



PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

GDB

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461

**LOW-INCOME HOUSING TAX CREDIT
PROGRAM DEPARTAMENTO DE ESTADO**

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Aprobado: **Hon. Kenneth D. McClintock**
Secretario de Estado

Por: 
Eduardo Arosemena Muñoz
Secretario Auxiliar de Servicios

QUALIFIED ALLOCATION PLAN

2012

JUAN C. CORDERO BUILDING
606 BARBOSA AVENUE - 3RD FLOOR
RÍO PIEDRAS, PUERTO RICO 00919-0345

PHONE (787) 765-7677 FAX (787) 820-8520

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JAN 2012

2012 LOW INCOME HOUSING TAX CREDIT ALLOCATION PLAN

TABLE OF CONTENTS

Contents	Page
Foreword.....	V
I. Legislative Requirements for the State Allocation Plan	1
II. Internal Revenue Code Requirements	1
III. Housing Needs Assessment.....	2
A. Priorities Identified in the State Consolidated Plan (2011-2015) and in the 2011 State Action Plan	2
B. Housing Needs.....	3
C. Objectives of the Commonwealth's Affordable Housing Policy (Objectives of Housing Policy)	5
IV. Housing Priorities	6
V. Set Asides.....	8
VI. Tax Credit Allocation Methodology and Criteria	8
A. Initial Submission - Basic Threshold Qualifications.....	8
B. Development Budget and Pro Forma Assumptions Review.....	13
1. Description.....	13
2. Allowable Costs and Expenses	13
a. Intermediary Costs.....	13
b. Developer Fees	14
c. General Contractor Maximum Charges.....	14
d. Per Unit Minimums	14
e. Per Unit Cost Review	15
f. Acquisition Costs	15
g. Operating Expenses	15
3. Underwriting Parameters.....	15
a. Vacancy Rate.....	15
b. Income and Reserve for Replacement	16
c. Operating Expenses.....	16
d. Debt Service Coverage Ratio.....	16
e. Required Reserves	16
f. Project Based Rental Assistance.....	17
g. Tax Credit Percentage.....	17
h. Equity Pricing.....	17
4. Record and Notification.....	17

C.	Underwriting and Financial Feasibility Analysis.....	17
1.	Description.....	17
2.	Pro Forma Statements.....	18
D.	Project Evaluation and Selection (Point Ranking System).....	18
1.	Description.....	18
2.	Section 42 Mandatory Legislative Criteria	19
3.	Other Criteria: Overview	19
a.	Preferred Project Location	19
b.	Preferred Project Characteristics.....	20
c.	Preferred Housing Needs Characteritics	20
d.	Sponsor/Owner Characteristics	20
e.	Preferred Financing Characteristics	21
f.	Tenant Population with Special Housing Needs.....	21
g.	Community Revitalization Master Plan.....	21
4.	Point Scoring.....	21
a.	Project Location	21
b.	Project Characteristics	22
c.	Housing Needs Characteristics	24
d.	Sponsor/Project Owner Characteristics.....	24
e.	Financing Characteristics.....	25
f.	Special Housing Needs Projects	26
g.	Community Revitalization Master Plan.....	26
h.	Proximity to Mass Transportation Facilities	26
i.	Point Ranking Tie Breakers	27
E.	Tax Credit Allocation.....	27
1.	Description.....	27
2.	Allocation of other Authority Administered Funds.....	28
F.	Notification of Tax Credit Allocation.....	28
G.	Review.....	29
VII.	Issuance of Tax Credits.....	29
A.	Reservation of Tax Credits Beyond Actual Allocation Year.....	29
B.	Tax Credit Dollar Amount	31
1.	Initial /Reservation of Tax Credits	31
2.	Carryover Allocation	31
3.	Additional Tax Credits	31
4.	Placed-In-Service.....	32

C.	Changes of Actual Development Costs or Other Circumstances.....	32
D.	Calendar Requirements.....	33
1.	Carryover Allocation Requirements.....	33
2.	Placed In Service Date.....	33
E.	Other Procedural Requirements	33
VIII.	Time Frame	34
IX.	Tax Exempt Financed Projects not Subject to Annual Tax Credit Volume Cap...34	
X.	Qualified Contract	35
XI.	Compliance, Fees and Penalties.....	35
A.	Procedure for Notification to IRS of Noncompliance	35
B.	Fees.....	36
1.	Application Fee	36
2.	Allocating Fee.....	36
3.	Monitoring Fee	36
C.	Penalties.....	36
XII.	Scope and Future Amendments	36

LIST OF ANNEXES

- A. Internal Revenue Code §42 - Low-Income Housing Credit
- B. Rental Market Study Prepared by Advantage Business Consultants January 2007
(Excerpt)
- C. Rent Restrictions and Income Limits for 2012
- D. List of Qualified Census Tract and Difficult to Develop Areas
- E. Form for Binding Agreement for Credits in Subsequent Year
- F. Fair Housing Act Accessibility Requirements
- G. Form for Owner's Certification
- H. Form for Accountant's Opinion
- I. Form for Attorney's Opinion
- J. Form for Preliminary Designer's Opinion
- K. Form for Declaration of Land Use Restrictive Covenants
- L. Form for 10% Cost Certification
- M. Form for Final Cost Certification
- N. Form of Completion of Construction-Designer's Opinion
- O. Compliance Monitoring Plan
- P. Qualified Contract Process
- Q. Glossary

FOREWORD

Congress adopted the Low-Income Housing Tax Credit Program (Tax Credits)¹ as part of the Tax Reform Act of 1986 (see Annex A). The Tax Credits provide a financial incentive to construct, rehabilitate, and operate rental housing for low-income tenants. A 10-year Tax Credit is available for each unit set-aside for low-income use as long as eligible households occupy a specific proportion of units in a building or project. The rents charged on the set-aside units are restricted and eligible households must occupy them or such units becoming vacant must be held open for eligible households for at least 15 years, plus a minimum of 15 additional years that Puerto Rico Housing Finance Authority requires.

IRS Revenue Procedure 2011-52 changed the 2012 Tax Credit to the greater of the annual per capita Tax Credit of \$2.20 or \$2,525,000. The population of Puerto Rico is 3,725,789 based on Internal Revenue Notice 2011-15 of March 07, 2011. The 2012 annual per capita cap multiplied by the population of Puerto Rico represents \$8,196,736 in Tax Credits. Puerto Rico Housing Finance Authority will only have estimated 2013 per capita low income housing tax credits available for allocation. The estimate is based on 2012 figures: \$8,196,736 in Tax Credits. Should legal and/or economic circumstances warrant a modification Puerto Rico Housing Finance Authority may exert its discretion to comply with the applicable environment.

¹ Tax Credits refer to the LIHTC Program as well as the amount of individual tax credits according to the text.

**PUERTO RICO HOUSING FINANCE AUTHORITY
A SUBSIDIARY OF THE GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO
STATE CREDIT AUTHORITY**

2012

Low Income Housing Tax Credit Allocation Plan

I. Legislative Requirements for the State Allocation Plan (Allocation Plan)

The Omnibus Budget Reconciliation Act of 1989 mandated that state housing credit agencies adopt plans for the allocation of the Tax Credits among qualified low-income housing projects. The Governor of Puerto Rico (**Governor**) must approve the Allocation Plan after the public has had the opportunity to comment through a public hearing.

The guidelines and requirements set forth in this Allocation Plan will be utilized in the processing of Tax Credits.

II. Internal Revenue Code Requirements

The housing credit authority for the Commonwealth of Puerto Rico is Puerto Rico Housing Finance Authority (**Authority**). Section 42(m)(1)(B) of the Internal Revenue Code of 1986, as amended (**Code**), requires the Allocation Plan to:

- A. Set forth the selection criteria to determine housing priorities appropriate to local conditions.
- B. Prefer allocating Tax Credits to projects:
 - 1. serving the lowest income tenants;
 - 2. obligated to serve qualified tenants for the longest periods; and
 - 3. located in qualified census tracts the development of which contributes to a concerted community revitalization plan.
- C. Create a procedure that the Authority will follow in monitoring noncompliance, notifying the Internal Revenue Service (**IRS**) of such noncompliance, and monitoring for noncompliance with the provisions of the Tax Credits.

Section 42(m)(1)(C) of the Code requires the Allocation Plan to include certain selection criteria:

1. project location;
2. housing needs characteristics;
3. project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan;
4. sponsor characteristics;
5. tenant populations with special housing needs;
6. public housing waiting lists;
7. tenant populations of individuals with children;
8. projects intended for eventual tenant ownership;
9. energy efficiency of the project; and
10. historic nature of the project.

Every project, including any financed with tax-exempt bonds issued after December 31, 1989, must satisfy the requirements for allocation of Tax Credits.

The Authority may use, at its discretion, the priorities and point rankings set forth to allocate certain other funding sources that it is entrusted to administer by state law or Board of Directors Resolutions, including, without limitation, state tax credits under Act 140 of October 4, 2001 (Act 140), as amended, and, other funds as its Board of Directors authorizes.

III. Housing Needs Assessment

A. Priorities identified in the State Consolidated Plan for Housing and Community Development Programs 2011-2015 (Consolidated Plan) and in the 2011 State Action Plan for the CDBG, HOME, ESG, and HOPWA Programs (Action Plan)

In reviewing the Allocation Plan, the Authority used information from the United States 2010 Census, the needs assessment on housing and homeless included in the most recent Consolidated Plan, and the information on the most recent Action Plan that the Commonwealth of Puerto Rico presented to the U.S. Department of Housing and Urban Development (HUD).

The affordable housing strategies of the Consolidated Plan are to:

1. strengthen the construction sector;
2. provide housing assistance to policemen, firefighters, teachers and nurses;
3. address the needs of the elderly, homeless and HIV affected population;
4. stimulate the development of energy efficient housing;
5. assure affordable housing for all residents, including both affordable homeownership and rental housing;
6. establish quality of life community councils in public housing projects;
7. stimulate community-driven development, redevelopment and revitalization in urban centers and rural areas.

The Action Plan's main priorities (Priorities of State Action Plan) for the benefit of low-income, very low-income and extremely low-income tenants are to:

1. respond to the municipal needs for a sound, safe, decent and appropriate affordable housing as part of a balanced sustainable economic development in the non-entitlement municipalities of Puerto Rico;
2. strengthen non-entitlement communities through community development improvements and public service, which provides a stable platform for economic development;
3. foster the sustainability of the business and industrial sector-and as a result-assist in the economic development of the non-entitlement communities and people;
4. increase the affordable housing stock in the Island, especially for rental purposes;
5. properly administer the assets in public housing;
6. provide the needed subsidies to allow low and moderate income families and individuals to occupy a sound, safe and sanitary dwelling that would enhance quality of life and self-sufficiency;
7. increase the number and quality of emergency and transitional shelter facilities for homeless and HIV affected individuals and families;
8. operate shelter facilities and provide essential services;
9. assist in preventing homelessness.

B. Housing Needs

The Puerto Rico Consolidated Plan 2011-2015 and the 2011 Action Plan analyzed the Island's housing needs based on the 2010 US Census data, the

Comprehensive Housing Affordability Strategy (CHAS) Data Book (from HUD), local studies, and other reliable information sources.

According to the U.S. Census, out of 3,725,789 individuals in Puerto Rico 1,818,687 are below poverty level (49%). It represents almost four times the U.S.A. poverty level. Of the total population, 417,218 are 65 years old and over (11%). Of those 65 years old and over, 183,500 (44%) live below the poverty level in Puerto Rico. The vast majority of the older persons that live below the poverty level reside in rural municipalities that have limited job opportunities and limited resources. There are 1,261,325 occupied housing units in Puerto Rico out of 1,418,476 total housing units (88.92%).

The Government of Puerto Rico has identified the following Housing Needs:²

1. Safe, decent and affordable residential units for very low, low and moderate-income families. In 2000 there were 1,261,325 households, expected to increase to 1,537,218 in 2015, in Puerto Rico, of which 47% had a housing problem, 276,357 had cost burden problems higher than 30% of their earned income, and 137,585 had cost burden problems higher than 50% of their earned income.³
2. Below poverty level for individuals in Puerto Rico is almost four times that in U.S.A. This single factor compels a comprehensive approach in order to alleviate the disadvantaged living conditions in this sector. The number of 65 years and over below poverty level is 44% of the total 65 years and over population in Puerto Rico and 11% of the total below the poverty level population.
3. Although the demand for low-income housing is also concentrated in large regions like San Juan and Bayamón, regions like Aguadilla, Guayama, Ponce, Mayagüez, and Fajardo also have large percentage shares of assisted living demand.
4. Municipalities with the highest percentage of rental units were San Juan, Mayagüez, Aguadilla, and Ponce, either densely urbanized or metropolitan. Fajardo had the lowest proportions, located in coastal sectors.
5. Urgency to employ the older population to supplement its income, allows economic self-sufficiency, and contributes to solve its inadequate housing. Fifty two percent (52%) of the total number of households had income below \$27,000.
6. Housing units, especially those dedicated to special needs population, must be located near transportation hubs, commercial zones, pharmacies

² Consolidated Plan 2011-2015.

³ Housing problems are defined as cost burden greater than 30% of income, overcrowding and without complete kitchen or plumbing facilities. Cost burden is the fraction of a household's total gross income spent on housing costs.

and medical facilities. Population of 65 years or more is expected to grow at a rate of 16,572 persons per year. It will be an increasing problem during the next 10 years.

C. Objectives of the Commonwealth's Affordable Housing Policy (Objectives of Housing Policy)

1. Increase availability of decent, safe and affordable housing by expanding the supply of assisted housing, modernizing and preserving existing housing stock, reducing public housing vacancies, leveraging private or other public funds to create additional housing opportunities, acquiring or building units or developments, identifying vacant or underutilized land within the PRPHA or state agencies to develop affordable housing, applying for rental vouchers, increasing homeownership opportunities, among others.
2. Improve the quality of assisted living by improving public housing management, increasing the residents satisfaction in the areas of maintenance, repair, communication, safety, services and neighborhood appearance, modernizing public housing units, demolishing or disposing of obsolete public housing, replacing public housing units, providing homeownership initiatives, developing and implementing "Greenhouse" initiatives, and developing affordable housing.
3. Expand assisted housing choices by implementing a public housing site based on waiting list by AMPs.
4. Improve community quality of life and economic vitality by implementing measures that will de-concentrate poverty, improving public housing security via controlled accesses, maximizing surveillance systems, installing surveillance systems in identified high risk projects, reducing crime and other related activities by establishing public safety and preventive programs in collaboration with public and private sectors, designating developments or buildings for the elderly or persons with disabilities, ensuring lease enforcement, and providing homeownership initiatives and/or financial alternatives for residents.
5. Promote self-sufficiency and asset development of assisted families by increasing the number and percentage of employed persons through Section 3 (*Housing and Urban Development Act of 1968 - 12 U.S.C. 1701u*) and other labor programs, providing families with supportive services to improve the persons employability and/or educational schedule through the public and private sector, and enhancing an economic development program for residents business and/or services.
6. Ensure equal opportunity and affirmatively further fair housing by undertaking measures to ensure access to assisted housing, providing a suitable living environment, and completing the goals established in the Voluntary Compliance Agreement (VCA).

7. Establish Cooperative Agreements with the Public and Private Sector, Municipalities and other non-profit organizations for the rehabilitation of the PRPHA's housing stock.
8. Establish Cooperative Agreements with the Public and Private Sector, Municipalities and other non-profit organizations for the establishment of social, educational and economic development programs for the PRPHA's residents.
9. Explore other HUD approved financial strategies, such as, and not limited to, bond issues, new market tax credits, and/or grants for the acquisition and/or rehabilitation of public housing inventory.

