not in the applicant’s possession at the time the application was submitted, the cure will be deemed ineffective and the application will be rejected for not meeting threshold.

Any comments or revisions resulting from the review of the underwriting model will not be considered errors; however, applications with underwriting models completed incorrectly and/or with discrepancies that result in KHC’s inability to complete the underwriting for the project, will be considered to be an incomplete application submission and will not meet threshold.

***Please note:*** *In determining whether to award resources and how to score applications, KHC will consider all issues relevant to the applicant’s ability to successfully complete the project or to properly expend funds. These issues may or may not be addressed in the application.*

### **Tax-Exempt Bond Pre-Application**

Projects requesting Tax-Exempt Bonds either through the open window submission or a Notification of Funding Availability (NOFA) response will have a pre-application stage to provide the information and documents necessary for the project to be presented to KHC’s Board of Directors for an inducement resolution. If approved, the applicant will complete the full application and follow the same timeline as other KHC-financed projects (9% Housing Credit and non-credit). KHC will not consider a deal with unrated bonds in a public offering. **Please note that for portfolio transactions, all properties must be submitted individually and may not be combined within one or more full applications.**

## Capacity/Performance Scorecard

All applicants must complete the Capacity/Performance Scorecard contained within the Universal Funding Application (UFA), even if a capacity approval certification has been previously issued by KHC. The scorecard will assess monitoring history, financial management, and past performance. KHC will review the applicant's responses and will complete its own capacity assessment, taking into consideration any capacity deductions assessed by KHC against any member of the development team.

### I. Overview of Capacity/Performance Scorecard

The scorecard is used to determine the overall capacity of the Entity or Development Team member(s). The scorecard is divided into three (3) sections:

1. Capacity/Performance Scorecard Threshold Requirements
2. Capacity/Performance Scorecard Self-Certifications
3. Capacity/Performance Scorecard Overall Performance

The first section of the scorecard consists of Capacity/Performance Scorecard thresholds that must be achieved. All "yes" answers require an explanation regarding the circumstances of the infraction.

Capacity/Performance Scorecard Threshold Requirements will be verified at both the submission of the application and reviewed again prior to announcement of any funding award. If the status of a Capacity/Performance Scorecard Threshold Requirement changes prior to announcement of funding, an Entity may be asked to correct the outstanding issue prior to a funding award.

### II. Capacity/Performance Scorecard Self-Certification

The Capacity/Performance Scorecard Self-Certification section is a series of statements to which the applicant preparer must certify. There is a response section in the self-certification section that can be used to provide additional information to any of the self-certification questions.

The Entity will need to complete the certification acknowledgement that states the responses to the self-certification statements are true and accurate, to the best of their knowledge. Falsification of these statements could result in a recapture of funds or suspension/debarment from KHC.

### III. Capacity/Performance Scorecard Overall Performance

The [Capacity/Performance Scorecard Overall Performance](#) section is where KHC staff will indicate if a capacity deduction will be applied. Guidance on the type of infractions that KHC will consider for possible capacity deductions is listed on KHC's website at [www.kyhousing.org](http://www.kyhousing.org), under Asset Mgmt, Capacity/Performance Scorecard Overall Performance Questions. A capacity deduction can be determined at any time throughout the administration of a project, including the affordability/compliance period. The capacity deduction can apply to the Entity or any member of the Development Team.

When a capacity deduction is issued, the agency or organization will receive a written notice from KHC explaining the reason for the capacity deduction and the amount of time the deduction will be applicable. Capacity deductions will be applied to the overall score for the Capacity Section of the full application.

## Full Disclosure

Applicants must complete and submit KHC's Full Disclosure Form for all entities and individuals in the Development Team organizational structure. Following are the required disclosures:

1. A statement concerning all criminal convictions, indictments, and pending criminal investigations of all members of the development team, including dates and details of each circumstance, unless otherwise prohibited by court order, statute or regulation. KHC may perform a full criminal, employment, and credit investigation of all development team participants to verify credit and criminal history.
2. Any relationship between individuals or entities of the development team that could constitute a conflict of interest or identity of interest between the parties.
3. Complete organizational charts must be submitted for the owner and developer entity that clearly show all principals down to individuals involved in the ownership and development of the project. Please note that no change to the project owner/developer structure can be made without the express consent of KHC.
4. **All** development fee sharing arrangements. KHC considers all individuals or entities that receive a portion of the development fee to be part of the development structure.
5. **All** guarantor agreements. KHC may determine that a guarantor is actually a real party in interest to either the General Partner and/or Developer entities.
6. **All** consulting agreements, whether direct or indirect, paid or unpaid. KHC will determine if a consultant is a real party in interest to either the general partner and/or developer entities.
7. **All** pending litigation that could result in suspension or debarment as defined in KHC's policy.
8. Significant non-performance in a government housing program (including Fannie Mae, Freddie Mac, and Federal Home Loan Bank programs).
9. Any development team member that has an adverse credit history including but not limited to a default in the payment of any commercial or personal loan.

## Organizational and Credit Review Documents

All guarantors, other than individual guarantors, and any previously approved development team member who has had changes in their organizational structure, must submit their organizational documents via the UFA at application stage. Any development team member with new principle officers/members must also provide resumes for those individuals.

For Housing Credit projects, if the ownership entity is yet to be formed, this documentation is not required with the application submission, but must be submitted via the UFA at the pre-closing stage. For projects requesting KHC funds, credit review documents must be submitted for the developer, general partner, and guarantor (if applicable).

Please refer to [Chapter 2: Development Team Capacity Application](#), for a complete list of required organizational and credit review documents.

## Scoring Response Period

KHC will notify applicants whose projects do not receive a full review and scoring based upon their self-score and/or tiebreakers. For projects that receive a full review and score, KHC will make the preliminary project score sheet available to the appropriate contact. Applicants will not be made aware of how other applications have scored. KHC will establish a timeframe during which applicants may review their preliminary scores and offer written feedback if any applicant disagrees with the preliminary score.

Applicants may request a reconsideration of KHC's preliminary score ONLY for applications in which they have an ownership interest. Requests must be sent in writing via electronic mail, hand delivery or overnight mail to the Managing Director of Multifamily Programs.

Reconsideration requests must specifically identify the grounds for the reconsideration request. Only the application and documents then existing in KHC's file will be considered. No additional documentation or revisions to existing documents will be accepted. The burden is on the applicant to demonstrate any errors in the review and/or point scoring process.

## Final Scoring Determination

After applicants have had the opportunity to review and appeal the preliminary score during the scoring response period, KHC will determine final scores and make funding decisions. **All funding decisions will be final and not subject to further appeal.**

## Communications with Executive Management Team

Applicants, members of applicants' Development Teams, or other persons operating on behalf of Development Teams are expressly prohibited from having communications with any member of KHC's executive management team regarding any reconsideration or review requests or any related topic, from the issuance of the preliminary scoring decision until KHC renders its final determination. Any violation of this prohibition may result in disqualification of the pending application and suspension from participation in the next competitive funding cycle for the applicant and all of its Development Team members, regardless of which team member initiated the prohibited contact.

## Preliminary Approval Letter

KHC will send each successful applicant a preliminary approval letter indicating the initial reservation of Housing Credits and/or other KHC resources awarded. **The final amount of credit or other resources allocated to each successful applicant may be less than the amount requested in the application, the amount specified in the preliminary approval letter, or the amount reflected in a Housing Credit carryover allocation.**

## CHAPTER 4: Application Attachment Requirements

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Based on the KHC funding source(s) requested, related documentation is required at application submission as indicated on the application checklist. Not all attachments are applicable to all application types; please refer to the Universal Funding Application (UFA) for the specific attachment requirements for your application type.

Applicants must upload all checklist attachments and each document must be identified separately with the checklist item name as it appears below. The underwriting model and other KHC-provided forms required to complete the application are located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org). **It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\***. For your reference, the UFA identifies documents that are KHC-provided forms. If a checklist item does not apply, mark the "N/A" button in the UFA.

### *Tax-Exempt Bond Pre-Application Documents (Inducement Resolution)*

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#### **1. Pre-Application Fee**

Evidence of electronic payment of the \$1,000 per project application fee must be provided.

#### **2. Engagement Letters**

Provide engagement letter(s) with the applicable underwriter, placement agent, or bond purchaser. The letter(s) should state the project name and their experience, including bond transaction history. The underwriter letter should also outline the bond structure and all steps required, including a timeline, for closing the financing on the project.

#### **3. Engagement Letter with Bond Counsel**

This letter should include the attorney's bond transaction history, their resume or qualifications. This will be required on each attorney working on the project.

#### **4. Supporting Documentation for Competitive Points (if applicable)**

*(NOFA submissions only)*

If responding to a Notification of Funding Availability (NOFA) with selection criteria, upload all supporting documentation required per the NOFA.

### *Application Documents*

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#### **1. Application Fee**

Evidence of electronic payment of the applicable application fee must accompany each project submitted. If applying for two different Housing Credit pools within the same application, two fees are required. Please refer to [Chapter 1: Project Timeline and Fees](#) for additional information.

#### **2. Market Analysis Review Fee**

A market analysis review fee must accompany each Housing Credit project submitted. Please refer to [Chapter 1: Project Timeline and Fees](#) for additional information.

### **3. Initial Inspection Fee**

*(Rehabilitation projects only – both Existing Supply and New Supply)*

An initial inspection fee for each project site (property) must accompany each rehabilitation application submitted. Please refer to [Chapter 1: Project Timeline and Fees](#) for additional information.

### **4. Scoring Workbook\***

Submit an Excel version (not PDF) of the scoring workbook applicable to the current funding round completed with the developer's self-score.

### **5. Capacity Approval Letter(s)\***

A copy of the capacity approval for the applicable development team member(s) must be provided. Any member not previously approved must complete the [Development Team Capacity Application](#) process before submitting an application for funding.

### **6. Technical Assistance Certification Form\***

Required for any applicant who has not previously used KHC resources to construct or rehabilitate a rental project or for applicants as determined by KHC. Refer to the [Introduction and General Information](#) section for technical assistance requirements.

### **7. Full Disclosure Documentation\***

KHC's Full Disclosure Form must be completed and signed by each member of the development team, accompanied by any supporting documentation. Please refer to the Full Disclosure section in [Chapter 2: Development Team Capacity Application](#), for additional information.

### **8. Organizational Documents**

Organizational documents as outlined in Chapter 2 must be provided for the project owner, general partner(s), and guarantors (other than individual guarantors). For Housing Credit projects, if the ownership entity (project owner) is yet to be formed, this documentation is not required for the ownership entity with application submission, but must be provided at the pre-closing stage.

### **9. Credit Review Documents**

Credit review documents are only required at application stage if requesting KHC funds. **If credit review documents were previously submitted with a capacity application within the past six months, it is not necessary to resubmit them at application.** Dependent on the organizational structure, credit review documents must be provided for all developers, general partner(s), and guarantors (other than individual guarantors). Developers or general partner(s) submitting multiple applications requesting KHC loan funds are only required to provide credit review documentation with one of the funding applications; however, each application submitted must clearly identify where the submitted documentation can be located if included with a different application.

### **10. Spreadsheet Summary of All Projects Under Construction**

Developers must submit a spreadsheet summary of all projects under construction in any state (in any stage of completion), including their status and expected completion date.

## **11. Owner and General Partner Entity Organizational Charts**

A full organizational chart must be provided which shows the membership structure for the project owner and general partner entities.

## **12. Out-of-State Experience Certification (Developers and Management Companies)\***

All applicants/developers (both in state and out-of-state) and management companies must submit a copy of the Housing Finance Agency (HFA) review for projects financed with HFA resources in other states. There is a separate form for developers and management companies. These forms are located on KHC's website. KHC will evaluate each state's response and may contact a state HFA directly to obtain additional information, as well as request additional information from a developer regarding its activities in another state. It is strongly encouraged that the applicant/developer provide this form to the other state HFAs as early as possible to allow them adequate time to complete the form and return to KHC. **Please note: this certification is only required if the applicant/developer and/or management company did not complete the Development Team Capacity Application in the current calendar year.**

## **13. Notification of Application for Funding\***

*(Required for projects of 12 or more units)*

A copy of the completed Notification of Application for Funding form as sent to the appropriate local and state officials must be provided **along with a copy of the signed returned receipt** from the certified mail or other signed acknowledgement of receipt by the mayor or county judge executive or other applicable chief executive officer, state representative, and state senator (or their designees), **dated no less than 30 days prior to application submission**. The appropriate state officials for the project location may be found on the Kentucky Legislative Research Commission [website](#).

## **14. Nonprofit Questionnaire\***

This form must be completed by all nonprofits with any ownership interest in the development and that wish to compete in the nonprofit set-aside. **The provision of affordable housing must be listed as one of the designated purposes in the Articles of Incorporation and/or Bylaws.**

## **15. Nonprofit Board Resolution**

Nonprofit organizations that have any ownership interest in the development must provide a resolution from the nonprofit's Board of Directors that authorizes:

- The application being made for specific KHC funding (e.g. Tax-Exempt Bonds, Housing Credits, HOME, AHTF, NHTF, or other KHC resources that may be available),
- The amount of ownership interest the nonprofit has in the venture;
- The nonprofit's specific liabilities in the development; and
- The anticipated percentage of the developer fee the nonprofit will receive and the percentage that will be shared with another entity.

## **16. CHDO Documentation**

Nonprofits applying for HOME funds from the Community Housing Development Organization (CHDO) set-aside must provide verification of the current CHDO designation or recertification.

## **17. Applicant/Developer Certification Form\***

The Applicant/Developer must certify that:

- The information in the application and supporting documentation is accurate.
- They are in good standing with the Kentucky Secretary of State and the federal government.
- The project complies with Minimum Design Standards and/or Universal Design Standards.
- All information in the application has been provided to the management company.
- They have read, understand and will comply with all policies and requirements of the KHC Multifamily Guidelines and Qualified Allocation Plan, as applicable.
- For Housing Credit projects, the owner agrees to waive the right to exercise the Qualified Contract process in perpetuity.

## **18. Management Certification\***

The management agent must certify that they received a copy of the application and will fulfill all the commitments made in the application and attributes pledged.

## **19. Consultant Certification\***

The consultant must certify that the information within the application and supporting documentation is accurate and correct; that the project complies with applicable KHC design standards; and that they and the development team are in good standing with the Kentucky Secretary of State and the federal government.

## **20. Consultant and/or Administrative Contract**

If a consultant or administrator is part of the development team, an executed copy of the contract is required and must detail the services provided, the consultant's role in the project and how they will be compensated.

## **21. Kentucky Intergovernmental Review Process**

*(Required if requesting HOME, NHTF, Risk-Sharing funds, or if KHC is providing new project-based vouchers)*

Applicants requesting HOME, NHTF, or Risk-Sharing funds must submit to the State Clearinghouse through the Department for Local Government's online system at [http://kydlgweb.ky.gov/FederalGrants/16\\_eClearinghouse.cfm](http://kydlgweb.ky.gov/FederalGrants/16_eClearinghouse.cfm). Successful submission to the online Clearinghouse system will generate a confirmation that includes the SAI number. A copy of this confirmation is a required checklist attachment.

## **22. Proof the Compliance Period Ended**

*(Required for rehabilitation projects previously awarded Housing Credits)*

Evidence may be in the form of a letter from KHC's Compliance Department, with the original KY#, stating the initial compliance period ending date; or a copy of the original 8609s indicating the buildings' placed-in-service dates; or a copy of the original LURA.

### **23. Guideform Notice Disclosure to Seller\***

*(Required for all HOME, NHTF, Risk-Sharing projects, or if KHC is providing new project-based vouchers)*

A copy of the Guideform Notice Disclosure to Seller with Voluntary, Arm's Length Purchase Offer must be given to all sellers disclosing that the purchase offer is voluntary and an arm's length transaction, in addition to disclosing the estimated fair market value of the property and that the purchaser does not have the power of eminent domain.

### **24. Guideform General Information Notice (GIN)**

*(Required for all HOME, NHTF, Risk-Sharing, or new KHC-provided project-based voucher rehabilitation projects with current tenants)*

The Guideform General Information Notice (GIN) is required to be given to all current tenants advising them of the impending federally-assisted rehabilitation of their unit and of their rights under the Uniform Relocation Act. Tenants who move in to the property after submission of the application must be provided with the **Move-In Notice**. Refer to [HUD Handbook 1378](#) for more information and sample notices. All relocation notices must have documentation of proof of receipt by the tenants and be maintained in the tenant file.

### **25. Lead-Based Paint Determination Form\***

*(Required for rehabilitation projects built prior to 1978)*

Rehabilitation and adaptive reuse projects with buildings built prior to 1978 must complete the Lead-Based Paint Determination form to identify the level of lead treatment required. Any anticipated expenditures related to lead-based paint assessment, abatement, and/or clearance must be budgeted in the underwriting model.

### **26. Location Map and Directions**

A location map for every project must clearly show the site location and all major streets and highways, nearby airports, railroad tracks, interstates, and rivers, etc., that may have an adverse effect on the proposed site. For Housing Credit projects, the map must identify the location within the qualified census tract (QCT), or metropolitan Difficult Development Area (DDA), if applicable. Provide detailed directions from Frankfort, Kentucky to the site.

### **27. Rural Development (RD) Property Eligibility Determination**

A printed copy of the determination of a project's location as being either urban or rural from the [RD Property Eligibility website](#) must be provided. Click "Multi Family Housing" and then enter the property address. The RD property eligibility database was updated effective **June 4, 2018** and may affect urban or rural designations.

### **28. Preliminary Plans**

Please refer to [Chapter 13: Design and Construction Review](#) for more information about KHC's preliminary building plan requirements.

Building plans must be uploaded as one single PDF document. All plans must clearly show the number of units.

**Applications of 11 units or less:** For new construction or rehabilitation, projects are required to submit building plans at 1/8-inch scale and typical unit plans at 1/4-inch scale. The plans must include building floor plans, elevations, and site plan.

**Applications of 12 units or more:** For new construction or rehabilitation, projects are required to submit building plans at 1/8-inch scale and typical unit plans at 1/4-inch scale. The plans must include a site plan and a building floor plan, as well as corresponding elevation drawings compiled by an architect licensed in the Commonwealth of Kentucky.

**Applications for scattered site projects:** Site plans must be submitted for at least 35 percent of the sites and **complete** preliminary plans must be submitted for **each applicable unit type**.

*Example:* If the project consists of 20 units, comprised of 5 one-bedroom units; 10 two-bedroom units; and 5 three-bedroom units, complete preliminary plans must be submitted for a one-bedroom unit, a two-bedroom unit, and a three-bedroom unit.

## **29. Work Write-Up Description**

*(Required for all rehabilitation projects of 11 units or less)*

Projects that are 11 units or less can submit a work write-up in lieu of specifications, providing the work write-up is detailed and provides enough basic information to determine the quality and quantity of items that are specified. It should define the scope of work and provide a basis for what type of material or product that is to be used. Please refer to [Chapter 13: Design and Construction Review](#) for more information about work write-up requirements.

## **30. Site Plan**

*(Required for all projects types)*

Please refer to [Chapter 13: Design and Construction Review](#) for more information about KHC's site plan requirements.

## **31. Floodplain Map**

*(Required for all projects)*

Please refer to [Application Thresholds](#) for more information about floodplain requirements.

Applicants must submit one of the following to demonstrate that the project structures and other portions of the site essential to the use of the tenants are not located in a floodplain:

1. A Federal Emergency Management Agency (FEMA) map showing that project structures and other essential portions of the site are not located in the 100-year floodplain and structure locations are clearly marked on the map.
  - Projects in which any portion of the property is located in the floodplain must additionally submit a survey certified to KHC that is signed, stamped, and dated and which shows the location of the floodplain and all existing building structures.
  - Information or maps generated from a local jurisdiction database or similar alternative will not be accepted.
2. Flood determination certificate from a FEMA-approved [Flood Zone Determination Company](#) indicating that project structures are not located in the 100-year floodplain.
3. A signed, stamped, and dated letter from a licensed surveyor stating the project structures are not located within a 100-year floodplain.
4. A licensed surveyor's report of reclassification and FEMA Letter of Map Alteration must be attached if the property was previously located in the floodplain but has been built up and is no longer in the floodplain. The report must clearly state all land to be utilized for project structures has been raised at least one foot above the floodplain.

### **32. Physical/Capital Needs Assessment (PCNA)**

*(Required for all rehabilitation projects of 12 or more units and adaptive reuse projects)*

Refer to [Chapter 13: Design and Construction Review](#) for more information on PCNA requirements.

Projects that were unsuccessful in the most recent previous funding round may resubmit the PCNA that was provided in the previous funding round with a letter or memo indicating that it is a resubmission. However, if funded, the PCNA must be updated at technical submission. **KHC reserves the right to ask for an updated PCNA on any project at its discretion.**

### **33. Capital Reserve Replacement Schedule (CRRS)\***

*(Required for all Housing Credit projects, including Tax-Exempt Bond projects)*

A Capital Reserve Replacement Schedule (CRRS) is a projection of the anticipated capital needs of the property.

#### ***CRRS Report Requirements:***

*(These specific items must be addressed in each report)*

- The projection must use KHC's current version of the Excel spreadsheet "Capital Reserve Replacement Schedule."
- **The CRRS report must identify the preparer's name, company name, qualifications, professional license number, and state in which the license was issued.**
- The schedule must list individual sets of major components that are anticipated to require replacement using the reserve account during the projection term.
- The CRRS must utilize the Fannie Mae Expected Useful Life (EUL) tables when inputting the EUL into the projection.
- CRRS projections are valid for a term of one year before an update is required.
- Future draw requests from the reserve account will be compared to the CRRS projection to verify it is an item planned to be covered by the schedule.
- Additional requirements are in the instructions tab of the CRRS spreadsheet.

### **34. Proof of Proper Zoning**

*(Required for all projects)*

The applicant must submit evidence that the proposed site is properly zoned for the proposed intended use. The following documents are required:

- A letter from the local zoning board or governing authority indicating the type of zoning in place, or a letter from the county judge or mayor indicating that no zoning is present.
- All zoning requirements and/or restrictions that affect the design or building location.
- A local zoning map that shows the classification of the proposed site and neighboring sites. **The site location must be clearly indicated on the map.**

### **35. Evidence of Site Control**

*(Required for all projects)*

All projects must have site control on 100 percent of the project sites, including scattered sites. Documents submitted for evidence of site control must be fully executed and sufficiently identify the subject property. Real property conveyances must be recorded with the appropriate clerk, and

leasehold estates must meet IRS requirements and exceed KHC's affordability and mortgage periods. Acceptable forms of site control are:

- Property Deed
- Current Purchase Contract (**The contract cannot contain seller's right of first refusal language.** If the contract expires prior to closing, then proof must be provided evidencing the means to purchase the property prior to closing).
- Current Option to Purchase (**The option cannot contain seller's right of first refusal language.** It must be extended through announcement period and contain a clause for renewal. If no renewal clause, then proof must be provided evidencing the means to purchase the property prior to closing).
- Current Lease Agreement/Option to Lease (the lease period must be through the entire applicable affordability period).

**Note:** For federally-funded projects (HOME, NHTF, and Risk-Sharing), the new owner may not take legal possession of the property until after environmental clearance, unless the deed transfer or lease was executed prior to submission of the KHC funding application.

KHC will evaluate the legal interest directly owned or controlled by the applicant at the time of application. An applicant capable of causing possession and control to vest in their favor for the duration of the mortgage and affordability periods will be deemed to have site control. KHC reserves discretion to make this determination.

### **36. Deed Restrictions/Subdivision Restrictions**

Provide a copy of any deed restrictions or subdivision restrictions currently on the property or, if no restrictions, a letter stating there are no deed restrictions. The letter must reference the project name and property address and must be from the current owner, city/county official, or attorney.

### **37. Underwriting Model\***

*(Required for all projects)*

KHC's underwriting model must be completed in Excel using the most current version for that year's funding round. The underwriting model can be found on KHC's website under Development; Multifamily; [Underwriting Resources](#).

