



Housing Finance Agencies' Policies on Qualified Contracts (QC) in the 4% Housing Credit Program

Housing Finance Agency	QAP* Year	Requirement to waive right to a QC	For how many years beyond the initial 15 year compliance period is the right waived?	Notes
Alabama	2018	-	-	"Any applicant applying for Housing Credits for a project financed through the AHFA Multifamily Housing Revenue Bond program will be exempt from the extended low-income use requirement and the competitive point scoring process." (page 16, 2018 QAP)
Alaska	2016	-	-	
Arizona	2018	-	-	
Arkansas	2016	-	-	-
California	2017	-	-	-
Colorado	2017	Incentive*	5	To be eligible for 4% Housing Credits, applicants must score a minimum of 60 points in the competitive application or 9% credits. Points are available for waiving the right to a QC for an additional 5 – 25 years beyond the required 5 year waiver.
Connecticut	2017	-	-	-
DC	2017	X	15	"Applicants must agree to maintain the 30-year extended affordability period by waiving their right to seek a qualified contract to the project purchase at the end of the 14th year of the compliance period." (QAP page 15)
Delaware	2016	Incentive*	5-15	To be eligible to receive 4% Housing Credits, applicants must score a minimum of 65 points in the competitive 9% application. (Applicants who receive DSHA financing and are seeking 4% credits must score a minimum of 50 points.) Up to 6 points are available for increasing the compliance period up to 30 years. If, in achieving minimum points to qualify for credits, applicants commit to long-term affordability, they are required to waive their right to a QC.

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Florida	2016	X	15	<p>“With certain exceptions, if there is an existing Corporation-issued LURA and/or EUA on the proposed Development site, in submitting this Application the Applicant knowingly, voluntarily and irrevocably commits to waive, and does hereby waive, for the duration of the total affordability period (a) as indicated by the Applicant in the Application or (b) the affordability period stated in the existing Corporation-issued LURA and/or EUA, whichever is greater, the option to convert to market, including any option or right to submit a request for a qualified contract, after year fourteen (14), and any other option, right or process available to the Applicant to terminate (or that would result in the termination of) the affordability period indicated in the Application at any time prior to the expiration of its full term. The exceptions to the above provision are: (i) if there is an existing LURA for the Predevelopment Loan (PLP) Program and/or the Elderly Housing Community Loan (EHCL) Program, (ii) if there is an existing LURA for the MMRB Program where no Corporation funding other than PLP and/or EHCL was involved with the original MMRB award, or (iii) if there is an existing EUA for Non-Competitive HC where no Corporation funding other than MMRB, PLP and/or EHCL was involved with the original NonCompetitive HC award.” (Non Competitive Application Form, page 13)</p>
Georgia	2017	-	-	-
Hawaii	2018	-	-	-
Idaho	2017	X	25	<p>“If Tax Credits are requested, the Association must review and approve this resource allocation in accordance with Section 42 of the Internal Revenue Code (the “Code”) and Idaho’s Low-Income Housing Tax Credit Qualified Allocation Plan (“QAP”) as well as a requirement that the extended use period be at least 40 years for low income housing requirements and qualified contract</p>

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				provisions” (IDAHO HOUSING AND FINANCE ASSOCIATION TAX-EXEMPT MULTIFAMILY HOUSING BOND ADMINISTRATIVE PLAN page 1) “Developments which are obligated to provide low-income use 25 years beyond the initial 15-year compliance period. This 40-year obligation requires the waiver of the Qualified Contract provision for the purpose of converting to market-rate use until one (1) year before the final year of the 40-year obligation and thereafter shall be subject to the three (3) year provisions regarding eviction and rent increase” (QAP page 29)
Illinois	2018-2019	-	-	-
Indiana	2018-2019	-	-	-
Iowa	2016	-	-	“A Project may request a Qualified Contract at the time period defined by Code” (4% QAP page 3)
Kansas	2017	-	-	-
Kentucky	2017-2018	-	-	-
Louisiana	2017	-	-	-
Maine	2017	-	-	-
Maryland	2016	-	-	-
Massachusetts	2017	-	-	-
Michigan	2017-2018	X	15	“By submitting an application for LIHTCs, all Applicants waive the right to request a qualified contract under Section 42(h)(6)(E)(i) of the Internal Revenue Code. Thus, MSHDA's required extended use commitment shall not terminate at the end of the compliance period, but is instead a minimum of 30 years.” (QAP page 26)
Minnesota	2017	-	-	Scoring worksheet explicitly excludes 4% applicants from the requirement to waive right to QC
Mississippi	2017-2018	-	-	-
Missouri	2017	-	-	-
Montana	2018	-	-	-