IV. Housing Priorities

As per Code requirements, priorities identified in the Consolidated Plan and Action Plan, Housing Needs, and Objectives of Housing Policy, the Authority favors:

- A. Strengthening the housing construction sector and its efficiency.
- B. Implementing the new permit act process to simplify procedures and reduce housing development costs.
- C. Carrying out the recommendations of the Puerto Rico Housing Task Force to improve and act upon the opportunities the housing industry provides.
- D. Complementing HUD's *American Housing Survey* with the Puerto Rico State Housing Plan to better serve local housing challenges.
- E. Reducing and controlling taxes, fees and other government charges affecting housing prices.
- F. Revamping the Property Registry and Municipal Collection Center (CRIM).
- G. Promoting housing development for the elderly, including independent and assisted living projects by:
 1. expanding and optimizing the use of local and federal subsidized rental programs to support the development of housing options for elders;
 2. converting under-utilized public or unused government buildings and properties into modern housing complexes for the elderly, and identifying available government land suitable for affordable housing development, housing for middle income families and for populations with special needs.

- H. Further the development of energy efficient housing by:
1. creating a voluntary efficient housing certification program;
 2. preserving energy, recycling and emphasizing waste reduction programs;
 3. establishing an incentives program for developers of energy efficient housing;
 4. enacting energy efficiency construction guidelines that maintain or reduce housing cost development and/or housing prices.
- I. Encourage housing affordability by:
1. expanding credits and mortgage insurance programs for low and moderate income households;
 2. expanding and strengthening incentives and access to capital to affordable housing developers;
 3. establishing by Executive Order the State's Affordable Housing Development Policy by which all government agencies will be instructed to prioritize affordable housing development and related issues;
 4. retaining and expanding the inventory of rental housing for low income households, in particular for beneficiaries of Section 8 programs (*United States Housing Act of 1937 - 42 U.S.C. 1437f*), single mothers and elderly persons by developing tax incentives programs and increases in funds for assisted housing; and
 5. revamping the tax credit program for investments in construction and rehabilitation of rental housing for low and moderate income households.
- J. Urge the adoption of social rehabilitation and enhance the quality of life in public housing projects with a multi-strategy approach through "quality of life community councils", community-driven development programs, security and anti-crime measures, renovating programs associated to education, prevention and eradication of social problems, including consumption and sales of illegal drugs, unemployment, school drop-outs, domestic violence, mental health and early pregnancy, and promoting community participation, among other initiatives. Modernization of public housing will be a priority.
- K. Advance community-self-development in marginal communities by:
1. granting property titles;
 2. fostering housing relocation from areas affected by environmental hazards;

3. stimulating development of cooperative housing;
4. providing assistance to homeless, single mothers, working class families and HIV population;
5. developing civic orientation programs on rules and regulation affecting housing construction and rehabilitation;
6. enforcing laws and regulations against illegal constructions and unregulated single unit developments (known in Spanish as "lotificaciones simples").

V. Set Asides

Non Profit Set Aside: 15% of the Authority's annual Tax Credit ceiling

Unrequested Tax Credits under the set-asides following the close of applications for the cycle shall convert to the general pool. If Tax Credits are exhausted in a designated set-aside pool, all projects submitted for such set-aside pool will compete in the general pool or, if eligible, in another available set-aside pool. The Authority may designate additional set-aside Tax Credits.

VI. Tax Credit Allocation Methodology and Criteria

The Authority will use the selection criteria stated below for ranking projects eligible for the allocation of Tax Credits. The results of the evaluation and ranking will be at the sole discretion of the Authority. Only those applications meeting all such initial qualifications applicable to them would be further considered for the Point Ranking System. The numerical ranking does not operate to vest in an applicant or project any right to reservation or allocation of Tax Credits. The Authority will, in all instances, reserve and allocate Tax Credits consistent with its sound and reasonable judgment, prudent business practices, and the exercise of its inherent discretion.

A. Initial Submission - Basic Threshold Qualifications

To be considered for a reservation of Tax Credits, an applicant must first submit a complete application in CD-ROM format, include full payment of fees and demonstrate that the owner and the project meet these initial qualifications:

1. The project is or will be a **qualified residential rental project** with the basic income and rent restrictions of Section 42 of the Code (See Annex C, Low Income Housing Tax Credits Program Maximum Rents), evidenced through:
 - a. the Owners' Certification (Annex G);

- b. the Accountant's Opinion (Annex H);
 - c. the Attorney's Opinion (Annex I);
 - d. Projected 30 years pro-forma cash-flow showing a feasible operation, prepared according the Underwriting Standards described on page 17, and certified by the proposed Management Agent;
 - e. the Designer's Preliminary Certification (Annex J);
 - f. Audited Financial Statements (updated within six months of the application; only applicable to juridical persons) of the developer, general partners, and sponsors.
 - g. Compiled or Revised Financial Statements (updated within six months of the application; only applicable to natural persons) of the shareholders, directors, principals, officers and partners, as applicable, of the owner, developer and general partner.
2. The owner, developer and their shareholders, directors, officers and partners, as applicable, must demonstrate that they have not been involved in any way (either personally or as shareholders, directors, officers or partners of a corporation, partnership or other form of business organization or joint venture) in any other project for which the Authority has provided any financing and in which a default under the terms and conditions of the applicable financing documents occurred that resulted in the foreclosure of the project or in the substitution of the owner or any shareholder, director, officer or partner thereof, as applicable. The developer shall determine any identity of interest with any other party of the project.
 3. The owner, developer and their shareholders, directors, officers and partners, as applicable, with previous participation in the program, must demonstrate that they comply with Section 42 requirements and that, as of the application filing date, there is no outstanding finding of noncompliance in another project that received Tax Credits and in which they have an interest.
 4. Evidence of construction completion or readiness to proceed as demonstrated through the following information and documents:
 - a. Percentage of construction completion.
 - b. Evidence of site control.
 - c. Land Use Consultation (*Consulta de Ubicación*) approved by the Puerto Rico Planning Board (*Junta de Planificación*), and/or Preliminary Development (*Desarrollo Preliminar*) approved by the Office of Permits Management (*OGPE* by its Spanish acronym) or a Municipality, as the case may be.

- d. Endorsement of the State Historic Preservation Office (SHPO) to the proposed Project.
- e. Letter of intent from financing source specifying terms of available financing.

Projects with private permanent financing will need a letter of intent from the financial institution. The letter should detail:

- amount and term of the loan;
- fixed or variable interest rate;
- if variable interest rate, specify index, spread and rate at the time of the letter;
- amortization period; and
- prepayment penalties.

Applicant must submit a letter of firm commitment for financing within 60 days of receiving a reservation of Tax Credits. All projects applying for Tax Credits and financing from the Authority must present the loan application to the Authority on or prior to the Tax Credit application's submittal.

- f. Development team in place: architect/designer, general contractor, management agent, their resumes and, if available, their contracts with the owner.
- g. Schematic drawings and outline specifications.
- h. Cost breakdown certified by the proposed general contractor or architect/designer.
- i. Letter of intent from syndicator or direct investor evidencing available private equity and indicating the credit price.
- j. Pro-forma financial statements certified by the proposed management agent.
- k. Original of Accountant's Opinion (Annex H).
- l. Original of Attorney's opinion (Annex I).
- m. Original of Designer's Preliminary Certification (Annex J).
- n. Applying firm's governing documents:
 - i. Certificate of Special Partnership;
 - ii. Certificate of Limited Partnership; and
 - iii. Certificate of Limited Liability Corporation, among others;
- o. Referral Agreement with Public Housing Authority (PHA), if applicable.

- p. IRS Form SS-4 (application for Employer Identification Number) or other evidence of the taxpayer identification number.
- q. Owner must demonstrate its commitment to extend the initial 15-year period of compliance with the Tax Credit program's income and rent restriction requirements for a minimum of 15 additional years. (See Annex K).
- r. Phase I environmental assessment report and/or any other applicable environmental report.
- s. Comprehensive market study report, by a party unaffiliated with the developer, of the low-income housing needs in the area to be served. The market study professional should have experience with multifamily rental housing. The market study should at least include:
 - i. A statement of the competence of the market study provider, detailing education and experience of primary author and including statement of non-interest.
 - ii. A description of the proposed site and neighborhood, including physical attributes of site, surrounding land uses, and proximity to community amenities or neighborhood features including shopping, healthcare, schools, and transportation.
 - iii. A map and photos of the subject site and surroundings showing location of community services.
 - iv. An overview of local economic conditions, including employment by sector, list of major employers, and labor force employment and unemployment trends over past 5-10 years.
 - v. A description of the proposed development, detailing proposed unit mix (number of bedrooms, bathrooms, square footage, proposed rents, AMI level, utility allowances, and any utilities included in rent), proposed unit features and community amenities, and target population including age restrictions and/or special needs populations.
 - vi. Demographic analysis of the number of households in the market area that are part of the target market (*i.e.*, family, senior, etc.), income-eligible, and can afford to pay the rent, including a projected household base at placed in service date.
 - vii. Geographic definition and analysis of the market area, including description of methodology used to define market area and map of market area including proposed site.
 - viii. Analysis of household sizes and types in the market area, including households by tenure, income, and persons per household.
 - ix. A description of comparable developments in the market area, including any rental concessions these developments presently offer.
 - x. A description of rent levels and vacancy rates of comparable properties in the market area, segmented by property type

(market rate, Tax Credit, deep subsidy) and with rents adjusted to account for utility differences and concessions or other incentives. Such description should include all existing Tax Credit developments in the primary market area and any planned additions to rental stock including recently approved Tax Credit developments.

- xi. Expected market absorption of the proposed rental housing, including capture/penetration rate analysis of target populations.
- xii. A description of the effect on the market area, including the impact on Tax Credit and other existing affordable rental housing.

THE AUTHORITY WILL CONSIDER THE MARKET STUDY, THE MARKET, MARKETABILITY FACTORS, AND ANY ADDITIONAL INFORMATION AVAILABLE TO DETERMINE IF AN ACCEPTABLE MARKET EXISTS FOR THE PROPOSED DEVELOPMENT. THE AUTHORITY WILL NOT BE BOUND BY THE CONCLUSIONS OR RECOMMENDATIONS OF THE MARKET REPORT AND RESERVES THE RIGHT TO DISQUALIFY ANY APPLICANT IN THE COMPETITION IF IT DETERMINES THAT AN ACCEPTABLE MARKET DOES NOT EXIST.

- t. **REHABILITATION PROJECTS:** Comprehensive capital needs assessment report that a competent third party professional prepares, including an opinion of proposed budget. The assessment should examine and analyze, among other things:
 - i. site;
 - ii. structural systems;
 - iii. interiors (including units and common areas); and
 - iv. mechanical systems.
 - u. Appraisal report of site and property prepared within six months of the application.
5. Projects sponsored or developed by non-profit organizations and receiving a Tax Credit reservation and allocation from the non-profit set-aside: the non-profit organization must be a **qualified nonprofit organization** under Section 42(h)(5)(C) of the Code:
- a. exempt from taxation under Section 501(a) of the Code and described in paragraph (3) or (4) of Section 501(c) of the Code;

- b. materially participate⁴ in the acquisition, development and ongoing operation of the project throughout the entire compliance period. This includes, but is not limited to, having an ownership interest in the project and being at least co-general partner; and
 - c. foster low-income housing as one of its exempt purposes.
- 6. Projects that Rural Housing Service of the U.S. Department of Agriculture (RHS) finances or sponsors: RHS commitment letter with available funding.
 - 7. Compliance with the Fair Housing Act (*Civil Rights Act of 1968 - 42 U.S.C. 3601 et seq.*) accessibility requirements certified through the Designer's opinion letters and completion of the Fair Housing Act Accessibility Requirements Checklist. (Annex F: requirements checklist; Annexes J and N: models of certification letters).
 - 8. Certification from applicant as to Federal, State, or Local subsidies received or expected to be received for the development and operation of the project.

B. Development Budget and Pro Forma Assumptions Review

1. Description

The Authority will evaluate the proposed development budget to ensure that the construction and other costs set forth for the project are reasonable and conform to Authority parameters. In addition, the pro-forma statements will be reviewed in order to ensure that the underwriting parameters conform to Authority parameters. The Authority will use its parameters and resulting numbers to review project feasibility, determine need, and allocate tax credits.

2. Allowable costs and expenses

a. Intermediary costs

Shall not exceed 5% of total development costs. The intermediary costs will include, but are not limited to:

- i. organizational costs;
- ii. syndication fees; and
- iii. professional fees (architectural, engineering, accounting, legal, design, environmental consulting, construction management).

⁴ "Material Participation" is defined in Section 469(h) of the Code and related Treasury Regulations as being involved on a regular continuous and substantial basis in the development and operation of the project throughout the full Tax Credit compliance period. The non-profit entity must submit a narrative statement, certified by a resolution of its boards of directors describing the non-profit plan for material participation during the Compliance Period.

However, the Authority reserves the right, in its sole discretion, to adjust the amount and/or timing of payment of the intermediary fees and costs at any time to achieve or maintain a project's feasibility and long-term viability.

b. Developer Fees

Maximum fee of 15% of the total development costs.

The developer fee includes the developer's overhead, profit and consultants other than the types of professional fees discussed above, and all other fees paid in connection with the project for services that would ordinarily be performed by a developer.

The Applicant must submit a copy of each consultant contract that itemizes the services to be performed by each consultant and the amount of the consultant fee for each service or group of services.

To calculate the maximum developer fee, total development costs include the cost to purchase the building, site work, construction costs, architectural and engineering fees, interim costs, financing fees and expenses, organizational legal fees, soft costs, syndication costs, reserves and working capital. It does not include the cost of purchasing land.

In addition, a maximum developer's fee of 4% is allowed on the acquisition cost of buildings (excluding land value or cost, whichever is greater) purchased for substantial rehabilitation.

Notwithstanding, the Authority reserves the right, in its sole discretion, to adjust the amount and/or timing of payment of the developer's fee at any time to achieve or maintain a project's feasibility and long-term viability.

c. General Contractor Maximum Charges

- i. Builder's profit: 10% of hard construction costs.
- ii. Builder's overhead: 3% of hard construction costs.
- iii. General requirements: 2% of hard construction costs.

d. Per Unit Minimums

The cost of a unit, except for projects financed with volume-cap tax-exempt obligations for acquisition/rehabilitation: the greater of:

- i. 20% of the adjusted basis of the building being rehabilitated,
or
- ii. \$6,100 per low-income unit in the building.

The Authority reserves the right, at its sole discretion, to exceed these standards. Nevertheless, in order to receive a waiver to such requirements every exception must be justified and documented. Therefore, the applicant must include a formal request which documents and validates proposed project costs and tax credits higher than the per unit standards.

e. Per Unit Cost Review

The Authority may appoint an independent consultant to validate construction or rehabilitation costs in projects that passed the basic threshold requirements. The consultant will evaluate:

- i. site, including topography, drainage, pavement, curving, sidewalks, parking, landscaping, water sewer, storm drainage, gas and electric utilities and lines;
- ii. structural systems;
- iii. interiors, including units, common area finishes, and disabled access;
- iv. mechanical systems;
- v. elevators; and
- vi. other factors the Authority deems necessary.

f. Acquisition Costs

The acquisition price will be limited to the lesser of the sale price or the appraised value of the land and the property, and in the case of a municipal and/or governmental seller, the costs of rehabilitation already incurred on properties not yet placed in service.

g. Operating Expenses

The Authority will consider the reasonableness of the development and operational costs of the project as an additional factor in determining the proper amount of Tax Credits.