The yellow input cells of the model are the only areas in which the applicant may enter information. **Please do not add formulas to any of the cells as this may interfere with KHC's underwriting of the project.** If an additional formula or other modifications to the model become necessary, please contact a KHC multifamily staff member.

**Applicants are strongly encouraged to use the "Applicant Underwriting Notes to KHC" section** on the summary sheet of the underwriting model to provide any necessary explanations or additional information that will be helpful during the underwriting review.

### **38. Developer Underwriting Guidance Checklist\***

*(Required only for developers who have not had a KHC multifamily project in the last 3 years)*

KHC has developed a guidance checklist to ensure that project developers have considered most of the major underwriting factors that will be reviewed by KHC. A copy of the completed checklist must be provided with the application as evidence that the developer has exercised due diligence in completing the underwriting model.

### **39. Novogradac Rent and Income Calculator**

*(Required for all Housing Credit and Tax-Exempt Bond projects; optional for non-Credit projects)*

Print and submit the completed [Novogradac Rent and Income Calculator](#). Urban and rural designations must adhere to the RD definition in effect at the time of application. To obtain the applicable limits for the Tax-Exempt Bond program, applicants should select “IRS Section 142 Tax-Exempt Bond” and change the imputed persons per bedroom to 1.5 persons.

### **40. Utility Allowance Chart (KHC-provided form or local document)\***

Projects proposing full or partial tenant-paid utilities must include a utility allowance chart from KHC or the local PHA (in counties where KHC does not administer the Section 8 program). KHC’s utility charts are online under Development; Multifamily; [Underwriting Resources](#). Projects with Project-Based Section 8 or RD-assisted properties must provide the current utility allowance from KHC, HUD, local PHA, or RD as applicable (the agency providing the rental assistance).

**Historical utility usage data or base rate letters from the utility providers are not acceptable.** When the project is placed in service, KHC’s Asset Management department may require the owner to complete the [HUD utility schedule model](#) on projects receiving HUD funding (e.g., HOME, NHTF, or other HUD loans).

### **41. Market Study / Needs Analysis**

KHC maintains an [Approved Market Analyst List](#) from which developers must select an appropriate firm or individual.

A market study/needs analysis is only valid for **six months** from the date of the study/analysis. All market studies must adhere to [KHC’s market study requirements](#). If reports are received that are not acceptable, the applicant/developer will be informed by KHC such report is unacceptable and the project will fail to meet the market threshold.

A market study is required for all projects (or each property in a portfolio transaction); however, projects of four units or less may submit a market needs analysis instead of a full market study.

**Regardless of project size, a rent comparison study must be included in all market studies/analyses to determine market rents.**

KHC may request a market study or additional market information on **any project** or waive the market analysis requirement for projects of four units or less if other supporting documentation, such as a waiting list, can be provided.

The market study must provide the required information for the scoring categories applicable to the project and identify the supporting information as indicated in the current scoring workbook. Please refer to [Chapter 11: Underwriting Requirements](#) for additional market study information.

### **42. Part 1, Evaluation of National Register Status**

*(For projects proposing federal or state historic rehabilitation credit only)*

Provide a copy of the completed Part 1 of the preliminary application, “Evaluation of National Register Status” for both the Federal and State Historic Credits as evidence of submission to the [State Historic Preservation Office \(SHPO\)](#) and/or National Park Service.

#### **43. Current Approved Rent Schedule**

*(For rehabilitation projects with Project-Based Section 8, RD, or other rental assistance)*

Rehabilitation projects currently receiving any type of Project-Based Rental Assistance must provide the current approved rent schedule. The schedule must clearly identify the effective dates of the rents, as well as the agency providing the rental assistance. If the rents listed on the underwriting model are different from those in the rent schedule, an explanation and justification for the inconsistency must be provided on the summary page of the underwriting model.

#### **44. Project-Based Rental Assistance Agreement or Commitment Letter**

*(Required for project-based rental assistance, i.e., Project-Based Section 8, RD, etc.)*

Projects proposing existing Project-Based Section 8, RD, or other project-based rental assistance must provide a copy of the original rental assistance contract or agreement and the most recent renewal, if applicable. The contract or agreement (with renewals) may not be expired and must be currently in effect. Projects proposing new project-based rental assistance must submit a copy of the commitment letter from the rental assistance provider that identifies the proposed contract rents and utility allowances. The contract, agreement, or commitment letter must specify the number of rental assisted units.

#### **45. Operating Subsidy Agreement or Commitment Letter(s)**

Commitment letter(s) or agreements for operating subsidies must be currently in effect and provide assurance of continuation through the applicable affordability or deed restriction period. If operating subsidies are temporary or subject to renewal, applicant must explain how operations will be funded if the subsidy is not renewed.

#### **46. Commitment Letters for HOME Match**

All projects requesting HOME funds must have written commitments of **HOME-eligible** matching funds of at least 5 percent of the HOME request. Commitment letters must meet the standards identified in the [Application Thresholds](#).

#### **47. Firm Commitments for All Non-KHC Resources**

Refer to [Application Thresholds](#) section for requirements for firm commitment letters. Projects seeking points for Strategic Investment in the New Supply Pool must provide letters that also meet the criteria in the scoring workbook.

#### **48. Guarantor's Evidence for Non-Committed Non-KHC Funds**

KHC will accept evidence of an application for non-KHC resources with a written guarantee from the owner/developer that if the funds for which they have applied are not awarded, the owner/developer will contribute the same amount to the project. A bank statement will be required if a guarantor provides a guaranty for non-KHC funding that it has applied for, but has not received, at the time of application. The bank statement must demonstrate sufficient liquidity to cover the guaranty of the full amount of funds for which the guarantor does not have a firm commitment.

#### **49. Tenant Ownership Plan**

*(Required for all lease-purchase projects)*

A tenant ownership plan that meets the requirements outlined in the [Application Thresholds](#) must be provided.

## **50. Community Revitalization Plan**

*(Required for all lease-purchase projects and new units in a QCT – urban only)*

Lease-purchase projects, or urban projects proposing to create new units in a QCT, must submit a copy of the local jurisdiction's overall plan for revitalization, community development, and/or economic development. The plan must have been formally adopted by the jurisdiction and created or updated within the last 5 years. **Local jurisdiction consolidated plans or action plans as required by HUD do not qualify.** The section(s) of the plan that specifically identifies the community need for lease-purchase units or new multifamily units in an urban QCT must be clearly marked within the plan. The community revitalization plan must also:

- Be geographically specific;
- **Identify** goals for outcomes;
- Include a strategy to secure commitments to support non-housing infrastructure, amenities, and services; and
- Demonstrate the need for community revitalization.

## **51. Community Revitalization Plan Certification\***

*(Required for all lease-purchase projects and new units in a QCT – urban only)*

The certification must be completed for the community revitalization plan, providing detail of the plan area, funding sources, goals of the plan and how the proposed project supports the need for lease-purchase units or new multifamily units in an urban QCT.

## **52. Tenant Selection Plan Preferences**

The applicant/owner must provide a signed statement that it has committed to any of the following tenant selection plan preferences. All preferences must be reflected in the Tenant Selection Plan, which is required at the Technical Submission Stage.

- **Persons on the local public housing agency (PHA) waiting list:** In their written commitment, the applicant/owner must agree to notify the local PHA of property vacancies and to give preference to individuals on the local PHA waiting list.
- **Veterans housing:** The applicant/owner commits to give priority to U.S. military veterans. The tenant selection plan must identify the documentation required to verify the tenant is a qualified veteran.

## **53. Certification of Disadvantaged Business Entities**

Certification is required for development team members or companies pledged in the application that are participating in the project and are qualified as a minority- or women-owned business enterprise (MBE/WBE), disadvantaged business enterprise (DBE), veteran-owned small business (VOSB), or service-disabled veteran-owned small business (SDVOSB). The certification must be current through the date of technical submission.

## **54. Letter of Service Commitment**

*(Required for projects applying in the Nonprofit Supportive Housing Pool or projects serving populations with special needs)*

Each agency providing services for special needs housing, permanent supportive housing, and transitional housing must provide a letter on agency letterhead and signed by the executive director or their designee stating the agency's knowledge of and support for the specific project

that is being submitted for funding consideration and that the agency will provide supportive services of appropriate type and quantity to eligible project residents. The letter must state the agency's commitment to provide case management's services to project residents. A requirement to participate in these services **cannot** be a condition of the lease. **This letter can be combined with the Letter of Referral Commitment (below).**

**55. Letter of Referral Commitment**

*(Required for projects applying in the Nonprofit Supportive Housing Pool or projects serving populations with special needs)*

Each agency providing tenant referrals for special needs housing, permanent supportive housing, and transitional housing must provide a letter on agency letterhead and signed by the executive director or their designee stating that 1) eligible individuals in the special needs population targeted by the proposed project will be referred to the project, and 2) provide an estimate of the number of referrals on an annual basis.

**56. Supportive Housing Service Plan**

*(Required for projects applying in the Nonprofit Supportive Housing Pool or projects serving populations with special needs)*

The service plan must contain the following information:

1. The supportive service needs of the targeted population and the experience of the service provider with providing these services to this special needs population. A description of the agency's ability to provide case management services.
2. An explanation of how the services provided meet the target population's service needs.

**57. Evidence of No Substantial Rehabilitation**

Projects seeking points for rent-restricted units most in need of rehabilitation must provide documentation that the proposed project has not received substantial rehabilitation within the past 20 years. For all projects, a minimum of 20 years must have passed since the last substantial rehabilitation to qualify for points. For scoring purposes, substantial rehabilitation is defined in IRC Section 42 as \$6,000 per unit or 20% of adjusted basis. This proof may be evidenced by:

- a. a copy of the last recorded restrictive covenant of record which restricts the use of the property to affordable rental housing executed at the time of the last substantial rehabilitation. In addition, **a copy of a full title exam confirming such restrictive covenant is the most recent of record** must be provided.

**-- OR --**

- b. a letter from the provider of an existing project-based rental assistance contract, i.e. the U.S. Department of Housing and Urban Development (HUD), or USDA Rural Development (RD) which states whether there has been any substantial rehabilitation on the property within the last 20 years and if so, the date of the rehabilitation.

In either case, the number of years since the last substantial rehabilitation will be determined based upon the effective date of the most recent restrictive covenant as of the application due date, or the date identified in the letter from the rental assistance provider.

**58. Narrative for Financially Troubled Assets**

*(Existing Supply/Preservation projects only)*

Projects seeking points for acquisition of a financially troubled asset by an applicant with no identity of interest must provide a detailed narrative describing the troubled asset and the steps that will be taken to put it back into productive use.

**59. Evidence of History of Good Ownership and/or Management**

*(Existing Supply/Preservation projects only)*

Projects seeking points for acquisition of a financially troubled asset by an applicant with no identity of interest must provide a list of all tax credit properties owned and/or managed within the past five years within the state of Kentucky. The list should include the name and address of each of the properties. **Properties recently acquired by the applicant (not more than six (6) months prior to the application submission date) must provide documentation to evidence the acquisition date.**

**60. Financial Statements**

*(Existing Supply/Preservation projects only)*

Projects seeking points for acquisition of a financially troubled asset by an applicant with no identity of interest must provide financial statements for the past three years. **Projects subject to the Single Audit Act must provide audited financials.** If the project is out of its LIHTC or RD compliance period, then CPA performed reviews may be substituted for years without full audits.

**61. Rent Roll**

*(Existing Supply/Preservation pool)*

Projects seeking points for occupancy rate must provide a copy of the rent roll as proof of the rehabilitation project's average physical occupancy for the 12-month period prior to application submission.

## CHAPTER 5: Technical Submission Stage

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Once an applicant receives a preliminary award letter from KHC, the application will then enter the technical submission stage. At this stage, applicants are required to address any underwriting issues and other conditions or comments that resulted from the initial application review process.

### *Technical Submission Document Requirements*

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Owners must upload additional due diligence documentation through the Universal Funding Application (UFA) system. If a checklist item does not apply, you may check the “N/A” button. For documents that exceed the file size limit and are too large to upload as a single document, please place those documents on a flash drive and mail to your assigned program specialist by the technical submission deadline.

**Please do not break large documents into several smaller files for the purposes of uploading to the online portal.**

Below is a description documents that will be required during the technical submission stage. This is not an all-inclusive list of items; your assigned program specialist may request additional documentation. The technical submission documents identified below are grouped in categories which may be uploaded independent of each other; however, ALL technical submission documents must be submitted by the applicable due date. **It is the applicant’s responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*.**

To mitigate any potential problems with uploading documents due to system overload or other technical issues, it is recommended that you do not wait until the last day to submit the technical submission documents. **All projects that do not successfully complete technical submission by 5:00 p.m. ET on the deadline date are subject to payment of an extension fee.**

### Underwriting Documents

#### **1. Firm Commitment Letters for Match and Other Non-KHC Funding Sources**

*(Required for all projects. Must be submitted by the technical submission deadline, no extensions)*

KHC’s HOME and AHTF funds require a 5 percent match of other funds. Any non-KHC financing source may be eligible; KHC funds may not be used as match for other KHC funds. Firm commitment letters for all match and other funding sources identified in the application and underwriting model must be provided. Please refer to [Chapter 11: Underwriting Requirements](#) for additional information regarding match requirements.

Firm commitment letters for all non-KHC sources must:

- 1) Be specific as to the terms of the funding, including:
  - a. The interest rate and term (if loan proceeds are involved).
  - b. The collateral for the project (if a loan is involved).
- 2) Be on the funding source’s letterhead.
- 3) Be dated and signed by an authorized representative of the entity providing the funds.
- 4) Identify the project name and description for which the commitment of funds is being made.

Commitment letters must be current and relative to the project seeking funding from KHC. The firm commitment letters may contain normal and customary contingencies for equity and loan commitments, including but not limited to: approval of appraisal, closing of other sources of financing, environmental and title review, financial condition of the developer, and satisfactory negotiation of partnership and/or loan documents. Final underwriting will not be completed until all firm commitments are received.

If the firm commitment letters have not been submitted by the original technical submission deadline, the conditional commitment will expire automatically, and KHC will recapture all associated funding. **No extensions of the technical submission deadline for firm commitments will be granted.** Firm commitments from RD or HUD loan financing are not required within this timeframe, but must be provided to KHC as soon as they are available. Time is of the essence with respect to the conditional commitment and all time limitations therein.

Applicants applying to RD for resources or assistance must provide a complete application and all required documents to the RD office **as soon as possible after receipt of the preliminary award letter**. KHC will not grant extensions to the closing deadline due to an applicant's delay in providing RD with the required application and supporting documentation.

Applications for HUD resources must complete the pre-approval application process within the original technical submission deadline.

## **2. Updated Underwriting Model\***

*(Required for all projects)*

An Excel version of the project's updated underwriting model, using the version returned to the applicant after funding announcements, must be uploaded to the online application system. If any terms of non-KHC funding or financial projections (sources of funds, construction costs, rents, annual expenses, etc.) have changed since the initial application submission, the underwriting model must reflect these changes and supporting documentation must be provided. Responses must also be provided on the underwriting model to all comments or issues identified by KHC.

## **3. Appraisal**

An appraisal is required on projects/properties where KHC's total loan amount (including due at maturity and forgivable at maturity loans) is \$250,000 or more or for projects requesting Housing Credit for acquisition. KHC may request an appraisal on any project utilizing KHC funds.

Applicants with a KHC loan of \$250,000 or more **must** choose an appraisal firm or individual listed on [KHC's approved list](#) and the appraisal must meet [KHC's appraisal standards](#). The list of KHC-approved appraisers is available on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; Underwriting Resources; [Appraisals](#).

Housing Credit projects not requesting KHC loan funds but are requesting acquisition credit must provide an appraisal supporting the building basis for purposes of determining the proper amount of Housing Credit reserved. The appraisal must provide at a minimum the "as-is" market value of the building and a separate site value for the land. Eligible basis will be limited to the basis determined by the final cost certification. These appraisals do not need to meet KHC's appraisal guidelines or need to be ordered from KHC's contract appraisers; however, the appraisal must still provide a separate value for the land and KHC must be named as an intended user.

Please refer to [Chapter 11: Underwriting Requirements](#) for additional guidance on appraisals.

#### **4. Draft Partnership Agreement or Updated Firm Equity Commitment**

Provide a copy of the draft partnership agreement (preferred) or an updated firm equity commitment. Equity commitments must be current, on the provider's letterhead, contain the specific terms for the purchase of credit (credit pricing, amount of annual credit anticipated, total equity investment, pay-in schedule, required fees, reserve account requirements, etc.), identify income elections, including the income averaging option if elected by the owner, identify the project name, and be dated and signed. If the project is utilizing a KHC bridge loan, the commitment must recognize the bridge loan and state the benefit of the delayed equity pay-in to the pricing structure and total equity investment.

### **Design and Construction Documents**

#### **1. Owner and Architect Agreement**

*(Required for projects that have an architect involved and all projects of 12 units or more)*

The architect's documents must be prepared in accordance with the HUD Minimum Property Standards, Uniform Federal Accessibility Standards, the Kentucky Building Code, and/or Kentucky Residential Code, Universal Design, Minimum Design Standards as adopted by KHC, applicable state and federal Fair Housing laws, and meet all HQS.

- The architect and owner must submit an executed copy of their agreement using the most recent and up-to-date AIA documents.
- The most commonly used agreement is the lump sum contract, which is B141 Standard Form of Agreement between the owner and architect with the standard form of architect's services.
- KHC cannot approve an open-ended contract that does not specify the total contract amount.

#### **2. Final Construction Plans**

*(Required for all projects)*

Please refer to [Chapter 13: Design and Construction Review](#) for more information about KHC's final building plan requirements.

#### **3. Final Specifications / Work Write-Up**

*(Required for all projects, except rehabilitation projects of 11 units or less may submit a work write-up in lieu of specifications)*

KHC will review the final specifications in conjunction with the final plans. All modifications or corrections will be made during the technical submission stage. If changes occur during the review of the final plans that may cause a change in the specifications, the applicant will be notified of any additional changes or corrections that need to be made. Refer to [Chapter 13: Design and Construction Review](#) for more information about KHC's final specifications and work write-up requirements.

#### **4. Evidence of Plan Submission to Local Building Permit Authority or Kentucky Department of Housing, Buildings, and Construction**

*(Required for all projects; attach with plans)*

If no local authority exists in which plans were reviewed by a licensed local code enforcement official, a letter of approval from the Kentucky Department of Housing, Buildings, and Construction will be required.

The local Department of Housing, Buildings and Construction (HBC) or other local jurisdiction in the county where the project is located must review and approve the plans and specifications. If the local jurisdiction has no authority or building inspector, the developer should obtain approvals from the State Department of Housing Building and Construction in Frankfort if the project consists of two or more attached units (subject to change by policies of HBC).

Any changes made by local or state officials must be reflected on the final plans and or an addendum will need to be submitted to KHC for final approval.

## **5. REScheck/COMcheck Documentation**

Applicants for new construction and adaptive reuse projects must submit a [REScheck](#) or [COMcheck](#) calculation indicating the proposed design exceeds the 2012 Kentucky Energy Code. For rehabilitation only projects, the architect or developer must provide documentation explaining how the design of the development will provide the most efficient insulation and heating system.

## **6. Architect's Certification of Accessibility\***

*(Required for all projects in which the services of an architect are utilized)*

The project architect must certify that the project design complies with all applicable accessibility requirements of the Fair Housing Act of 1988, KHC Minimum and Universal Design Standards, Uniform Federal Accessibility Standards, Section 504 of the Rehabilitation Act of 1973, 2010 Americans with Disabilities Act Accessibility Guidelines, and any other applicable state or local code. This form is located on KHC's website under Development; Multifamily; [Technical Submission](#); Design and Construction.

## **7. EPA Lead Compliance Certification\***

*(Required for projects with buildings built prior to 1978)*

Applicants proposing the rehabilitation or adaptive reuse of buildings constructed prior to 1978 must submit the EPA Lead Compliance Certification form to comply with the Renovation, Repair and Painting (RRP) Rule. This form is located on KHC's website under Development; Multifamily; [Technical Submission](#); Design and Construction.

Effective April 22, 2010, the Environmental Protection Agency (EPA) implemented a lead-based paint rule that affects every type of rehabilitation work, whether funded privately or federally. The rule requires contractors and construction professionals that work in pre-1978 housing or child-occupied facilities to follow lead-safe work practice standards and be certified. Essentially, anyone receiving compensation for renovating, repairing, and painting work in residences built before 1978 that disturbs painted surfaces is subject to the Renovation, Repair, and Painting Rule (RRP). No paid job can disturb painted surfaces in pre-1978 homes or child care facilities unless the firm that is undertaking the work is certified by the EPA or a state, and the renovator has completed training and is a certified renovator. KHC requires a self-certification regarding the project's compliance.

The requirements under the rule apply to maintenance as well as rehabilitation and renovations. The following are benchmarks for work:

- Inside – Renovation or repair activities where six square feet (about the size of a poster) or more of a painted surface is disturbed.
- Exterior – Renovation or repair where 20 square feet or more of painted surface (about the size of a door) is disturbed on the exterior.

- Window replacement.
- The only exceptions are where paint is proven lead-free or the job is smaller than six square feet.
- Safe work practices include:
  - Posting a warning sign.
  - Spreading plastic to pick up debris.
  - Refraining from sanders or other machines without a filter to prevent the spread of dust.
  - Cleaning up thoroughly.
  - Checking the work area.

## **8. Davis-Bacon Wage Rate Request\***

KHC is the responsible entity for ensuring compliance with to Davis-Bacon wage rates for the following project types:

- KHC HOME-funded projects of 12 or more HOME-assisted units
- Projects in which 9 or more units have KHC project-based Section 8 voucher assistance; not applicable to projects that received rental assistance through the Performance-Based Contract Administration (PBCA) program
- Projects utilizing Risk-Sharing construction financing on 12 or more units

The Davis-Bacon Act requires that laborers be paid an amount not less than the prevailing wage of the locality as predetermined by the U.S. Secretary of Labor. A project may not be split into more than one contract for the sole purpose of avoiding Davis-Bacon requirements. The Davis-Bacon Wage Rate Request form is located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Davis-Bacon Wage Rate Requirements.

## **9. Utility Letter(s)**

For new construction projects, or rehabilitation projects with newly constructed units, letters from the local utility companies indicating the availability and the available capacity of utilities to the proposed site must be provided. The cost of all connection fees, tap fees, and/or relocation cost, if any, should be included in the development cost. If off-site utilities are being brought to the site by local municipalities, the letter should include the date the work will begin and the anticipated cost. Evidence should be provided that the work will be done by a specific time. Proof that the work will be paid for by local municipalities must be submitted to the satisfaction of KHC's Legal Department. If the developer is extending the utilities to the site, they must have the utility extension completed before KHC funds can be accessed or the funds must be placed in escrow to assure completion of the utility extension.

## **10. Subsurface Soils Investigation Report**

Required for:

- Projects requesting Risk-Sharing funds;
- New construction projects of 12 or more units or rehabilitation projects with new construction;
- As deemed necessary by KHC.

A soils engineer must perform the report, including a site plan with the soil boring locations, testing results, footing designs, and recommendations. Test borings must be performed in critical areas where buildings are proposed.

## Environmental Review Documents

If applicable, submit items 1–7 below to your environmental contractor and upload via the UFA system immediately upon receipt, even if prior to submitting the rest of the Technical Submission items. Not providing these documents in a timely manner could delay the project, since you cannot proceed with the purchase of the property, start any part of the construction or disturb the soil in any way until the environmental review is complete and an environmental clearance has been issued.

### 1. **Lead-Based Paint Inspection and Assessment – OR – Proof of Abatement**

*(Rehabilitation projects constructed prior to 1978 and receiving NHTF, HOME, Project-Based Section 8, or Risk-Sharing are subject to the lead-based paint regulations of 24 CFR 35)*

Projects built prior to 1978 must provide the lead-based paint inspection and assessment conducted by a certified lead hazard inspector. Proof of prior abatement must be provided if the project has had prior abatement of lead-based paint.

