Fannie Mae®

Multifamily Selling and Servicing Guide

Effective as of November 16, 2026

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702.02 Minimum Set Asides and Other Criteria

Requirements

You must ensure the:

- Affordable Regulatory Agreement recorded against the MAH Property contains rent and/or income restrictions:
  - at least as restrictive as 1 of the affordability types in:
    - Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03A: LIHTC;
    - Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03C: Properties with Both Rent Restrictions and Income Restrictions;
    - Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03D: Properties with Either Rent Restrictions or Income Restrictions;
    - Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03E: Special Public Purpose; and
  - not subject to change by the Public Entity without Lender consent; or
- MAH Property is subject to a:
  - HAP Contract complying with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03B: HAP Contract; or
  - Sponsor-Initiated Affordability Agreement (Form 6490) complying with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03F: Sponsor-Initiated Affordability.

You must use existing tenant files, lease sampling, and rent roll testing, to verify the required occupancy by eligible tenants per:

- Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03A: LIHTC;
- Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03C: Properties with Both Rent Restrictions and Income Restrictions;
- Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03D: Properties with Either Rent Restrictions or Income

Restrictions; or

- Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03E: Special Public Purpose.

However, you may rely on

- Borrower certifications,
- compliance reports, and
- documentation of exceptions.

You may treat an over-income tenant as an income eligible tenant if allowed by the applicable Public Entity program requirements, with the exception documented in your Transaction Approval Memo.

Glossary

A

Affordable Regulatory Agreement	Recorded or unrecorded regulatory, land use, extended use, restrictive covenant, or similar agreement or restriction that is imposed by a Public Entity, placing rent, income, or other affordability restrictions on the use or occupancy of the Property, but which does not include a HAP Contract. **Synonyms** • Affordable Regulatory Agreements

B

Borrower	Person who is the obligor per the Note. **Synonyms** • Borrowers • Borrower's

G

Guide	Multifamily Selling and Servicing Guide controlling all Lender and Servicer requirements unless a Lender Contract specifies otherwise. **Synonyms** • DUS Guide

H

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HAP Contract	An agreement providing a HUD Section 8 rental subsidy for the Property in the form of a: • project-based voucher contract (PBV), or • project-based rental assistance contract (PBRA). **Synonyms** • Housing Assistance Payment • HAP • HAP Contracts

L

Lease	Written agreement between an owner and the tenant of a Property stipulating the conditions for possession and use of real estate for a specified period of time and rent. **Synonyms** • Leases
Lender	Person Fannie Mae approved to sell or service Mortgage Loans. **Synonyms** • Lenders • Lender's
Lender Contract	Program Documents per the Multifamily Selling and Servicing Agreement. **Synonyms** • Lender’s Contract • Lender Contracts • Contract • Multifamily Selling and Servicing Agreement • MSSA

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Low-Income Housing Tax Credit	Federal program offering tax credits to owners of eligible properties that contain low-income occupants and rent restrictions. **Synonyms** • Low-Income Housing Tax Credits • Low Income Housing Tax Credits • LIHTC • LIHTCs

M

Multifamily Affordable Housing Property	Property that: • complies with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702: MAH Property Eligibility; and • is underwritten per Part III, Chapter 7: Multifamily Affordable Housing Properties. **Synonyms** • MAH • Multifamily Affordable Housing • MAH Property

P

Property	Multifamily residential real estate securing the Mortgage Loan, including the • fee simple or Leasehold interest, • Improvements, and • personal property (per the Uniform Commercial Code). **Synonyms** • Properties • Property's

Public Entity	A federal, state, or local government entity, or an entity that: • is created by - state statute, or - one or more governmental entities acting pursuant to applicable statutory authority; • has a governing body that is - elected by voters in the applicable jurisdiction, or - appointed by an official or body that has been elected by voters in the applicable jurisdiction; • is formed for a governmental purpose and performs a governmental function; • is required by law to - publicly post its meeting agendas and minutes, and - hold meetings that are open to the public to the same extent as state or local governmental entities in its state of domicile; • does not permit any part of its net revenues or earnings to inure to the benefit of any private Person; and • is not a community development financial institution.

S

Sponsor	Principal equity owner and/or primary decision maker of the Borrower (often the Key Principal or the Person Controlling the Key Principal). **Synonyms** • Sponsors • Sponsor's
Sponsor-Initiated Affordability Agreement	Voluntary agreement signed by the Borrower and recorded in the land records against the Property, putting rent and income restrictions in place to preserve or create multifamily affordable housing.