3. Underwriting Parameters

a. Vacancy Rate

- i. 3% in projects with project-based rental assistance
- ii. 5% in projects with less than 50 units
- iii. 7% all other projects

- b. **Income and Reserve for Replacement:** 3% annual growth in rents, other income, and reserve for replacement.
- c. **Operating Expenses:** 4% annual growth.

d. **Debt Service Coverage Ratio:**

Minimum: 1.15 for the term of the debt financing, if any. Equals the proportion of the development's net operating income (operating income less operating expenses and reserve payments) to foreclosable, currently amortizing debt service obligations. In determining appropriate debt coverage, the Authority may consider other underwriting variables, such as vacancy rates, ability to raise rents, and historic operating cost escalations customary in the marketplace, to improve the development's ability to maintain viability for its period of low-income use.

e. **Required Reserves**

- i. **Rent-up reserve** shall be reasonable based upon projected rent-up time according to market and target population, but in no event shall be less than \$250 per unit.

- ii. **Operating Reserve**

Six (6) months of projected operating expenses plus debt service and annual replacement reserve payments. It must be maintained throughout the term of the Tax Credit compliance period.

Deferring the developer's fees of the project can allow the project owner to fund the operating reserve. In that case, the developer's deferred fee can only be repaid from cash flow and after all required replacement reserve deposits are made. Such fee will be projected to be repaid within 10 years and must meet the IRS standards. A statement with the terms of the deferred fee must be included.

Neither interest earned on operating reserve funds nor operating reserve funds will be considered as a source of revenue for a project.

- iii. **Replacement Reserve**

- (a) New construction for elderly: \$250 per unit per year.
- (b) New construction non-elderly and rehabilitation: \$300 per unit per year.
- (c) Replacement reserve must be capitalized from the project's operations at 3% annual increases.

f. Project Based Rental Assistance

The Authority will underwrite the rents according to Tax Credit limits unless projects that intend to use project-based rental assistance (e.g., Section 8, Law 173, or similar legislation) provide written evidence (e.g., allocation letter that indicates the rental subsidy awarded to the project, executed rental subsidy agreement).

These limits are based on annual HUD data. If Section 8 HAP, Law 173 contracts, or other similar legislation allows rents above those limits, a project may receive the additional revenue based on such extra revenue.

g. Tax Credit Percentage

The Authority will use the applicable monthly percentage rate the IRS publishes to reserve Tax Credits. The Authority, at its own discretion, could lower this percentage or use the 9% or 4% rate as applicable to a project. For buildings placed in service after July 30, 2008 and before December 31, 2013, and which are not federally subsidized for the taxable year, the applicable percentage shall not be less than 9%. At the time of the Tax Credit allocation, the applicant must choose the Tax Credit percentage for either the:

- i. Carryover Allocation or Binding Commitment month; or
- ii. month a project is or will be placed in service.

h. Equity Pricing

The Authority will use the price that owners will submit through a letter of intent/commitment from the investor confirming the financial assumptions of the purchase.

4. Record and Notification

The Authority will record and issue an itemized notice, when it provides notification of a Tax Credit reservation, or lack thereof, of amendments to the pro forma financial statements, changes to development costs, operating expenses, reserves, and underwriting assumptions.

C. Underwriting and Financial Feasibility Analysis

1. Description

The Authority shall evaluate the amount of Tax Credits, subject to its placement in the Point Ranking System, after it has determined that a project satisfies all basic qualification requirements, that proposed costs

and expenses are reasonable and within the prescribed standards, and that underwriting parameters conform to Authority guidelines.

Section 42 of the Code requires the Authority to allocate the Tax Credits necessary to make a project economically viable. Thus, no project may receive, regardless of its absolute or relative score in the Point Ranking System, more credits than the Authority's underwriting process identifies as required for financial viability. Specifically, the amount of Tax Credits will be the lesser of the:

- a. maximum allowable under the Code according to the project's eligible basis and affordability level (*eligible basis analysis*);
- b. project's current necessity as the Authority's underwriting determines (*sources and uses or equity gap analysis*); and
- c. amount of credits the applicant requested.

2. Pro-forma statements

Pro-forma statements will be prepared by the Authority based on the above described analysis, which will include recommended sources and uses of funds, as well as projected operating income for the term of affordability. These will include the amount of Tax Credits that a project would be eligible to receive, subject to the Point Ranking System, as well as the amount of permanent financing, governmental subsidies, capital contributions, and funds from Authority's or other private programs.

The Authority reserves the right, at its sole discretion, to vary the above described methodology and all tax credit allocation methodology and criteria in order to comply with Section 42 requirements, any state law requirements or to further the public policy set forth in this Qualified Allocation Plan (QAP).

D. Project Evaluation and Selection (Point Ranking System)

1. Description

The Authority will consider qualified applications for Tax Credits after a project satisfies all basic factors using the Point Ranking System established hereinafter.

The project can accumulate a total of 600 points on the Point Ranking System. The project must accumulate a minimum of 150 points to be entitled to a reservation or an allocation of Tax Credits. The Authority anticipates reserving Tax Credits for projects scoring highest under the Project Selection Criteria up to the amount permitted by law and the QAP.

HOWEVER, THE RANKING UNDER THE PROJECT SELECTION CRITERIA DOES NOT VEST AN APPLICATION OR PROJECT WITH ANY RIGHT TO RESERVATION OR ALLOCATION OF TAX CREDITS.

Applications for projects that will be placed in service within the next calendar year in which the application is submitted will receive the highest priority. Projects returning Tax Credits from a previous year allocation and not placed in service within the established statutory two-year period will receive the lowest priority.

The Authority also encourages applicants to request Tax Credits when the process to obtain the necessary approvals and permits for the development and construction of the project has ended or is close to end.

2. Section 42 mandatory legislative criteria

Federal legislation requires the Authority to give preference in allocating Tax Credits to those projects serving the lowest income tenants and to those projects committed to serve qualified tenants for the longest period.

3. Other Criteria

Applications will be evaluated according to:

a. Preferred Project Location

- i. Difficult Development Areas (DDA; HUD designation). A DDA is an area with high construction, land, and utility costs relative to area gross median income (Annex D).
- ii. Department of Transportation & Public Works (DTOP by its Spanish acronym) Joint Development Program Areas. It includes the Tren Urbano Joint Development Program, and a policy directive to position government facilities as near to Tren Urbano stations as possible, as well as to create innovative public and private mixed-use urban developments. The Joint Development Program lends support to private development projects built on or around transit property under a specific business arrangement with the transit agency. DTOP and the Highways & Transportation Authority (HTA) own a great deal of land surrounding the Tren Urbano stations, which is made available to developers through a competitive bid process. The HTA assumes responsibility for the urban design parameters while the Urbanism Directorate oversees the developer's plans.

- iii. Qualified Census Tract (QCT) (HUD designation; Annex D).

b. Preferred Project Characteristics

- i. Projects under construction or ready to begin immediate construction.
- ii. At least 50% of the units will be rent restricted and affordable to households with incomes less than 50% of the median income adjusted for family size.
- iii. Recipient of project based rental subsidies.
- iv. Proposed rehabilitation will not require relocation of existing tenants.
- v. Owner and a PHA agreed to include the development in listings of housing opportunities where households with tenant-based subsidies or from a public housing project's waiting list are welcome.
- vi. Longest commitment to low income housing.
- vii. Placed in service in calendar year in which application for Tax Credits is submitted for the first time.
- viii. It will acquire and rehabilitate a structure owned or financed by a government entity and add units to the affordable rental inventory.
- ix. Intended for eventual tenant homeownership.
- x. It will preserve existing low-income housing.

c. Preferred Housing Needs Characteristics

- i. Projects with larger amounts of 3-bedroom units that can accommodate families with children.
- ii. Projects that will rehabilitate inadequate housing or relocate families living in flash flood areas.

d. Sponsor/Owner Characteristics

- i. Previous successful participation by officers, developers, syndicators, or consultants in developing and operating Tax Credit projects.
- ii. **Penalized projects:** Sponsors, developers or owners of other projects for which the Authority has provided financing or awarded Tax Credits and in which a default has occurred that resulted in the foreclosure of the mortgaged property or in the assignment of the mortgage to the Authority or the substitution of the owner has occurred or the project found to be with uncorrected significant noncompliance over six months old.
- iii. Preference will be given to projects sponsored/developed by a Community Housing Development Organization (CHDO) properly certified by the Authority.

e. Preferred Financing Characteristics

- i. New developments in rural areas that RHS sponsors.
- ii. Minimum underwriting parameters herein described.

f. Tenant Population with Special Housing Needs

Preference will be given to projects that provide supportive services to families where members are victims of domestic violence, HIV-patients, elderly, homeless or disabled.

g. Community Revitalization Master Plan

Preference will be given to projects that are part of a community revitalization master plan which has been approved by the municipal assembly of the municipality within which the project is located ("Community Revitalization Master Plan") or near mass transportation facilities. Projects that form part of the DTOP and HTA Joint Development Program will be considered part of a Community Revitalization Master Plan.

4. Point Scoring

a. Project Location (up to 45 points)

- i. 10 points: DDA (HUD designation; Annex D; include evidence of location)
- ii. 15 points: QCT (Annex D; include evidence of location)
- iii. Up to 20 points: region that for 2012 reflected greatest potential housing demand as per the Demand for Housing 2007-2012 (Estudios Técnicos, Inc. - November 2007, Annex B). The points will be awarded as follows:
 - 20 points: Region which needs over 1,200 units.
 - 10 points: Region which needs over 1,000 units.
 - 5 points: Region which needs over 500 units.

b. Project Characteristics (up to 235 points)

i. Up to 75 points:

- a. Evidence of percentage of construction completion (certified by the project's general contractor and inspector):**

75 points: more than 75%
60 points: less than 75% to 50%
45 points: less than 50%

- b. Readiness to Proceed: construction of the project will commence as soon as an allocation or reservation of Tax Credits is made. Readiness to begin construction will be evidenced with:**

40 points: Construction Permit or Notification of Approval of the Construction Permit, issued and approved by OGPE or an Autonomous Municipality, as the case may be.

25 points: Urbanization Permit issued and approved by OGPE or an Autonomous Municipality, as the case may be.

15 points: Preliminary Development issued and approved by OGPE or an Autonomous Municipality, as the case may be.

10 points: Land Use Consultation issued and approved by Puerto Rico Planning Board.

- ii. 20 points: At least 50% of units in project are targeted for households with incomes at 50% or less of the median income adjusted for family size.**

iii. 35 points:

Rental subsidy award:

- (a) Agreement to enter into a Housing Assistance Payments Contract, between PHA and Owner.
- (b) Contract with the Department of Housing under Act Number 173 of August 31, 1996.
- (c) HUD's annual contribution contract for public housing operations subsidy.
- (d) Other similar long-term public or private rental subsidy assistance. In order to be considered, private rental subsidy assistance must be shown, and supported with proper documentation (along with cash-flows), to be economically sustainable for at least 15 years.
- (e) Firm commitment letter (must indicate the rental subsidy awarded to the project) of HUD's project based assistance (e.g., Section 8, Section 202-Supportive Housing for the Elderly, Section 811-Supportive Housing for Persons with Disabilities, Stewart B. McKinney Homeless Assistance Act of 1987, among others).
- (f) Firm commitment letter (must indicate the rental subsidy awarded to the project) of PR Department of Housing, Act Number 173 of August 31, 1996, as amended;

iv. 10 points:

Proposed rehabilitation does not require relocation of current tenants.

v. 5 points:

Written agreement with PHA, submitted with application, that PHA will include the project in any listing of housing opportunities where households with tenant-based subsidies or in a public housing project's waiting list are welcomed and where the project's owner or management agent agrees to actively seek referrals from the PHA to apply for units at the project.

- vi. Up to 10 points: Project provides guarantees for longer terms of affordability beyond the extended compliance period:
 - 10 points: At least 10 more years beyond the required 30-year period.
 - 5 points: At least 5 more years beyond the required 30-year period.
- vii. 25 points: Project will be placed in service within the calendar year in which an application for low-income housing Tax Credits is submitted for the first time
- viii. 15 points: Project will acquire and rehabilitate or demolish existing vacant structure (government authority owned or financed) to add units to the affordable rental housing inventory.
- ix. 10 points: Owner will offer the tenants a first option to buy after the initial compliance period of 15 years (must present a feasible transfer of ownership plan).
- x. 15 points: Project will acquire, rehabilitate and preserve low-income rental housing which might otherwise be converted from low-income tenancy, including Section 8 projects with expiring contracts.
- xi. 15 points: Project emphasizes its energy efficiency.

c. Housing Needs Characteristics (up to 60 points)

- i. 50 points: Project bedroom's distribution is 50% or more 3-bedroom units.
- ii. 10 points: Projects that rehabilitate inadequate housing or that relocate housing in flash flood areas.

d. Sponsor/Project Owner Characteristics (up to 65 points)

- i. 45 points: Sponsor/developer is a CHDO certified by Puerto Rico Housing Finance Authority HOME Program.

- ii. 20 points: Officers, developers, syndicators, and/or consultants can demonstrate successful past experience in the development of low income housing Tax Credit in Puerto Rico.
- ii. LESS 100 points: Sponsor, owner, developer, management agent, or consultant to the applicant has defaulted in a financing that the Authority provided in another project and such default resulted in foreclosure, assignment of mortgage or substitution of mortgagor.

e. Financing Characteristics (up to 45 points)

- i. 15 points: New construction in rural areas that will receive funds from RHS.
- ii. Up to 15 points: Filed a financing application with the Authority.
 - 15 points: Interim and Permanent
 - 7 points: Interim or Permanent
- iii. 15 points: Project meets the following underwriting requirements:
 - Operating Expenses:
 - Projects over 50 units:
 - New Construction: Per-unit per annum (PUPA) operating expenses, as management agent certifies, do not exceed \$2,850 (or \$3,000 in a Community Revitalization Master Plan Project) on the first year of operations.
 - Substantial Rehabilitation Projects: PUPA operating expenses, as management agent certifies, do not exceed \$3,000 (or \$3,200 in a Community Revitalization Master Plan Project) on the first year of operations.
 - Projects with less than 50 units: PUPA operating expenses, as certified by the management agent, do not exceed \$3,200 on the first year of operations.

f. Special Housing Needs Projects (up to 75 points)

75 points: Tenant Population with Special Housing Needs Projects developed to give priority and to assist special needs families through a written plan included in the application to provide supportive services to heads of family victims of domestic violence, elderly, disabled, HIV patients, or transitional housing for the homeless (an endorsement letter from the entity that provides supportive services to the targeted special population must be included).

g. Community Revitalization Master Plan

25 points: Project is an integral part of a Community Revitalization Master Plan that provides a unique opportunity to economically and socially improve, stimulate, develop and transform the community in which it is located, serves as an overall improvement to quality of life, and benefits other adjacent communities consistent with new urban policies of the Commonwealth or of a municipality. Applicant must provide an economic plan with financial projections to demonstrate the project's impact in the community in all mentioned categories; or

h. Proximity to Mass Transportation Facilities (up to 50 points)

Projects located on or near mass transportation facilities, including existing ATI Urban Train Stations, central hubs for Metropolitan Bus Authority buses (*AMA for its Spanish acronym*) or public car terminals.

Points will be awarded according to distance in meters to the center of the aforementioned facilities, as follows:

50 points: Projects located within a 125 meter radius from the center of the station or terminal.

25 points: Projects located within a 250 meter radius from the center of the station or terminal.