### 2. **A-95 Clearinghouse Letter**

*(Required for NHTF, HOME, and/or Risk-Sharing projects)*

If applicable, applicants must submit the Clearinghouse letter provided by the Kentucky Department for Local Government (DLG) stating the project has gone through the process to ensure there will be no negative impacts on any part of the environment and has received clearance to move forward with the environmental review. This letter is received after application has been made to the DLG State Clearinghouse through the Kentucky Intergovernmental Review Process during the application stage and will provide information regarding further inspections or documentation that may be required.

The Kentucky Intergovernmental Review process is located on the Kentucky Department of Local Government's website at <https://kydlgweb.ky.gov/FederalGrants/eClearinghouse.cfm>. The project's environmental review cannot be completed until the Clearinghouse letter has been submitted.

**Note:** It is very important you read the comments received from Clearinghouse. This letter serves as the opportunity for many state and federal agencies to identify any additional requirements they may have for your project. For example, the comments from State Historic Preservation Office/Kentucky Heritage Council may require you to send them additional information and failure to do so can cause project delays.

### 3. **Historic Preservation Clearance Letter**

*(Required for historic preservation projects)*

Applicants proposing rehabilitation of historic properties must obtain a historic preservation clearance letter from the Kentucky Heritage Council's State Historic Preservation Office (SHPO). Plans and specifications must still meet all KHC Design and Construction requirements.

Owners of federally funded projects must contact SHPO regarding Section 106 requirements if comments have been included in the Clearinghouse letter that an archeological survey is necessary or that the structure to be rehabilitated appears to be over 50 years of age or in an area that is, or is eligible to be, recognized as a Historic District.

#### **4. Part 2, Description of Rehabilitation**

*(Required for projects utilizing federal or state historic rehabilitation credit only)*

Provide a copy of the completed and approved Part 2, "Description of Rehabilitation" application for both the Federal and State Historic Credits as evidence of submission to SHPO and/or National Park Service. Refer to the [SHPO website](#) for more information.

#### **5. Phase I Environmental Site Assessment**

A Phase I Environmental Site Assessment, which conforms to proper ASTM standards, is **required for all new construction** projects consisting of more than four units with HOME, NHTF, Risk-Sharing, and/or Project-Based Section 8 as **any** portion of funding. KHC may request a Phase I on any project it deems necessary, including those in which an appraisal indicates actual or evidence of possible environmental liability.

The environmental site assessment determines whether a parcel of land or real estate has the presence of any hazardous substances or petroleum products. These conditions could be of an existing release, a past release or a material threat of a release of any products found on the property or into the ground, ground water, or surface water of the property or surrounding properties. The range of contaminants shall be within the scope of Comprehensive Environmental Response, Compensation, and Liability Act. The scope of this practice includes research and reporting requirements that support the user's ability to qualify for the innocent landowner defense. Documentation of all sources, records, and resources utilized in conducting the inquiry required by this practice must be provided in the written report. Individuals or agencies must be experienced in this field of work and have a current knowledge of all related federal and state law requirements. All reports shall be prepared in accordance with the standards set forth in ASTM E1527 and ASTM E1528. For more information, you may refer to [www.astm.org](http://www.astm.org).

#### **6. Phase II Environmental Assessment**

*(May be required on projects of 12 units or more)*

The Phase I will indicate if a Phase II environmental assessment is required. A Phase II assessment is only required when there is an item of concern discovered during the Phase I, requiring additional action to further investigate or remedy the problem.

#### **7. Archeological Survey**

*(If requested by SHPO)*

If an archeological survey is required as part of the SHPO review, a list of agencies that are approved to conduct the survey can be provided by SHPO. A copy of the survey must be provided to KHC.

### **Legal Review Documents**

#### **1. Tenant Selection Plan**

*(Required for all projects)*

The tenant selection plan must be a written policy to ensure new tenants are selected in adherence to the owner's policies and all applicable federal requirements and must describe the criteria that will be used to identify eligible tenants. The plan must require tenants and management to comply with Uniform Residential Landlord Tenant Act (URLTA) (refer to [Chapter 12: Program Policies](#) for sample language) and, if applicable, the process for notifying the local PHA of vacancies to give priority to households on the PHA's waiting list, as well as any other

tenant selection preferences for which the applicant received points. Additional guidance can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#).

## **2. Tenant Lease with KHC Lease Addendums\***

*(Required for all projects)*

A sample of the lease that will be executed between the tenant and owner must be submitted for KHC's review. The lease must contain the KHC HOME/National Housing Trust Fund Lease Addendum (for projects receiving HOME or NHTF funds) or the standard KHC Lease Addendum (for all other projects). If governmental approval is required for use of the KHC lease addendums, such as when using a HUD or RD form lease, it is the owner's responsibility to obtain such approval before submission of the lease to KHC. Any special provisions related to a lease-purchase project must also be included in the lease. The KHC lease addendums can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Miscellaneous Material.

## **3. VAWA Emergency Transfer Plan**

*(Required for all projects with Federal funds and/or Housing Credits)*

Developers and management companies must develop an Emergency Transfer Plan that provides tenants who are victims of domestic violence, dating violence, sexual assault, or stalking the ability to request an emergency transfer to another unit. The Emergency Transfer Plan must comply with the requirements of 24 CFR 5.2005(e).

HUD has developed a model Emergency Transfer Plan (HUD-5381), which property managers may adapt for their use. The HUD sample form is available on their website at [https://www.hud.gov/program\\_offices/housing/mfh/violence\\_against\\_women\\_act](https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act). Refer to [Chapter 12: Program Policies](#), for more information about protections and notices required under the Violence Against Women Act (VAWA).

## **4. Affirmative Fair Housing Marketing (AFHM) Plan\***

*(Federal funds only, five units or more)*

Each applicant is required to carry out an affirmative marketing program to attract prospective tenants of all minority and non-minority groups in the housing market area regardless of their race, color, religion, sex, sexual orientation, national origin, disability, or veteran or familial status. The applicant must describe in the AFHM plan the activities during advance marketing, where applicable, and the initial sales and rent-up period. The affirmative marketing program should also ensure that any group(s) of persons that are the **least likely** to apply for this housing without special outreach, know about the housing, feel welcome to apply, and have the opportunity to rent. The AFHM form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Fair Housing.

## **5. Fair Housing Plan**

*(Federal funds only)*

Applicants requesting federal funds must submit a fair housing plan that ensures that all citizens in the service area are aware that affirmatively furthering fair housing is a priority. A sample fair housing plan is located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development, Multifamily, Post Award Resources, [Technical Submission](#), Fair Housing Plan.

## 6. **Title VI Self-Survey and Statement of Assurance\***

*(Federal funds only)*

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin. Applicants requesting federal funds must submit a Title VI Self-Survey and Statement of Assurance. These forms can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Title VI –Self-Survey.

## 7. **Section 504 Self-Evaluation\***

*(Federal funds only)*

Section 504 of the Rehabilitation Act of 1973 prohibits the exclusion from, participation in, denial of the benefits of, or discrimination under any program or activity receiving federal financial assistance of otherwise qualified individuals with disabilities.

A self-evaluation of all aspects of the organization, including all buildings or facilities for physical accessibility, program outreach and communication, eligibility and admission criteria and practice, distribution and occupancy policy and practice, percentage of accessible units, employment (including pre-employment), and complaint processing procedures must be prepared by the recipient. **A person with disabilities or a representative from an agency that serves persons with disabilities must assist the applicant in completing the self-evaluation.** It is required that all recipients with 15 or more employees keep the evaluation on file for at least 3 years.

A transition plan is mandatory if structural changes to facilities are needed to achieve program accessibility. The plan must be developed with the assistance of individuals with disabilities or organizations representing them. A copy of the plan must be made available for public inspection. The plan should identify the physical obstacles that limit accessibility, include a detailed description of methods used to make facilities accessible and the schedule for each step of the process. All structural changes must be made within six months of project funding.

Projects with federal funds must submit a Section 504 Self-Evaluation with attachments (and transition plan, if applicable). These forms can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org) under Development; Multifamily; [Technical Submission](#); Section 504.

## 8. **ALTA Survey**

*(Required for all projects with KHC loan funds)*

A surveyor licensed in the Commonwealth of Kentucky must complete an ALTA survey. The survey must be certified to KHC, stamped, sealed, signed by the licensed surveyor, and dated no more than 60 days from the date of submission. All surveys must meet the [2016 Minimum Standard Detail Requirements for ALTA Surveys](#) and include the indicated items on **Table A**. The survey must also include the following:

- Metes and bounds at a preferred scale of 1-inch equals 20 feet but no smaller than 1-inch equals 40 feet.
- For projects utilizing previously platted properties on record, a legal description referencing the recorded plat. A copy of the plat recording must also be provided.
- For projects with properties not previously platted, a metes and bounds legal description of the property line. All easements and rights-of-way should also have the metes and bounds in the description.
- HOME, NHTF, and Risk-Sharing projects must include a metes and bounds legal description.

- All rights-of-way and easements must be indicated and should have a metes and bounds description and a north arrow.
- All roads, encroachments, setback requirements, and natural drainage ways.
- The 100-year flood boundary, any other floodways, and a written floodplain zone determination.
- All parking, streets, walks, curbs, dumpster pads, playground areas, etc.

**Note: An electronic copy of the survey may be initially accepted, but KHC reserves the right to request a hard copy of the survey at any time. A paper copy of the final survey must be submitted prior to closing dated no more than 30 days prior to closing.**

## 9. **Title Commitment**

*(Required for all projects with KHC loan funds)*

A separate title commitment for each KHC funding source must be submitted for review. KHC's Legal Department will communicate with the title insurance company to ensure the title policy exceptions, endorsements, and descriptions are agreed upon. At the pre-closing stage, a revised title commitment or proforma policy with the agreed upon terms must be submitted and dated no more than 30 days prior to the closing date.

## Other Documents

### 1. **Drug-Free Workplace Certification\***

*(Required for all projects)*

KHC's policy is to promote a drug-free environment for all individuals acquiring housing using KHC funds. Applicants must sign the Drug-Free Workplace Certification form certifying the project will provide a drug-free workplace. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Fair Housing.

### 2. **Tax Attorney Opinion Letter indicating eligibility for acquisition credit**

*(Required for Housing Credit rehabilitation projects requesting acquisition credit)*

The applicant's tax attorney must provide a letter that the project is eligible for acquisition credits.

### 3. **Internal Revenue Service waiver for troubled projects**

*(Required for Housing Credit projects – if applicable)*

If an existing project has been designated a "troubled project" by HUD or RD, the project may request a waiver from the IRS to the ten-year holding period requirement. If a project has received this waiver, a copy of the waiver letter must be submitted to KHC.

### 4. **Authorized Signature Form\***

*(Required for all projects with KHC funds)*

This form documents which members of the ownership entity are authorized to submit draw requests to KHC. There are at least two different signatures required on this form; one person who will submit the draw request and another person who will sign the check disbursing the funds. The same person **may not submit the draw and sign for the disbursement of funds.** The signature form must be signed by the top official of the organization (e.g., board chair, CEO, mayor, etc.). This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Miscellaneous Material.

**5. Site and Neighborhood Standards Questionnaire\***

*(HOME and NHTF new construction projects only)*

Each recipient must administer its HOME and/or NHTF funds in a manner that provides housing that is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 and promotes greater choice of housing opportunities. The Site and Neighborhood Standards Questionnaire must be completed and submitted to KHC for review and approval prior to release of funds. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); HOME Documents.

**6. Relocation Plan**

*(Required for all projects involving existing buildings with current occupants)*

A relocation plan must be provided if the project is rehabilitating existing rental units, even if no tenants are anticipated to be relocated. The plan must detail if permanent or temporary relocation will be involved, how the relocation will occur, who will pay for it, and how the tenant will be compensated. Anticipated relocation expenses must be budgeted in the underwriting model. Projects utilizing KHC HOME, NHTF, Risk-Sharing, or newly-issued project-based vouchers are required to follow the Uniform Relocation Act (URA). **Projects receiving federal assistance from a local jurisdiction must provide approval of the relocation plan by the local jurisdiction.** Projects proposing Housing Credit-only or non-federal KHC funding sources (AHTF or SMAL) only may refer to KHC's relocation requirements in [Chapter 12: Program Policies](#).

**7. Guideform Notice of Nondisplacement**

*(Required for HOME, NHTF, Risk-Sharing, or new project-based voucher rehabilitation projects with current tenants)*

This notice must be provided to tenants of properties rehabilitated in conjunction with federal funds. The purpose of this notice is to inform tenants they will not be required to move permanently as a result of the rehabilitation. Tenants who move in to the property after submission of the application must be provided with the **Move-In Notice**. Refer to [HUD Handbook 1378](#) for more information and sample notices. All relocation notices must have documentation of proof of receipt by the tenants and be maintained in the tenant file.

**8. Baseline Active Partners Performance System (APPS) or HUD Previous Participation Certification Process (HUD-2530) Completed**

*(Required for Risk-Sharing only)*

Submit proof of completion of the [Baseline APPS](#) or the completed [HUD-2530 form](#). KHC will forward the completed HUD-2530 to HUD during the review of the final underwriting. These can be found on HUD's website, [www.hud.gov](http://www.hud.gov) or on KHC's website under Development; Multifamily; [Technical Submission](#); Risk-Sharing Documents.

**9. Identification and Certification of Eligible Limited Liability Investor Entities\***

*(Required for Risk-Sharing projects with Housing Credit)*

The certification form is part of HUD's previous participation requirement and must be completed by the equity investor and/or syndicator. KHC will forward this form to the local HUD office during review of the final underwriting. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Technical Submission](#); Risk-Sharing Documents.

## **10. Permanent Housing Plan**

*(Required for all transitional housing projects, non-credit only)*

The plan must detail how tenants will progress from transitional to permanent housing, giving specific examples of housing options available to the participants, such as preference on a Section 8 waiting list, permanent units set aside at other affordable housing properties, etc.

## **Housing Credit Carryover Documentation**

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Projects receiving a reservation of Housing Credit must submit additional documentation to carry over the credit into the following year. Owners must submit carryover documentation to KHC **on or before the Friday prior to Thanksgiving each year; late submission will incur a one-time fee of \$1,000**. This fee must be received by KHC to issue the Carryover Certificate.

### **1. Owner/Recipient Information**

Recipients of Housing Credits must submit the following:

- Owner and general partner federal identification numbers.
- Exact name and address of owner as it will appear on IRS Form 8609.
- Exact street address including zip code for all buildings (include number of buildings).

### **2. Partnership Agreement and Certificate of Limited Partnership**

The Partnership Agreement governs relations between the partners, and the Certificate of Limited Partnership documents the partnership was formed and is a legal entity. This document must be filed with the Secretary of State and a copy of the filed document must be submitted to KHC.

### **3. Estimated project cost breakdown by building**

A breakdown of the estimated cost of each building in the project must be submitted.

### **4. Owner certification of federal, state, or local loans and/or grants\***

KHC is required to ensure that the amount of Housing Credits allocated to a project does not exceed the amount necessary for the financial feasibility of the project. In making this determination, KHC will consider, among other things, the amount of subsidy the project is receiving. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Post-Award Resources](#); Additional Housing Credit Reference Materials.

### **5. Evidence of having incurred more than 10 percent of total project costs or a written request for 10 percent test extension**

Housing Credit projects must place in service by the end of the calendar year the credits were allocated **or** must submit a carryover request. If the project will not place in service before the end of the allocation calendar year, the owner must submit evidence of having incurred more than 10 percent of the total project cost **or** submit a written carryover request for an additional 12 months.

### **6. Gross Rent Floor Election\***

The IRS will treat the gross rent floor as taking effect on the date KHC initially allocates tax credits to the building, unless the owner designates the placed-in-service date instead, **informs KHC prior to that date**, and the IRS will make the gross rent floor effective on that date. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Post-Award Resources](#); Additional Housing Credit Reference Materials.

## *Housing Credit Rate Lock*

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Project owners are permitted by IRC Section 42 to “lock-in” the floating credit rates associated with the Low-Income Housing Tax Credit during the month in which a commitment for a future credit allocation is made. This “binding agreement” must meet the requirements of IRC Section 42(b)(2). The monthly credit rate percentages are announced by the IRS in a Revenue Bulletin on their website [www.irs.gov/irb](http://www.irs.gov/irb).

Owners electing to lock in the 4 percent rate must submit to KHC a binding agreement that:

1. Is in writing.
2. Is signed and dated by the taxpayer and KHC during the month of the intended lock in.
3. Specifies the LIHTC dollar amount to be allocated to the building.
4. Specifies the type(s) of building(s) to which the allocation applies (i.e., new construction, existing building, or substantial rehabilitation).
5. Constitutes a binding contract under state law.
6. Is binding on all successors in interest to the taxpayer.
7. Is notarized.

The credit percentage election must be made no later than the fifth day after the close of the month during which the owner enters into a binding allocation agreement.

## CHAPTER 6: Pre-Construction and Pre-Closing Stages

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All loan and equity closings and execution of funding agreements occur after successful completion of the technical submission stage and final underwriting. Owners must submit additional documentation noted below for final underwriting and other documents will be required prior to closing and the commencement of construction. Any documentation needed to complete final underwriting must be submitted and approved prior to the project specialist issuing a final reservation of Housing Credits and/or requesting closing documents to be prepared by KHC's legal department. Risk-Sharing projects may need to provide additional documentation to close. KHC may request additional information as needed.

**KHC must receive all pre-closing documents no later than 30 days prior to the anticipated closing date and no closings may be scheduled until KHC has issued its final underwriting approval and final credit reservation letter (if applicable).**

Projects utilizing KHC funds that are combining multiple contiguous parcels of land into one project site must consolidate the parcels into a single recorded deed or plat. If the developer already owns the sites, this should occur prior to the closing.

**It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*.**

### *Documents Required for Final Underwriting and Closing*

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#### **1. Final Underwriting Model**

The project's final underwriting model must reflect all of the final projections for sources and uses, income, expenses, and the operating proforma. All KHC underwriting comments must be resolved and the final model must conform to the terms of the final limited partnership agreement or operating agreement (Housing Credit projects), all other non-KHC funding commitments, and any rental assistance and/or operating subsidy agreements.

#### **2. Final Draft Limited Partnership or Operating Agreement**

*(Housing Credit projects only)*

KHC will not issue a final credit reservation letter without having first reviewed the final draft of the limited partnership agreement and **all** referenced exhibits and/or attachments. **A fully executed copy of the final limited partnership agreement must be provided to KHC within two weeks of the equity closing.**

#### **3. Agreement to Enter Into a HAP Contract (AHAP)**

**Projects proposing new project-based voucher rental assistance must provide an executed copy of the Agreement to Enter Into a Housing Assistance Payments (AHAP) contract between the owner and the public housing agency providing the project-based vouchers. This includes the termination of an existing HAP contract and execution of a new contract with the project owner.**

#### **4. Operating Deficit Reserve/ Reserve for Replacement / Tax & Insurance Escrow Certification\***

All applicants must certify that Operating Deficit Reserve, Reserve for Replacement and tax and insurance escrow accounts have been or will be established, state the amount of the accounts, and identify the financial institution where the accounts will be held.

## **5. Request to Draw Funds at Closing**

Unless otherwise approved by KHC, draw requests for KHC funds at closing for acquisition costs or reimbursement of pre-development soft costs are only allowed for KHC equity bridge loan (EBL) funds in a Tax-Exempt Bond project or for non-credit projects with a nonprofit owner.

The applicant must notify KHC in writing if funds will be requested at closing. **For HOME and/or NHTF funds, KHC's draw system cannot be activated until the executed Funding Agreement has been received at KHC, which must be no less than two (2) weeks prior to the anticipated closing date.** A draw request must be submitted through the draw management system, along with appropriate supporting documentation for the amounts requested, no less than five (5) working days prior to the anticipated closing date. Please refer to Chapter 7, [Draw Request Process for Funds at Closing](#), for more information.

## **6. Owner's Employer Identification Number (EIN)**

*(Required for all projects)*

Provide evidence of the ownership entity's employer identification number issued by the IRS.

## **7. Owner's DUNS Number and Proof of Registration**

*(Required for HOME or NHTF projects)*

All projects receiving HOME or NHTF funds from KHC must provide the project owner's DUNS number before any funds may be disbursed. A DUNS number can be obtained from Dun and Bradstreet at their website, [www.dnb.com](http://www.dnb.com). The DUNS number must be registered on the federal System for Award Management website at [www.sam.gov](http://www.sam.gov) and proof of registration must be provided to KHC. Registration must be kept current and updated annually.

## **8. Incumbency and Signatory Certificate or Resolution of Authorized Signatories**

*(Required for all projects with KHC loan funds)*

This document is required to confirm the identities, titles, and authority of the signing officers of the borrowing entity to execute all necessary legal documents.

## **9. Organizational Documents**

If the borrower is a newly-formed entity and did not provide organizational documents earlier in the application process or amended its organizational documents after their initial submission to KHC, copies of the organizational documents and any amendments must be provided for the **borrowing entity** on all projects requesting KHC funding. Please refer to the Organizational and Credit Review Documents section in [Chapter 2](#) for the required documentation.

## **10. Title Commitment and Insured Closing Letter**

*(Required for all projects with KHC loan funds)*

**KHC requires a title commitment or proforma policy for each KHC funding source.** The revised title commitment or proforma policy must be submitted and dated no more than 30 days prior to the closing date. If multiple funding sources are being used in the project, KHC requires a proforma policy. If KHC funds will be disbursed at closing, KHC also requires that an Insured Closing Letter and proforma policy be issued in its favor by the title insurance company.

## **11. Final ALTA Survey**

*(Required for all projects with KHC loan funds)*

The survey provided during technical submission will be reviewed by KHC's Legal Department to ensure all requirements are met and there are no issues with the project site. An electronic and a paper copy of the final ALTA survey must be received by KHC **prior to closing**, dated no more than 30 days prior to closing, and include any updates or project site changes as requested.

**Risk Sharing projects require seven (7) copies of the ALTA survey 30 days prior to the closing, which occurs at project completion.** The survey must be dated no more than 30 days prior to the closing date.

## **12. Surveyor's Report**

*(Required for projects utilizing Risk-Sharing funds only)*

A completed surveyor's report [HUD Form 92457](#), signed and stamped by a licensed surveyor in the state of Kentucky, and dated within 30 days of the day of closing must be provided.

## **13. Verification of Site Control**

*(Required for all projects with KHC loan funds)*

Proof the borrower still maintains site control of the property must be provided prior to closing.

- For owned property, if the borrower took title to the property by deed prior to the closing of the loan, KHC must be provided with a copy of the recorded deed.
- For leasehold property, if the borrower signed a lease for the property prior to the closing of the loan, KHC must be provided with a copy of the executed lease (and any amendments).

**Note:** For federally-funded projects (HOME, NHTF, Risk-Sharing), the new owner may not take legal possession of the property until after environmental clearance has been achieved, unless the deed transfer or lease was executed prior to submission of the application to KHC for funding.

## **14. Wiring Instructions – Closing Attorney\***

*(Required for all projects with KHC loan funds requesting funds at closing)*

All loan proceeds to be disbursed at closing must be deposited into the closing attorney's escrow account by wire for the funds to be available on the day of closing. The wiring instruction form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Pre-Construction/Closing Submission](#)

## **15. Electronic Funds Transfer Authorization\***

*(Required for all projects with KHC loan funds)*

Electronic Funds Transfer (EFT) authorizations are required if KHC funds will be drawn during construction. KHC will only disburse funds electronically. The EFT forms can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Pre-Construction/Closing Submission](#). **A voided check must be included with the completed EFT form.**

## Documents Required Prior to the Start of Construction

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All required documents must be reviewed and approved prior to construction start.