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Nebraska	2016	-	-	-
Nevada	2017	X	15	"All applicants for 4% and 9% tax credits are required to sign a waiver forgoing the Qualified Contract process." (QAP page 43)
New Hampshire	2018	-	-	-
New Jersey	2017	X	15	"The following information shall be included in order for the application to be deemed complete: all applicable sections of the application corresponding to eligibility requirements at N.J.A.C. 5:80-33.12; those sections of the application corresponding to the point categories for period of restriction" (QAP page 22) These restrictions, including waiving right to QC, are on page 44.
New Mexico	2017	X	15	"By submitting an Application for an allocation of Tax Credits to a project in accordance with this QAP, the Applicant and Project Owner agree to waive their right to request that MFA present a "qualified contract" for the Project in accordance with Code Section 42(h)(6)." (QAP page 8)
New York City	2017	X	15	"owners of 4% projects are willing to enter into a regulatory agreement with HPD for extended low-income use of the project (i.e. a 30 year compliance period) that is in conformance with the requirements of S42. Owner agrees to maintain the Extended Use period by including in the regulatory agreement a waiver of the right to seek a qualified contract to purchase the project at the end of the 15-year compliance period." (QAP page 15)
North Carolina	2018	-	-	Agency has right to disqualify any owner who has requested a QC in NC (page 20)
North Dakota	2017	X	15	"Prior to a final allocation of tax credits the owner must enter into an Extended Use Agreement which requires the owner and any successors to meet the applicable fraction of low income occupancy for an extended use period of at least 15 years" (QAP page 30)

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Ohio	2016-2017	X	15	"All housing tax credit developments must commit to an extended use period of a minimum of 30 years of affordability at the time of application. If an allocation of housing tax credits is awarded, the owner must file a Restrictive Covenant (provided by OHFA) which waives the right of the owner to petition OHFA to have the extended use period terminated (as described in Section 42 of the IRC)." (QAP page 19)
Oklahoma	2018	-	-	-
Oregon	2016	-	-	-
Pennsylvania	2017	X	20	"For the commitment to serve low income residents for a period of not less than 35 years, Applicant will certify this commitment in the Application and the Restrictive Covenant Agreement will contain a provision waiving any right to petition the Agency to terminate the extended use term (as described in the Code)" (QAP page 4)
Rhode Island	2017-2018	X	15	"The owner must waive the right to seek termination of the Declaration by petitioning Rhode Island Housing to find a buyer of the development as provided in Section 42(h)(6)(E)(i)(II) of the Code" (QAP page 10)
South Carolina	2017	-	-	-
South Dakota	2017	-	-	Only 9% applicants choosing extended use totaling 40 year must waive their right to a QC. (QAP page 16)
Tennessee	2017	Incentive*	5	To Qualify for 4% credits, applicants must score a minimum amount of points. Can choose to claim points for waiving QC (QAP page 29)
Texas	2017	-	-	-
Utah	2017	-	-	-
Vermont	2017	X	15	"Under the terms of the Housing Subsidy Covenant, applicants for both Ceiling and Bond Credits agree not to exercise the opt-out provision of the Code [Section 42 (h)(6)(E)(i)(II)]. The owner

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				agrees that they will make no such notification to the Allocating Agency to terminate the extended use provisions" (QAP page 13)
Virginia	2017	-	-	-
Washington	2017	-	-	-
West Virginia	2017-2018	-	-	-
Wisconsin	2017	-	-	"Owners of developments funded with LIHTC will be required to enter into a Land Use Restriction Agreement (LURA) with WHEDA for a mandatory 30-year period. No "opt-out" provision will be included except for awards of Non Competitive (4%) Credit." (QAP page 7)
Wyoming	2016	Incentive*	35	Applicants for 4% credits must meet minimum point requirement. "A proposal will receive the following points for committing to a WCDA Compliance Period over and above HUD's Affordability or IRS' Compliance Period where the owner waives the right to a Qualified Contract and agrees to follow the restrictions as set forth in their Application:" up to 35 additional years, keeping projects affordable for a total of 50 years. (QAP page25)

* For the purposes of this analysis, QAP refers to a state's Qualified Allocation Plan and any related documents that provide additional details on selection criteria and preferences or describe other requirements, policies, and procedures relevant to Housing Credit allocation.

* While the 4% Housing Credit program is non-competitive, some states require that developers seeking the Credit score a minimum number of points in the scoring process used to rank applications for the 9% program. In some of these cases, developers, in earning the minimum required score to receive 4% Credits, may choose to claim points available for waiving their right to a QC.