15 points: Projects located within a 500 meter radius from the center of the station or terminal.

i. Point Ranking Tie Breakers

If two or more proposals have an equal number of points, the following will be used to determine selection:

- **First tie breaker:** priority will be given to a Project That is part of the DTOPT and HTA Joint Development Program. Should a tie breaker remain, then:
- **Second tie breaker:** priority will be given to a Project located in a municipality that has not received Tax Credits in the past two years (this tiebreaker will only apply where the market study shows a clear need for the Project, as the Authority determines). Should a tie breaker remain, then:
- **Third tie breaker:** priority will be given to the Project with the greater number of points in the Community Revitalization Master Plan and Proximity to Mass Transportation Facilities criteria. Should a tie still remain, then:
- **Fourth tie breaker:** priority will be given to the Project requesting the least amount of Tax Credits per unit. Should a tie still remain, then:
- **Fifth tie breaker** will be by lot. Should this tie breaker arise, its selection process would be duly notified.

E. Tax Credit Allocation

1. Description

Following the Point Ranking calculation, projects will be ranked in descending order, most points to least points. The Authority anticipates reserving Tax Credits for those projects scoring highest under the Project Selection Criteria up to the amount the law and this Allocation Plan allow. The Authority anticipates reserving Tax Credits for each project in the list, starting with the highest scoring project, and continuing down the rankings, reserving Tax Credits and subtracting them from the cumulative balance of available Tax Credit for that year, until that balance reaches zero.

Tax Credit allocations for projects that receive binding commitments in prior years will be honored per the terms of such commitments, and projects competing under set asides will initially be ranked and compete only against other projects competing under such set asides, until the Tax Credit balance of such set asides reaches zero, whereupon such projects will be ranked and compete against all projects outside such set asides.

However, the credit allocation process may vary in order to further the public policy set forth in this Allocation Plan.

THE RANKING UNDER THE PROJECT SELECTION CRITERIA DOES NOT VEST AN APPLICANT OR PROJECT WITH ANY RIGHT TO RESERVATION OR ALLOCATION OF TAX CREDITS.

Applications for new constructions that will be placed in service within the calendar year in which the application is submitted will receive the highest priority. Projects returning Tax Credits from a previous year allocation and not placed in service within the established two-year period will receive the lowest priority. The Authority encourages applicants to apply for Tax Credits when the process to obtain the necessary approvals and permits for the development and construction of the project has ended or is about to end.

2. Allocation of Other Authority Administered Funds

It is possible that other programs and sources of funds the Authority manages may choose to rely on the Point Ranking System set forth in this Allocation Plan, as amended from time to time, to select projects to receive fund allocations.

It is also possible that such other sources of funds may be included as part of a particular project's pro forma statements calculated as described in Section VI(C)(3); that the Point Ranking of such project is sufficient to receive Tax Credits; yet that there are not sufficient funds in one or more of such other programs to meet the recommended amounts for such other program. In such situation, the Authority may, at its sole discretion and based on the criterion of necessity, adjust upwards the recommended Tax Credits up to the maximum limits prescribed in Section 42 of the Code.

F. Notification of Tax Credit Allocation

The Authority will notify, in writing, to each applicant of an initial reservation of Tax Credits, or lack thereof. The Executive Director of the Authority will sign the letter awarding, or denying, reservation of Tax Credits. For successful applicants, the initial reservation letter will specify required additional information and documentation and will determine a date by which to submit to the Authority such information and documentation and receive the final allocation. The Initial Reservation Letter will also include:

1. Itemization of adjustments to costs, income, expenses and underwriting assumptions made to the application.
2. Allocation, recommendation, reservation or offer of any other programs or sources of funds the Authority manage.

G. Review

An applicant adversely affected by a decision of the Authority denying reservation of Tax Credits may submit a written petition for reconsideration to the Executive Director of the Authority within ten (10) calendar days after the notification by mail of the letter denying the application. A copy of the petition for reconsideration must be filed with the Multifamily Housing Development and Financing Department.

The Authority shall consider the petition for reconsideration within ten (10) calendar days of filing. If the Authority makes a determination upon the merits of the petition for reconsideration, the term to petition for judicial review shall commence as of the date of the notification by mail of the final determination. If the Authority takes no action with respect to the petition for reconsideration within ten (10) calendar days of filing, the petition for reconsideration shall be deemed to have been denied outright and the term for judicial review shall commence to run as of that date.

An applicant adversely affected by a decision of the Authority denying reservation of Tax Credits may present a petition for review before the Court of Appeals within ten (10) calendar days after the notification by mail of the letter denying the application, or within ten (10) calendar days after the expiration of the term provided to the Authority to consider the petition for reconsideration.

The filing of a petition for reconsideration or a petition for judicial review shall not stay the Authority's allocation of Tax Credits to successful applicants. If an applicant who petitions for review obtains a final order or judicial decree that modifies the decision of the Authority, so that the application is worthy of a reservation of Tax Credits, the Authority shall provide the applicant with a reservation of Tax Credits from the next available allocation round, whether in the current year or a subsequent year.

The reconsideration and judicial review procedure provided herein shall be the exclusive proceeding to review the merits of a decision of the Authority regarding the reservation or allocation of Tax Credits pursuant to this Qualified Allocation Plan. Other regulations regarding formal or informal adjudicatory proceedings before the Authority are not applicable to Tax Credit reservation and allocation decisions.

VII. ISSUANCE OF TAX CREDITS

A. Reservation of Tax Credits Beyond Actual Allocation Year

The Authority recognizes that the process to construct or rehabilitate housing projects in Puerto Rico may become a burdensome one. Moreover, construction or rehabilitation of housing projects that are part of a Community Revitalization Master Plan may occur over a longer period of time than they otherwise might

have, had they not been a part of a major venture. The Authority also acknowledges that some projects, especially those participating in an extensive community undertaking might require a larger allocation of credits and placed-in-service dates may occur in different years. The Authority recognizes, as well, that investors require a level of comfort that such type of projects will be completed and placed in service in the scheduled timeframes.

In order to take into account the unique facts and circumstances and concerns described above, and in order to assist with meeting the Housing Needs, Goals of the State Action Plan, and Goals of the Housing Policy, while balancing the Authority's position with respect to any single large allocation of Tax Credits, the Authority may award a binding commitment in one year to make a Carryover Allocation for certain percentages of Tax Credits in following years in limited circumstances (**Binding Commitment**).

Applicants may apply to reserve Tax Credits and sign a Binding Commitment with the Authority to allocate Tax Credits at a future date. To such end, the Authority may reserve Tax Credits or bind itself to allocate Tax Credits to a project during the taxable years following the year in which the application is made. Section 42(h)(1)(C) of the Code determines that a reservation or Binding Commitment to allocate Tax Credits in a future year has no effect on the state housing Tax Credit ceiling until the year in which the Authority actually makes the allocation. (Annex E).

To be considered for a reservation of Tax Credits from future year cap or for a Binding Commitment to allocate Tax Credits at a future date, the Owner must demonstrate that the project falls within one of the following categories:

1. Tax Credit is deemed necessary to facilitate the restructuring of financing provided to a project confronting economic difficulties.
2. Tax Credit is deemed necessary to preserve the low-income housing status of the project or to maintain the total number of available low-income housing units in Puerto Rico.
3. Tax Credit is requested in connection with the acquisition of a project from the federal, state or local governments, or any department, Authority, entity or political subdivision thereof.
4. Tax Credit is requested in connection with a project using the Tax Credits as its only subsidy.
5. Project is part of a Community Revitalization Master Plan.

The Authority might also consider entering into a Binding Commitment with an owner of a project, even if the project fails to meet one of the above categories, if the circumstances of the project, per the Authority's sole discretion, are deemed necessary.

Depending on the circumstances and in the Authority's sole discretion, Projects with Binding Commitments may be required to file an application in the year the Tax Credits are committed and go through the Basic Threshold Qualification Process and comply with at least the Minimum Requirement of the Point Ranking System. In addition, the owner will not pay the Application Fee but rather a Processing Fee of .50% of the annual Tax Credit requested will be included with the application.

In order for the applicant to preserve a Binding Commitment for an allocation of Tax Credits, the applicant must provide an updated memorandum every six (6) months after receiving the Binding Commitment, to confirm that any information provided in the application remains true, correct and complete in all material respects, or provide specific details for any exceptions, as well as any other information that the Authority may reasonably request. If there are any material exceptions, the Authority reserves the right to revoke the Binding Commitment.

B. Tax Credit dollar amount will be determined at:

1. Initial/Reservation of Tax Credits

2. Carryover Allocation

A development with a reservation or a Binding Commitment (Section VI.B below), but which will not be placed in service by December 31, may be eligible for a carryover allocation (**Carryover Allocation**).

To sign the Carryover Allocation, the owner must provide:

- a. Final Drawings of the project; and
- b. Owner's Certification, disclosing any Federal, State, or local subsidies that the applicant has received, or expects to receive, for the development and operation of the project.

The Authority reserves the right to disqualify any applicant if it determines that the construction will not be ready to begin within six months after the signing of the Carryover Allocation Agreement.

3. Additional Tax Credits

The Tax Credits amounts will not automatically be increased above the initial reservation request or allocation amount. If the owner of a project that received a Carryover Allocation of Tax Credits determines that additional credits are necessary to make the project financially feasible, the owner must apply for additional Tax Credits in a subsequent year or cycle. The owner will need to submit a complete package and a full fee.

For projects financed with volume-cap tax-exempt obligations the Authority reserves the right, based upon pertinent circumstances, to reduce or waive the required fee for additional Tax Credits or the requirement of a complete package.

All restrictions and requirements of the original Carryover Allocation shall remain in full force and effect for the additional Tax Credits.

4. Placed-in-Service

The Authority will issue IRS Form 8609-Low-Income Housing Credit Allocation and Certification (Form 8609) after placed-in-service date, and receipt and review of:

- a. Certificate of Occupancy (*Permiso de Uso*).
- b. Independent CPA Final Cost Certification of project development (Annex M).
- c. Designer's Certification of Completion of Construction (Annex N).
- d. Updated operating budget and 30-year pro forma cashflow.
- e. Owner's Certification of any federal, state, or local subsidies received, or expected to be received, to develop and operate the project.
- f. Authority's independent consultant physical inspection and cost certification review.
- g. Any other document the Authority may determine as necessary.

The amount of Tax Credits allocated as set forth in Form 8609 may be different from the amount requested in the application, the amount specified in the Initial Reservation Letter, Binding Commitment, or the amount in a Carryover Allocation. If there are changes in resources and/or uses of funds or other material changes, the Authority will adjust the tax credit amount to reflect them, and the tax credit may be reduced.

C. Changes of Actual Development Costs or Other Circumstances

The Authority reserves the right, in its sole discretion, to reserve or allocate less Tax Credits than the amount requested in the application based on the information the applicant or any independent consultant submitted and Section 42 requirements.

D. Calendar Requirements

1. Carryover Allocation Requirements

The Code requires more than 10% of the project's reasonably expected basis be incurred by the close of:

- a. the carryover allocation calendar year, if Carryover Allocation is made before July 1; or
- b. 1 year after the date of the Carryover Allocation Agreement, if made after June 30.

After the reservation process is final, the owner and the Authority must sign a Carryover Agreement allowing the carryover of Tax Credits. At the time of the execution of the Carryover Agreement, Owners must have title of the property, or acquire such title within the next six months, and approval from all the corresponding governmental agencies to develop the project. The Authority requires expenditure of and cost certification of 10% of the costs to be submitted to the Authority within 1 year of the date of the Carryover Allocation (Annex L). All fees due to the Authority must be paid by that date.

2. Placed-in-Service Date

With respect to Carryover Allocations, the building must be placed in service within 24 months after the end of the carryover allocation calendar year.

- a. For new construction and existing buildings, placed-in-service usually means the date the building receives a Certificate of Occupancy (*Permiso de Uso*).
- b. For substantial rehabilitation, placed-in-service means the last day of the 24-month period (or shorter period if the rehabilitation is complete, if elected by the owner) for aggregating rehabilitation costs.

E. Other Procedural Requirements

The Authority will notify the Mayor of the Municipality where the project will be located of the proposal at the time of the Tax Credits' reservation and will have a reasonable opportunity to comment on the project.

VIII. Time Frame

Tax Credit applications will abide by the following reservation/allocation cycles. Additional cycles may be available if there are Tax Credits after the Authority exhausted its reservation/allocation process. The interested party may contact the Authority to ask for additional cycles, if any.

2012 Cycle	
Applications Opening Date	Feb 1, 2012
Applications Closing Date	April 2, 2012
Ranking & Reservation	May 15, 2012
Closing of Carryover Agreement	Through November 1, 2012
10% Cost Certification	Through October 31, 2013

Any changes to this schedule will be notified to the public through an advertisement in a newspaper of general circulation. If any of the due dates for application or reservation falls on a non-working day or on an official holiday, it will be moved to the following labor day.

Cost Certifications for projects receiving allocations to be placed in service are due during the same calendar year of the application and 10% certification for projects receiving a carryover allocation. (Annexes L and M)

IX. Tax-Exempt Financed Projects not Subject to Annual Tax Credit Volume Cap

Projects financed with tax-exempt obligations issued after December 31, 1989 [Section 42(h)(4)], are not subject to the Tax Credit annual volume cap, but are subject to the state private activity bond volume cap. These applications do not have to comply with the time frames set out in Section VIII and may be filed, and Tax Credits awarded, any time.

Nonetheless, these projects must satisfy the Basic Threshold Qualification Requirements and other requirements for allocation under this Plan pursuant to Section 42(h)(4). Therefore, the projects will be subject to the evaluation of housing priorities, minimum thresholds discussed above, and the fees determined in Section X. They will not be subject to the Tax Credit allocation process, but must fulfill the Point Ranking System minimum requirement of 150 points. Applicants must include a letter from the lender stating the tax-exempt status of the obligations issued to finance the project and a

certification from its tax attorney or CPA certifying that this requirement is met. If the Authority is the Lender, the letter will not be required.

Entities the Commonwealth of Puerto Rico authorizes to allocate private activity bond volume cap may allocate its bond volume cap to any of these projects based on the Tax Credit and other information such allocating authority requests.

X. Qualified Contract Process

Projects awarded Tax Credits are subject to the extended compliance period embodied in the recorded extended use agreement.

The Qualified Contract (QC) option, included in the Tax Credit legislation, is designed to permit owners of Tax Credit properties to exit the program after the initial 15 year compliance period without continued affordability restrictions on the property. The QC is a bona fide contract to acquire the Tax Credit project for a determined price. Should the Authority be unable to present a QC, the extended use period can be terminated. A qualified contract may be requested at any point after the fourteenth (14th) year of the compliance period.

The terms, conditions, and procedures contained in herein (Annex P, Qualified Contract Process) will allow the Authority to administer qualified contract requests from property owners who make a request under IRS Code Section 42(h)(6)(E)(i)(II) (QC Request).

XI. Compliance, Fees and Penalties

A. Procedure for Notification to IRS of Noncompliance

Federal legislation requires that each Allocation Plan include a procedure that the Authority will follow in notifying the IRS of noncompliance with the program. The Authority will require owners to furnish annual certifications of qualified low income tenants, including tenant income and rents charged, the number of qualifying low income units, as well as any other information pertinent to determine compliance.

The specific requirements of the Authority to implement this mandate are covered in the Compliance Monitoring Plan, which is hereby incorporated and made a part of this Plan (Annex O).

In making the application for Tax Credits, the owner agrees that the Authority and its designees will have access to any project information. This includes physical access to the project, to financial records and tenant information for any monitoring that may be deemed necessary to determine compliance with the Code.

Owners are advised that the Authority is required to do compliance monitoring and to notify the IRS and the owner of any discovered noncompliance with Tax Credit law and regulations, whether corrected or uncorrected.

