Fannie Mae®

Multifamily Selling and Servicing Guide

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Section 702 MAH Property Eligibility

702.01 Eligibility Characteristics

☑ Requirements

You must ensure an MAH Property is subject to:

- a HAP Contract complying with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03B: HAP Contract;
- a Sponsor-Initiated Affordability Agreement (Form 6490) complying with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.03F: Sponsor-Initiated Affordability; or
- at least 1 Affordable Regulatory Agreement that:
  - is imposed by a Public Entity;
  - is recorded against the MAH Property on or before the Mortgage Loan Origination Date;
  - complies with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.02: Minimum Set Asides and Other Criteria;
  - for an MAH Property, has a minimum remaining term of 3 years; and
  - for a LIHTC Property:
    - has a minimum remaining term of 3 years; and
    - for which the Borrower must sign the Modifications to Multifamily Loan and Security Agreement (Tax Credit Properties) (Form 6219) agreeing not to pursue a Qualified Contract Process available under the
      - Internal Revenue Code, and
      - if applicable, Affordable Regulatory Agreement.

If any Affordable Regulatory Agreement has 3 or more years remaining but will expire before the Mortgage Loan Maturity Date, you must document in the Transaction Approval Memo your analysis of the following factors to support underwriting to the applicable MAH standards in Form 4660:

- restricted rents below market rate rents;
- history of the Property operating as an MAH Property;

- the Sponsor's history and experience owning and operating multifamily properties subject to affordability restrictions;
- the Borrower's intention to renew that Affordable Regulatory Agreement;
- how much of the Mortgage Loan term will remain after that Affordable Regulatory Agreement expires;
- market strength; and
- how the MAH Property compares to comparable market rate properties in terms of occupancy, condition, and amenities if
  - the Borrower intends to convert the MAH Property to market rate rents, and
  - no rent advantage exists.

Guidance

An MAH Property may also:

- be subject to:
  - other Affordable Regulatory Agreements that do not comply with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.01: Eligibility Characteristics (e.g., the Affordable Regulatory Agreement has a remaining term of fewer than 3 years, or does not comply with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.02: Minimum Set Asides and Other Criteria), provided that any other Affordable Regulatory Agreement complies with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 705: Affordable Restriction Checklist and Subordination and Standstill Agreements, including the submission of an Affordability Restriction Checklist (Form 6419);
  - FHA Risk Sharing; or
  - inclusionary zoning (e.g., zoning variances or density bonuses granted in exchange for affordability restrictions, etc.);
- be financed using tax-exempt Bonds; or
- receive other state, local, or federal subsidies which are conditioned on the affordability of some or all of the units in the Property, including:
  - Rural Housing Service (RHS) Section 515 Loans; and
  - loans insured per the National Housing Act
    - Section 202, or

- Section 236.

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.

702.03 Affordability Types

702.03A LIHTC

☑ Requirements

You must verify that by the Mortgage Loan Origination Date, restricted units:

- are occupied by income eligible tenants per the LIHTC program requirements; and
- meet at least 1 of the following:
  - **20% @ 50%:** at least 20% of all units are restricted to occupancy by households earning no more than 50% of AMI as adjusted for family size with rents not exceeding 30% of the income limit, as adjusted for family size;
  - **40% @ 60%:** at least 40% of all units are restricted to occupancy by households earning no more than 60% of AMI as adjusted for family size with rents not exceeding 30% of the income limit, as adjusted for family size;
  - **Average Income:** at least 40% (or 25% for New York City only) of all units are restricted to occupancy by households earning not more than the income limitation designated for that unit. The average of the income limits must not be more than 60% of AMI as adjusted for family size with rents not exceeding 30% of the designated income limit. The income limit can only be 20%, 30%, 40%, 50%, 60%, 70% or 80% of AMI. This option is only available for LIHTC projects that made this set-aside election after March 23, 2018, using Internal

Revenue Service Form 8609; or

- **25% @ 60% in New York City:** at least 25% of all units are restricted to occupancy by households earning no more than 60% of AMI as adjusted for family size with rents not exceeding 30% of the income limit, as adjusted for family size.

702.03B HAP Contract

☑ Requirements

You must ensure that, by the Mortgage Loan Origination Date, at least 20% of all units are:

- subject to a HAP Contract; and
- restricted by the HAP Contract to households earning no more than 80% of AMI.

702.03C Properties with Both Rent Restrictions and Income Restrictions

☑ Requirements

By the Mortgage Loan Origination Date, you must verify the restricted units are occupied by households that qualify for 1 of the following rent and income restrictions:

- **20% @ 50%:** at least 20% of all units are restricted:
  - to occupancy by households earning no more than 50% of AMI, as adjusted for family size; and
  - with rents not exceeding 30% of 50% of AMI, as adjusted for family size; or
- **40% @ 60%:** at least 40% of all units are restricted:
  - to occupancy by households earning no more than 60% of AMI, as adjusted for family size; and
  - with rents not exceeding 30% of 60% of AMI, as adjusted for family size.

