

WORKFORCE ELIGIBILITY POLICY

WHEREAS, pursuant to Executive Order 87-02, MHDC was designated as the state allocation agency for the federal low income housing tax credit program (the “LIHTC program”);

WHEREAS, MHDC also administers the Missouri low income housing tax credit program (the “State LIHTC program”);

WHEREAS, the allocation of tax credits through the Federal and State LIHTC programs provide the equity funds which constitute the majority of the funds required to develop multifamily low and moderate income housing financed by MHDC (“Project”);

WHEREAS, over the past year, MHDC has received increased reports from individuals that the construction teams constructing certain MHDC-financed Projects included individuals who were illegally in the country (“Undocumented Workers”);

WHEREAS, the hiring of Undocumented Workers is a violation of the federal, state and local labor laws and federal immigration laws (“Labor Laws”);

WHEREAS, MHDC’s guidelines and loan closing documents currently require that the owner and contractor adhere to all applicable Labor Laws;

WHEREAS, MHDC desires to ensure that the Federal and State LIHTC programs are administered in full compliance with all applicable Labor Laws;

NOW THEREFORE, MHDC, in order to address the use by owners or contractors of Undocumented Workers, hereby takes the following actions and measures:

- 1) MHDC hereby prohibits any owner and its principals of a project to which MHDC has allocated either Federal or State tax credits (“Owner”) from using Undocumented Workers in the construction of any MHDC-financed Project;
- 2) MHDC requires the Owner to impose this prohibition upon its contractor or general contractor (“Contractor”) and require the Contractor to obtain a Form I-9 from each of its employees prior to the performance of any work on an MHDC Project (“Form I-9 Requirement”);
- 3) MHDC requires that the Owner require the Contractor to impose the Form I-9 Requirement on any subcontractor, sub-subcontractor, mechanic, third party contractor or agent (“Subcontractor”) working on the Project;
- 4) MHDC also requires the Owner to collect a copy of the Form I-9 for all workers employed by the Contractor or Subcontractor and to keep these documents on the Project site;
- 5) MHDC requires that the Owner assemble or have the Contractor assemble a list containing the names of all workers who have completed a Form I-9 and to regularly update this list;

- 6) MHDC requires that an updated list be maintained at the Project site at all times;
- 7) The prohibition on the use of undocumented workers set forth in paragraph 1 above and the Form I-9 imposed by paragraphs 2-6 (the "Form I-9 Protocol") above must be followed by the Owner on all Projects financed by MHDC;
- 8) To implement this policy, the Commissioners have instructed the MHDC staff to modify its documents to clearly set forth this policy and staff has now modified the Owner's Loan Commitment, Owner's Certificate and Construction Contract to reflect the requested modifications;
- 9) The language modifying the Owner's Loan Commitment, Owner's Certificate and Construction Contract is attached hereto as Exhibit "A";
- 10) Use of Undocumented Workers or non-compliance with the Form I-9 Protocol may subject the Owner and its principals to sanctions;
- 11) MHDC will also require the Owner which shall require the Contractor and Subcontractor, to on a monthly basis, provide it with a list of all employees employed by the Contractor or any Subcontractor;
- 12) MHDC will further require the Contractor and any Subcontractor to provide it with a Certificate of Good Standing issued by the Missouri Secretary of State's office;
- 13) MHDC will require the Contractor and all Subcontractors working on Projects to which MHDC has allocated tax credits or provided MHDC funds to attend mandatory pre-construction conferences.

EXHIBIT “A”

Owner’s Loan Commitment Language

MHDC expects the Owner, Contractor and Subcontractors identified in Exhibit “___” of the loan commitment, to comply with all applicable Labor Laws, regulations and hiring practices thereof.

This includes the requirements for confirmation of identity and employment eligibility set forth in Form I-9. If MHDC, or a federal, state or local law enforcement agency determines that the Contractor and/or Subcontractor has violated the Labor Laws or the Form I-9 Protocol (as defined below), MHDC may cease disbursement of any MHDC construction funds for the Project, withhold the final allocation of tax credits related to the Project, bar the Owner from participation in any MHDC program for a specified period and if appropriate disburse as liquidated damages, the funds deposited in an escrow established for this purpose.