B. Fees

The application package costs \$100 and includes the Allocation Plan, Compliance Monitoring Plan, Procedural Steps, and Instructions. The Authority will also charge the following fees:

1. Application Fee

One and a half percent (1.5%) of annual amount requested. This is a non-refundable and non-transferable deposit, which shall be submitted along with the application. Projects with Binding Commitments will be charged a processing fee of .5% of the annual Tax Credit requested.

2. Allocating Fee

One percent (1%) of the total ten years allocated amount. The allocating fee will be paid at the time the allocation is made through certified or manager's check. In case of Carryover Allocations under Section 42, the fee will be paid at the time of signing the agreement through certified or manager's check. Allocation fees are neither refundable nor transferable.

3. Monitoring Fee

If a credit allocation is made, the Authority will charge \$25 per each low income housing tax credit (LIHTC) unit during the compliance period (first 15 years) and the extended use period (after the first 15 years). This amount will be due and payable by January 31 of each year.

The Authority may revise the fees as necessary to insure they cover the Authority's processing expenses and compliance monitoring.

C. Penalties

If a sponsor, owner, developer or consultant has a past due allocation fee in a previous project, the Authority will not sign an allocation for the new project until the account is paid in full.

XII. Scope and Future Amendments

Federal legislation directs the Authority to allocate only that amount of Tax Credits required to make the project economically feasible. The Authority's determination is discretionary and in no way constitutes a representation or warranty, express or implied, to any sponsor, lender, investor, or third party as to the feasibility of a given project, or to the project owner, investors, lender, or third party that its allocation determines that the project adheres to Code, Treasury regulations, or any other applicable laws or regulations.

The Authority reserves the power to administer, operate and manage tax credits allocation in all situations and circumstances, both foreseen and unforeseen in the Plan. No member, employee, or agent of the Authority shall be personally liable respecting any matter or matters arising out of, or in relation to, the Tax Credits.



George R. Joyner
Executive Director

PUERTO RICO HOUSING FINANCE AUTHORITY

I, Luis G. Fortuño, Governor of the Commonwealth of Puerto Rico, hereby approve the Low Income Housing Tax Credit Allocation Plan for the Commonwealth of Puerto Rico adopted by Puerto Rico Housing Finance Authority, a subsidiary of the Government Development Bank for Puerto Rico, as the State Housing Credit Authority under the provisions of Section 42 of the Internal Revenue Code of 1986, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Commonwealth of Puerto Rico, in San Juan, Puerto Rico, this 24 day of enero, 2012.



GOVERNOR

JUEVES, 15 DE DICIEMBRE DE 2011 EL NUEVO DÍA '96



**PUERTO RICO HOUSING FINANCE
AUTHORITY**

G O V E R N M E N T O F P U E R T O R I C O

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Puerto Rico Housing Finance Authority (PRHFA) will hold a public hearing, as required by Section 42(m)(1)(A) of the Internal Revenue Code of 1986, as amended, with respect to proposed amendments to the 2012 Qualified Allocation Plan (within the meaning of Section 42(m)(1)(B) of the Internal Revenue Code).

THE HEARING HAS BEEN SCHEDULED FOR:

Date: December 22, 2011

Time: 9:00 AM

Place: Puerto Rico Housing Finance Authority,

Barbosa Avenue, 606, Third Floor

Juan C. Cordero Building

Río Piedras, PR 00926

Contact Person: Luis C. Fernández-Trinchet

The draft of the Qualified Allocation Plan will be available at:
www.gdbpr.com/documents/DRAFTQAP2012-revDec2011.pdf

or by faxing a request to (787) 620-3523 or (787) 620-3539.

Interested persons wishing to express their views on the proposed amendments will be given the opportunity to do so at the public hearing; or may they submit written comments to the PRHFA at the above address until **December 20, 2011**. To allow all interested persons a reasonable opportunity to express their views, PRHFA encourages the submission of written testimony. Oral remarks will be limited to no longer than five (5) minutes per person.

Published as a requirement of Section 42 of the Internal Revenue code of 1986, as amended.

Revised and approved by

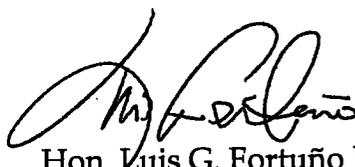

GEORGE JOYNER
EXECUTIVE DIRECTOR

CERTIFICACIÓN

Conforme a lo dispuesto en la Sección 2.13 de la Ley Núm. 170 de 12 de agosto de 1988, según enmendada, conocida por Ley de Procedimiento Administrativo Uniforme del Estado Libre Asociado de Puerto Rico, certifico que el interés público requiere la inmediata vigencia del Reglamento *Qualified Allocation Plan* para el año 2012 bajo el *Low Income Housing Tax Credit Program* al amparo de la Sección 42 del Código de Rentas Internas de Estados Unidos de América, que el Director Ejecutivo de la Autoridad para el Financiamiento de la Vivienda de Puerto Rico promulgó.

Mediante este Reglamento se establecen las normas y procedimientos que regirán la adjudicación de los créditos contributivos a los proyectos para desarrollar viviendas de interés social para alquiler durante el año 2012.

En San Juan, Puerto Rico, hoy día 24 de enero de 2012.



Hon. Luis G. Fortuño Bursset
Gobernador



GDB

PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX A

**QUALIFIED ALLOCATION
PLAN 2012**

REV.
JAN 2012

Internal Revenue Code

§ 42 LOW-INCOME HOUSING CREDIT

(a) In general.

For purposes of section 38, the amount of the low-income housing credit determined under this section for any taxable year in the credit period shall be an amount equal to—

- (1) the applicable percentage of
- (2) the qualified basis of each qualified low-income building.

(b) Applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings.

(1) Determination of applicable percentage.

(A) For purposes of this section, the term “applicable percentage” means, with respect to any building, the appropriate percentage prescribed by the Secretary for the earlier of—

- (i) the month in which such building is placed in service, or
- (ii) at the election of the taxpayer—

(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

(B) Method of prescribing percentages. The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

- (i) 70 percent of the qualified basis of a new building which is not federally subsidized for the taxable year, and
- (ii) 30 percent of the qualified basis of a building not described in clause (i).

(C) Method of discounting. The present value under subparagraph (B) shall be determined—

(i) as of the last day of the 1st year of the 10-year period referred to in subparagraph (B) ,

(ii) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under clause (i) or (ii) of subparagraph (A) and compounded annually, and

(iii) by assuming that the credit allowable under this section for any year is received on the last day of such year.

(2) Temporary minimum credit rate for non-federally subsidized new buildings.
In the case of any new building—

(A) which is placed in service by the taxpayer after the date of the enactment of this paragraph and before December 31, 2013, and

(B) which is not federally subsidized for the taxable year, the applicable percentage shall not be less than 9 percent.

(3) Cross references.

(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).

(B) For determination of applicable percentage for increases in qualified basis after the first year of the credit period, see subsection (f)(3).

(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(7).

(c) Qualified basis; qualified low-income building.
For purposes of this section —

(1) Qualified basis.

(A) Determination. The qualified basis of any qualified low-income building for any taxable year is an amount equal to—

(i) the applicable fraction (determined as of the close of such taxable year) of

(ii) the eligible basis of such building (determined under subsection (d)(5)).

(B) Applicable fraction. For purposes of subparagraph (A), the term “applicable fraction” means the smaller of the unit fraction or the floor space fraction.

(C) Unit fraction. For purposes of subparagraph (B), the term “unit fraction” means the

fraction—

- (i) the numerator of which is the number of low-income units in the building, and
- (ii) the denominator of which is the number of residential rental units (whether or not occupied) in such building.

(D) Floor space fraction. For purposes of subparagraph (B) , the term “floor space fraction” means the fraction—

- (i) the numerator of which is the total floor space of the low-income units in such building, and
- (ii) the denominator of which is the total floor space of the residential rental units (whether or not occupied) in such building.

(E) Qualified basis to include portion of building used to provide supportive services for homeless. In the case of a qualified low-income building described in subsection (i)(3)(B)(iii), the qualified basis of such building for any taxable year shall be increased by the lesser of—

- (i) so much of the eligible basis of such building as is used throughout the year to provide supportive services designed to assist tenants in locating and retaining permanent housing, or
- (ii) 20 percent of the qualified basis of such building (determined without regard to this subparagraph).

(2) Qualified low-income building. The term “qualified low-income building” means any building—

(A) which is part of a qualified low-income housing project at all times during the period—

- (i) beginning on the first day in the compliance period on which such building is part of such a project, and
- (ii) ending on the last day of the compliance period with respect to such building, and

(B) to which the amendments made by section 201(a) of the Tax Reform Act of 1986 apply.

(d) Eligible basis.

For purposes of this section —

(1) New buildings. The eligible basis of a new building is its adjusted basis as of the close of the first taxable year of the credit period.

(2) Existing buildings.

(A) In general. The eligible basis of an existing building is—

(i) in the case of a building which meets the requirements of subparagraph (B), its adjusted basis as of the close of the 1st taxable year of the credit period, and

(ii) zero in any other case.

(B) Requirements. A building meets the requirements of this subparagraph if—

(i) the building is acquired by purchase (as defined in section 179(d)(2)),

(ii) there is a period of at least 10 years between the date of its acquisition by the taxpayer and the date the building was last placed in service,

(iii) the building was not previously placed in service by the taxpayer or by any person who was a related person with respect to the taxpayer as of the time previously placed in service, and

(iv) except as provided in subsection (f)(5), a credit is allowable under subsection (a) by reason of subsection (e) with respect to the building.

(C) Adjusted basis. For purposes of subparagraph (A), the adjusted basis of any building shall not include so much of the basis of such building as is determined by reference to the basis of other property held at any time by the person acquiring the building.

(D) Special rules for subparagraph (B).

(i) Special rules for certain transfers. For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation,

(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such

person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is placed in service by such person after such foreclosure, or

(V) of a single-family residence by any individual who owned and used such residence for no other purpose than as his principal residence.

(ii) Related person. For purposes of subparagraph (B)(iii), a person (hereinafter in this subclause referred to as the "related person") is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

(3) Eligible basis reduced where disproportionate standards for units.

(A) In general. Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

(B) Exception where taxpayer elects to exclude excess costs.

(i) In general. Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and

(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

(ii) Excess. The excess described in this clause with respect to any unit is the excess of—

(I) the cost of such unit, over

(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs.

(4) Special rules relating to determination of adjusted basis.

For purposes of this subsection —

(A) In general. Except as provided in subparagraphs (B) and (C), the adjusted basis of any building shall be determined without regard to the adjusted basis of any property which is not residential rental property.

(B) Basis of property in common areas, etc., included. The adjusted basis of any building shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in common areas or provided as comparable amenities to all residential rental units in such building.

(C) Inclusion of basis of property used to provide services for certain non-tenants.

(i) In general. The adjusted basis of any building located in a qualified census tract (as defined in paragraph (5)(C)) shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation and not otherwise taken into account) used throughout the taxable year in providing any community service facility.

(ii) Limitation. The increase in the adjusted basis of any building which is taken into account by reason of clause (i) shall not exceed the sum of—

(I) 25 percent of so much of the eligible basis of the qualified low-income housing project of which it is a part as does not exceed \$15,000,000, plus

(II) 10 percent of so much of the eligible basis of such project as is not taken into account under subclause (I).

For purposes of the preceding sentence, all community service facilities which are part of the same qualified low-income housing project shall be treated as one facility.

(iii) Community service facility. For purposes of this subparagraph, the term "community service facility" means any facility designed to serve primarily individuals whose income is 60 percent or less of area median income (within the meaning of subsection (g)(1)(B)).

(D) No reduction for depreciation. The adjusted basis of any building shall be determined without regard to paragraphs (2) and (3) of section 1016(a).

(5) Special rules for determining eligible basis.

(A) Federal grants not taken into account in determining eligible basis. The eligible basis of a building shall not include any costs financed with the proceeds of a federally funded grant.

(B) Increase in credit for buildings in high cost areas.

(i) In general. In the case of any building located in a qualified census tract or difficult development area which is designated for purposes of this subparagraph —

(I) in the case of a new building, the eligible basis of such building shall be 130 percent of such basis determined without regard to this subparagraph, and

(II) in the case of an existing building, the rehabilitation expenditures taken into account under subsection (e) shall be 130 percent of such expenditures determined without regard to this subparagraph .

(ii) Qualified census tract.

(I) In general. The term "qualified census tract" means any census tract which is designated by the Secretary of Housing and Urban Development and, for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25 percent. If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts.

(II) Limit on MSA's designated. The portion of a metropolitan statistical area which may be designated for purposes of this subparagraph shall not exceed an area having 20 percent of the population of such metropolitan statistical area.

(III) Determination of areas. For purposes of this clause, each metropolitan statistical area shall be treated as a separate area and all nonmetropolitan areas in a State shall be treated as one area.

(iii) Difficult development areas.

(I) In general. The term "difficult development areas" means any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, and utility costs relative to area median gross income.

(II) Limit on areas designated. The portions of metropolitan statistical areas which may be designated for purposes of this subparagraph shall not exceed an aggregate area having 20 percent of the population of such metropolitan statistical areas. A comparable rule shall apply to nonmetropolitan areas.

(iv) Special rules and definitions. For purposes of this subparagraph —

(I) population shall be determined on the basis of the most recent decennial census for which data are available,

(II) area median gross income shall be determined in accordance with subsection (g)(4),

(III) the term "metropolitan statistical area" has the same meaning as when used in section 143(k)(2)(B), and

(IV) the term “nonmetropolitan area” means any county (or portion thereof) which is not within a metropolitan statistical area.

(v) Buildings designated by State housing credit agency. Any building which is designated by the State housing credit agency as requiring the increase in credit under this subparagraph in order for such building to be financially feasible as part of a qualified low-income housing project shall be treated for purposes of this subparagraph as located in a difficult development area which is designated for purposes of this subparagraph. The preceding sentence shall not apply to any building if paragraph (1) of subsection (h) does not apply to any portion of the eligible basis of such building by reason of paragraph (4) of such subsection.

(6) Credit allowable for certain buildings acquired during 10-year period described in paragraph (2)(B)(ii).

(A) In general. Paragraph (2)(B)(ii) shall not apply to any federally- or State-assisted building.

(B) Buildings acquired from insured depository institutions in default. On application by the taxpayer, the Secretary may waive paragraph (2)(B)(ii) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution.

(C) Federally- or State-assisted building. For purposes of this paragraph —

(i) Federally-assisted building. The term “federally-assisted building” means any building which is substantially assisted, financed, or operated under section 8 of the United States Housing Act of 1937, section 221(d)(3), 221(d) (4), or 236 of the National Housing Act, section 515 of the Housing Act of 1949, or any other housing program administered by the Department of Housing and Urban Development or by the Rural Housing Service of the Department of Agriculture.

(ii) State-assisted building. The term “State-assisted building” means any building which is substantially assisted, financed, or operated under any State law similar in purposes to any of the laws referred to in clause (i).

(7) Acquisition of building before end of prior compliance period.

(A) In general. Under regulations prescribed by the Secretary, in the case of a building described in subparagraph (B) (or interest therein) which is acquired by the taxpayer—

(i) paragraph (2)(B) shall not apply, but

(ii) the credit allowable by reason of subsection (a) to the taxpayer for any period after such acquisition shall be equal to the amount of credit which would have been allowable under subsection (a) for such period to the prior owner referred to in subparagraph (B) had such owner not disposed of the building.

