



# Entry Form 2017 Annual Awards for Program Excellence

**Entry Deadline: Thursday, June 15, 2017, Midnight ET**

Each entry must include a completed entry form. Please complete a form for each entry your HFA is submitting. The completed entry form will become the first page of your entry.

This form is a fillable PDF. Type your information into the entry form and save it as a PDF. Please do not write on or scan the entry form. **Questions: Call 202-624-7710 or email [awards@ncsha.org](mailto:awards@ncsha.org).**

**Entry Title:** Enter your entry's title exactly as you wish it to be published on the NCSHA website and in the awards program.

---

---

**Category:**

---

**Subcategory:**

---

**Entry Summary:** A 15-word (max) summary of the program, project, or practice you are entering.

---

---

---

---

---

---

---

---

**HFA:**

---

**HFA Staff Contact:**

---

**Phone:**

---

**Email:**

---

**Visual Aids:**

Are you mailing to NCSHA 10 copies of any visual aids that cannot be included in your entry PDF?    Yes        No

**Payment:**

My HFA is mailing a check to NCSHA.  
My HFA is emailing the credit card authorization form to [awards@ncsha.org](mailto:awards@ncsha.org).

In areas where Private Activity Bond Volume Cap is at a premium, such as is the case in New York City, new policy approaches and strategies for better leveraging Volume Cap and maximizing its efficiency as a key tool for creation of affordable housing are imperative.

Mixed-income projects have historically been enormous users of Volume Cap while producing only a portion of the development as low-income housing. But mixed income transactions are a powerful response to fair housing needs by having mixed income developments in stronger neighborhoods while allowing for cross subsidization from middle income rents to more deeply affordable units in such neighborhoods. The rules relating to tax-exempt bonds and LIHTC financed projects have historically challenged mixed-income property managers not familiar with IRS compliance rules.

The “Bifurcated Structure”, pioneered by NYC HDC, has proven to be a successful policy strategy for stretching the use of volume cap by using less volume cap for the same number of overall housing units created. This allows for creating more overall affordable housing and solves for the more onerous compliance with prior mixed-income structures.

### **Structure**

Utilizing a Bifurcated Structure, only the low-income units in a mixed income project are financed with tax-exempt private activity bonds, (“volume cap”) and the as of right 4% Low-Income Housing Tax Credits (“LIHTC”), therefore greatly reducing the volume cap needed for each project while meeting the 50% test under the federal low-income housing tax credit rules. Typically, developers of mixed-income properties have the following priorities when financing a project: to qualify for tax abatements; finance qualifying units with LIHTC; and lower financing costs with tax-exempt bond financing.

By creating separate condos (or sub-leases) for the low-income and non- low -income units, scarce volume cap is issued to finance the construction of the low-income units while either recycled tax-exempt bonds, taxable bonds or bank loans finance the non-low-income units. In a Bifurcated Structure, all units targeting low-income tenants are owned in a single condominium unit by a single purpose entity and financed using Tax-Exempt Bonds; all other units (e.g., non-low-income, commercial) are owned in a separate condominium unit or by a different entity.

### **Tax Issues**

Section 42(h)(4)(B) of the Code provides that where 50% or more of the aggregate basis of any “building” (as defined in Section 42) and the land on which the building is located are financed by tax-exempt bonds that carry with them volume cap, then the building shall be entitled to claim LIHTC on its eligible basis. The Bifurcated Structure is based on Temporary Treas. Reg. section 1.42-1T(f)(1)(ii).

Essentially, a project in which the affordable units are separated into a separate “building” (as defined in Section 42 of the Code), such as through the formation of a condominium unit (which is treated as a “building” under Section 42) or a master lease that is bifurcated into a separate partnership, it is possible to satisfy the 50% test of Section 42(h)(4)(B) of the Code by allocating volume cap bonds only to the “building” consisting of the affordable units.

**Benefits of a Bifurcated Structure:**

The Bifurcated Structure is a beneficial tool for providing a more efficient use of scarce volume cap resources and provides additional benefits to developers, investors, and housing agencies in several ways:

- Valuable tool for ensuring the most efficient use of volume cap by financing only the low-income units in a development with volume cap instead of the entire development. This also means that the higher costs of market rate units are not blended in total per unit cost calculations and will not increase overall costs of the affordable housing developed.
- Simplifies property administration by eliminating deep rent skewing and annual income certification since all units in the tax-exempt financed condo are low income for tax purposes.
- Allows for greater flexibility for real property tax-exemptions. For projects that finance the non-low income units with a bank or taxable loan, under Section 142 and 42, only the low-income condo is considered a low-income building and the non-low-income component is irrelevant, yet the development is considered to be one unified building and will qualify for tax abatements in New York City. For projects that finance the non-low income units with recycled bonds, the entire development is considered a low-income building under Section 142 and for New York law but only the low-income condo is considered a low-income building for Section 42.
- Tax and regulatory compliance made simpler for property managers.