### **1. Owner and Contractor Agreement**

*(Required for all projects)*

The Owner/Contractor agreement can be executed once the final cost is determined. The agreement may be either the AIA document or HUD's Construction Contract Form, and must be signed and dated by the contractor and the owner. The contract must be completely filled out for final review and include the following:

- The contract amount, which must match the total cost on the final cost estimate as well as the hard costs shown on KHC's underwriting model. Cost contingencies may not be included.
- The dates the construction should begin and be completed.
- Any liquidated damages and the amount per day.
- Reference to the plans, specifications, and any addendums that have been issued.
- Davis-Bacon Wage Rate clause (if applicable).
- Section 3 clause (if applicable).

### **2. Assurance of Completion**

*(Required if KHC funds exceeds \$100,000 or are drawn during construction)*

An assurance of completion will not be required if KHC is only providing permanent financing with funds disbursed at project completion. **KHC will determine the adequacy and sufficiency of assurances of completion.**

Assurances of completion shall be in one of three forms:

- a) Payment/Performance bond (AIA document A-312 or the HUD Form 92452) equal to or greater than 100 percent of the total construction contract amount. Bonds must be issued by an insurance company licensed in Kentucky, signed by an authorized representative of the insurance company, and name KHC as an additional insured on the bond. Payment and performance bonds are required if KHC is providing a bridge or construction loan, or for Risk-Sharing projects in which insured advances are provided.
- b) Irrevocable On-Sight Demand Letter of Credit equal to or greater than 30 percent of the total amount of KHC funds. The letter of credit must be valid for the duration of the construction period. If it expires prior to construction completion, a new letter of credit must be submitted extending the term. KHC must be the only named beneficiary of the letter of credit; having multiple beneficiaries to the letter of credit is not acceptable. The Letter of Credit may be drawn upon by KHC in accordance with its terms and conditions.
- c) Cash deposited with KHC equal to or greater than 30 percent of the total KHC funds.

### **3. Evidence of Proper Insurance**

*(Required for all projects with KHC funds)*

The contractor must provide evidence of worker's compensation, builder's risk, and general liability insurance, which must be in effect during the length of the contract. An insurance company binder is not sufficient. **KHC must be listed as the primary additional insured on all builder's risk and general liability insurance certificates when KHC has provided a loan.**

#### **4. Building Permit**

*(Required for all projects)*

The contractor must receive a building permit before construction can begin. If the local jurisdiction does not require a building permit, the mayor or county judge executive must provide a letter of verification.

#### **5. Approval Letter from the Department of Housing, Buildings, and Construction**

*(If applicable)*

If the local jurisdiction does not issue building permits, plans must be submitted to the Kentucky Department of Housing, Buildings, and Construction, which will issue a letter authorizing the start of construction.

#### **6. Construction Inspection Fee**

*(Housing Credit projects only)*

Evidence of online payment of the one-time construction inspection fee of 1.25% of the annual Housing Credit allocation amount must be provided prior to construction start.

#### **7. Final Cost Estimate**

*(Required for all projects)*

A final cost estimate must be submitted with an itemization of the actual amount that will be spent on each line item during construction. This document will be utilized throughout the course of construction for disbursement of funds. The estimate should not include soft costs on any of the line items. The total amount of the final cost breakdown must match the total of all hard costs included in the final KHC underwriting model.

The cost estimate can be one of three different forms:

- Construction Cost Breakdown HUD Form 2328
- Schedule of Values, AIA Document G702 and G703
- KHC's Application and Certificate for Payment Form

Owners must apply the correct cost with the line item that best describes the work.

Applicants are also required to enter the construction cost breakdown from the final cost estimate into the UFA system under the "other actions" dropdown menu. Full instructions for completing this requirement can be found in the FAQ section of the UFA.

#### **8. Construction Schedule**

The construction schedule must outline the anticipated completion benchmarks and targeted placed-in-service date of the project. Benchmarks should be measured in terms of weeks/months from the date of the loan and/or equity closing (e.g., 25 percent completion within 3 months of loan closing, placed-in-service within 12 months of loan closing, etc.).

**9. Pre-construction Conference Form\***

*(Required for all projects)*

At the pre-construction conference, the developer will be required to provide the KHC Pre-construction Conference form, which will be signed by the developer, contractor and KHC construction specialist. When all pre-construction documents have been approved and the applicable closings have occurred, the assigned KHC program specialist will execute the bottom of the Pre-construction Conference form, which will constitute the [Notice to Proceed](#) with construction. Please refer to [Chapter 13: Design and Construction Review](#) for more information. The Pre-construction Conference Form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Pre-construction/Closing Submission](#).

**10. KHC Project Review Agreement\***

*(Required for all projects)*

All projects are subject to inspection by KHC. The Project Review Agreement outlines the applicant's and KHC's roles and responsibilities throughout the inspection process. Applicants are required to sign the Project Review Agreement, which can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; [Design and Construction](#).

## CHAPTER 7: Closing and Construction Stage

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No loan and/or equity closings may be scheduled until KHC has approved all the required pre-construction and pre-closing documentation and issued its final underwriting approval. KHC will determine the closing date and timeline for any KHC loan funds. Any costs associated with the closing, including recording and legal fees, are the responsibility of the borrower.

There are three different types of closings that can occur on a Risk-Sharing loan:

- Initial Closing: If Risk-Sharing funds will be used during construction, there will be a separate closing of the construction loan.
- Final Closing (Insured Advance): Once construction of a project that had an initial closing is complete, there will be a final closing to convert the construction loan to a permanent loan.
- Insured Upon Completion: When a project will only use Risk-Sharing funds as a permanent loan source, the permanent closing will occur after construction is complete. **At this time, KHC only offers Risk-Sharing funds as an insured upon completion permanent loan.**

Each of the three different closings has separate checklists of the documentation needed for the closing.

### *Loan Closing Information*

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KHC will prepare a draft of the closing documents, which are sent to the owner's counsel, along with information regarding KHC's closing procedures, a Form of Opinion of Borrower's Counsel, and the marked-up title commitment **for each KHC funding source**.

KHC's legal staff will work with owner's counsel on any revisions to the closing documents that may be needed. Once a final version is agreed upon by all parties and all conditions to closing have been met, KHC's legal staff will request a copy of the updated title insurance commitment and send a closing instruction letter, along with execution drafts of the closing documents, to the owner's counsel.

The closing may not occur until KHC has received and approved a draft of the Opinion of Borrower's Counsel and the agreement of owner's counsel to issue the title policy, or if owner's counsel is not issuing the title policy, the agreement of the title agent issuing the policy that the policy will be issued in conformance with the marked-up title commitment for title insurance provided to owner's counsel.

Construction **cannot commence** until KHC has received the original, signed and recorded closing documents, including a copy of the recorded deed, unless KHC has authorized an "early start."

### **Closing Documents Delivery**

Executed originals of all loan documents and copies of all documents sent for recording must be delivered to KHC **within 48 hours of closing**. Original recorded documents must be delivered to KHC **within two weeks of closing** along with the original of the loan policy of title insurance. KHC will not disburse loan proceeds, other than amounts pre-approved by KHC for property acquisition, until these conditions are met. All post-closing document deliveries should be addressed to:

**Kentucky Housing Corporation  
Legal Department, Attn: Post Closing  
1231 Louisville Road  
Frankfort, KY 40601**

## Post-Closing Document Submission

In addition to the document deliveries noted above, the following documents must be uploaded to the Universal Funding Application (UFA) system within **two weeks of the closing**:

### **1. Copy of Deed or Lease**

*(Required for all projects)*

A copy of the executed and recorded deed or executed property lease (as applicable) must be provided after closing and prior to construction start. If the property will transfer ownership, the deed must show the transfer and be executed and recorded.

**Note:** For federally-funded projects (HOME, NHTF, and Risk-Sharing), the new owner may not take legal possession of the property until after environmental clearance has been achieved, unless the deed transfer or lease was executed prior to submission of the application to KHC for funding.

### **2. Executed Limited Partnership Agreement or Operating Agreement**

*(Required for all Housing Credit projects)*

A copy of the fully executed limited partnership agreement or operating agreement, as well as all exhibits and attachments referenced in the agreement, must be provided. **The executed agreement may not be materially different than the final draft agreement reviewed by KHC, unless previously approved by KHC.**

## *Draw Request Process for Funds at Closing*

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Unless otherwise approved by KHC, draw requests for KHC funds at closing for acquisition costs or reimbursement of pre-development soft costs are only allowed for KHC equity bridge loan (EBL) funds in a Tax-Exempt Bond project or for non-credit projects with a nonprofit owner/developer. Owners must notify the KHC project specialist during the pre-construction/pre-closing stage of the request to draw funds at closing. The closing draw must include all closing fees due to KHC that were not received prior to closing (e.g., loan origination fee, processing fees, etc.).

KHC must receive the executed Funding Agreement and Exhibit A at least two weeks prior to the intended closing date for non-credit projects requesting HOME funds at closing. The project specialist will provide notification when the draw system has been activated and available to submit a [Program Funding Draw Request](#) must be submitted, with the closing attorney's wiring instructions and all documentation supporting the amount(s) requested.

KHC will not release funds requested at loan closing until KHC receives copies of the executed loan documents and has approved the executed closing statement. KHC will not release subsequent draw requests until the original recorded documents have been returned.

## *Construction Stage*

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Once the project has closed on all funding sources and/or Housing Credit equity and all pre-construction documentation has been approved, KHC will issue the Notice to Proceed, which is the developer's authorization to begin construction. Please refer to [Chapter 13: Design and Construction Review](#) for more information about the required pre-construction conference, Notice to Proceed, construction inspections, change orders, and the process for requesting funds during construction.

## CHAPTER 8: Construction Completion/Placed-In-Service Stage

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All projects are required to submit final close out documentation, which may include project completion reports, certificates of occupancy, and final draws. If Risk-Sharing funds are being utilized, there will be a final closing for an insured-upon-completion loan, and additional documentation may be required. When necessary, certain documents may be forwarded to an outside agency (e.g., HUD) for approval before the funds for the final draw can be released

A final inspection will be conducted by the architect (if applicable), the contractor, and KHC's construction specialist. The final inspection will cover all interior and exterior items. **A final punch list of items still needing completion will be submitted by the architect and provided to the construction specialist.** A follow-up inspection will be conducted to verify all punch list items have been addressed and completed. KHC will not release the 10 percent retainage held during the construction phase until a final inspection report showing all punch list items have been completed and all project completion documents are received and approved. Risk-Sharing projects are also required to be inspected one year after construction completion.

### *Required Documents*

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Owners must submit the following items after construction has been completed for KHC to close out the project and release any remaining funds that are held for retainage and/or issue the IRS Form(s) 8609, as applicable. **It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*.**

**1. Final As-built Survey**

*(Required for projects utilizing Risk-Sharing funds only)*

A survey prepared by a surveyor licensed in Kentucky must show all conditions as they exist after construction is completed, all utilities, easements, rights-of-way, and setbacks. The survey must have the surveyor's signature, stamp, and seal, and be dated within 120 days.

**2. Certificate of Substantial Completion, Application and Certification for Payment, and Continuation Sheet (AIA G704, G702, and G703)**

*(Required for projects of 12 units or more, or if an architect was involved)*

The architect shall issue a Certificate of Substantial Completion (AIA G704) and executed copies of the final Application and Certificate for Payment (AIA G702) and Continuation Sheet (AIA G703), which breaks the contract sum into portions of work in accordance with a schedule of values utilizing CSI format.

**3. Certificate of Occupancy**

*(Required for all projects)*

Owners must provide a Certificate of Occupancy from the local jurisdiction for each building in the project, or if the jurisdiction does not issue certificates of occupancy, a letter from the Kentucky Department of Housing, Buildings, and Construction.

**4. Termite Certificate**

*(Required for all new construction projects)*

A termite certificate issued by a licensed pest control company must be provided as evidence the building(s) and surrounding foundation(s) were treated to prevent termite infestation.

**5. Termite Inspection Report**

*(Required for all rehabilitation and adaptive reuse projects)*

A termite inspection report from a licensed pest control company must be provided as evidence the building(s) were inspected for the presence of termites, and if found, that the building(s) were treated for termite infestation.

**6. Proof of Lead-Based Paint Abatement and Clearance**

*(Required for projects built prior to 1978 and funded with HOME, NHTF, Risk-Sharing, and Project-Based Section 8)*

A copy of the Certificate of Clearance provided by the abatement company must be provided as proof that the presence of lead has been remediated.

**7. Project Completion Report (PCR)\***

*(Required for projects funded with HOME or NHTF)*

The PCR is required to report project information, performance measures, final sources of funds and use of HOME/NHTF funds, and designation of the fixed or floating HOME units at initial occupancy. Only the HOME/NHTF units are shown on the report. **If all HOME/NHTF units have not leased up at submission, the PCR must be resubmitted until all HOME/NHTF units have been leased.** The total activity cost must match the total project cost on the Final Funds Expenditure Statement.

KHC will not release the final retainage of HOME/NHTF funds until after receipt of the completed PCR and Final Funds Expenditure Statement. All documents needed to complete the PCR can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Construction Completion/Placed-In-Service](#); HOME Project Completion Packet.

**8. Final Funds Expenditure Statement\***

*(Required for projects funded with HOME or NHTF)*

The Final Funds Expenditure Statement is a reporting of the final uses of all funding sources. If two different funding sources are used for one line item, the amount allocated to each funding source must be broken out. The total project cost must match the total activity cost on the PCR.

**9. Section 3 Report\***

*(Required for projects funded with HOME, NHTF or Risk-Sharing)*

Section 3 reporting is required annually during construction and at project completion regarding any employment, job training, contracting and subcontracting opportunities given to low- and very low-income persons as a result of the HUD funds used for the project. All contracts over \$200,000 and subcontracts over \$100,000 must contain a clause regarding the Section 3 requirement. More information regarding Section 3 requirements can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Construction Completion/Placed-In-Service](#).

**10. Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Report\***

*(Required for projects funded with HOME, NHTF, or Risk-Sharing)*

The MBE/WBE report identifies the contracts awarded to minority and female businesses. The MBE section reports the racial classification and number of contracts and the associated amount awarded to minority contractors and subcontractors. The WBE section reports the gender classifications and number of contracts and the associated amount awarded to contractors and subcontractors.

**11. Equal Employment Opportunities Commission (EEOC) Certificate\***

*(Required for Housing Credit projects with no KHC HOME, NHTF, or Risk-Sharing funds)*

The EEOC certificate is a report certifying the contracts awarded to minority- and female-owned businesses. In addition, developers are required to report their efforts to hire minority- and women-owned businesses.

The MBE (Minority Business Enterprises) section reports the racial classification and the number of contracts and their associated amount awarded to minority contractors and subcontractors. The WBE (Women Business Enterprises) section reports the gender classifications and number of contracts and their associated amount awarded to contractors and subcontractors.

EEOC certificates are not required if a Housing Credit project was required to submit the MBE/WBE report due to KHC HOME, NHTF, or Risk-Sharing funds.

**12. Kentucky-Based and Disadvantaged Business Participation Certification\***

Applicants who pledged the participation in the project of Kentucky-based and/or disadvantaged businesses must complete and submit the certification form for each participating business, along with an executed copy of the contract or invoice evidencing their participation was for at least \$1,000 in materials or services. If the business was not previously identified at application, a copy of the appropriate certifications must also be provided with the completed form(s).

**13. Copy of Most Recent Property Tax Bill**

*(Required if KHC will be escrowing for taxes)*

A copy of the most recent property tax bill will be used to establish the amount to be collected and placed in the escrow account for future property tax bills.

**14. Final Property Insurance Declaration Page**

Declaration page from the final property insurance policy is required if KHC has a mortgage on the property or will be escrowing for insurance. The annual premium amount will be used to establish the amount that needs to be collected and placed in the escrow account for future insurance bills. KHC must be listed as an additional insured on the policy. Owners may remove construction insurance from the property once construction is complete and the property insurance is in place.

**15. Copy of Management Contract**

*(For projects utilizing a management company)*

A copy of the management contract between the owner and the management company is required for compliance monitoring purposes.

**16. Management Certification\***

*(Only required if management company changed)*

If the management company has changed since application submission, the new management agent must certify that they received a copy of the application and will fulfill all the commitments made in the application and attributes pledged.

**17. Operating Deficit Reserve/Reserve for Replacement/Tax and Insurance Escrow Certification\***

Owners must provide the certification if not submitted at the pre-closing stage or if it has changed, an updated copy must be provided. All applicants must certify that Operating Deficit Reserve and Reserve for Replacement accounts have been established and identify the banking institution and amount of the reserve accounts. Owners must also identify where the tax and insurance escrow accounts will be held. This form can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Pre-Construction/Closing Submission](#).

**18. Final Cost Certification**

*(Required for projects utilizing Risk-Sharing)*

Upon completion, an independent Certified Public Accounting firm shall submit a cost certification of all development costs, including a cost breakdown by building and a sources and uses of funds statement. Construction hard costs must be based on a schedule of values using CSI format.

For Risk-Sharing projects, the cost certification will be used to determine the maximum insurable mortgage. A closing date will not be scheduled until the cost certification has been approved.

Applicants are also required to enter the construction cost breakdown from the final cost certification into the UFA system under the "other actions" dropdown menu. Full instructions for completing this requirement can be found in the FAQ section of the UFA.

**19. Building Addresses for All Buildings**

The exact street address, city, and zip code is required for each building.

**20. Marketing Quality Photos of the Property**

Photos of the property signage, building exteriors, amenities, common space, and the interior of a typical unit(s) is required. KHC may utilize these photos in promotional materials, reports, or other documents.

**21. AHTF/SMAL Close Out Form\***

*(Required for projects funded with AHTF or SMAL)*

A separate close out form must be completed to verify the total amounts of AHTF and/or SMAL funds expended for the project.

**22. Executed Housing Assistance Payments (HAP) Contract**

For projects proposing new project-based voucher rental assistance, a copy of the fully executed HAP contract must be provided. This includes the termination of an existing HAP contract for project-based vouchers and execution of a new contract between the public housing agency and the project owner.

## CHAPTER 9: Land Use Restriction Agreement and 8609 Stage

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Owners of Housing Credit projects must submit the following additional documentation to obtain the Land Use Restriction Agreement (LURA) as well as the IRS Form(s) 8609 no later than 6 months from the project's construction completion date, as evidenced by a certificate of occupancy or an architect's certificate of substantial completion (if rehabilitation). **Projects that will require issuance of the LURA and 8609 before the end of the calendar year must have all documentation submitted by the Thursday before Thanksgiving.**

KHC will prepare the LURA using the information provided and will be mailed to the owner for signature and recording. Once it is returned, the original IRS Form(s) 8609 will be mailed to the owner for both the 4 percent and 9 percent credit allocated to each building. Please note, issuance of the 8609s may be delayed if all required project completion documents have not been submitted and approved, and/or if the project has not successfully passed a final inspection by KHC. **It is the applicant's responsibility to identify and utilize all KHC-provided forms, which are marked with an asterisk\*.**

### **1. Request for 8609 and LURA Application\***

A Request for Issuance of Low-Income Housing Tax Credit Allocation and Certification IRS Form 8609 and Land Use Restriction Agreement (LURA) must be completed and submitted by the project owner. A checklist of supporting documentation that must be provided is in the application.

### **2. Final Cost Certifications (Owner and Contractor)**

Upon completion, an independent Certified Public Accounting firm shall submit a cost certification of all final development costs, including a cost breakdown by building, as well as other costs incurred. All costs must be separated between land, syndication activities, and project depreciable costs. Construction hard costs must be based on a schedule of values using CSI format. All cost certifications must be prepared in accordance with KHC's [Cost Certification Guidelines](#).

**Applicants/owners are also required to enter the construction cost breakdown from the final cost certification into the UFA system under the "other actions" dropdown menu. Full instructions for completing this requirement can be found in the FAQ section of the UFA.**

### **3. Updated Final KHC Underwriting Model**

An updated version of KHC's final underwriting model that reflects the final sources and uses of funds must be provided. The sources and uses must agree with the final cost certification.

### **4. Owner Certification of Federal, State or Local Subsidy\***

The owner must sign and submit a Certification of Federal, State or Local Subsidy.

### **5. Title Insurance Policy**

**An owner's or lender's title insurance policy for the property must be submitted. The information in the title policy provided will be used to determine if there are other lenders that will be required to sign the LURA.**

### **6. Title Endorsement or Attorney Opinion Letter**

**An endorsement to the title or a title attorney's opinion letter that updates the title from the time of the policy to the date of the 8609/LURA request must be submitted. The endorsement or attorney's letter must be dated no more than 15 days from the date of the 8609/LURA request.**

**7. Tax Information Authorization Form 8821\***

Prior to the issuance of the IRS Form(s) 8609, owners must submit a signed Form 8821, Tax Information Authorization, to the IRS with a copy to KHC.

**8. Certification of Sources & Uses Form\***

A completed Certification of the Sources and Uses form signed by the owner and syndicator/equity provider must be submitted.

**9. Architect's Final Form G702/G703**

An architect must complete the Certificate for Payment (AIA G702) and Continuation Sheet (AIA G703), which breaks the contract sum into portions of work in accordance with a schedule of values utilizing CSI format.

**10. Resolution/Consent Authorizing Execution of the LURA**

Provide a resolution or consent, as appropriate, indicating that the individual executing the LURA has authority to do so. A resolution or consent authorizing the individual to execute all documents relevant to the transaction may be provided, but is subject to review and acceptance by KHC.

**11. Updated Organizational Documents**

If any changes have been made since the Technical Submission stage, the owner must provide an updated organizational chart and governing documents of controlling entities and include the current annual report from the [Kentucky Secretary of State website](#) for each entity within the ownership structure.

## CHAPTER 10: Funding Sources and Requirements

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The following program requirements are not intended to be an all-inclusive list of all requirements of each program, but are intended for guidance and information when selecting a funding source. Contact your program specialist with any questions.

### Special notes applicable to all KHC funding sources:

- All projects involving current tenants (regardless of whether or not the tenants will be relocated) must submit a relocation plan. Documentation that the applicable relocation notices have been provided to the tenants will be required.
- Each KHC funding source may require a separate deed restriction to be recorded against the property. The terms of the deed restriction(s) may vary by funding source.
- Except for Risk-Sharing loans, KHC funds may not be used to pay any fees, interest, loan balances, or other amounts due to KHC.

### *HOME Investment Partnerships (HOME) Program*

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**HOME funding is considered gap financing only.** Applications requesting the entire development cost in HOME funds will be considered only as a last resort.

- Eligible applicants for HOME funds are nonprofit and for-profit entities.
- All HOME-funded projects are subject to all requirements of the [HOME Final Rule](#), as amended, at 24 CFR, Part 92.
- The following local jurisdictions receive a direct allocation of HOME funds. Projects located in these areas are not eligible to apply for KHC-administered state HOME funds and should apply to the applicable local jurisdiction for HOME funds.
  - City of Owensboro
  - Merged governments of Lexington/Fayette County
  - Merged governments of Louisville/Jefferson County
  - The consortia of the cities of Bellevue, Covington, Dayton, Ludlow, and Newport.
- **HOME projects must be completed within the time frames outlined in the closing documents.**
- HOME rental units must be leased in a timely manner, within 3 to 6 months of project completion. If the HOME units are not leased within this time frame, the project owner and/or management agent will be required to provide documentation of their marketing efforts to lease the units. Per a HUD mandate, **any HOME units not leased after 18 months will be subject to termination and repayment of all HOME funds invested.**
- Eligible rental activities are limited to new construction, acquisition with new construction, acquisition with rehabilitation, and rehabilitation of existing rental units.
- All HOME-assisted housing must meet KHC, state, and local standards, and the applicable property standards at 24 CFR, 92.251.
- HOME funds can be used for construction and permanent mortgage loans.
- HOME funds cannot be used for refinancing or acquisition only.