(B) Description of building. A building is described in this subparagraph if—

(i) a credit was allowed by reason of subsection (a) to any prior owner of such building, and

(ii) the taxpayer acquired such building before the end of the compliance period for such building with respect to such prior owner (determined without regard to any disposition by such prior owner).

(e) Rehabilitation expenditures treated as separate new building.

(1) In general.

Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building.

(2) Rehabilitation expenditures.

For purposes of paragraph (1) —

(A) In general. The term “rehabilitation expenditures” means amounts chargeable to capital account and incurred for property (or additions or improvements to property) of a character subject to the allowance for depreciation in connection with the rehabilitation of a building.

(B) Cost of acquisition, etc, not included. Such term does not include the cost of acquiring any building (or interest therein) or any amount not permitted to be taken into account under paragraph (3) or (4) of subsection (d).

(3) Minimum expenditures to qualify.

(A) In general. Paragraph (1) shall apply to rehabilitation expenditures with respect to any building only if—

(i) the expenditures are allocable to 1 or more low-income units or substantially benefit such units, and

(ii) the amount of such expenditures during any 24-month period meets the requirements of whichever of the following subclauses requires the greater amount of such expenditures:

(I) The requirement of this subclause is met if such amount is not less than 20 percent of the adjusted basis of the building (determined as of the 1st day of such period and without regard to paragraphs (2) and (3) of section 1016(a)).

(II) The requirement of this subclause is met if the qualified basis attributable to such amount, when divided by the number of low-income units in the building, is \$6,000 or more.

(B) Exception from 10 percent rehabilitation. In the case of a building acquired by the taxpayer from a governmental unit, at the election of the taxpayer, subparagraph (A)(ii)(I) shall not apply and the credit under this section for such rehabilitation expenditures shall be determined using the percentage applicable under subsection (b)(2)(B)(ii).

(C) Date of determination. The determination under subparagraph (A) shall be made as of the close of the first taxable year in the credit period with respect to such expenditures.

(D) Inflation adjustment. In the case of any expenditures which are treated under paragraph (4) as placed in service during any calendar year after 2009, the \$6,000 amount in subparagraph (A)(ii)(II) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 2008” for “calendar year 1992” in subparagraph (B) thereof.

Any increase under the preceding sentence which is not a multiple of \$100 shall be rounded to the nearest multiple of \$100.

(4) Special rules.

For purposes of applying this section with respect to expenditures which are treated as a separate building by reason of this subsection —

(A) such expenditures shall be treated as placed in service at the close of the 24-month period referred to in paragraph (3)(A), and

(B) the applicable fraction under subsection (c)(1) shall be the applicable fraction for the building (without regard to paragraph (1)) with respect to which the expenditures were incurred.

Nothing in subsection (d)(2) shall prevent a credit from being allowed by reason of this subsection.

(5) No double counting.

Rehabilitation expenditures may, at the election of the taxpayer, be taken into account under this subsection or subsection (d)(2)(A)(i) but not under both such subsections.

(6) Regulations to apply subsection with respect to group of units in building.

The Secretary may prescribe regulations, consistent with the purposes of this subsection, treating a group of units with respect to which rehabilitation expenditures are incurred as a separate new building.

(f) Definition and special rules relating to credit period.

(1) Credit period defined.

For purposes of this section, the term “credit period” means, with respect to any building,

the period of 10 taxable years beginning with—

(A) the taxable year in which the building is placed in service, or

(B) at the election of the taxpayer, the succeeding taxable year, but only if the building is a qualified low-income building as of the close of the first year of such period. The election under subparagraph (B), once made, shall be irrevocable.

(2) Special rule for 1st year of credit period.

(A) In general. The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by substituting for the applicable fraction under subsection (c)(1) the fraction—

(i) the numerator of which is the sum of the applicable fractions determined under subsection (c)(1) as of the close of each full month of such year during which such building was in service, and

(ii) the denominator of which is 12.

(B) Disallowed first year credit allowed in 11th year. Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the first taxable year of the credit period shall be allowable under subsection (a) for the first taxable year following the credit period.

(3) Determination of applicable percentage with respect to increases in qualified basis after first year of credit period.

(A) In general. In the case of any building which was a qualified low-income building as of the close of the first year of the credit period, if—

(i) as of the close of any taxable year in the compliance period (after the first year of the credit period) the qualified basis of such building exceeds

(ii) the qualified basis of such building as of the close of the 1st year of the credit period, the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to $\frac{2}{3}$ of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

(B) first year computation applies. A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the first year of such increase.

(4) Dispositions of property.

If a building (or an interest therein) is disposed of during any year for which credit is allowable under subsection (a), such credit shall be allocated between the parties on the basis of the number of days during such year the building (or interest) was held by each. In

any such case, proper adjustments shall be made in the application of subsection (j).

(5) Credit period for existing buildings not to begin before rehabilitation credit allowed.

(A) In general. The credit period for an existing building shall not begin before the first taxable year of the credit period for rehabilitation expenditures with respect to the building.

(B) Acquisition credit allowed for certain buildings not allowed a rehabilitation credit.

(i) In general. In the case of a building described in clause (ii) —

(I) subsection (d)(2)(B)(iv) shall not apply, and

(II) the credit period for such building shall not begin before the taxable year which would be the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building under the modifications described in clause (ii)(II).

(ii) Building described. A building is described in this clause if—

(I) a waiver is granted under subsection (d)(6)(C) with respect to the acquisition of the building, and

(II) a credit would be allowed for rehabilitation expenditures with respect to such building if subsection (e)(3)(A)(ii)(I) did not apply and if the dollar amount in effect under subsection (e)(3)(A)(ii)(II) were two-thirds of such amount.

(g) Qualified low-income housing project.

For purposes of this section —

(1) In general.

The term “qualified low-income housing project” means any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

(A) 20-50 test. The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40-60 test. The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph, once made, shall be irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes

other than residential rental purposes.

(2) Rent-restricted units.

(A) In general. For purposes of paragraph (1), a residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 30 percent of the imputed income limitation applicable to such unit. For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation applicable for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income housing project.

(B) Gross rent. For purposes of subparagraph (A), gross rent—

(i) does not include any payment under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupants thereof),

(ii) includes any utility allowance determined by the Secretary after taking into account such determinations under Section 8 of the United States Housing Act of 1937,

(iii) does not include any fee for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the tenant of the unit) by any governmental program of assistance (or by an organization described in section 501(c)(3) and exempt from tax under section 501(a)) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services, and

(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949.

For purposes of clause (iii), the term "supportive service" means any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped. In the case of a single-room occupancy unit or a building described in subsection (i)(3)(B)(iii), such term includes any service provided to assist tenants in locating and retaining permanent housing.

(C) Imputed income limitation applicable to unit. For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

(i) In the case of a unit which does not have a separate bedroom, 1 individual.

(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii).

(D) Treatment of units occupied by individuals whose incomes rise above limit.

(i) In general. Except as provided in clause (ii), notwithstanding an increase in the income of the occupants of a low-income unit above the income limitation applicable under paragraph (1), such unit shall continue to be treated as a low-income unit if the income of such occupants initially met such income limitation and such unit continues to be rent-restricted.

(ii) Next available unit must be rented to low-income tenant if income rises above 140 percent of income limit. If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1), clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation. In the case of a project described in section 142(d)(4)(B), the preceding sentence shall be applied by substituting "170 percent" for "140 percent" and by substituting "any low-income unit in the building is occupied by a new resident whose income exceeds 40 percent of area median gross income" for "any residential unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation."

(E) Units where federal rental assistance is reduced as tenant's income increases. If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made.

(3) Date for meeting requirements.

(A) In general. Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the first year of the credit period for such building.

(B) Buildings which rely on later buildings for qualification.

(i) In general. In determining whether a building (hereinafter in this subparagraph referred to as the "prior building") is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

(ii) Treatment of elected buildings. In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

(iii) Date prior building is treated as placed in service. For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

(C) Special rule. A building—

(i) other than the first building placed in service as part of a project, and

(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building, shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service.

(D) Projects with more than one building must be identified. For purposes of this section, a project shall be treated as consisting of only one building unless, before the close of the first calendar year in the project period (as defined in subsection (h)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide.

(4) Certain rules made applicable. Paragraphs (2) (other than subparagraph (A)) shall have the meaning given such term by paragraph (2)(B) of this subsection thereof, (3), (4), (5),

(6), and (7) of section 142(d), and section 6652(j), shall apply for purposes of determining whether any project is a qualified low-income housing project and whether any unit is a low-income unit; except that, in applying such provisions for such purposes, the term "gross rent"

(5) Election to treat building after compliance period as not part of a project. For purposes of this section, the taxpayer may elect to treat any building as not part of a qualified low-income housing project for any period beginning after the compliance period for such building.

(6) Special rule where *de minimis* equity contribution. Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a *de minimis* amount to be held toward the purchase by such occupant of a residential unit in such project if—

(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted.

(7) Scattered site projects. Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units.

(8) Waiver of certain *de minimis* errors and recertifications.

On application by the taxpayer, the Secretary may waive—

(A) any recapture under subsection (j) in the case of any *de minimis* error in complying with paragraph (1), or

(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants.

(9) Clarification of general public use requirement. A project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants—

(A) with special needs,

(B) who are members of a specified group under a Federal program or State program or policy that supports housing for such a specified group, or

(C) who are involved in artistic or literary activities.

(h) Limitation on aggregate credit allowable with respect to projects located in a state.

(1) Credit may not exceed credit amount allocated to building.

(A) In general. The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

(B) Time for making allocation. Except in the case of an allocation which meets the requirements of subparagraph (C), (D), (E), or (F) an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

(C) Exception where binding commitment. An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

(D) Exception where increase in qualified basis.

(i) In general. An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will first apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

(ii) Limitation. The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

(I) the qualified basis of such building as of the close of the first taxable year to which such allocation will apply, over

(II) the qualified basis of such building as of the close of the first taxable year to which the most recent prior housing credit allocation with respect to such building applied.

(iii) Housing credit dollar amount reduced by full allocation. Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2).

(E) Exception where 10 percent of cost incurred.

(i) In general. An allocation meets the requirements of this subparagraph if such allocation is made with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which

the allocation is made.

(ii) **Qualified building.** For purposes of clause (i), the term "qualified building" means any building which is part of a project if the taxpayer's basis in such project (as of the date which is one year after the date that the allocation was made) is more than 10 percent of the taxpayer's reasonably expected basis in such project (as of the close of the second calendar year referred to in clause (i)). Such term does not include any existing building unless a credit is allowable under subsection (e) for rehabilitation expenditures paid or incurred by the taxpayer with respect to such building for a taxable year ending during the second calendar year referred to in clause (i) or the prior taxable year.

(F) Allocation of credit on a project basis.

(i) **In general.** In the case of a project which includes (or will include) more than one building, an allocation meets the requirements of this subparagraph if—

(I) the allocation is made to the project for a calendar year during the project period,

(II) the allocation only applies to buildings placed in service during or after the calendar year for which the allocation is made, and

(III) the portion of such allocation which is allocated to any building in such project is specified not later than the close of the calendar year in which the building is placed in service.

(ii) **Project period.** For purposes of clause (i), the term "project period" means the period—

(I) beginning with the 1st calendar year for which an allocation may be made for the 1st building placed in service as part of such project, and

(II) ending with the calendar year the last building is placed in service as part of such project.

(2) Allocated credit amount to apply to all taxable years ending during or after credit allocation year.

Any housing credit dollar amount allocated to any building for any calendar year—

(A) shall apply to such building for all taxable years in the compliance period ending during or after such calendar year, and

(B) shall reduce the aggregate housing credit dollar amount of the allocating agency only for such calendar year.

(3) Housing credit dollar amount for agencies.

(A) In general. The aggregate housing credit dollar amount which a housing credit agency may allocate for any calendar year is the portion of the State housing credit ceiling allocated under this paragraph for such calendar year to such agency.

(B) State ceiling initially allocated to state housing credit agencies. Except as provided in subparagraphs (D) and (E), the State housing credit ceiling for each calendar year shall be allocated to the housing credit agency of such State. If there is more than one housing credit agency of a State, all such agencies shall be treated as a single agency.

(C) State housing credit ceiling. The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

(i) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

(ii) the greater of—

(I) \$1.75 (\$1.50 for 2001) multiplied by the State population, or

(II) \$2,000,000,

(iii) the amount of State housing credit ceiling returned in the calendar year, plus

(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State housing credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any project which fails to meet the 10 percent test under paragraph (1) (E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified low-income housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is cancelled by mutual consent of the housing credit agency and the allocation recipient.

(D) Unused housing credit carryovers allocated among certain states.

(i) In general. The unused housing credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

(ii) Unused housing credit carryover. For purposes of this subparagraph, the unused housing credit carryover of a State for any calendar year is the excess (if any) of—

(I) the unused State housing credit ceiling for the year preceding such year, over

(II) the aggregate housing credit dollar amount allocated for such year.

(iii) Formula for allocation of unused housing credit carryovers among qualified states. The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

(iv) Qualified State. For purposes of this subparagraph, the term "qualified State" means, with respect to a calendar year, any State—

(I) which allocated its entire State housing credit ceiling for the preceding calendar year, and

(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

(E) Special rule for states with constitutional home rule cities. For purposes of this subsection —

(i) In general. The aggregate housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State housing credit ceiling for such calendar year as—

(I) the population of such city bears to

(II) the population of the entire State.

(ii) Coordination with other allocations. In the case of any State which contains one or more constitutional home rule cities, for purposes of applying this paragraph with respect to housing credit agencies in such State other than constitutional home rule cities, the State housing credit ceiling for any calendar year shall be reduced by the aggregate housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

(iii) Constitutional home rule city. For purposes of this paragraph, the term "constitutional home rule city" has the meaning given such term by section 146(d)(3)(C).

(F) State may provide for different allocation. Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

(G) Population. For purposes of this paragraph, population shall be determined in accordance with section 146(j).

(H) Cost-of-living adjustment.

(i) In general. In the case of a calendar year after 2002, the \$2,000,000 and \$1.75 amounts in subparagraph (C) shall each be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 2001” for “calendar year 1992” in subparagraph (B) thereof.

(ii) Rounding.

(I) In the case of the \$2,000,000 amount, any increase under clause (i) which is not a multiple of \$5,000 shall be rounded to the next lowest multiple of \$5,000.

(II) In the case of the \$1.75 amount, any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.

(I) Increase in State housing credit ceiling for 2008 and 2009. In the case of calendar years 2008 and 2009—

(i) the dollar amount in effect under subparagraph (C)(ii)(I) for such calendar year (after any increase under subparagraph (H)) shall be increased by \$0.20, and

(ii) the dollar amount in effect under subparagraph (C)(ii)(II) for such calendar year (after any increase under subparagraph (H)) shall be increased by an amount equal to 10 percent of such dollar amount (rounded to the next lowest multiple of \$5,000).

(4) Credit for buildings financed by tax-exempt bonds subject to volume cap not taken into account.

(A) In general. Paragraph (1) shall not apply to the portion of any credit allowable under subsection (a) which is attributable to eligible basis financed by any obligation the interest on which is exempt from tax under section 103 if —

(i) such obligation is taken into account under section 146, and

(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing or such financing is refunded as described in section 146(i)(6).

(B) Special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap. For purposes of subparagraph (A), if 50 percent or more of the aggregate basis of any building and the land on which the building is located is financed by any obligation described in subparagraph (A), paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to such building.

(5) Portion of state ceiling set-aside for certain projects involving qualified nonprofit organizations.

(A) In general. Not more than 90 percent of the State housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified low-income housing projects described in subparagraph (B).