The first of HDC's bifurcated structures are completing construction, and this model has proven imperative to meet "Housing New York" production goals.

More states are experiencing a scarcity of private activity bond cap in the past year. But this has not always been the case. New York's situation is unusual, but the Bifurcated Structure is an important innovation that has been adopted by the New York State Housing Finance Agency as well. By using this structure New York's HFA has frugally limited the use of volume cap on mixed-income housing throughout New York City and ensured that more affordable housing can be financed state-wide with this limited resource.

Before the Bifurcated Structure was created, high cost mixed-income projects competed with more affordable projects for the allocation of volume cap, and in certain years both mixed-income and low-income projects had to be deferred until future years when more volume cap became available. Although resource allocation will always play a key role in managing pipeline, the use of the Bifurcated Structure means that New York will have more volume cap available for affordable housing overall. This balanced approach could be beneficial to and replicable by other states when and if they face more competitive volume cap environments.

This innovation allows for the efficient use of volume cap to finance more developments than would otherwise be possible. It has been used as a tool for numerous developments (below are several current examples).

**Case Study – Bronx Commons (Melrose, Bronx) – Construction financing closed December 2016**

Bronx Commons is a 305-unit new construction development financed under the Mix and Match program located in the Melrose neighborhood of the Bronx, developed by WHEDco (Women's Housing

and Economic Development Corporation) and BFC Partners. In addition to HDC funding, Bronx Commons benefitted from qualifying for the NYC Department of Housing Preservation and Development's (HPD's) Our Space Initiative. HPD's Our Space Initiative funds the new construction of rental units affordable to formerly homeless households whose incomes are at or below 30% of the average median income (AMI). Homeless referrals to the Project come from HPD and rents are underwritten based on public assistance shelter allowance. As part of the HPD Our Space Initiative Program, 16 units of Bronx Commons are reserved for formerly homeless tenants. There will be 166 low-income units affordable to households earning between 30% and 60% of AMI. There will be 122 middle-income units with rents between 70% and 90% of AMI. There is one superintendent's unit. The building will include a community cultural/educational center known as the Bronx Music Hall (BMH). The BMH will include a flexible performance space to accommodate a variety of cultural and community events, permanent and rotating exhibits, a recording studio, rehearsal and classroom spaces for music and dance, and a café. The construction is being funded in partnership with Citibank and Richman is the tax credit syndicator and investor. The Bifurcated Structure saved approximately \$30 million in volume cap.

**Case Study – PRC Fox Street (Longwood, Bronx) – Construction financing closed December 2016**

PRC Fox Street is a 200-unit new construction development financed under the Mix and Match program that located in the Longwood neighborhood of the Bronx, developed by Property Resources Corporation and Camber Property Group LLC. There will be 100 low-income units. 92 will be affordable to households earning at or below 40% of AMI. 8 units will be reserved for formerly homeless households that will receive Project Based Section 8 vouchers from HPD. There will be 99 middle-income units affordable to households at or below 80% of AMI. There is one superintendent's unit. All units excluding the superintendent's unit will be affordable for at least 60 years. JP Morgan Chase provided the credit enhancement. First Sterling Financial served as the tax credit syndicator with JP Morgan Chase as the tax credit investor. The Bifurcated Structure saved approximately \$17 million in volume cap.

**Case Study – One Flushing (Flushing, Queens) – Construction financing closed December 2016**

One Flushing is a 232-unit new construction development financed under the Mix and Match program that will be located in the Flushing neighborhood of Queens. It is developed by a joint venture between Monadnock, Asian Americans for Equality, and HANAC, Inc. There will be 117 low-income units – 10 units will be affordable to households at or below 40% of AMI, 56 units will be affordable to households at or below 50% of AMI, and 51 units will be affordable to households at or below 60% of AMI. 66 of the low-income units will be set aside for seniors (age 62 or older). There will be 54 units affordable to households earning at or below 100% of AMI (with rents set at 80% of AMI) and 60 units affordable to households earning at or below 130% of AMI (with rents set at 100% AMI). There is one superintendent's unit. In addition, the 117 low-income units will be permanently affordable. The project will have more than 14,000 square feet of community facility space and over 19,000 square feet of retail space. The construction is being funded in partnership with Citibank and Goldman Sachs is the tax credit syndicator and investor. The Bifurcated Structure saved approximately \$33 million in volume cap.