- **HOME funds may not be used to fund replacement reserves, operating deficit reserves, administration costs, stand-alone community buildings, or off-site project costs.** HOME funds shall be used for eligible soft costs and/or construction costs only, including developer fees, which are capped at current KHC limits. Refer to [24 CFR, Part 92](#) for additional guidance.
- The minimum affordability period requirements for the HOME program are as follows.
  - Rehabilitation < \$15,000 per HOME unit 5 years
  - Rehabilitation > \$15,000 - \$40,000 per HOME unit 10 years
  - Rehabilitation > \$40,000 per HOME unit 15 years
  - New construction or acquisition 20 years
- A deed restriction securing the affordability period will be recorded against the assisted property. Even if the HOME loan is paid off early, the restriction will remain in effect for the applicable term.
- The HOME maximum per-unit subsidy limits apply to rental units. The actual subsidy provided will be subject to cost containment and subsidy layering analysis.
- All HOME monitoring/reporting requirements apply throughout the affordability period. All HOME-funded developments must comply with 24 CFR, Part 92.
- HOME funds are provided in the form of an amortizing loan, deferred loan (due at maturity), or a forgivable loan (forgiven at maturity). Forgivable loans will only be considered for non-credit projects with nonprofit owners that demonstrate the need for such a loan and cannot support any debt service. For HUD 202/811 projects only, KHC may approve the use of deed restrictions in lieu of a mortgage to secure the HOME loan on a case-by-case basis. Interest rates on loans are flexible and the loan term, at a minimum, must be equal to the required affordability period, but may not be more than 30 years. Interest will not be charged during the construction period.
- HOME-funded projects must adhere to the lease provisions of [24 CFR 92.253](#) and leases cannot contain the prohibited lease terms contained therein nor require tenants to accept supportive services as a condition of tenancy. Owners are required to give tenants a minimum 30-day notice of lease termination or non-renewal, and only for serious or repeated violation of the terms and conditions of the lease; violation of applicable federal, state or local law; or for other good cause.
- **An environmental review is required** and shall be carried out following the National Environmental Policy Act of 1969, and related laws, in accordance with 24 CFR, Part 58. The applicant is responsible for contracting with a KHC-approved [Environmental Compliance Service Provider](#) to perform the environmental review. More information about HOME environmental requirements can be found on [HUD's website](#).
- The federal [Davis-Bacon Act](#) wage rate requirements apply to contracts for the development of 12 or more HOME-assisted/designated units. The Davis-Bacon Act requires that workers receive no less than the prevailing wages being paid for similar work in the locality. Prevailing wages are computed by the U.S. Department of Labor and are issued in the form of a Federal Wage Determination. The Wage Determination lists each classification of workers who will work on the project and the rates that must be paid to each classification.
- **Section 3 reporting is required** for all recipients of "covered Section 3 financial assistance" (including HOME) exceeding \$200,000 combined from all sources in any one year. The Section 3 report provides information regarding any employment, job training, contracting and subcontracting opportunities given to low- and very low-income persons as a result of the HUD funds used for the project. Reporting is required annually during construction and at project completion. Please refer to [HUD's Section 3 webpage](#) for more information and guidance.

## HOME Financial Requirements

- HOME loans (deferred, forgiven, or amortizing) are **recourse** loans.
- For projects of 11 units or less, a vacancy rate of 10% should be projected, and for projects of 12 units or more, a 7% vacancy rate should be projected.
- All proposed developments requesting HOME funds are required to provide a minimum of 5% HOME-eligible match of the total HOME funds requested. Match information can be found in [Chapter 11: Underwriting Requirements](#).
- For units designated as low-HOME that also receive Project-Based Rental Assistance, the maximum rent may be either the low-HOME rent or the rent allowable under the Project-Based Rental Assistance program, provided the tenant pays no more than 30% of their adjusted gross income toward rent. To achieve a greater cash flow, the Project-Based rents may be more advantageous. However, please note that this option does **not** apply to high-HOME units or to units receiving **Tenant Based Rental Assistance**.
- Projects with less than five HOME-assisted units must have all HOME units occupied by households at or below 60% AMI. Projects with five or more HOME-assisted units must have at least 20% of the HOME units occupied by households at or below 50% AMI.
- HOME-assisted projects must designate a proportionate number of units as HOME units based on the percentage of HOME funds compared to total development cost. If the project has five or more HOME units, 20% of the HOME units must be at the low HOME rent/income limit or less. The remainder of the designated HOME units cannot exceed the high HOME rent/income limit.

**Example:**

HOME amount requested:	\$300,000
Divided by total project cost:	÷ \$2,000,000
HOME percentage:	15%
Total rental units	30 units
HOME percentage:	x 15%
HOME units:	= 5 (4.5, but always round up)

If the formula calculates less than five units, then all units may remain at the high HOME rent level. If five or more, 20% of that amount must be rented at the low HOME rent.

Total HOME units	5 units
	x 20%
Total low HOME units:	= 1.00
(Any fraction of one unit must be rounded to one unit)	

In this instance, the project must have **at least one unit** rented at the low-HOME rent. The high and low HOME units must be proportionately distributed by unit type. Using the example above of four units at high HOME rent and one at low HOME rent, the distribution is as follows:

$$\underline{30 \text{ total units:}} \quad 1\text{-BR units} = 12; \quad 3\text{-BR units} = 18$$

The HOME percentage as shown above is 15 percent. This percentage is applied to each bedroom type.

$$12 \times 15\% = 1.8, \text{ therefore two (2) 1-BR units}$$

$$18 \times 15\% = 2.7, \text{ therefore three (3) 3-BR units}$$

- The subsidy per-unit test determines if the amount of HOME requested is within the required limits. Multiply the HOME units by bedroom type by the applicable HOME subsidy limit.

<b><u>Example:</u></b>	<i>HOME subsidy limit:</i>	1-BR	\$161,738
		3-BR	\$254,431
	<i>Requested HOME loan:</i>		\$300,000

***Project located in Frankfort***

2 (1BR) units X \$161,738 =	\$323,476
3 (3BR) units X \$254,431 =	<u>\$763,293</u>
<i>Total allowable subsidy</i>	\$1,086,769

The requested \$300,000 HOME subsidy does not exceed the allowable limit.

- At the time of application, the applicant will be required to select “fixed” or “floating” HOME units.
  - **Fixed:** When HOME units are “fixed,” the specific units that received HOME assistance, and are therefore subject to HOME rent and occupancy requirements, are permanently designated and never change.
  - **Floating:** When HOME units are “floating,” the HOME units may change over time as long as the total number of HOME units remains constant. The floating designation provides flexibility in assigning units and can help avoid stigmatizing the HOME-assisted units.

Please refer to KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#) for the HOME maximum [rent](#) and [income](#) limits.

## Conflict of Interest

No owner, developer, or sponsor of HOME-assisted housing, including their officers, employees, agents, or consultants, may occupy a HOME-assisted unit in a development. The provisions do not apply to:

- a. An individual receiving HOME funds to acquire or rehabilitate his/her principal residence.
- b. An individual living in a HOME-assisted rental housing development where he/she is a project manager or a maintenance worker in that development.

KHC may grant exceptions to this conflict of interest provision (for governing owners, developers, and sponsors of HOME-assisted housing) on a case-by-case basis based on the following factors:

- Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of assisted housing, and the exception will permit him or her to receive generally the same interest or benefits as are being made available or provided to the group as a whole.
- Whether the person has withdrawn from his or her functions or responsibilities or the decision-making process with respect to the specific assisted housing in question.
- Whether the tenant protection requirements of CFR 92.253 (prohibited lease terms, termination of tenancy, and tenant selection) are being observed.
- Whether the affirmative marketing requirements are being observed and followed.
- Any other factor relevant to KHC’s determination, including the timing of the requested exception.

## HOME Compliance Requirements

- If the legal documents between KHC and the project owner require annual financial statements, a compilation of the annual financial statements for the project only (must not include other agency funds/activities, the project would have its own balance sheet, income statement, and cash flow statement) will be required within 120 days of the end of the project's fiscal year. This should be a full disclosure compilation or audit conducted by a certified public accountant. It should include a balance sheet, profit and loss (income statement), and statement of cash flows. If an agency is required to submit an audit under the Single Audit Act, OMB Circular A133, KHC will accept the agency-wide audit but may ask for additional project-specific information if it is necessary to evaluate the stability of the project. Financial statements must be mailed to KHC's Asset Management Department within 120 days of the close of the project's fiscal year end. New projects that have been placed in service must provide monthly reports as required by Asset Management. **Failure to submit the required annual financial statements will be considered by KHC in future funding proposals.**
- Separate from the KHC requirements, nonprofits and local government applicants that have expended \$500,000 or more in aggregate of federal funds, including HOME funds, during its fiscal year must procure and have completed annual audits in the form of CPA-prepared financial statements with management letter within 120 days after the close of the applicant's fiscal year. These financial statements must include a balance sheet, operating statements, source and use of funds statement, Schedule of Expenditures of Federal Awards, and sufficient supporting schedules. Audits must also be conducted in accordance with the provisions of OMB Circular A-133 and the Single Audit Act of 1996. If the applicant has drawn \$500,000 or more of federal funds in their fiscal year, the audit must be submitted to the Audit Clearinghouse. Any agency that has a finding in such audit must submit a copy of that audit to KHC and provide evidence that the finding has been corrected or is being corrected.
- Each HOME unit must remain in compliance with HQS throughout the affordability period. HQS guidelines are outlined in 24 CFR § 982.401. Owners are responsible for inspecting each unit annually and retaining documentation of the inspection in each tenant's file.
- Each HOME-assisted unit must ensure continued affordability to low-income families. It is the owner's responsibility to ensure that the HOME rent limits are not exceeded for the duration of the affordability period. If the project also received funding from Housing Credits, Historic Housing Credits, or any other funding source, the most restrictive of the limitations applies.
- KHC requires that 100 percent of all HOME-assisted rental units serve households at or below 60 percent of the AMI at the time the family moves in. If more than five units are assisted with HOME funds, 80 percent of the units must be reserved for households at or below 60 percent of the AMI and charged the high HOME rent or Fair Market Rent (FMR), whichever is less. The other 20 percent of the units must be reserved for households at or below 50 percent of the AMI and charged the low HOME rent or FMR, whichever is less. KHC will update its Multifamily Programs web page each year with the new releases for rent and income limits.
- In some instances, residents of HOME rental units may be receiving Tenant-Based Section 8 rental assistance. Please note, the applicable HOME rent limit may be less than the Section 8 FMR. At no time may the gross rent exceed the applicable HOME rent limit unless the unit is receiving Project-Based Section 8 rental assistance, the household makes 50% or less AMI, and is designated a low HOME unit.

- When leasing mixed funding projects, owners/managers must assure:
  - A sufficient number of units are leased or held available for lease to HOME-eligible tenants to meet the low- and very-low income targeting requirements of the program.
  - Rents charged to tenants in the HOME units are within the high and low HOME rent limits published by HUD.
- If a project is utilizing both Housing Credits and HOME, the tenant's rent may never exceed the Housing Credit program limits, regardless of the household's income.
- HOME rents may decrease. While project rent levels are not required to decrease below the HOME rent limits in effect at the time the HOME Funding Agreement is executed, a change in market conditions may force owners to reduce the HOME rents to retain tenants.
- The Annual Performance Report is required yearly for developments utilizing **HOME funds** once all funds have been drawn and construction is completed.
- Owners must maintain records for five years after the project completion date. Records of individual tenant income verifications, project rent, and project inspections must be retained for the most recent five-year period, until five years after expiration of the affordability period.
- Owners must provide periodic reports as required by KHC.

### *National Housing Trust Fund (NHTF)*

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**NHTF funds are considered gap financing and shall only be provided as a recourse loan.** NHTF is a relatively new program and HUD has not yet issued a final rule for program administration; however, interim guidance is available at 24 CFR, Parts 91 and 93. The NHTF program was modeled after the HOME program; therefore, KHC will apply all the HOME regulations to NHTF except for the following:

- **Affordability Period:** NHTF always requires a 30-year affordability period regardless of activity type or amount of NHTF investment.
- **Davis-Bacon Wage Rate Requirements:** Davis-Bacon wage rates do not apply.
- **Incomes to Be Served:** The income of the targeted population cannot exceed 30% AMI.
- **Income and Rent Limits:** NHTF utilizes separate income and rent limits which are available on KHC's website [www.kyhousing.org](http://www.kyhousing.org) under Development, Multifamily, [Underwriting Resources](#).
- **Match Requirement:** NHTF does not have a matching funds requirement.
- **Environmental Review:** The environmental provisions for new construction and rehabilitation that are required for NHTF projects under the Property Standards at 24 CFR § 93.301(f)(1) and (2) are similar to the environmental review requirements under 24 CFR Part 50 and Part 58 for the HOME program. HUD has published [CPD Notice 16-14](#) that provides guidance on how to meet the HTF environmental provisions. The Notice also explains how environmental reviews under 24 CFR Part 50 and Part 58 must meet the NHTF environmental provisions when combining NHTF with other HUD funding sources. More information on environmental requirements for NHTF funds can be found on [HUD's website](#).

## *Affordable Housing Trust Fund (AHTF)*

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### **AHTF funds are considered gap financing only.**

- Eligible applicants are **nonprofit organizations**.
- **The nonprofit organization must be at least 51% of the ownership entity and materially participate in the project for the term of the loan.**
- Nonprofits must be registered and in good standing with the Kentucky Secretary of State.
- Nonprofits may not be affiliated with or controlled by any for-profit entity and one of the exempt purposes of the nonprofit must include the fostering of low-income housing.
- Nonprofits must meet the criteria defined as material participation in IRC Section 469(h) if combining AHTF with Housing Credits.
- Eligible activities include acquisition/new construction, acquisition with rehabilitation, and/or new construction of very low-income rental developments. AHTF funds have three priorities:
  1. New construction projects.
  2. Projects using existing privately-owned housing stock.
  3. Projects using existing publicly-owned housing stock.
- The affordability period for rental projects is **30 years**. A deed restriction will be recorded against the property to secure the affordability period. If the AHTF loan is paid off early, the recorded deed restriction will remain in effect.
- KHC shall require at least 40% of all AHTF funds to be used for rural areas, as defined by the U.S. Department of Agriculture Rural Development (RD). Applicants can determine if the property is in a rural area by accessing the [RD Property Eligibility Site](#), “Multi Family Housing” and then enter the property address.
- In combination with the above activities, owners can use AHTF to fund upfront services to residents, including budgeting and life skills development, homeownership counseling, tenant education, and self-sufficiency development. However, ongoing support services to keep clients in housing are **not** eligible activities.
- AHTF funds are provided in the form of an amortizing loan, deferred loan (due at maturity) or a forgivable loan (forgiven at maturity). KHC will consider forgivable loans only for projects with that demonstrate the need for such a loan and cannot support any debt service.
- Preference will be given to projects serving households below 30% AMI. However, AHTF may serve households up to 60% AMI. **Owners can refer to the [AHTF Income Chart](#) to find the maximum income limits used for the AHTF program.** This chart can be found on KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#).
- While there are no published rent limits for AHTF, the proposed rents should be proportionate with the income level being served, unless rental assistance is being provided. Since there are no published AHTF rent limits, the [HOME rent chart](#) should be used as a guide.
- AHTF can be blended with other KHC funds. If AHTF is allocated to a Housing Credit project, the AHTF award must be made to a nonprofit agency who is the majority owner of the partnership. The nonprofit will then loan the AHTF funds to the project with an assignment to KHC. The nonprofit will be responsible for continued compliance as well as the developer.

## AHTF Financial Requirements

- AHTF loans are non-recourse.
- The amount of developer fee (including any fees for consulting services) paid for with AHTF funds cannot exceed 7.5 percent of the total AHTF award for the project.
- Interest rates are flexible and start at zero percent. KHC will not charge interest during the construction period.
- Loan terms shall not exceed 30 years.
- For projects of 11 units or less, a vacancy rate of 10 percent should be projected, and for projects of 12 units or more, a 7 percent vacancy rate should be projected.

## AHTF Compliance Requirements

- If a project is receiving AHTF only, the owner/manager must verify and document the tenant's income at initial move-in and to recertify the tenant's income annually to determine that the rent being charged is affordable as compared to the population being served. (Although not required, the industry norm to define affordability is 30 percent of a household's monthly income). The Section 8 method for verifying income is not required for AHTF-only projects, but the same verification method must be used for all tenants.
- If the legal documents between KHC and the project owner require annual financial statements, the project would be required to submit compiled annual financial statements within 120 days after the end of the project's fiscal year. These statements must be prepared by a third-party certified public accountant and sent to KHC's Asset Management and Compliance Department. Please note that failure to submit the required annual financial statements will be considered by KHC in future funding proposals.
- Owners must provide periodic reports as required by KHC.

## *Small Multifamily Affordable Loan (SMAL) Program*

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- Eligible applicants may be nonprofit organizations, for-profit entities, and units of local government.
- SMAL can be used for construction loans and/or permanent mortgage loans. Interest rates are the same for both construction and permanent financing.
- Projects cannot exceed 11 units. The total number of units on contiguous lots may not exceed 11 units.
- Eligible rental activities are new construction, substantial rehabilitation, acquisition/new construction, and acquisition with rehabilitation.
- SMAL funds cannot be used for refinancing.
- Eligible households must have incomes at or below 120 percent of the Section 8 area median income (AMI) limits.
- Rents for the project should not exceed the lesser of the SMAL rent limit, the project area's market rent, or 30 percent of the income level of the targeted population.
- SMAL funds may be combined with other KHC funds.

- When combining SMAL funds with other KHC loan funds, the amount of the SMAL loan may not be less than the amount of the HOME and/or AHTF loan, as applicable. The maximum HOME and AHTF loan requirements still apply.

## SMAL Program Financial Requirements

- SMAL loans are recourse loans.
- The maximum loan amount requested **cannot** exceed 90 percent loan-to-value or the loan amount supported by a 1.20 DCR in year one (whichever is lower). The DCR must remain at or above a 1.0 throughout the affordability period.
- Applicants may not request an interest rate lower than 3.5 percent. KHC will determine the rate the project can support.
- Interest-only payments will be due during the term of the construction period.
- The term of the loan shall not exceed 30 years.
- A deed restriction will be recorded against the property for the life of the loan. If the SMAL loan is paid off early, the deed restriction will remain in effect for the original term of the loan.
- KHC will charge an origination fee of 1 percent of the mortgage amount to be paid at closing.
- The vacancy rate for this program will be projected at 10 percent.
- Owners must keep supportive services separate from the housing component and income from services cannot be used to pay debt service.
- The pro-rata share of SMAL to the total development costs determines the number of units that must meet the SMAL income and rent requirements.

<b>Example:</b>	SMAL loan:		\$500,000
	Total project cost:	÷	<u>\$800,000</u>
	SMAL percentage:		62.5%
	Total rental units:		11
	<b>SMAL Percentage:</b>	x	<u>62.5%</u>
	SMAL units:	=	6.875 (always round up)

**The number of required SMAL units would be seven (7).**

Please refer to the SMAL Rent and Income chart for the maximum rent and income limits for this program. These can be found on KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#).

## SMAL Compliance Requirements

Owners must submit annual compiled financial statements, on the project only, to KHC within 120 days of the end of the project’s fiscal year. The compilation shall be prepared by a third party certified public accountant in accordance with generally accepted auditing standards and government auditing standards. Owners must provide periodic reports as required by KHC. Please refer to KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under [Asset Management](#) for additional requirements.

## Risk-Sharing

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Risk-Sharing is a mortgage insurance program in which the risk is shared between KHC and HUD. There are two approval levels. As a Level I participant, KHC would share in 50 percent of the risk with HUD. As a Level II participant, KHC would share in 25 percent of the risk with HUD.

Requirements for the Risk-Sharing program are:

- Multifamily projects must be five units or more.
- Risk-Sharing may only be used for permanent loans. Construction financing is ineligible.
- **Risk-Sharing funds must be used in conjunction with the Low-Income Housing Tax Credit Program.**
- Eligible applicants are nonprofit and for-profit entities.
- Eligible rental activities are limited to new construction, acquisition with new construction, acquisition with substantial rehabilitation, substantial rehabilitation, and adaptive reuse.
- The ownership must be in the form of a single-asset entity. Each principal, as defined in [Chapter 4 of the HUD Handbook 4590.01 REV-1](#), must disclose all past participation in HUD-FHA programs (except single family home mortgages) and the nature of their proposed project, by completing the [HUD 2530 form](#) (PDF version) or through the [Active Partners Performance System \(APPS\)](#). Limited liability investor entities associated with the project must complete the Identification and Certification of Eligible Limited Liability Investors form and upload with the project's technical submission documents.
- All projects must qualify as affordable rental housing and meet one of the following:
  - 20 percent or more of the units must be both rent-restricted and occupied by persons whose income is 50 percent or less of the [AMI as determined by HUD](#), with adjustments for household size; or
  - 40 percent or more of the units must be both rent-restricted and occupied by persons whose income is 60 percent or less of the [AMI as determined by HUD](#), with adjustments for household size.
- "Rent-restricted" means that gross rent for a unit does not exceed 30 percent of the imputed limitation applicable to such unit.
  - Because the Risk-Sharing Program does not have published rent and income limits, the Housing Credit rent and income limits are used.
- The affordability period shall be equal to the term of the Risk-Sharing loan and secured by a deed restriction recorded against the property for the affordability period. If the Risk-Sharing loan is paid off early, the recorded deed restriction will remain in effect.
- An environmental review is required and shall be carried out following the National Environmental Policy Act of 1969 in accordance with 24 CFR, Part 58. The borrower is responsible for contracting with a KHC-approved [Environmental Compliance Service Provider](#) to perform the review.
- Loan proceeds from the Risk-Sharing closing cannot be disbursed until KHC has received the recorded loan documents and final endorsement of the loan from HUD.

- The Davis-Bacon Act wage rate requirements apply to new construction and substantial rehabilitation projects of 12 or more units when the Risk-Sharing Program is used for construction financing. Because KHC only offers Risk-Sharing as permanent financing, Davis-Bacon requirements do not apply.

## Risk-Sharing Financial Requirements

- The maximum loan amount cannot exceed \$2,000,000.
- The maximum loan amount requested cannot exceed 90 percent loan to value, as determined by the appraisal during the technical submission stage.
- The loan term may be up to 40 years.
- Loans must be amortized over the term of the mortgage.
- The mortgage must be in first lien position.
- Risk-Sharing loans are non-recourse loans.
- Risk-Sharing loans must have a minimum debt coverage ratio of 1.25 in year one and must remain positive through year 15.
- For projects of 11 units or less, a vacancy rate of 10 percent should be projected and for projects of 12 units or more, a 7 percent vacancy rate should be used.
- Risk-Sharing funds may not be used to pay any portion of the developer fee.
- A monthly Mortgage Insurance Premium (MIP) of 0.5 percent will automatically be calculated in the underwriting model.
- Applicants should assume a taxable interest loan rate, exclusive of MIP, subject to market changes. Current rates are posted on KHC's multifamily web page at [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Risk-Sharing Program](#).
- **KHC will maintain and control the reserve for replacement (R4R) and tax and insurance escrow accounts.**

## Risk-Sharing Compliance Requirements

- All projects must be audited annually in conformance with the HUD Consolidated Audit Guide. Audits must be submitted to KHC no later than April 1 of the following year.
- All Risk-Sharing loan documents will include a regulatory agreement.
- Risk-Sharing projects must adhere to all compliance monitoring procedures.

## CHAPTER 11: Underwriting Requirements

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### *Requirements for Underwriting*

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Following is a summary of some of the criteria KHC will consider when underwriting the project. This list is not intended to be all-inclusive and KHC may review and require documentation on any factor from any funding source that may have an impact on the project's budget and financial performance.