702.03D Properties with Either Rent Restrictions or Income Restrictions

☑ Requirements

By the Mortgage Loan Origination Date, you must confirm the following.

For Properties with...	You must confirm...
Rent restrictions (but no income restrictions)	The rent roll reflects the restricted rents are implemented.
Income restrictions (but no rent restrictions)	The restricted units are occupied by income eligible tenants.

The Property must have:

- **20% @ 50%:** at least 20% of all units restricted:
  - to occupancy by households earning no more than 50% of AMI, as adjusted for family size; or
  - with rents not exceeding 30% of 50% of AMI, as adjusted for family size; or
- **40% @ 60%:** at least 40% of all units restricted:
  - to occupancy by households earning no more than 60% of AMI, as adjusted for family size; or
  - with rents not exceeding 30% of 60% of AMI, as adjusted for family size.

702.03E Special Public Purpose

Requirements

You must have verified, on or before the Mortgage Loan Origination Date, that at least:

- 20% of all units are restricted to occupancy by households earning no more than 80% of AMI, as adjusted for family size, and the restricted units are occupied by income eligible households; and/or
- 20% of all units have rents not exceeding 30% of 80% of AMI, as adjusted for family size.

Operating Procedures

For general information, as well as information for how to register, obtain a Commitment, and Deliver a Special Public Purpose Mortgage Loan, refer to Multifamily Affordable Housing Property Definition – Special Public Purpose FAQs.

702.03F Sponsor-Initiated Affordability

Requirements

You must ensure the Borrower voluntarily self-imposes affordability restrictions preserving or creating multifamily affordable housing by requiring the Property to have affordability restrictions meeting all of the following:

- 20% @ 80%: at least 20% of all units are restricted to occupancy by households earning no more than 80% of AMI, as adjusted for family size, with rents not exceeding 30% of the income limit;
- are recorded against the Property by executing the Sponsor-Initiated Affordability Agreement (Form 6490);
- are in place at the Property by the Mortgage Loan Origination Date;
- require the Property to comply with the Sponsor-Initiated Affordability Agreement (Form 6490) within 12 months after the Mortgage Loan Origination Date;
- remain in place during the Mortgage Loan term; and
- are certified annually by the Borrower and monitored by an Administering Agent for compliance with the Sponsor-Initiated Affordability Agreement (Form 6490).

Operating Procedures

For any Property with Sponsor-Initiated Affordability, the Borrower must execute the:

- Sponsor-Initiated Affordability Agreement (Form 6490); and
- Modifications to Multifamily Loan and Security Agreement (Sponsor-Initiated Affordability Restrictions) (Form 6271).

For general information, as well as information for how to register, obtain a Commitment and Deliver a Sponsor-Initiated Affordability Mortgage Loan, refer to the Sponsor-Initiated Affordability FAQs.

Glossary

A

Administering Agent	Third-party compliance monitoring company.
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

Bonds	Tax-exempt or taxable multifamily revenue bonds, or other tax-exempt or taxable bonds, issued to finance 1 or more Credit Enhancement Mortgage Loan Properties. **Synonyms** • Bond
Borrower	Person who is the obligor per the Note. **Synonyms** • Borrowers • Borrower's

C

Commitment	Contractual agreement between you and Fannie Mae where Fannie Mae agrees to buy a Mortgage Loan at a future date in exchange for an MBS, or at a specific price for a Cash Mortgage Loan, and you agree to Deliver that Mortgage Loan. **Synonyms** • Committed • Commitments

D

Delivery	Submission of all correct, accurate, and certifiable documents, data, and information with all applicable documents properly completed, executed, and recorded as needed, and any deficiencies resolved to Fannie Mae's satisfaction. **Synonyms** • Deliver • Delivered • Deliveries

F

FHA	Federal Housing Administration
FHA Risk Sharing	MAH Mortgage Loan with mortgage insurance from FHA.
Form 4660	Multifamily Underwriting Standards identifying Pre-Review Mortgage Loans and containing the underwriting requirements (e.g., debt service coverage ratio, loan to value ratio, interest only, underwriting floors, etc.) for all Mortgage Loans. **Synonyms** • Multifamily Underwriting Standards

G

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

H

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
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

Maturity Date	Date all Mortgage Loan amounts become fully due and payable per the Loan Documents. **Synonyms** • Maturity Dates
Mortgage Loan	Mortgage debt obligation evidenced, or when made will be evidenced, by • the Loan Documents, or • a mortgage debt obligation with a Fannie Mae credit enhancement. **Synonyms** • Mortgage Loans • Mortgage Loan's

Mortgage Loan Origination Date	Date you fund a Mortgage Loan to the Borrower. **Synonyms** • Mortgage Loan's Origination Date • Origination Date
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

Project	Multifamily buildings • on multiple Properties, • owned by the same Borrower, and • that comply with Part II, Chapter 1: Attributes and Characteristics, Section 103.01: Single Borrower Ownership. **Synonyms** • Projects
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

Security	MBS, PFP MBS, or REMIC. **Synonyms** • Securities
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.

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