Owner’s Certificate

Owner understands and acknowledges that no Undocumented Workers may be used or employed on any project financed by MHDC and further understands and agrees that the use or employment of Undocumented Workers on a project financed by MHDC may subject the Owner to sanctions imposed by MHDC.

Owner shall require, that prior to performance of any work, the Contractor must obtain a completed Form I-9 from all laborers and mechanics employed in the construction of the Project.

In accordance with the requirements set forth in Form I-9, the Contractor and Subcontractors must examine the evidence of identity and employment eligibility for each worker within three (3) business days from the date his or her employment begins (the “Form I-9 Protocol”). Evidence which establishes both identity and employment eligibility is set forth on List A of Form I-9. Evidence of identity only and evidence of employment eligibility only are set forth on Lists B and C respectively. The completion of the Form I-9 Protocol is a condition precedent to the right of any Contractor or Subcontractor to work on the Project. In addition, the Owner acknowledges that MHDC will monitor the Contractor’s compliance with the Form I-9 Protocol on at least a monthly basis. The Owner is responsible to confirm the Contractor’s compliance with this requirement. As part of the monitoring process, MHDC shall have the right to make on-site inspections and conduct spot interviews of the Contractor and Subcontractors to verify compliance with the Form I-9 Protocol. These inspections will be conducted as part of monitoring regarding prevailing wage compliance, if applicable, and if not solely for Form I-9 Protocol purposes.

Owner shall require the Contractor to include the Form I-9 Protocol, including the duty to obtain evidence of identity and employment eligibility, in the contracts issued by all Subcontractors involved in the construction Project. A copy of the Form I-9 of each Subcontractor’s employees must be provided to the Contractor immediately after the conclusion of the three (3) day submission period applicable to each employee.

Owner shall advise the Contractor that use or employment of Undocumented Workers on the Project or non-compliance with the Form I-9 Protocol may result in the imposition of sanctions

by MHDC. The imposition of sanctions may result in the disqualification of the Owner and Contractor from future participation in MHDC projects.

Construction Contract

Owner and Contractor warrant that no Undocumented Workers will be employed on the Project and further agree and understand that the use of Undocumented Workers on the Project will constitute a breach of the Construction Contract and may result in the imposition of sanctions by MHDC (the “MHDC Workforce Eligibility Policy”). The imposition of sanctions will include, but is not limited to, the disqualification of the Owner and/or Contractor from participation in future MHDC projects.

Owner and Contractor agree to implement the MHDC Workforce Eligibility Policy by performing the following steps to include:

Contractor, prior to performance of any work, shall require all laborers and mechanics employed on construction of the Project to submit a completed Form I-9. In accordance with the requirements set forth in Form I-9, the Contractor must examine the evidence of identity and employment eligibility within three (3) business days of the date employment begins (the “Form I-9 Protocol”). Evidence which establishes both identity and employment eligibility is set forth on List A of Form I-9. Evidence of identity only and evidence of employment eligibility only are set forth on Lists B and C respectively. The completion of the Form I-9 Protocol is a condition precedent to the right of any laborer or mechanic to work on the Project. In addition, the Owner and Contractor acknowledge that MHDC will monitor the Contractor’s compliance with the Form I-9 Protocol on a monthly basis. The Owner is responsible for the Contractor complying with this requirement. As part of the monitoring process, MHDC will make on-site inspections and conduct spot interviews of laborers and mechanics to verify compliance with the Form I-9 Protocol. These inspections will be conducted as part of monitoring regarding prevailing wage compliance, if applicable, and if not solely for Form I-9 Protocol purposes.

Owner shall require that the Contractor include the Form I-9 Protocol, including the evidence of identity and employment eligibility, in the contract issued by all Subcontractors involved in the construction Project. The Form I-9 of each Subcontractor must be provided to the Contractor immediately after the conclusion of the three (3) day submission period applicable to such employee. Non-compliance with the Form I-9 Protocol may constitute a breach of the Construction Contract and may result in the imposition of sanctions by MHDC. The imposition of sanctions may result in, among other things, the disqualification of the Owner and Contractor from participation in future MHDC projects.