1. KHC may modify the amounts and terms of any KHC resources requested based on its analysis of the project's underwriting model and supporting documents.
2. KHC amortizing, permanent loans shall have monthly debt service payments. HOME, NHTF, and AHTF loans do not accrue interest during the construction period.
3. SMAL and Risk-Sharing loans will be amortizing loans.
4. HOME, NHTF, and AHTF loans may be structured as amortizing or deferred, due-at-maturity.
5. Forgivable HOME, NHTF, or AHTF loans will only be considered for projects with nonprofit owners that demonstrate the need for such a loan and cannot support any debt service.
6. KHC funds will be in first lien position unless approved otherwise prior to closing.
7. The maximum combined loan to value (CLTV) ratio may not exceed 100 percent for all permanent loans, as determined in the appraisal.
8. To ensure that governmental assistance is provided only in an amount to make the project financially viable, KHC will conduct a subsidy layering review on all projects when there is a combination of any of the following funding sources: HOME, NHTF, Risk-Sharing, Housing Credits, or new Project-Based Section 8 (including project-based vouchers). Refer to the [Subsidy Layering Review](#) section for more information.
9. The construction contingency may not exceed 10 percent of total construction hard costs, excluding property acquisition. Applicants not requesting a contingency must explain the rationale and is responsible for the cost of any change orders occurring during construction. For new construction projects, contingency should always be less than 10 percent (in most cases, less than 5 percent). For rehabilitation projects, the contingency should generally be minimized by in-depth studies and evaluations that should be conducted as part of the developer's due diligence in preparing the application.
10. **The construction contingency is set aside for unforeseen cost overruns.** To draw contingency funds, a change order must be prepared and approved by both the inspector and plan reviewer at the time the change is deemed necessary. Change orders submitted after the work is complete will not be approved. KHC will recapture any unused contingency funds and modify the loan documents accordingly. **Soft cost contingencies are not allowed.**
11. The required DCR in year one must be a minimum of 1.20, except for Risk-Sharing projects which must achieve a minimum 1.25 DCR in year one. **All projects must maintain a DCR of 1.10 or greater through year 15.** Housing Credit only projects must adhere to the DCR requirements established by an investor or governmental entity if the investor or governmental entity accepts a lower DCR, which must be reflected in either the syndication agreement or documentation from the governmental entity. In addition, the investor or governmental entity must provide its 15-year proforma. **Projects requesting KHC funds must maintain positive cash flow (1.0 or greater) through the applicable term of affordability.**

12. All projects with declining cash flows and DCRs that are approaching a DCR of 1.10 in or before year 15 must provide an explanation and documentation that sufficient funds will be available to support and maintain the project for a minimum of 15 years.
13. For all Housing Credit projects, the maximum amount of credit for which the project is eligible is the lesser of the equity gap test, the credit per unit test, or the qualified basis test, as calculated on the "Housing Credit" tab of the KHC underwriting model.
14. Housing Credit projects proposing a qualified Community Service Facility (CSF) must be located in a Qualified Census Tract (QCT). The eligible basis attributable to the CSF cannot exceed 25 percent of the project's total eligible basis (without any basis boost) and the total project development cost cannot exceed \$15 million. The costs associated with the CSF must be itemized on a separate uses statement contained within KHC's underwriting model and those costs will not be considered in the cost containment calculation.
15. Projects containing commercial space must itemize the associated commercial space costs on a separate uses statement contained within KHC's underwriting model and those costs will not be considered in the cost containment calculation. Owners may not use KHC resources to pay for any costs associated with commercial space.
16. Applicants must allocate any project-related fees or soft costs associated with a CSF or commercial space on a pro-rata basis, or the actual amount of the soft cost, if it is specific to the space. A disproportionate share of fees and soft costs may not be allocated to the CSF or commercial space for the purposes of adhering to the cost containment limits.
17. KHC has published historical operating expense data by county for projects in KHC's portfolio. The proposed operating expenses must be supported and generally should fall between \$2,500 - \$4,500 per unit, per year (including utilities) and fall within \$1,000 +/- of KHC's most current historical per unit, per year calculation (excluding utilities) for the project county. Applicants must provide a justification for expenses outside either of these ranges. If the county does not have historical data, applicants should use the data of a similar neighboring county. Applicants must enter the county utilized and the amount of the most current historical expense data, excluding utilities, on the expenses page of the underwriting model. The operating expense database is located on KHC's website, [www.kyhousing.org](http://www.kyhousing.org).
18. Management fees should be comparable to market fees and should not exceed 8.5 percent of effective gross income. Smaller projects and/or special needs projects, which may require a fee higher than 8.5%, must provide justification for the higher percentage and receive approval from KHC.

### *Housing Credit Per-Unit Limits*

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The maximum annual Housing Credit allocation for all projects, including Tax-Exempt Bond projects with 4% Housing Credit, cannot exceed the amount as determined by the per-unit limit calculation.

#### **Urban Areas**

The Housing Credit allocation for projects located in urban areas will be limited to \$12,000 per Housing Credit unit except for projects located in **QCTs** or **DDAs**, as designated by the secretary of the U.S. Department of Housing and Urban Development; Choice Neighborhoods; historic/adaptive reuse projects; new construction projects located in areas of opportunity; or projects located in areas defined by KHC as needing an increase in basis, which will be limited to \$15,600 per Housing Credit unit.

## **Rural Areas (Any area outside of the urban areas as defined by RD is considered rural)**

The Housing Credit allocation for projects located in rural areas will be limited to \$13,500 per Housing Credit unit except for projects located in **QCTs** or **DDAs**, as designated by the U.S. Department of Housing and Urban Development; historic/adaptive reuse projects; projects located in the Promise Zone counties (Bell, Clay, Harlan, Knox, Leslie, Letcher, Perry and part of Whitley); or projects located in areas defined by KHC as needing an increase in basis, which will be limited to \$17,550 per Housing Credit unit.

**Rural Area Example:** Subsidy limit: \$13,500  
\$17,550 (if in a DDA, QCT, or other KHC-defined area)  
40 total units not in any of the bonus areas  
40 x \$13,500 = \$540,000

## *Housing Credit Limit with 130 Percent Basis Boost*

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### **Modifications to Definition of Eligible Basis (130 Percent Rule, Qualified Census Tract, Difficult Development Area and Areas Defined by KHC)**

The IRS stipulates certain areas as QCTs and DDAs. These areas are designated as areas that are difficult to develop or are defined as census tracts in which 50 percent or more of the households are at-or-below 60 percent of the area median income, as well as census tracts with a poverty rate of 25 percent or higher.

The Housing and Economic Recovery Act of 2008, H.R. 3221 (HERA), provides state Housing Credit agencies the ability to enhance the credit to any building needing the enhanced credit to be financially feasible.

KHC will allocate and underwrite Housing Credits at 9.00% and the applicable floating credit factor established by the IRS the month prior to application submittal for 4.00% Housing Credits. All 9 percent Housing Credits projects are eligible for the 30 percent basis boost as deemed necessary in the sole discretion of KHC. **However, Tax-Exempt Bond projects with 4 percent Housing Credits must be located in a QCT or DDA to qualify for the basis boost and acquisition basis is not eligible for the boost.**

## *Qualified Census Tracts (QCTs) and Difficult Development Areas (DDAs)*

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The current listing of QCTs and DDAs can be found on HUD's website. KHC will utilize the most current listings in effect as published by HUD.

## *Community Service Facility*

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A Community Service Facility (CSF) is a space that can be used for purposes to improve the quality of life for community residents including, but not limited to, child daycare, senior programs, and job training provided such services are appropriate and helpful to low-income individuals in the project area. A CSF is defined as a facility to primarily serve low-income individuals in the community whose income is 60 percent or less of area median income. Use of the CSF may not be limited to project residents only; it must be available to any low-income individual in the community. The CSF must be located on the same tract of land as at least one of the buildings in the project. If fees are charged for services provided, they must be affordable to individuals whose income is 60 percent or less of area median income.

Housing Credit projects utilizing a CSF described under IRS Revenue Ruling 2003-77 may be entitled to include the costs associated with a CSF in the calculation of the project's total eligible basis. The Housing

and Economic Recovery Act of 2008 increased the percentage of the CSF eligible basis with respect to which the Low-Income Housing Tax Credit may be claimed. No additional credit is awarded for the CSF because the eligible basis attributed to the CSF costs is included in the project's total eligible basis.

Housing Credit projects proposing a CSF must be located in a QCT. The eligible basis attributable to the CSF cannot exceed 25 percent of the project's total eligible basis (without any basis boost), and the total project development cost cannot exceed \$15 million. The costs associated with the CSF must be broken out on a separate Uses Statement within KHC's underwriting model and those costs will not be considered when ensuring a project is within KHC's cost containment limits. This provision is limited to buildings located in QCTs only.

## *HOME & AHTF Match*

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Owners must secure a minimum of 5 percent match for KHC HOME and AHTF funds.

For **AHTF funds**, any non-KHC financing source may be eligible, including, but not limited to:

- Private bank financing
- Donated materials, labor, or services
- Waived or reduced fees or taxes
- Gap financing from any non-KHC source
- Owner equity

***KHC funds, or funds administered by KHC, cannot be used to meet the match requirement.***

Eligible match sources for **HOME funds** must be permanent, non-federal contributions as follows:

- ***Cash contributions.*** Excludes proceeds from Housing Credits and any other owner equity.
- ***Donation/below-market sale of real property.*** To document the value of property donated or sold at below market value, it must be appraised by an independent, certified appraiser in conformance with established and generally recognized appraisal practices and procedures. If the property will not be donated but will be sold for below-market value, the match amount is the difference between the appraised value and the sale price of the property and must be documented with a copy of the appraisal and a copy of the purchase contract. A statement must be attached from the owner/seller stating that the property was donated or sold for below-market value as a contribution to affordable housing.
- ***Donated construction materials.*** The letter of commitment must include the method of calculating the value of donated materials and documentation of its actual cost.
- ***Volunteer labor.*** Valued at \$10 per hour unless classified as professional/skilled labor, such as electrical or plumbing, which may be valued at documented market rate. For projects proposing skilled labor, document the current market hourly rate and method of calculation. For projects proposing unskilled volunteer labor, attach a letter from the coordinating volunteer agency (church group, civic group, etc.) stating the commitment, including the number of hours, when volunteer labor will be performed and cost per hour. Note that there is a maximum of 3,500 hours per unit for volunteer labor and actual hours worked must be documented. Volunteer labor from the owner, or related parties of the owner, is not eligible.
- ***Waived fees and taxes.*** If a project participant (other than the developer/owner) or local jurisdiction agrees to waive or reduce a customary fee or tax associated with the project, the developer may secure a letter from the provider that identifies the customary amount of the fee or tax and the amount to be waived or reduced. If a local property valuation assessor (PVA) agrees to reduce the property taxes based on the restricted rents versus the market

value, the net present value of the tax reduction is match eligible. The PVA must provide a letter stating what the market rate taxes would be and what the reduced tax bill will be based on the restricted rents, along with a calculation of the net present value of the tax savings. The net present value of the difference between the tax rates may be counted as match.

### **Ineligible HOME Match Sources**

- Donations of equity, cash, real property, goods, materials, labor, services, fees, or any other contributions that originate from the **project owner, or any entity in which the owner (or any member of the ownership entity) has an identity of interest.**
- Contributions paid for or reimbursed by a federal source.
- Any expenses funded with CHDO proceeds are ineligible because CHDO proceeds are derived from HOME funds.

Refer to HUD CPD Notice 97-03 for more detailed information.

In unique circumstances, KHC may waive the match requirement if no eligible match can be secured and the developer can document their efforts to secure eligible match.

### *Subsidy Layering Review*

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A subsidy layering review (SLR) will be required on all projects that receive, either directly or indirectly, financial assistance from the U.S. Department of Agriculture Rural Development (RD) or the U.S. Department of Housing and Urban Development (HUD). KHC is required to follow guidelines established by RD and HUD with respect to the review of the financial assistance provided to the project.

The subsidy layering review will include a review of the amount of other governmental assistance, the amount of equity capital contributed to a project by investors, and a review of project costs including developer's fees, consultant fees, contractor's profit, syndication costs, etc. Please refer to the Compliance Checks tab of the underwriting model for additional subsidy layering requirements.

Projects combining new Project-Based Rental Assistance with other federal funding sources are required by HUD to complete a SLR. The public housing authority (PHA) that provides the rental assistance must complete the SLR; however, if a local PHA wishes to have KHC complete the SLR, the PHA must submit a written request to KHC, along with additional documentation as required by HUD. Projects subject to a HUD subsidy layering review **must meet all the HUD safe harbor limits** (as noted on the Compliance Checks tab of KHC's underwriting model), with no exceptions. Please note, the PHA is also responsible for ensuring that the applicable environmental review is completed before submitting the subsidy layering request to KHC. **The PHA must also provide to KHC a copy of HUD's approval to enter into the AHAP.**

### *Market Studies*

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KHC maintains an [Approved Market Analyst List](#) from which developers must select an appropriate firm or individual.

The market study/needs analysis will be reviewed to determine if a need exists in the proposed market area for the number of units and the unit configuration. This need must exist without adversely affecting other affordable housing in the same market area.

A market study/needs analysis is only valid for **six months** from the date of the study/analysis. All market studies must adhere to [KHC's market study requirements](#). Market analysts submitting a report that

materially fails to comply with KHC's requirements or is otherwise unacceptable may, at the sole discretion of KHC, be removed from the list.

If more than one project in a given jurisdiction is awarded Housing Credits and/or other KHC resources, KHC may require the lower scoring projects to update the project's market study to recognize and take into account the other projects funded in that jurisdiction and any impact on the market's need for the units proposed in their project. Updated market studies must be submitted to KHC within **60 days** of the preliminary award letter.

Applicants/developers will enter into a contract for services directly with the market analyst and, except for questions about KHC standards and/or requirements, the applicant/developer shall be responsible for handling all issues related to the market analysis. Applicants/developers contracting with market analysts for the benefit of KHC shall be responsible for negotiating the price of the contracted work. Although the applicant/developer is responsible for engaging the market analyst, the report shall identify KHC as the intended user to provide KHC a basis for investment and loan underwriting decisions.

The capture rate will be one method of determining market need, but will not be the only factor. Overall vacancy rates in the area will be considered, as well as the rent level being proposed and how it compares to market-achievable rents. The overall recommendation of the market analyst will also be considered. Typically, a capture rate of 30 percent or below is acceptable. If the capture rate is higher, there may be compensating factors that would make the project acceptable. These determinations will be made on a case-by-case basis.

The market study must provide the required information for the scoring categories applicable to the project and identify the supporting information as indicated in the scoring workbook. Portfolio transactions must submit a separate market study for each property.

## *Appraisals*

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Applicants must submit an appraisal from a KHC-approved appraiser when KHC's total loan amount (including due at maturity and forgivable loans) is \$250,000 or more. KHC may request an appraisal on any project utilizing KHC funds. Appraisals must identify KHC as the intended user and adhere to KHC's appraisal requirements, including recognition of the favorable financing value of any below-market subsidy financing. Appraisals ordered for another lender or from a non-KHC approved appraiser are not acceptable; however, the KHC appraisal may authorize another user of the KHC appraisal.

The acquisition cost on the underwriting model cannot exceed the appraised value of sites to be acquired. The appraised value of leased sites cannot be applied to the acquisition cost of purchased sites.

Housing Credit projects requesting acquisition credit must provide an appraisal with the "as-is" market value of the building to support the building basis, and a separate site value for the land. Appraisals for Housing Credit only projects (no KHC funds) do not need to meet KHC's appraisal requirements or be ordered from KHC's contract appraisers; however, KHC must still be named as an intended user.

If a second appraisal is obtained for another funder, KHC must receive a copy of the second appraisal for comparison. The developer will need to have large discrepancies addressed by both appraisers.

KHC's [appraisal requirements](#), and list of [KHC-approved appraisers](#), are available on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#).

## Cost Containment

KHC has adopted cost containment guidelines to evaluate the total development cost for all projects. The applicable cost containment limits must be entered in the underwriting model.

The total development cost must not exceed the applicable cost containment limit. For example:

- 11-unit elderly new construction, non-elevator project located in Franklin County
- 5 one-bedroom units and 6 two-bedroom units
- Total development cost of \$1,200,000

Cost containment limits: 1BR = \$157,805; 2BR = \$190,316

Therefore: Five 1-BR X \$157,805 = \$ 789,025  
 Six 2-BR X \$190,316 = \$1,141,896

Maximum cost containment limit: \$1,930,921

The total development cost of \$1,200,000 is below the cost containment limit of \$1,930,921.

**Note:** Costs associated with commercial space or a Community Service Facility in a Housing Credit project located in a Qualified Census Tract will not be considered in the cost containment calculation.

The cost containment limits are on KHC’s website, [www.kyhousing.org](http://www.kyhousing.org), under Development; Multifamily; [Underwriting Resources](#).

## Maximum Allowable Fees

All fees must be within the limits as shown below. Maximum allowable fees are based on total development cost. The fees are calculated as follows:

**General requirements equal:**

General requirements ÷ (Total Hard Cost - Construction Contingency)  
 Construction management fees are part of General Requirements and must be included with general requirements and cannot exceed the general requirement percentage.

**Builder’s overhead equals:**

Builder’s Overhead ÷ (Total Hard Cost - Construction Contingency)

**Builder’s profit equals:**

Builder’s Profit ÷ (Total Hard Cost - Construction Contingency)

Maximum allowable fees are based on the total development cost as shown below:

Total Development Cost	General Requirements	Builder’s Overhead	Builder’s Profit
\$250,000 and less	6%	7%	12%
\$251,000 - \$750,000	5%	6%	8%
\$751,000 and greater	6%	2%	6%

## Developer Fee

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The allowable developer fee for 9 percent Housing Credit projects and non-credit projects is based on the total number of units created or rehabilitated in the project. Developer fees must be the lesser of the total per unit amount listed below or **\$1,200,000**. Consulting fees are considered part of the developer fee.

	<b>New Construction</b>	<b>Rehabilitation</b>	<b>Adaptive Reuse/ Historic Rehabilitation</b>
First 15 units	\$20,000	\$20,000	\$23,500
Next 30 units	\$17,000	\$15,000	\$22,500
Next 30 units	\$12,000	\$12,000	\$18,500
Units above 75	\$7,000	\$7,000	\$8,000

### Developer Fee – Tax-Exempt Bond Projects

The developer fee on Tax-Exempt Bond projects may not exceed 20 percent of the total development cost **per property**, minus the following deductions:

- a. Developer fee
- b. Consultant fee
- c. Any fees resembling developer or consulting fees

**The developer fee may not be increased if project costs increase after submission of the full application to KHC; however, the developer fee will be reduced if project costs decrease.**

### Deferred Developer Fee

For the 2019-2020 program years, KHC is not requiring applicants to defer any developer fee to request KHC HOME, NHTF, or AHTF funds; however, KHC reserves the right to reinstate this policy in future funding rounds.

In Housing Credit projects, if the developer is deferring a portion of the developer fee to be paid from project income after it has been placed-in-service, the deferred portion must be able to be repaid within the first ten years of operation, **except for Tax-Exempt Bond transactions which may extend the repayment term to the full 15 years allowed by the IRS**. The pro forma of KHC's underwriting model will calculate the amount of deferred developer fee to be repaid each year from available project cash flow. Any amount not repaid at the end of the tenth year must be deducted from the project's eligible basis. KHC may consider, on a case-by-case basis, allowing 9% tax credit projects to extend the repayment period for deferred developer fee up to the maximum 15 years allowed by the IRS.

### Reserve for Replacement (R4R)

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All applicants are required to establish an R4R account. KHC will hold the account unless otherwise required by the equity provider or another lender in the project with a superior lien position. The R4R annual deposit shall increase at 3 percent annually or as prescribed by KHC.

KHC's minimum required R4R is the greater of \$400 per unit, per year, the amount required by the Physical Capital Needs Assessment (PCNA) or Capital Reserve Replacement Schedule (CRRS), as

required by an equity provider or another financing source. For projects requesting Housing Credit only, KHC may accept a lower minimum R4R amount if allowed by the equity provider and documented in the partnership agreement.

## Replacement Reserve Analysis

The CRRS projected account balance must, at a minimum, be positive at the beginning of the 15<sup>th</sup> year.

- New construction projects requesting HOME or NHTF must be positive at the start of year 20.
- Projects requesting Housing Credit only may be allowed a lower minimum R4R per unit amount as described above.
- Risk-Sharing projects will be evaluated on a case-by-case basis due to higher risk levels.

KHC may require owners to make an initial deposit to the R4R account as part of the upfront funding of the project as determined by the PCNA/CRRS. The underwriting model must reflect the upfront deposit.

All PCNA and CRRS studies must provide projections extending to, or beyond, the term of the KHC loan that is being requested. All projects must also include an electronic submission of KHC's Excel spreadsheet "Capital Reserve Replacement Schedule."

KHC may require owners to maintain two years' worth of deposits, require an owner to cover additional expenses from other sources, or require a new PCNA/CRRS and revise the R4R deposit schedule.

KHC will apply any unused R4R balance in accounts it holds to the KHC HOME, NHTF, and/or AHTF loan(s) principal amount(s). R4R accounts held by other entities (equity investor or superior lien holder) must be assigned to KHC when the holder no longer has a security interest in the project. Any balance in the R4R account must be remitted to KHC at the end of the 15-year compliance period.

All Housing Credit projects that also have KHC financing will be required to submit a subsequent PCNA in year 15 and the project may be required to adjust its capital reserve replacement schedule accordingly.

## Operating Deficit Reserve Account (ODR)

The purpose of the ODR is to ensure that adequate funds are on hand should operating costs exceed the project's ability to pay them. In addition to being a safeguard during the initial lease-up phase, the ODR is vital to ensuring the long-term financial stability of the project by increasing the project's ability to absorb or respond to temporary changes in circumstances, such as the unanticipated event of significant unbudgeted increases in operating expenses and/or losses in operating revenues.

KHC calculates the minimum ODR requirement as follows:

$$\begin{aligned} & \text{Six months of debt service payments} \\ & + \text{Six months of projected operating expenses} \\ & = \text{Minimum Operating Deficit Reserve Required} \end{aligned}$$

**Projects with KHC loan funds must fully fund the reserve account at the greater of KHC's amount or as required by another lender or equity provider no later than the first day of the month following the project's placed-in-service date.**

KHC may waive or modify the ODR requirement on a case-by-case basis.

KHC will hold the ODR escrow unless otherwise required by another lender. Such other lender must notify KHC prior to any disbursements from the ODR account.

**For ODR escrows held by KHC:** During the first two years, the ODR must maintain a minimum balance of 75 percent of the original amount. The owner must make deposits to maintain the required minimum balance as cash flow permits but not more than three months of the shortfall. The owner will make such deposits prior to any disbursements or other payments to any related party

The balance in the ODR may fall below the minimum required balance after the initial two years and will remain in place for the life of the loan, available for eligible disbursements, as needed.

If KHC is financing the ODR, the full amount must be drawn on the final draw. HOME and/or NHTF funds may not be used to fund an ODR.

The owner must submit requests for ODR disbursements to KHC on the appropriate form and include an itemization of the operating expenses and supporting documentation of the actual cost of each expense.

### *Acquisition and Rehabilitation of Commercial Space*

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No KHC funds may be used to assist with the acquisition or rehabilitation costs of commercial space. KHC funds may be used in conjunction with a project that includes acquisition and/or rehabilitation of commercial space by prorating the residential square footage to the commercial space square footage. Any project with commercial space must separate the commercial space costs from the residential costs within the KHC underwriting model. If there is to be commercial space within a project, the commercial space must be deeded separately as a condominium regime.

### *Income Averaging*

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Income averaging is a new minimum set-aside election under Section 42 of the Internal Revenue Code as authorized by the Consolidated Appropriations Act of 2018. Instead of electing the 20/50 or 40/60 minimum set-aside, an owner may instead elect an income averaging set-aside, which allows a property to serve households up to 80% AMI, as long as at least 40% of the total units are rent and income restricted **and** the average income limit for all tax credit units in the project is at or below 60% AMI.

- Only properties funded under the 2019-2020 QAP or later are eligible to elect the income averaging set-aside.
- Properties with project-based rental Housing Assistance Payments (HAP) contracts may only elect the income averaging option if the original contract was executed prior to 1981. Properties with HAP contracts executed after 1981 do not have the option to serve incomes above 60% AMI.
- The minimum set-aside election is irrevocable once made on Form 8609. Therefore, existing developments already placed in service with a recorded LIHTC extended use agreement are not eligible to change their minimum set-aside/income election to income averaging.
- Income averaging is only permitted if all residential units are designated low-income; the project may not contain unrestricted or market rate residential units. Manager units are not subject to this restriction and are permitted in income averaging developments.
- All of the units must be affordable to and occupied by persons earning 80% AMI or less. At least 50% of all units must be affordable to and occupied by persons earning 60% AMI or less.
- The average of the imputed income limitations designated cannot exceed 60% AMI.

