

Private Activity Bond (PAB) Test for 4% Low-Income Housing Tax Credit (LIHTC) – Updated Policy and Guidance

In July 2025, Congress passed [H.R.1](#), which lowered the 50% financed-by test to 25% of the aggregate basis for any transaction with a bond issuance on or after January 1 2026, or for transactions with a bond issuance in 2025 if at least 5% of aggregate basis is issued in 2026.

PAB test for 4% LIHTC policy, effective October 1, 2025:

Projects seeking to generate 4% LIHTC should request private activity bonds representing 30% of aggregate basis or maximum supportable debt for permanent financing and construction, not to exceed 55% of the development aggregate basis. Oregon Housing and Community Services (OHCS) supports project financial structures that reduce reliance on state subsidy, ensures the maximum use of debt leverage, and prioritizes project viability and performance.

Project guidance:

- **2025 PAB projects:** For projects with 2025 PAB interested in using a lower PAB test, please contact bond counsel to develop a recommendation for OHCS to review and consider. Projects must ensure that at least 5% of the total bonds will be issued in 2026, resulting in two separate bond issuances. Additional subsidy will not be provided to offset any reductions in PAB used.
- **2026 PAB projects:** Projects with 2026 PAB with OHCS reservations or letters of intent may elect to restructure the amount of PAB used to 30-55% aggregate basis or maximum supportable debt. Additional subsidy will not be provided to offset any reductions in PAB used. OHCS production analysts will evaluate proformas in the Financial Eligibility stage of the Oregon Centralized Application (ORCA) process to ensure demonstrated need for tax-exempt PAB and will not reclaim PAB that is necessary for the deal to be financially feasible once commitment and final letter of intent is provided.
- **New applications:** For projects submitting new applications or on the wait list, proformas should show PAB financing as the higher of 30% aggregate basis or maximum supportable debt. OHCS production analysts will finalize PAB allocation based on financial need but will not approve allocations lower than 30% of the aggregate basis nor higher than 55% aggregate basis. Additional subsidy will not be provided to offset any reductions in PAB used.

Note on bond structures: While no additional subsidy will be provided to offset any reduction in PAB, projects may pursue *recycled bond cap* or *taxable executions* if needed. Currently, OHCS does not have a recycled bond program, but projects may secure their own line of credit to facilitate the recycling and should *work with bond counsel* to support these opportunities.