(B) Projects involving qualified nonprofit organizations. For purposes of subparagraph (A), a qualified low-income housing project is described in this subparagraph if a qualified nonprofit organization is to own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period.

(C) Qualified nonprofit organization. For purposes of this paragraph, the term "qualified nonprofit organization" means any organization if—

(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a),

(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and

(iii) one of the exempt purposes of such organization includes the fostering of low-income housing.

(D) Treatment of certain subsidiaries.

(i) In general. For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

(ii) Qualified corporation. For purposes of clause (i), the term "qualified corporation" means any corporation if 100 percent of the stock of such corporation is held by one or more qualified nonprofit organizations at all times during the period such corporation is in existence.

(E) State may not override set-aside. Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

(6) Buildings eligible for credit only if minimum long-term commitment to low-income housing.

(A) In general. No credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year.

(B) Extended low-income housing commitment. For purposes of this paragraph, the term

“extended low-income housing commitment” means any agreement between the taxpayer and the housing credit agency—

(i) which requires that the applicable fraction (as defined in subsection (c)(1)) for the building for each taxable year in the extended use period will not be less than the applicable fraction specified in such agreement and which prohibits the actions described in subclauses (I) and (II) of subparagraph (E)

(ii),

(ii) which allows individuals who meet the income limitation applicable to the building under subsection (g) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement and prohibitions of clause (i),

(iii) which prohibits the disposition to any person of any portion of the building to which such agreement applies unless all of the building to which such agreement applies is disposed of to such person,

(iv) which prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder,

(v) which is binding on all successors of the taxpayer, and

(vi) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

(C) Allocation of credit may not exceed amount necessary to support commitment.

(i) In general. The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building, including any increase in such fraction pursuant to the application of subsection (f)(3) if such increase is reflected in an amended low-income housing commitment.

(ii) Buildings financed by tax-exempt bonds. If paragraph (4) applies to any building the amount of credit allowed in any taxable year may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building. Such commitment may be amended to increase such fraction.

(D) Extended use period. For purposes of this paragraph, the term “extended use period” means the period—

(i) beginning on the first day in the compliance period on which such building is part of a qualified low-income housing project, and

(ii) ending on the later of—

(I) the date specified by such agency in such agreement, or

(II) the date which is 15 years after the close of the compliance period.

(E) Exceptions if foreclosure or if no buyer willing to maintain low-income status.

(i) In general. The extended use period for any building shall terminate—

(I) on the date the building is acquired by foreclosure (or instrument in lieu of foreclosure) unless the Secretary determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such period, or

(II) on the last day of the period specified in subparagraph (I) if the housing credit agency is unable to present during such period a qualified contract for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low-income building.

Subclause (II) shall not apply to the extent more stringent requirements are provided in the agreement or in State law.

(ii) Eviction, etc. of existing low-income tenants not permitted. The termination of an extended use period under clause (i) shall not be construed to permit before the close of the three-year period following such termination—

(I) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or

(II) any increase in the gross rent with respect to such unit not otherwise permitted under this section.

(F) Qualified contract. For purposes of subparagraph (E), the term “qualified contract” means a bona fide contract to acquire (within a reasonable period after the contract is entered into) the non low-income portion of the building for fair market value and the low-income portion of the building for an amount not less than the applicable fraction (specified in the extended low-income housing commitment) of—

(i) the sum of—

(I) the outstanding indebtedness secured by, or with respect to, the building,

(II) the adjusted investor equity in the building, plus

(III) other capital contributions not reflected in the amounts described in subclause (I) or (II), reduced by

(ii) cash distributions from (or available for distribution from) the project.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the manipulation of the amount determined under the preceding sentence.

(G) Adjusted investor equity.

(i) In general. For purposes of subparagraph (E), the term "adjusted investor equity" means, with respect to any calendar year, the aggregate amount of cash taxpayers invested with respect to the project increased by the amount equal to—

(I) such amount, multiplied by

(II) the cost-of-living adjustment for such calendar year, determined under section 1(f)(3) by substituting the base calendar year for "calendar year 1987."

An amount shall be taken into account as an investment in the project only to the extent there was an obligation to invest such amount as of the beginning of the credit period and to the extent such amount is reflected in the adjusted basis of the project.

(ii) Cost-of-living increases in excess of 5 percent not taken into account. Under regulations prescribed by the Secretary, if the CPI for any calendar year (as defined in section 1(f)(4)) exceeds the CPI for the preceding calendar year by more than 5 percent, the CPI for the base calendar year shall be increased such that such excess shall never be taken into account under clause (i).

(iii) Base calendar year. For purposes of this subparagraph, the term "base calendar year" means the calendar year with or within which the 1st taxable year of the credit period ends.

(H) Low-income portion. For purposes of this paragraph, the low-income portion of a building is the portion of such building equal to the applicable fraction specified in the extended low-income housing commitment for the building.

(I) Period for finding buyer. The period referred to in this subparagraph is the one-year period beginning on the date (after the 14th year of the compliance period) the taxpayer submits a written request to the housing credit agency to find a person to acquire the taxpayer's interest in the low-income portion of the building.

(J) Effect of noncompliance. If, during a taxable year, there is a determination that an extended low-income housing agreement was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

(K) Projects which consist of more than one building. The application of this paragraph to projects which consist of more than one building shall be made under regulations prescribed by the Secretary.

(7) Special rules.

(A) Building must be located within jurisdiction of credit agency. A housing credit agency may allocate its aggregate housing credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

(B) Agency allocations in excess of limit. If the aggregate housing credit dollar amounts allocated by a housing credit agency for any calendar year exceed the portion of the State housing credit ceiling allocated to such agency for such calendar year, the housing credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

(C) Credit reduced if allocated credit dollar amount is less than credit which would be allowable without regard to placed in service convention, etc.

(i) In general. The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

(ii) Determination of percentage. For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

(I) the housing credit dollar amount allocated to such building bears to

(II) the credit amount determined in accordance with clause (iii).

(iii) Determination of credit amount. The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if—

(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

(II) subsection (f)(3)(A) were applied without regard to “the percentage equal to 2/3 of.”

(D) Housing credit agency to specify applicable percentage and maximum qualified basis. In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection.

(8) Other definitions.

For purposes of this subsection —

(A) Housing credit agency. The term "housing credit agency" means any agency authorized to carry out this subsection.

(B) Possessions treated as states. The term "State" includes a possession of the United States.

(i) Definitions and special rules.

For purposes of this section —

(1) Compliance period.

The term "compliance period" means, with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

(2) Determination of whether building is federally subsidized.

(A) In general. Except as otherwise provided in this paragraph, for purposes of subsection (b)(1), a new building shall be treated as federally subsidized for any taxable year if, at any time during such taxable year or any prior taxable year, there is or was outstanding any obligation the interest on which is exempt from tax under section 103 the proceeds of which are or were used (directly or indirectly) with respect to such building or the operation thereof.

(B) Election to reduce eligible basis by proceeds of obligations. A tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d) the proceeds of such obligation.

(C) Special rule for subsidized construction financing. Subparagraph (A) shall not apply to any tax-exempt obligation used to provide construction financing for any building if—

(i) such obligation (when issued) identified the building for which the proceeds of such obligation would be used, and

(ii) such obligation is redeemed before such building is placed in service.

(3) Low-income unit.

(A) In general. The term "low-income unit" means any unit in a building if—

(i) such unit is rent-restricted (as defined in subsection (g)(2)), and

(ii) the individuals occupying such unit meet the income limitation applicable under subsection (g)(1) to the project of which such building is a part.

(B) Exceptions.

(i) In general. A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy and used other than on a transient basis.

(ii) Suitability for occupancy. For purposes of clause (i), the suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes.

(iii) Transitional housing for homeless. For purposes of clause (i), a unit shall be considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building—

(I) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on the date of the enactment of this clause) to independent living within 24 months, and

(II) in which a governmental entity or qualified nonprofit organization (as defined in subsection (h)(5)) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

(iv) Single-room occupancy units. For purposes of clause (i), a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis.

(C) Special rule for buildings having 4 or fewer units. In the case of any building which has 4 or fewer residential rental units, no unit in such building shall be treated as a low-income unit if the units in such building are owned by—

(i) any individual who occupies a residential unit in such building, or

(ii) any person who is related (as defined in subsection (d)(2)(D)(iii)) to such individual.

(D) Certain students not to disqualify unit. A unit shall not fail to be treated as a low-income unit merely because it is occupied—

(i) by an individual who is—

(I) a student and receiving assistance under title IV of the Social Security Act,

(II) a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act, or

(III) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

(ii) entirely by full-time students if such students are—

(I) single parents and their children and such parents are not dependents (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children, or[,]

(II) married and file a joint return.

(E) Owner-occupied buildings having 4 or fewer units eligible for credit where development plan.

(i) In general. Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (h)(5)(C)).

(ii) Limitation on credit. In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

(iii) Certain unrented units treated as owner-occupied. In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the first day it is not rented.

(4) New building.

The term "new building" means a building the original use of which begins with the taxpayer.

(5) Existing building.

The term "existing building" means any building which is not a new building.

(6) Application to estates and trusts.

In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (j) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(7) Impact of tenant's right of 1st refusal to acquire property.

(A) In general. No Federal income tax benefit shall fail to be allowable to the taxpayer with respect to any qualified low-income building merely by reason of a right of 1st refusal held by the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or government agency to purchase the property after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

(B) Minimum purchase price. For purposes of subparagraph (A), the minimum purchase price under this subparagraph is an amount equal to the sum of—

(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to

the tenants), and

(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii).

(8) Treatment of rural projects.

For purposes of this section, in the case of any project for residential rental property located in a rural area (as defined in section 520 of the Housing Act of 1949), any income limitation measured by reference to area median gross income shall be measured by reference to the greater of area median gross income or national non-metropolitan median income. The preceding sentence shall not apply with respect to any building if paragraph (1) of section 42(h) does not apply by reason of paragraph (4) thereof to any portion of the credit determined under this section with respect to such building.

(9) Coordination with low-income housing grants.

(A) Reduction in state housing credit ceiling for low-income housing grants received in 2009. For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2009 shall each be reduced by so much of such amount as is taken into account in determining the amount of any grant to such State under section 1602 of the American Recovery and Reinvestment Tax Act of 2009.

(B) Special rule for basis. Basis of a qualified low-income building shall not be reduced by the amount of any grant described in subparagraph (A).

(j) Recapture of credit.

(1) In general.

If—

(A) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than

(B) the amount of such basis as of the close of the preceding taxable year, then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount.

(2) Credit recapture amount.

For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if the accelerated portion of the credit allowable by reason of this section were not allowed for all prior taxable years with respect to the excess of the amount described in paragraph (1)(B) over the amount

described in paragraph (1)(A), plus

(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

(3) Accelerated portion of credit.

For purposes of paragraph (2), the accelerated portion of the credit for the prior taxable years with respect to any amount of basis is the excess of—

(A) the aggregate credit allowed by reason of this section (without regard to this subsection) for such years with respect to such basis, over

(B) the aggregate credit which would be allowable by reason of this section for such years with respect to such basis if the aggregate credit which would (but for this subsection) have been allowable for the entire compliance period were allowable ratably over 15 years.

(4) Special rules.

(A) Tax benefit rule. The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(B) Only basis for which credit allowed taken into account. Qualified basis shall be taken into account under paragraph (1)(B) only to the extent such basis was taken into account in determining the credit under subsection (a) for the preceding taxable year referred to in such paragraph.

(C) No recapture of additional credit allowable by reason of subsection (f)(3). Paragraph (1) shall apply to a decrease in qualified basis only to the extent such decrease exceeds the amount of qualified basis with respect to which a credit was allowable for the taxable year referred to in paragraph (1)(B) by reason of subsection (f)(3).

(D) No credits against tax. Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

(E) No recapture by reason of casualty loss. The increase in tax under this subsection shall not apply to a reduction in qualified basis by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

(F) No recapture where *de minimis* changes in floor space. The Secretary may provide

that the increase in tax under this subsection shall not apply with respect to any building if—

(i) such increase results from a *de minimis* change in the floor space fraction under subsection (c)(1), and

(ii) the building is a qualified low-income building after such change.

(5) Certain partnerships treated as the taxpayer.

(A) In general. For purposes of applying this subsection to a partnership to which this paragraph applies—

(i) such partnership shall be treated as the taxpayer to which the credit allowable under subsection (a) was allowed,

(ii) the amount of such credit allowed shall be treated as the amount which would have been allowed to the partnership were such credit allowable to such partnership,

(iii) paragraph (4)(A) shall not apply, and

(iv) the amount of the increase in tax under this subsection for any taxable year shall be allocated among the partners of such partnership in the same manner as such partnership's taxable income for such year is allocated among such partners.

(B) Partnerships to which paragraph applies. This paragraph shall apply to any partnership which has 35 or more partners unless the partnership elects not to have this paragraph apply.

(C) Special rules.

(i) Husband and wife treated as one partner. For purposes of subparagraph (B)(i), a husband and wife (and their estates) shall be treated as one partner.

(ii) Election irrevocable. Any election under subparagraph (B), once made, shall be irrevocable.

(6) No recapture on disposition of building which continues in qualified use.

(A) In general. The increase in tax under this subsection shall not apply solely by reason of the disposition of a building (or an interest therein) if it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

(B) Statute of limitations. If a building (or an interest therein) is disposed of during any taxable year and there is any reduction in the qualified basis of such building which results in an increase in tax under this subsection for such taxable or any subsequent taxable year, then—

(i) the statutory period for the assessment of any deficiency with respect to such increase in tax shall not expire before the expiration of three years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of such reduction in qualified basis, and

(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

(k) Application of at-risk rules.

For purposes of this section —

(1) In general. Except as otherwise provided in this subsection, rules similar to the rules of section 49(a) (1) (other than subparagraphs (D)(ii)(II) and (D)(iv)(I) thereof), section 49(a)(2), and section 49(b)(1) shall apply in determining the qualified basis of any building in the same manner as such sections apply in determining the credit base of property.

(2) Special rules for determining qualified person.

For purposes of paragraph (1) —

(A) In general. If the requirements of subparagraphs (B), (C), and (D) are met with respect to any financing borrowed from a qualified nonprofit organization (as defined in subsection (h)(5)), the determination of whether such financing is qualified commercial financing with respect to any qualified low-income building shall be made without regard to whether such organization—

(i) is actively and regularly engaged in the business of lending money, or

(ii) is a person described in section 49(a)(1)(D)(iv)(II).

(B) Financing secured by property. The requirements of this subparagraph are met with respect to any financing if such financing is secured by the qualified low-income building, except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if—

(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

(ii) the proceeds from the financing (if any) are applied to acquire or improve such building.

(C) Portion of building attributable to financing. The requirements of this subparagraph are met with respect to any financing for any taxable year in the compliance period if, as of the close of such taxable year, not more than 60 percent of the eligible basis of the qualified low-income building is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).

(D) Repayment of principal and interest. The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid on or before the earliest of—

- (i) the date on which such financing matures,
- (ii) the 90th day after the close of the compliance period with respect to the qualified low-income building, or
- (iii) the date of its refinancing or the sale of the building to which such financing relates.

In the case of a qualified nonprofit organization which is not described in section 49(a)(1)(D)(iv)(II) with respect to a building, clause (ii) of this subparagraph shall be applied as if the date described therein were the 90th day after the earlier of the date the building ceases to be a qualified low-income building or the date which is 15 years after the close of a compliance period with respect thereto.

(3) Present value of financing. If the rate of interest on any financing described in paragraph (2)(A) is less than the rate which is 1 percentage point below the applicable Federal rate as of the time such financing is incurred, then the qualified basis (to which such financing relates) of the qualified low-income building shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate. For purposes of the preceding sentence, the rate of interest on any financing shall be determined by treating interest to the extent of government subsidies as not payable.