- Designated income/rent levels may only be set at 10% increments beginning at 20% of AMI. The allowable income/rent designation levels are 20%, 30%, 40%, 50%, 60%, 70%, or 80% of AMI. KHC will not allow more than four of the possible AMI designations to be selected per property.
- The market study must demonstrate sufficient market demand for each income bracket proposed.
- Any clear skewing of unit designations is not allowed. Applicants must provide reasonable parity between different bedroom sizes at each targeted income band utilized on the property.
- All units must be designated with a specific AMI percentage at the time of application.
- Other than as may be limited by future federal guidance or other funding source restrictions, owners may change unit percent designations over time (“float”). However, the rent for tenant households may not increase due to the unit being changed to a higher increment.
- Owners of developments with more than one building will indicate on the Forms 8609 to treat all of them as part of a multiple building project (checking “Yes” on line 8b of the current form).
- Tax-Exempt Bond projects must still meet a 20/50 or 40/60 minimum set-aside; however, for purposes of the 4% credit allocation, the project can elect to do income averaging. Therefore, a bond project with 4% credits can elect an income averaging set-aside for purposes of tax credit compliance, as long as the unit mix selected would also meet either a 20/50 or 40/60 minimum set-aside test for purposes of bond compliance.

## CHAPTER 12: Program Policies

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The following policies (or policy excerpts) apply to all projects, unless otherwise noted.

### *Relocation of Displaced Persons (Permanent or Temporary)*

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#### Requirements for Projects Receiving Federal Assistance From KHC

All federally-assisted (HOME, NHTF, Risk-Sharing, and/or new Project-Based Vouchers) projects are subject to the requirements of the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** (49 CFR, Part 24 and 42 U.S.C. 4201-4655). KHC requires certain documentation to ensure compliance. Owners of projects with current tenants (regardless of whether or not the tenants will be relocated) must submit a relocation plan and provide documentation that the appropriate notices were provided to the tenants.

Detailed information on complying with the relocation and acquisition requirements can be found on the HUD Real Estate Acquisition Web page at <https://www.hud.gov/relocation>.

#### Requirements for Projects Receiving Non-Federal Assistance from KHC or Housing-Credit Only

Owners of projects financed with non-federal KHC resources (AHTF or SMAL) or receiving Housing Credits only must pay to all persons displaced by the project reasonable relocation expenses as defined by the U.S. Federal Highway Administration's Uniform Relocation Assistance and Real Property Acquisition Policies Act [Fixed Residential Moving Cost Schedule](#), plus a one-time payment of \$300 per unit. Owners are not required to pay additional benefits to persons eligible for federal relocation benefits. Owners of projects with current tenants (regardless of whether or not the tenants will be relocated) must submit a relocation plan.

### *Funding Gaps/Substantial Change*

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KHC will consider increasing its loan funds by up to 10 percent for a funding gap (in excess of the developer fee and construction contingency) due to increases in **hard costs** identified after application approval and prior to closing and the start of construction. Owners must submit the following information:

1. Updated underwriting model
2. Justification for the gap

KHC may consider awarding additional loan funds for gaps identified during construction upon receipt of the following information:

1. Updated underwriting model
2. Justification for the gap
3. Evidence that all other funding opportunities have been exhausted.

A gap of more than 10 percent of KHC's investment (exclusive of Housing Credits) or the number of units changing by 10 percent or more is a **substantial change**. In this case, the owner must either locate other funding or forfeit the reservation.

**Note:** Any time a funding gap is identified, whether before or during construction, developer fee and/or construction contingency must be used to cover all funding shortfalls before additional funds are requested. **KHC will not consider requests for funding gaps due to increases in soft costs.**

## *Identity of Interest*

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An identity of interest relationship exists if any officer, director, board member, or authorized agent of any development team member (developer, consultant, general contractor, architect, attorney, management agent, nonprofit agency, seller of the project real estate, etc.):

1. is also an officer, director, board member, or authorized agent of any other development team member;
2. has any financial interest in any other development team member's firm or corporation;
3. is a business partner of an officer, director, board member, or authorized agent of any other development team member;
4. has a family relationship through blood, marriage or adoption with an officer, director, board member, or authorized agent of any other development team member or company providing services to the project; or
5. advances any funds or items of value to the sponsor/borrower.

**All applications must specifically disclose any identities of interest. Failure to do so will result in disciplinary action per KHC's [suspension and debarment policy](#).**

## *Conflict of Interest*

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A conflict of interest exists in situations in which a public official or fiduciary who, contrary to the obligation and absolute duty to act for the benefit of the public or a designated individual, exploits the relationship for personal benefit.

The appearance of a conflict of interest is present if there is a potential for the personal interests of an individual to clash with fiduciary duties. KHC will not allow individuals or businesses to participate in or provide a service to the project that have a conflict of interest in the project.

## *Suspension and Debarment*

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Any parties found to be in consistent noncompliance with program guidelines or that demonstrate flagrant or serious incident(s) of misuse of funds will not be allowed to participate in KHC programs.

Any person or agency that, except for good cause shown, shall have committed, or failed to perform (as the context may require) an act or omission identified in KHC's Suspension and Debarment Policy, may be subject to suspension and/or debarment by KHC and prohibited from doing further business with or entering into any contractual relationship with KHC. The [Suspension and Debarment Policy](#) is published on KHC's website at [www.kyhousing.org](http://www.kyhousing.org).

## *Financial Statements*

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KHC may require any project for which it holds a mortgage, regardless of lien position, to submit financial statements annually. The financial statement requirements will be detailed in the legal agreements. Generally, the minimum requirement is a compilation prepared by an independent CPA. The audited financial statements for Risk-Sharing loans are to be submitted to KHC within 90 days of the project's

fiscal year end. All other projects are required to submit financial statements within 120 days of the project's fiscal year end. KHC may impose a late fee if the audit and/or financials are not submitted on a timely basis.

## *Annual Performance Reports*

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Owners of projects receiving any type of funding through KHC's Multifamily Programs Department must submit annual performance report information through the online Tenant Data Collection System, which requires reporting the project's basic income and expense totals for the previous year.

## *Compliance Requirements*

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*(All funding sources – refer to individual program requirements for additional compliance requirements)*

All KHC-assisted projects are required to meet compliance requirements throughout the affordability period. KHC will conduct compliance reviews and will inspect all projects at least every three years. These reviews shall consist of rent restrictions, income restrictions, property conditions, and pledges made in the original application, extended use agreement (if applicable), the HOME and/or NHTF funding agreement (if applicable), and the commitment letter.

KHC will notify the entity, in advance, when inspections will be scheduled. The entity or management agent should adhere to the following to eliminate any possibilities of non-compliance:

- Tenants must be given at least 30 days written notice before increases are implemented. Any increases are also subject to other provisions of the lease agreements. For example, rents may not increase until the tenant's lease expires. Documentation of increases must be kept in the tenant's file.
- Owners/Management companies must include the following in the tenant files.
  - ✓ **Rental Application:** The rental application or income survey form used to gather information about household income, composition, and student status.
  - ✓ **Evidence of household eligibility:** Such documentation may vary depending upon the funding source(s) in the project.
  - ✓ **Lease:** The lease must be included, documenting the rent amount and signed by both parties.
  - ✓ **Set-aside documentation:** Evidence to support set-aside selection, as pledged in the project's application and extended low-income housing commitment.
  - ✓ **Income calculation:** Include formula used to calculate income.
- KHC reserves the right to inspect each development for compliance with HQS throughout the term of the loan and Labor Uniform Physical Condition Standards.
- Any development using several sources of financing may have additional compliance requirements. Please refer to program specifics for additional compliance requirements.

## *Uniform Residential Landlord Tenant Act*

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The Uniform Residential Landlord Tenant Act (URLTA) was enacted by the Kentucky legislature in 1984 to encourage property owners and tenants to maintain and improve the quality of rental housing and to make uniform residential agreements between property owners and tenants. URLTA is codified at KRS 383.505-.715 and provides for protection of both the property owner and the tenant, as well as corresponding rights and duties of each party.

KHC requires developers who receive funding or Housing Credits to adhere to the requirements of URLTA. Specialized or supportive housing projects will be exempt from this requirement as URLTA does not apply to housing incidental to the “provision of medical, geriatric, educational counseling, religious or similar service.” KRS 383.535(1).

The landlord’s duties are to place any security deposits in a separate account in a regulated financial institution, adhere to building codes affecting health and safety, make required repairs to keep premises fit and habitable, keep the building systems and common areas safe and in good condition, and supply running water at all times and reasonable heat throughout the cold months of the year.

The landlord’s rights are to terminate the lease after 14 days written notice, to collect for damages, to evict from the unit, to enter the rental unit, and a right to know when the tenant will be absent for more than seven days.

Similar to the property owner, the tenant is required to adhere to building codes affecting health and safety and to keep the premises as clean and safe as practical. In addition, tenants are required to: dispose of waste safely, use electrical and all other appliances in a reasonable manner, not deliberately or negligently damage the unit or premises, conduct themselves in a way not to disturb neighbors, and not engage in unlawful activities within the premises.

The tenant has the right to move in once the lease has been signed, to terminate the lease if the landlord fails to comply with its provisions or the URLTA, to deduct from the rent when the landlord fails to comply with the lease or URLTA in a manner which impacts the tenant’s health or safety, have essential services, and to oppose the landlord’s retaliation for complaining about the condition of the unit.

**The lease agreement must include the KHC HOME/National Housing Trust Fund Lease Addendum (for HOME or NHTF projects) or the KHC Lease Addendum (for all other projects), which incorporates the provisions of URLTA into the lease.**

The tenant selection plan must include the following language:

**Uniform Residential Landlord Tenant Act:**

The Kentucky Uniform Residential Landlord Tenant Act (“URLTA”) both preserves the quality of the housing stock and provides for rights for renters across Kentucky. [Management Company] and its tenants comply with URLTA. Tenants and Management are required to comply with provisions of URLTA.

## *Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking*

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The Violence Against Women Act (VAWA) was enacted by Congress to provide protections to victims of domestic violence, dating violence, sexual assault, or stalking. These protections include housing protections for tenants in projects receiving funds under the HOME, NHTF, and LIHTC programs.

KHC requires developers who receive funding or Housing Credits to adhere to the requirements of VAWA. The majority of the protections for victims are incorporated into the KHC HOME/Housing Trust Fund Lease Addendum (for HOME or NHTF Projects) or the KHC Lease Addendum (for all other projects), which must be attached to every lease. Developers and management companies are responsible for creating and implementing policies to ensure that they are capable of meeting the requirements of these lease addendum provisions.

In addition, developers must take the following actions to ensure tenants are protected:

### **Notification Requirements**

Developers and management companies must provide to each applicant and tenant the following forms:

1. "Notice of Occupancy Rights under the Violence Against Women Act" form; and
2. Certification form to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault, or stalking that:
  - (i) states that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;
  - (ii) states that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under this subpart meets the applicable definitions for such incident (which may be found at 24 CFR 5.2003); and (iii) includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.

The notice and forms required under this section must be provided to the applicant and tenant any time an application is denied, any time an application is accepted, or a tenant begins receiving assistance, and must be included with any notification of eviction or notification of termination of assistance.

### **Emergency Transfer Plan**

Developers and management companies must develop and submit an Emergency Transfer Plan that provides tenants who are victims of domestic violence, dating violence, sexual assault, or stalking the ability to request an emergency transfer to another unit. Such Emergency Transfer Plan must comply with the requirements of 24 CFR 5.2005(e). Developers and management companies are required to submit their Emergency Transfer Plans to KHC during the technical submission stage.

Template forms required by this section, including a model Emergency Transfer Plan, are available on HUD's website at [https://www.hud.gov/program\\_offices/housing/mfh/violence\\_against\\_women\\_act](https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act).

## CHAPTER 13: Design and Construction Review

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### *Preliminary Plans – Minimum Requirements*

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Developers must provide preliminary building plans at application submission via the UFA system. Following are the minimum requirements:

#### **Building Floor Plan**

- Drawings should be at 1/8" or 1/4" scale depending upon development type.
- Provide overall exterior building dimensions and show the different unit types that exist in each building.
- Show all adjacent walks, stoops, and/or patios.
- Show location of all party and firewalls.
- Wall thickness, exterior finishes, doors, windows, cabinets, plumbing fixtures, closets, etc.
- Complete dimension of each typical unit so room sizes can be determined.

#### **Wall Detail**

- Foundation-to-roof wall detail showing [REScheck](#) values must be included.

#### **Elevations**

Elevations must show all four sides of the building(s) and include the following:

- Exterior wall finishes.
- Window and door openings.
- Roof material and slope of roofs.
- Eave, rake, and fascia conditions to include gutters and downspouts.

*Applicants may submit photographs clearly showing elevations for all sides of the buildings in lieu of elevation drawings. **The minimum acceptable photograph size is 5-inch by 7-inch.** However, elevation drawings **will** be required during the Technical Submission Stage.*

### *Final Plans – Minimum Requirements*

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Developers must provide final building plans at technical submission via the UFA system. Following are the minimum requirements:

#### **Minimum final plan information and requirements:**

- Building floor plans must be 1/8" = 1' scale.
- Individual unit plans must be at 1/4" = 1' scale.
- Completed in accordance with the highest architectural and engineering professional standards.
- Submitted to the appropriate building code officials for their review.
- Comments received during the application stage must be incorporated in the final plans.
- Final comments shall be incorporated into the final drawings or amended by an addendum.
- Meet all applicable accessibility requirements (UFAS, Fair Housing, ANSI A117.1, 2010 ADA or KHC Universal Design, one or more as applicable).

- Address the issues identified in the PCNA (if applicable, for rehabilitation projects).
- **Projects with 12 or more units must have plans prepared by a licensed design professional and dated and sealed with the architect's and engineer's stamp and signature.**

**For projects containing 12 units or more**

The construction plans must contain:

- Site plan
- Earthwork plans
- Landscaping plans
- Floor plans
- Enlarged floor plans
- Foundation plans
- Elevations
- Building sections or wall sections
- Enlarged bathroom and kitchen plans
- Door, window, and room schedules
- Structural drawings (if applicable)
- Mechanical and electrical plans

**For projects with 11 units or less**

The construction plans must contain:

- Site plan
- Earthwork plans
- Floor plans
- Enlarged floor plans
- Elevations
- Building or wall sections
- Mechanical drawings
- Electrical drawings

For technical submission purposes, KHC will accept verification that the plans have been sent to the appropriate building code officials for review. KHC will not complete its final review until final verification of modifications or changes are received from the building code officials.

Corrections to the final plans being done by an addendum must be submitted for review and should contain all necessary corrections.

During the technical submission stage, KHC will review all final plans and developers must make all necessary modifications or corrections. KHC must approve all changes and modifications prior to KHC's commitment and final underwriting.

**All pages must be included in order, under one single attachment.**

**Earthwork Plans**

*(Required for projects of 12 units or more)*

Information requirements for earthwork and grading plans:

- Grading contours existing and new at 2-foot intervals, unless the grade is too steep and it is not feasible.
- Storm drainage piping with manholes, headwalls, and retention areas, or any other miscellaneous structures. Should show top of structure elevation as well as invert elevation.
- Show slopes greater than 3:1 with ground cover.

- Show location of soil boring test, if they apply.
- All finish grade work at buildings shall be a minimum of 8 inches below finish floor elevation and slope away from the building a minimum of 6 inches over a 10-foot run.
- If retaining walls are required, they should be shown and provide a top of wall spot elevation and adjacent grade elevation.
- Walls, curb cuts, access ramps, dumpster pads, etc., must be shown on plans.

### **Site Utility Plan**

*(Required for all projects, except for projects of 11 units or less if the information below is included with the site survey)*

- All existing utilities with size of piping shown.
- New water lines with size indicated and point of connection to the existing water line shown.
- Fire protection lines, vaults, and fire hydrants shown.
- Sewer and gas lines with the size indicated and manholes marked shown. Provide top elevations with invert elevations and direction of flow.
- Overhead or underground electrical service along with telephone and TV cable shown.
- All utility easements and their width must be indicated. Provide utility details, as required, to demonstrate all structures and/or improvements.

### **Existing Utilities**

*(Required for all projects)*

The cost of all connection fees, tap fees, and/or relocation cost, if any, should be included in the development cost.

If off-site utilities are being brought to the site by local municipalities, a letter must be provided including the date the work will begin and be completed, and the anticipated cost. Proof that the work will be paid for by local municipalities must be submitted. If the developer is extending the utilities to the site, they must have the utility extension completed before KHC funds can be accessed or the funds must be placed in escrow to assure completion of the utility extension.

### **Landscaping Plan**

*(Required for 12 units or more)*

All projects should have an adequate number of shrubs, trees, and plantings. The landscaping plan must:

- Provide planting details and show mulch areas.
- Provide trees and shrubs and a legend that gives their size.
- Show areas that need to be seeded or will receive sod.

### **Foundation Plans**

*(Required for 12 units or more)*

- Indicate all footings and the foundation wall as it sits on the footings.
- Provide dimensions to indicate lengths, widths, and the thickness of each type of foundation.
- Indicate footing sizes, wall materials, and wall thickness.

- Indicate the steel reinforcing and grout.
- Show areas that are concrete slab on grade and areas that are located over crawl spaces.
- Provide details that indicate the slab and all associated materials, such as poly vapor barrier, stone base, wire mesh, construction joints, control joints, and expansion joints.

### **Floor Plans**

*(Required for **all** projects)*

Floor plans should include the following, at a minimum:

- The entire building drawn at no less than 1/8-inch scale. Provide a plan for each different building type.
- Indication of all exterior and interior walls and the thickness of the walls.
- All rooms labeled to indicate their use.
- Dimensions applied to drawings to indicate room size. Indicate on the plans if dimensions are to face of stud, center of stud, or to finish face.
- All window and door openings with door swings and a reference to a door and window schedule.
- Exterior wall finishes and section and plan details for each type of wall construction.
- Kitchen cabinets, plumbing fixtures, and bathroom accessories. Larger scale plans may be required to properly indicate these.
- Closet shelving, ceiling access, exterior walkways, porches, etc.
- The complete project even if it is made up of more than one unit and are identical units.
- If a project is a rehabilitation, the existing items that will remain and those that will be demolished.

### **Enlarged Floor Plans**

*(Required for **all** projects)*

Enlarged floor plans at a minimum should indicate the following.

- All dimensions to include those that cannot be shown on the 1/8-inch scale building plan.
- Exterior dimensions and all wall thickness.
- All wall types and describe each type.
- Location of firewalls and party separations walls.
- Walls receiving insulation and the type of insulation.
- Location and sizes of all access panels.
- All doors and windows with their designation as to type.
- Transition line between different floor finishes.
- Where ceilings and soffits are dropped.
- Closet shelving and type.
- Kitchen cabinets, vanities, and toilet fixtures.
- Room description or room number.

## **Elevations**

*(Required for all projects)*

- Elevations required for all sides of the buildings.
- Exterior wall finishes.
- Window and door openings.
- Roof material and the slope of the roof.
- Eave, rake, and fascia conditions to include gutters and downspouts.
- Balconies, breezeways, railings, and exterior steps.

## **Building and Wall Sections**

*(Required for all projects)*

- Construction of exterior walls with footers, floor-to-wall details, and ceiling-to-wall conditions.
- Footing details complete with notes and dimensions.
- Exterior grade to finish floor relationship.
- Floor construction and height to second floor or ceiling structure above.
- Wall structure, thickness, and type of interior and exterior finishes.
- Wall and floor insulation and give R-values.
- Show eave or overhang of roof to wall with materials and heights noted.
- Roof structure and materials with notes and dimensions.

## **Enlarged bathroom and kitchen plans and elevations**

*(Required for 12 units or more)*

- Kitchen cabinets and elevations.
- Bathroom layout with all equipment and bathroom accessories.
- Mounting heights of all bathroom accessories.
- Show location of wood blocking in walls for attachment of accessories.
- Show turning radius and clearances required by the applicable codes in accessible units.

## **Door, window, and room schedules**

*(Required for 12 units or more)*

- Provide room schedule with room designation or number. Indicate floor finish description, base finish, wall finish, ceiling finish, and notes for special finishes.
- Provide door schedule. Indicate door size, thickness, material, and fire rating, if applicable. Provide elevation of each door type.
- Door hardware schedule. Indicate hinges, lock sets, closures, panic push bars, kick plates, and weather stripping.
- Provide window schedule. Indicate window size, type, operation, and glazing. Provide elevations of each type.
- Show all details for windows, doors, and finishes, as necessary.

- Provide windows in bedroom and living rooms that meet egress and emergency escape requirements in the Kentucky Building Code and/or Kentucky Residential Code, and HQS.

### **Plumbing Drawings**

*(Required for **all** project types)*

Exception: For **projects of 11 units or less**, a plumbing contractor licensed in Kentucky may prepare schematic drawings.

- Drawings shall show plumbing supply lines and indicate size of pipe.
- Plumbing waste line and indicate size of pipe and direction of flow.
- Legends shall be drawings indicating all plumbing fixture type and manufacturer model numbers.
- Show riser diagrams for all piping to indicate size and direction of flow.

### **Mechanical Drawings HVAC**

*(Required for **all** project types - exception: for **projects of 11 units or less**, a mechanical contractor licensed in Kentucky may prepare schematic drawings)*

- Provide legends that have equipment sizes, model numbers, and manufacturers' names.
- Show all mechanical supply and return ducts along with equipment. Indicate duct construction, sizes, design capacity, insulation, location of fire and/or smoke dampers (if required), and smoke detectors, (if required).
- Miscellaneous details as necessary.

### **Electrical**

*(Required for **all** project types - exception: for **projects of 11 units or less**, an electrical contractor licensed in Kentucky may prepare schematic drawings)*

- Show locations of all electrical outlets, switches, and circuits for all areas.
- Show location of light fixtures, panel boxes, and switch gear.
- Provide GFI circuits and outlets where required.
- Provide arc-fault protection where required.
- Show exterior lighting if applicable and emergency lighting.
- Provide a legend that describes light fixtures, circuit breakers, and other miscellaneous items.

### **Structural Drawings**

*(Required for 12 units or more, only when larger scale developments may be required to include structural drawings)*

- Floor framing plans, complete with details and sections, fully describing the structural system of the floor.
- Roof and/or ceiling framing systems with details that clearly indicates all details and conditions.
- Foundation systems with associated details for all conditions that exist.
- Miscellaneous details that cover all aspects of the structural system that are involved.

*Site Plans*

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- Preferred scale: 1 inch equals 20 feet. Can be no smaller than 1 inch equals 40 feet. Property lines with metes and bounds.
- Buildings should be drawn on the site plan regardless of new construction or rehabilitation. Any other remaining structures should also be indicated.
- All exterior items, such as parking, street walks, curbs, dumpster pads with enclosures, playgrounds, community rooms, and fences should be noted.
- All dimensions, setbacks, easements, and rights-of-way should be shown, with an indicator for North.
- A site detail must be shown on the plan or on a separate site detail sheet. Details should describe the type of walks, curbs, handicapped parking, etc.

*Final Specifications*

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Final specifications are required for all projects, except rehabilitation projects of 11 units or less may submit a work write-up in lieu of specifications. During the technical submission stage, KHC’s Design and Construction staff will review the final specifications in conjunction with the final plans. If changes occur during the review of the final plans that may cause a change in the specifications, the developer will be notified of any additional changes or corrections that need to be made.

If corrections to specifications are being done by an addendum, they must be submitted for review and should contain all corrections that are necessary.

All specifications shall be written following the standard Construction Specifications Institute (CSI) master format using standard AIA documents. The architect must write the specifications in accordance to accepted standards, rules, and regulations, and include specific products by model number and manufacturer (without limiting the contractor to one or two manufacturers).

KHC must approve all changes and modifications prior to commitment and final underwriting. Any previous review comments during the application stage shall be corrected and incorporated into the final specifications. Final specifications must address the issues identified in the Physical/Capital Needs Assessment if applicable for rehabilitation projects, and include all documents that pertain to the construction contract.

The specifications must include the following **23 divisions**:

- |  |                                   |
|--|-----------------------------------|
| Division 01: General Requirements          | Division 13: Special Construction |
| Division 02: Existing Conditions           | Division 14: Conveying Equipment  |
| Division 03: Concrete                      | Division 21: Fire Suppression     |
| Division 04: Masonry                       | Division 22: Plumbing             |
| Division 05: Metals                        | Division 23: HVAC                 |
| Division 06: Carpentry                     | Division 26: Electrical           |
| Division 07: Thermal & Moisture Protection | Division 27: Communications       |

Division 08: Door & Windows

Division 09: Finishes

Division 10: Specialties

Division 11: Equipment

Division 12: Furnishings

Division 28: Electronic Safety & Security

Division 31: Earthwork

Division 32: Exterior Improvements

Division 33: Utilities

The architect must clearly define the following in each section:

- Scope of work
- Products and/or materials
- Quality assurance, testing and quality control
- Execution and/or installation
- Submittals and samples
- Warranties and/or guaranties

The specifications must describe the means and methods to accomplish the work during inclement weather conditions and include the following:

- Project description
- Bidder instructions, if applicable
- Wage scale and Davis-Bacon requirements, if applicable
- Copy of the general contractor's agreement
- General and supplemental conditions

Manufacturer's specifications are required for the following items:

- Heating and cooling products, including programmable thermostats
- Windows
- Clothes washers, dishwashers, refrigerators, and range hoods
- Ceiling fans, light fixtures, and ventilation fans
- Water heaters

## *Work Write-Up Requirements*

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At a minimum, the work write-up must provide lists for:

- New items and materials to be installed in each room of every unit during construction.
- Items to remain, describing any repairs or renovation work to be performed in each room of every unit.
- Items to be salvaged from each room of every unit for re-use in the project.
- Items to be removed and disposed of from each room of every unit and the method of disposition.
- All exterior work to be performed and materials to be used on each building.
- All exterior work to be performed and materials to be used in all outdoor common areas.

If commercial space is involved, all costs associated with its rehabilitation should be itemized separately. Any work required for both commercial and rental shall be prorated on a square-foot basis. For example, if a new roof is installed on a three-story building, where the first floor is commercial and the second and third floors are rental, and all three floors have the same square footage, then 1/3 of the roof cost should be attributed to the commercial space. If the square footage were different, it should be done on a percentage of the total amount.

### **Final Work Write-Up Description**

During the technical submission stage, KHC will review all final plans and developers must make all necessary modifications or corrections. KHC must approve all changes and modifications prior to KHC's commitment and final underwriting.

For rehabilitation projects of 11 units or less, in lieu of specifications, during the technical submission stage KHC will review the final work write-up in conjunction with the final plans and developers must make all necessary modifications or corrections. If changes occur during the review of the final plans that may cause a change in the work write-up, the applicant will be notified of any additional changes or corrections that need to be made.

## *Universal Design*

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Universal design is required for all projects receiving KHC financing equal to 50 percent or more of the total project cost and all Housing Credit projects, for the **purpose of constructing or reconstructing single-family or multifamily housing**, except for rehabilitation projects.

Universal design is a building concept that incorporates products, general design layouts, and characteristics into residences to:

- Make the residence usable by the greatest number of people.
- Respond to the changing needs of the resident.
- Improve marketability of the residence.

The goal of universal design is to build housing that meets the needs of the greatest portion of a community's population. It differs from accessible design, which is primarily intended to meet the needs of persons with disabilities, but is inclusive of adaptable design as it strives to incorporate structural features that will allow a residence to be adapted to an individual's needs. The Universal Design standards can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development, Design and Construction.

## *Minimum Design Standards*

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Minimum Design Standards apply to new construction, adaptive reuse and reconstruction of all KHC-assisted multifamily projects when funding from KHC is 10 percent or more of the cost per unit based on total development cost.

KHC's Minimum Design Standards are to be used as a guideline to meet and exceed all local, state, and national codes. These standards also provide a way to enforce above average construction and design for builders, contractors, and design professionals who wish to utilize KHC funding. Other methods of construction and design may be acceptable on a case-by-case basis. KHC's Minimum Design Standards can be found on KHC's website, [www.kyhousing.org](http://www.kyhousing.org), under Development, Design and Construction.

## *Federal and State Accessibility Requirements - Section 504*

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**New Construction of Housing Facilities:** If a project is requesting HOME, NHTF, Risk-Sharing, or Project-Based Section 8 (when available), and has **five or more units** under one contract/deed, then 5 percent of the total units or more **must** be accessible to persons with mobility impairments **and** 2 percent of the units (minimum of one unit) **must** be accessible to persons with visual and/or hearing impairments. These accessible units must comply with [Universal Federal Accessibility Standards](#) at 24 CFR 8.22.

**Alterations of Existing Housing Facilities:** If a project is requesting HOME, NHTF, Project-Based Section 8, or Risk-Sharing, has **15 or more units**, and the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, then 5 percent of the total units or one unit must be accessible to persons with mobility impairments **and** 2 percent of the units or one unit must be accessible to persons with visual or hearing impairments.

## *Fair Housing Design Requirements*

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Fair Housing design requirements apply to new construction and all rehabilitation units occupied after March 13, 1991. Developments must comply with all requirements of the Fair Housing Accessibility Requirements of the Fair Housing Act. For more information about Fair Housing Accessibility, visit the Fair Housing First website at [www.fairhousingfirst.org](http://www.fairhousingfirst.org).

## *Kentucky Building Code*

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Any application for new construction, substantial rehabilitation/alterations to existing structures, or change in occupancy must meet all applicable accessibility requirements of the Kentucky Building Codes.

## *Physical/Capital Needs Assessment (PCNA) Requirements*

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A PCNA is a written report performed by a qualified inspector for the rehabilitation of an existing structure into housing units. The PCNA defines the necessary repairs required to provide safe, quality, and affordable housing. PCNAs are valid for six months; beyond that, KHC requires a signed and dated certification from the licensed professional who compiled the original document attesting to its current accuracy and applicability.

All rehabilitation projects of **12 or more units and** total KHC funding of \$250,000 or more must submit a PCNA as an attachment to the application. **All applications requesting Housing Credit for rehabilitation and adaptive reuse must submit a PCNA, regardless of project size.**

A complete and thorough inspection shall be conducted to all existing structural components, appliances, mechanical, and electrical systems to determine the life expectancy, needed repairs, and/or replacement. The needs assessment inspector and appraiser shall work closely together to ensure consistency concerning areas of square footage, number of buildings, and bedrooms.

### ***Physical/Capital Needs Inspector Qualifications:***

- All inspectors and/or firms must be insured as directed by KHC.
- Inspectors must be experienced and possess sufficient background inspecting multifamily residential housing.
- Inspectors shall be licensed architects and/or engineers qualified to complete the assessment. The inspector may also consult with structural, mechanical, or electrical engineers to provide

expert opinions as to the existing condition of a particular item. Outside consultants employed shall also meet all the requirements as set forth for an inspector including insurance.

- All PCNAs must be conducted by independent third parties, defined as completely separate entities, having no other affiliation with the project, and that will not provide any other services for the project. An architect or engineer preparing construction-related documents for the project is not considered an independent third party.

***Physical/Capital Needs Report Requirements:***

*(These specific items must be addressed in each report)*

- The report shall describe, in detail, all rehabilitation work required including all respective related additional work. Separate estimates for both must be provided.
- A minimum of 25 percent of all units and at least one of each type must be inspected prior to preparation of the report.
- A cost estimate of all the repairs and/or replacements must be included.
- All reports should indicate the items and areas in need of immediate repair. A separate analysis should be completed on all components that will need repair or replacement within the next five years.
- Provide a report on all existing conditions or items in violation of applicable building codes, federal and/or state accessibility standards, and/or local ordinances. Corrective measures required to bring all items into compliance must be thoroughly detailed.
- Any visible evidence of hazardous substances, including but not limited to: asbestos containing material, lead-based paint, petroleum bulk storage, polychlorinated biphenyls, and chlorofluorocarbons, must be noted.
- Cost estimates for any items requiring action due to market demand. These will be provided to the inspector by the appraiser or KHC.
- Deferred maintenance not performed on a normal operating basis, including estimates of corrective costs.
- Any repairs needed to nonresidential buildings such as community buildings, management offices, garages, etc.
- Inspectors shall propose a total price to the applicant that will include all costs, including but not limited to: travel, clerical, inspection services, attending meetings at KHC (if applicable), etc.
- In preparing the report, the inspector may choose to utilize the Inspection Form HUD-52580-A. While not required, additional information may also need to be recorded on separate sheets and attached.
- Any corrections required by KHC must be addressed in the report.
- All reports must include an electronic version of KHC's Excel spreadsheet "Capital Reserve Replacement Schedule" as an integrated part of the report or as an addendum.

All reports must be prepared in compliance with all applicable federal and state laws and regulations. KHC requires a projection extending to or beyond the term of KHC's loan, or a 20-year term PCNA if the project is only requesting Housing Credits. KHC will also require a subsequent PCNA in year 15 and

require the project to adjust the capital reserve replacement schedule accordingly for all projects obtaining KHC Risk-Sharing, HOME, NHTF, or AHTF gap financing from KHC.

Adaptive reuse projects in which a complete interior demolition is proposed need only provide a physical/capital needs assessment, which addresses electrical and mechanical systems, building exterior, foundation, window, roof and all remaining structural components.

## *Pre-Construction Conference*

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A pre-construction conference is required on **all projects**. The final review of the technical submission documents and underwriting should be completed prior to the pre-construction conference being scheduled. **The developer is responsible to contact the appropriate KHC construction specialist to schedule the pre-construction conference no later than two weeks before the requested meeting date.** The assigned KHC project specialist must also be copied on the request for the meeting to determine if the project is ready for the pre-construction conference.

The purpose of the pre-construction conference is to outline the basic responsibilities and duties of the various parties throughout the construction and warranty periods. The conference will be conducted by KHC's construction specialist in conjunction with the program specialist assigned to the project.

For developers who have not previously used KHC resources to construct or rehabilitate a rental project, a full pre-construction conference will be required; however, for developers experienced with KHC's multifamily programs, a more limited pre-construction conference may be conducted. The decision to hold a full or limited pre-construction conference will be at the discretion of KHC's construction specialist and project specialist. Dependent on the type of project and the developer's experience with KHC, the pre-construction conference will occur either at KHC's offices or at the project site. At the conclusion of the meeting, the KHC Pre-Construction Conference Form will be signed by the developer, contractor, and KHC construction specialist.

The developer/applicant, contractor, site superintendent, and architect (if applicable) should attend. The following topics will be discussed:

- Construction inspection schedule
- Final cost estimate
- Requirements for safety fencing
- Requirements for job safety
- [Project signage requirements](#)
- Davis-Bacon wage rates, if applicable
- [Draw request process](#)
- [Change order process](#)
- The duties and responsibilities of the owner, architect, and contractor
- The [Notice to Proceed](#)

## *Project Signage Requirements*

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All projects must provide and display signage throughout the construction phase in a prominent location on the site. If display space is not limited, all partner logos should be equally proportioned. If display space is limited, all partners should be named using text of equal size. Smaller developments, such as rehabilitation projects, may request approval to reduce signage to 2- by 4-feet. The Equal Housing logo is required on all signage and cannot be listed as text.

## Notice to Proceed

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The developer may indicate their *desired* construction start date on the Pre-Construction Conference Form; however, KHC will notify the developer when all conditions have been satisfied and construction is authorized to begin. This is the developer's Notice to Proceed.

KHC will not issue a Notice to Proceed with construction until the following conditions have been met:

- Pre-construction conference has been conducted.
- All pre-construction and pre-closing documents have been received and approved.
- All applicable loan and equity closings have occurred.
- KHC's final underwriting has been completed and, for Housing Credit projects, the final credit reservation letter has been sent.
- KHC's final project set-up has been reviewed and executed.

Once these conditions have been satisfied, KHC will return the Pre-Construction Conference Form to the developer, signed and dated by the KHC project specialist. **No construction of any kind may begin until the fully executed form is returned to the developer, which serves as the developer's Notice to Proceed.** After receipt of the Notice to Proceed, the developer must notify the KHC construction specialist and the project specialist of the actual date construction will begin.

**Construction may not start on a project before the closing without prior written permission from KHC. Starting construction early without KHC's permission will affect capacity scoring on future applications, incur a \$7,500 penalty fee, and result in withholding of KHC funds from the project.**

## Early Start of Construction

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In **rare, unique circumstances**, KHC may consider, on a case-by-case basis, allowing the developer to begin limited construction activities prior to closing. Repeated requests for an early start of construction may result in a capacity deduction in future funding rounds. **All requests for an early start of construction are subject to the [early start fees](#) outlined in Chapter 1.**

A developer seeking an early start of construction must complete the waiver request form, detailing the unique circumstances that make an early start an unavoidable necessity, as well as the scope of the work planned prior to closing. A pre-construction conference must be conducted prior to the start of any construction. If the early start request is approved, KHC will send an authorization letter to the developer, which must be signed and returned to KHC. Any approval for an early start will be at the owner/developer's **own risk**, independent of any financing commitment by KHC.

KHC must approve the following before considering an early start request:

- Owner/contractor agreement
- Building permits
- Evidence of general liability, worker's compensation and builder's risk insurances, with KHC named as an additional insured
- Assurance of completion (irrevocable letter of credit or payment and performance bond)
- **Projects receiving federal funds must also have full environmental clearance.**

## Construction Inspections

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KHC's construction specialist will make regular visits to the project to review progress and ensure the project conforms to all KHC requirements. A copy of all KHC-approved plans and specifications must be available at the project site during inspections. Inspection visits will occur at least once a month, but may take place at any time.

Owners must notify KHC to complete the inspection of the following:

1. All footers prior to pouring.
2. Rough-in on all units when mechanicals are installed and prior to drywall.
3. Project completion when the units are ready for occupancy.

KHC's construction specialist will send the owner an inspection report for each visit detailing the project status and any issues noted during the inspection. The owner is responsible for ensuring all issues and deficiencies are corrected. KHC may conduct a pre-8609 inspection to confirm pledged amenities and/or other non-construction related attributes.

**For Housing Credit only projects, KHC may require and accept an alternative inspection report for the three stages of construction performed on behalf of the investor or other lender.**

## Construction Draw Requests

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KHC's construction specialist will review the requested construction costs during the monthly inspection and will electronically sign the KHC [draw request](#) approving only the hard costs. All other costs will be approved by the KHC program staff person reviewing the draw request. KHC will not pay for materials stored off-site. KHC will disburse funds for materials stored on-site if they are insured, invoiced, properly stored, and secure. Draws are limited to one draw per month and must be signed by a KHC inspector.

In projects where KHC has awarded both amortizing and deferred or forgiven loan funds, the amortizing loan funds must be disbursed first, taking priority over deferred or forgiven loan funds.

KHC will disburse up to 40 percent of the developer fee up front and the remaining 60 percent on a percentage basis in line with the percent of work completed. Construction contingency funds will not be disbursed unless change orders have been approved by KHC. KHC will retain 10 percent of the total of all KHC funds until final inspection is complete and all final documents are received and approved.

## Construction Draw Policies

1. KHC will only disburse funds via an Electronic Funds Transfer (EFT) to the account identified on the EFT authorization form submitted during the pre-closing stage.
2. Owners must submit all draw requests electronically on a fully executed and completed [Program Funding Draw Request](#). Owners must certify that all funds will be disbursed within five business days of receipt. The architect (if applicable) must certify that all work, labor, and materials are satisfactory and in accordance with approved plans and specifications.
3. Each project is limited to one draw request per month.
4. All HOME and/or NHTF projects must submit a draw request for HOME/NHTF funds at a **minimum of once every 12 months**, otherwise the project will be deemed inactive by HUD.
5. A [pre-construction conference](#) must be held prior to the start of any construction activities.

6. KHC construction specialists must approve all construction draw requests. After the electronic draw is submitted, the construction specialist will review all hard costs for approval and may amounts based on the current inspections. KHC program staff will approve all requests for soft costs.
7. Owners must submit the following documentation electronically for each draw request:
  - ✓ KHC [Program Funding Draw Request](#) completed online.
  - ✓ Updated Title Endorsement to Title Policy for each KHC funding source for which a draw request is submitted, no more than 30 days old, reflecting the actual amount of the proposed disbursement and the total amount disbursed to date.
  - ✓ Builder's or Contractor's Affidavit of lien waiver (must be submitted with every draw for all major component contractors).
  - ✓ AIA form G-702 and G-703 (if using an architect), or KHC Payment Request Form.
  - ✓ Copies of invoices, receipts, etc., for payment of soft costs (and hard costs if an architect is not involved).

The title endorsement and all updates must include the following language:

*"A disbursement of **\$XX** (amount of current draw) was made under the Insured Mortgage. The title search was duly continued down to **DATE** at **TIME** (should be the same date the draw was submitted) and all encumbrances disclosed by the search were disposed of, except (note any exceptions on Schedule B). Liability under the policy is now increased to **\$XX** (total drawn under the loan), the total amount disbursed to date under the Insured Mortgage."*

**The title endorsement must reference the policy number and the names of the borrower and insured party.**

## Final Draw

Owners may request a final draw after KHC has approved all final completion documentation. The final draw may include construction interest due to KHC, escrows for taxes and insurance, or other amounts due. KHC will not approve the final draw until it has approved the final inspection, project completion reports, and/or final endorsements/modifications to the note.

## Change Orders

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Owners must submit change orders to the approved final plans and specifications to KHC for approval at the time the change is needed. **Change orders submitted after completion of the work to be changed will not be approved, unless prior authorization is given by KHC in writing.** If KHC's inspectors are unable to review the work at the time of the change, or the change order is held and submitted at the end of construction, the change order may not be approved. Change orders must be signed by the construction specialist before submittal to KHC for approval.

KHC will not approve draws requesting contingency funds until it has approved the change order. **Unless previously approved, change orders are processed as a draw against the budgeted contingency funds. The balance of any unused contingency funds will be deducted from the final retainage budget and the applicable loan modifications will be prepared.**

## CHAPTER 14: Basic Terms

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**Affiliate:** Any entity that directly or indirectly controls another entity or has a controlling front door interest in the entity.

**Affordability period:** The required period of time the development must continue to remain affordable to the target population.

**Bridge loan:** A short-term loan used to finance an enterprise, investment, or government, pending the receipt of other funds.

**Chronically Homeless Person:** An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more **or** has had at least four episodes of homelessness in the past three years. A disabling condition is defined as "a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions." In defining the chronically homeless, the term "homeless" means "a person sleeping in a place not meant for human habitation (e.g., living on the streets) or in an emergency homeless shelter."

**Community Room:** This is a designated common area specifically for the tenants only. It is separate from other areas such as the office and laundry facility.

**Community Service Facility (CSF):** A space available to the public (including non-tenants) usable for purposes including, but not limited to, child daycare, senior programs, and job training. They are defined as facilities that are designed to primarily serve low-income households (60 percent or less of area median income). **The CSF must be must be located in a Qualified Census Tract (QCT).**

**Conflict of Interest:** A conflict between the private interests and the official responsibilities of a person in a position of trust.

**Contiguous Sites:** Sites adjacent, bordering, or adjoining each other.

**Construction contingency:** Funds set aside for unanticipated construction expenses or cost over-runs normally calculated as a percentage of total hard cost.

**Controlling Interest:** The possession, directly or indirectly, of and the power to direct or cause the direction of the management and policies of an entity, whether through the means of ownership, position, contract, or otherwise.

**Cost Containment guidelines:** Cost guidelines limiting the amount of total dollars per unit allowed in the development.

**Debt Coverage Ratio (DCR):** Net operating income divided by total debt service (loan payment).

**Debt service:** The payment of principal, interest, and Mortgage Insurance Premium (when applicable) to repay the loan.

**Deed restriction:** A limitation that passes with the real property, regardless of the owner. Usually limits the real estate's type of use or intensity of use. See also: [Restrictive Covenant](#).

**Developer fee:** Fee received by the developer for coordinating and developing the project, including any fees paid for consulting services or any other fees resembling consultant or developer fees.

**Elderly Project:** There are two ways to qualify as an elderly project: All units are occupied solely by persons 62 years of age or older (100 percent elderly) or 80 percent of the units are occupied by at least one person who is 55 years of age or older.

**Homeless:** A person sleeping in a place not meant for human habitation or in an emergency shelter or a person in transitional housing.

**Identity of Interest:** A financial, familial, or business relationship that permits less than arm's length transactions. This includes but is not limited to: the existence of a reimbursement program or exchange of funds; common financial interests; common officers, directors, or stockholders; or family relationships between officers, directors, or stockholders.

**Leverage:** The degree to which an investor or business is utilizing borrowed money.

**Loan-to-value ratio:** The ratio of a mortgage loan and the value of the security pledged; usually expressed as a percentage.

**Maximum mortgage amount:** The maximum principal amount to be loaned under the applicable programs.

**Maximum subsidy/allocation:** The maximum amount of funding allowed on a per-unit basis.

**Mentally Disabled:** Having either a psychiatric disorder (e.g., psychosis, neurosis, personality, or behavior disorder), a development disorder (e.g., mental retardation), or a neurological disorder that affects cognitive or emotional functions to the extent that capacity for judgment is significantly diminished.

**Mortgage Insurance Premium:** The insurance required to be paid annually for developments utilizing HUD insurance through the Risk-Sharing Program.

**Operating Deficit Reserve Account (Rent-Up Reserve):** Funds set aside in a reserve account to cover operating deficits until the project reaches sustaining occupancy. KHC calculates this reserve during the underwriting stage and must be, at a minimum, sufficient to cover six months of operating expenses and debt service. Please refer to KHC's ODR policy in [Chapter 11](#) of this manual.

**Operating expenses:** Both fixed and variable expenses incurred in the day-to-day operation of the project.

**Other funding sources:** Any funding source, not provided by KHC, being used to fund the project.

**Physically Disabled:** Having a physical condition that adversely affects the day-to-day motor functioning, such as cerebral palsy, spina bifida, multiple sclerosis, orthopedic impairments, and other physical disabilities.

**Preservation:** (Minor rehabilitation is NOT included.) Maintaining existing units or the integrity of the original existing unit, as closely as possible. Can include the relocation of certain walls or major components, such as plumbing or electrical systems. However, the existing shell of the building must be maintained. This can include the reduction of units to update or modernize to meet current market needs.

**Pro forma:** A spreadsheet projecting income and expenses (including reserve for replacement) of the development, as well as debt service, debt coverage ratio, and cash flow for each year.

**Project Completion:** All construction is completed, all close out documents have been submitted, final closing has occurred (if applicable), and all funds have been expended and disbursed.

**Reserve for Replacement:** An allowance that provides for the periodic replacement of deteriorating building components that must be replaced during the building's economic life. Funds are set aside in a reserve account.

**Restrictive Covenant:** A private agreement that restricts the use and occupancy of real estate, is part of a conveyance, and is binding on all subsequent purchasers; may involve control of lot size, setback, placement of buildings, architecture, cost of improvements, or use.

**Soft costs:** Service costs and fees that are incurred when developing a project.

**Single Room Occupancy (SRO):** The unit must contain a bedroom and a full bath or an efficiency kitchen (sink, refrigerator, microwave).

**Stabilized occupancy:** The point-in-time when the gross income is sufficient to cover the operating expenses. Net income is \$0 or greater.

**Subsidy Layering Review:** A review required when a development combines Housing Credits with other governmental assistance, including the HOME and NHTF programs.

**Term of loan:** The period of time allowed for repayment of the loan amount and any accruing interest.

**Total Hard Construction Costs:** Total cost to construct the building and other improvements.

**Vacancy Rate:** The percentage of total units that are not occupied.