(4) Failure to fully repay.

(A) In general. To the extent that the requirements of paragraph (2)(D) are not met, then the taxpayer's tax under this chapter for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such building, increased by an amount of interest for the period—

- (i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the 1st taxable year for which such credit was allowable, and
- (ii) ending with the due date for the taxable year in which such failure occurs, determined by using the underpayment rate and method under section 6621.

(B) Applicable portion. For purposes of subparagraph (A), the term "applicable portion" means the aggregate decrease in the credits allowed to a taxpayer under section 38 for all prior taxable years which would have resulted if the eligible basis of the building were reduced by the amount of financing which does not meet requirements of paragraph (2)(D).

(C) Certain rules to apply. Rules similar to the rules of subparagraphs (A) and (D) of subsection (j)(4) shall apply for purposes of this subsection.

(l) Certifications and other reports to secretary.

(1) Certification with respect to first year of credit period.

Following the close of the first taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

- (A) the taxable year, and calendar year, in which such building was placed in service,
- (B) the adjusted basis and eligible basis of such building as of the close of the first year of the credit period,
- (C) the maximum applicable percentage and qualified basis permitted to be taken into account by the appropriate housing credit agency under subsection (h),
- (D) the election made under subsection (g) with respect to the qualified low-income housing project of which such building is a part, and
- (E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

(2) Annual reports to the Secretary.

The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

- (A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,
- (B) the information described in paragraph (1)(C) for the taxable year, and
- (C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefore.

(3) Annual reports from housing credit agencies.

Each agency which allocates any housing credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

- (A) the amount of housing credit amount allocated to each building for such year,
- (B) sufficient information to identify each such building and the taxpayer with respect

thereto, and

(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefore.

(m) Responsibilities of housing credit agencies.

(1) Plans for allocation of credit among projects.

(A) In general. Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless—

(i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part,

(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project,

(iii) a comprehensive market study of the housing needs of low-income individuals in the area to be served by the project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

(iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.

(B) Qualified allocation plan. For purposes of this paragraph, the term "qualified allocation plan" means any plan—

(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

(ii) which also gives preference in allocating housing credit dollar amounts among selected projects to—

(I) projects serving the lowest income tenants,

(II) projects obligated to serve qualified tenants for the longest periods, and

(III) projects which are located in qualified census tracts (as defined in subsection (d)(5)(C)) and the development of which contributes to a concerted community revitalization plan, and

(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

(C) Certain selection criteria must be used. The selection criteria set forth in a qualified allocation plan must include—

- (i) project location,
- (ii) housing needs characteristics,
- (iii) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan,
- (iv) sponsor characteristics,
- (v) tenant populations with special housing needs,
- (vi) public housing waiting lists,
- (vii) tenant populations of individuals with children,
- (viii) projects intended for eventual tenant ownership,
- (ix) the energy efficiency of the project, and
- (x) the historic nature of the project.

(D) Application to bond financed projects. Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located.

(2) Credit allocated to building not to exceed amount necessary to assure project feasibility.

(A) In general. The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

(B) Agency evaluation. In making the determination under subparagraph (A), the housing credit agency shall consider—

- (i) the sources and uses of funds and the total financing planned for the project,

- (ii) any proceeds or receipts expected to be generated by reason of tax benefits,
- (iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries, and
- (iv) the reasonableness of the developmental and operational costs of the project.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas. Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

(C) Determination made—when credit amount applied for and when building placed in service.

(i) In general. A determination under subparagraph (A) shall be made as of each of the following times:

- (I) The application for the housing credit dollar amount.
- (II) The allocation of the housing credit dollar amount.
- (III) The date the building is placed in service.

(ii) Certification as to amount of other subsidies. Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

(D) Application to bond financed projects. Subsection (h)(4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B).

(n) Regulations.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

- (1) dealing with—
 - (A) projects which include more than one building or only a portion of a building,
 - (B) buildings which are placed in service in portions,
- (2) providing for the application of this section to short taxable years,
- (3) preventing the avoidance of the rules of this section, and

(4) providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.

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PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX B

**QUALIFIED ALLOCATION
PLAN 2012**

REV
MAY 2012

V.3.1 Potential Housing Demand by Regions

On a regional level, potential demand can be examined broken down by regions using the distributions of households by region. The following table provides a summary of potential housing demand by for the period 2008-2012 (see Table VIII).

Table VIII

Potential Housing Demand by Region					
Regions	2008	2009	2010	2011	2012
Aguadilla	679	714	710	725	769
Arecibo	1,055	1,108	1,102	1,126	1,195
Bayamón	1,968	2,067	2,055	2,100	2,228
Caguas	1,027	1,078	1,072	1,095	1,162
Carolina	961	1,009	1,004	1,025	1,088
Fajardo	407	428	425	434	461
Guayama	357	375	373	381	406
Humacao	541	569	565	577	613
Mayagüez	942	990	984	1,005	1,067
Ponce	1,295	1,360	1,352	1,381	1,466
San Juan	1,713	1,799	1,789	1,828	1,939
Puerto Rico	10,946	11,497	11,430	11,677	12,392

Source: Estudios Técnicos, Inc.

As you can see, most potential regional housing demand is concentrated in the regions of Arecibo, Bayamón, Caguas, Carolina, Ponce and San Juan. In particular, Bayamón represents the regions with the biggest potential demand throughout the period.

Source:
Demand for Housing
2007-2012
Prepared by:
Estudios Técnicos, Inc.
November 2007

The following municipalities make up the regions considered for regional analysis throughout the report:

Regions	Municipalities
Aguadilla	Aguada, Aguadilla, Isabela, Moca and San Sebastián
Arecibo	Arecibo, Barceloneta, Camuy, Ciales, Florida, Hatillo, Lares, Manatí, Quebradillas, Utuado
Bayamón	Barranquitas, Bayamón, Cataño, Comerío, Corozal, Dorado, Morovis, Naranjito, Orocovis, Toa Alta, Toa Baja, Vega Alta and Vega Baja
Caguas	Aguas Buenas, Aibonito, Caguas, Cayey, Cidra, Gurabo and San Lorenzo
Carolina	Canóvanas, Carolina, Loiza and Trujillo Alto
Fajardo	Ceiba, Culebra, Fajardo, Luquillo, Río Grande and Vieques
Guayama	Arroyo, Guayama, Maunabo, Patillas and Salinas
Humacao	Humacao, Juncos, Las Piedras, Naguabo and Yabucoa
Mayagüez	Añasco, Cabo Rojo, Hormigueros, Lajas, Las Marías, Maricao, Mayagüez, Rincón, Sabana Grande and San Germán
Ponce	Peñuelas, Ponce, Santa Isabel, Villalba and Yauco
San Juan	Guaynabo and San Juan

Source:
Demand for Housing
2007-2012
Prepared by:
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November 2007



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ANNEX C

**QUALIFIED ALLOCATION
PLAN 2012**

REV.
JUN 2012

ANNEX C: INCOME AND RENT LIMITS 2012

ANNEX C

PUERTO RICO HOUSING FINANCE AUTHORITY		Effective Date: 1-Dec-11				
LOW INCOME HOUSING TAX CREDIT PROGRAM						
Rent Restrictions						
Region *		Studios	1 Br	2 Brs	3 Brs	4 Brs
Aguadilla-Isabela-San Sebastian						
50% of Median Income	Rent	\$ 222	\$ 238	\$ 286	\$ 330	\$ 368
60% of Median Income	Rent	\$ 267	\$ 286	\$ 343	\$ 396	\$ 442
Arecibo						
50% of Median Income	Rent	\$ 235	\$ 251	\$ 302	\$ 348	\$ 387
60% of Median Income	Rent	\$ 282	\$ 302	\$ 363	\$ 418	\$ 465
Barranquitas-Aibonito-Quebradillas						
50% of Median Income	Rent	\$ 231	\$ 247	\$ 296	\$ 342	\$ 382
60% of Median Income	Rent	\$ 277	\$ 297	\$ 355	\$ 411	\$ 459
Caguas						
50% of Median Income	Rent	\$ 257	\$ 276	\$ 331	\$ 382	\$ 427
60% of Median Income	Rent	\$ 309	\$ 331	\$ 397	\$ 459	\$ 513
Fajardo						
50% of Median Income	Rent	\$ 267	\$ 286	\$ 343	\$ 396	\$ 442
60% of Median Income	Rent	\$ 321	\$ 343	\$ 412	\$ 476	\$ 531
Guayama						
50% of Median Income	Rent	\$ 235	\$ 251	\$ 302	\$ 348	\$ 388
60% of Median Income	Rent	\$ 282	\$ 302	\$ 363	\$ 418	\$ 466
Mayaguez						
50% of Median Income	Rent	\$ 253	\$ 271	\$ 326	\$ 376	\$ 420
60% of Median Income	Rent	\$ 304	\$ 326	\$ 391	\$ 451	\$ 504
Ponce						
50% of Median Income	Rent	\$ 271	\$ 290	\$ 348	\$ 403	\$ 450
60% of Median Income	Rent	\$ 325	\$ 348	\$ 418	\$ 483	\$ 540
San German-Cabo Rojo						
50% of Median Income	Rent	\$ 220	\$ 235	\$ 282	\$ 326	\$ 365
60% of Median Income	Rent	\$ 264	\$ 282	\$ 339	\$ 392	\$ 438
San Juan-Guaynabo						
50% of Median Income	Rent	\$ 283	\$ 303	\$ 363	\$ 420	\$ 468
60% of Median Income	Rent	\$ 340	\$ 364	\$ 436	\$ 504	\$ 562
Yauco						
50% of Median Income	Rent	\$ 217	\$ 233	\$ 280	\$ 322	\$ 360
60% of Median Income	Rent	\$ 261	\$ 279	\$ 336	\$ 387	\$ 432
All Other (Nonmetropolitan)						
50% of Median Income	Rent	\$ 217	\$ 233	\$ 280	\$ 322	\$ 360
60% of Median Income	Rent	\$ 261	\$ 279	\$ 336	\$ 387	\$ 432

* See page 3 for the list of Municipalities within region.

**PUERTO RICO HOUSING FINANCE AUTHORITY
LOW INCOME HOUSING TAX CREDIT PROGRAM**

Effective Date: 1-Dec-11

Income Limits

Persons per Family Region *	1	2	3	4	5
Aguadilla-Isabela-San Sebastian					
50% of Median Income Income	\$ 8,900	\$10,200	\$11,450	\$12,700	\$ 13,750
60% of Median Income Income	\$10,680	\$12,240	\$13,740	\$15,240	\$ 16,500
Arecibo					
50% of Median Income Income	\$ 9,400	\$10,750	\$12,100	\$13,400	\$ 14,500
60% of Median Income Income	\$11,280	\$12,900	\$14,520	\$16,080	\$ 17,400
Barranquitas-Albonito-Quebradillas					
50% of Median Income Income	\$ 9,250	\$10,550	\$11,850	\$13,150	\$ 14,250
60% of Median Income Income	\$11,100	\$12,660	\$14,220	\$15,780	\$ 17,100
Caguas					
50% of Median Income Income	\$10,300	\$11,800	\$13,250	\$14,700	\$ 15,900
60% of Median Income Income	\$12,360	\$14,160	\$15,900	\$17,640	\$ 19,080
Fajardo					
50% of Median Income Income	\$10,700	\$12,200	\$13,750	\$15,250	\$ 16,500
60% of Median Income Income	\$12,840	\$14,640	\$16,500	\$18,300	\$ 19,800
Guayama					
50% of Median Income Income	\$ 9,400	\$10,750	\$12,100	\$13,400	\$ 14,500
60% of Median Income Income	\$11,280	\$12,900	\$14,520	\$16,080	\$ 17,400
Mayaguez					
50% of Median Income Income	\$10,150	\$11,600	\$13,050	\$14,450	\$ 15,650
60% of Median Income Income	\$12,180	\$13,920	\$15,660	\$17,340	\$ 18,780
Ponce					
50% of Median Income Income	\$10,850	\$12,400	\$13,950	\$15,500	\$ 16,750
60% of Median Income Income	\$13,020	\$14,880	\$16,740	\$18,600	\$ 20,100
San German-Cabo Rojo					
50% of Median Income Income	\$ 8,800	\$10,050	\$11,300	\$12,550	\$ 13,600
60% of Median Income Income	\$10,560	\$12,060	\$13,560	\$15,060	\$ 16,320
San Juan-Guaynabo					
50% of Median Income Income	\$11,350	\$12,950	\$14,550	\$16,150	\$ 17,450
60% of Median Income Income	\$13,620	\$15,540	\$17,460	\$19,380	\$ 20,940
Yauco					
50% of Median Income Income	\$ 8,700	\$ 9,950	\$11,200	\$12,400	\$ 13,400
60% of Median Income Income	\$10,440	\$11,940	\$13,440	\$14,880	\$ 16,080
All Other (Nonmetropolitan)					
50% of Median Income Income	\$ 8,700	\$ 9,950	\$11,200	\$12,400	\$ 13,400
60% of Median Income Income	\$10,440	\$11,940	\$13,440	\$14,880	\$ 16,080

* See page 3 for the list of Municipalities within region.

**PUERTO RICO HOUSING FINANCE AUTHORITY
 LOW INCOME HOUSING TAX CREDIT PROGRAM
 Income and Rent Restrictions**

Municipalities within Regions
 (as defined by HUD)

REGION	MUNICIPALITIES
Aguadilla-Isabela-San Sebastian	Aguada, Aguadilla, Añasco, Isabela, Lares, Moca, Rincon, San Sebastian
Arecibo	Arecibo, Camuy, Hatillo
Barranquitas-Aibonito-Quebradillas	Aibonito, Barranquitas, Ciales, Maunabo, Orocovis, Quebradillas
Caguas	Caguas, Cayey, Cidra, Gurabo, San Lorenzo
Fajardo	Ceiba, Fajardo, Luquillo
Guayama	Arroyo, Guayama, Patillas
Mayagüez	Hormigueros, Mayagüez
Ponce	Juana Díaz, Ponce, Villalba
San German-Cabo Rojo	Cabo Rojo, Lajas, Sabana Grande, San German
San Juan-Guaynabo	Aguas Buenas, Barceloneta, Bayamón, Canóvanas, Carolina, Cataño, Comerio, Corozal, Dorado, Florida, Guaynabo, Humacao, Juncos, Las Piedras, Loiza, Manatí, Morovis, Naguabo, Naranjito, Río Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, Vega Baja, Yabucoa
Yauco	Guanica, Guayanilla, Peñuelas, Yauco
All Other (Nonmetropolitan Area)	Adjuntas, Coamo, Culebra, Jayuya, Las Marías, Maricao, Salinas, Santa Isabel, Utuado, Vieques

**PUERTO RICO HOUSING FINANCE AUTHORITY
LOW INCOME HOUSING TAX CREDIT PROGRAM**

Effective Date: 1-Dec-11

Income Limits

Persons per Family Region *		1	2	3	4	5
Aguadilla-Isabela-San Sebastian						
50% of Median Income	Income	\$ 8,900	\$10,200	\$11,450	\$12,700	\$ 13,750
60% of Median Income	Income	\$10,680	\$12,240	\$13,740	\$15,240	\$ 16,500
Arecibo						
50% of Median Income	Income	\$ 9,400	\$10,750	\$12,100	\$13,400	\$ 14,500
60% of Median Income	Income	\$11,280	\$12,900	\$14,520	\$16,080	\$ 17,400
Barranquitas-Aibonito-Quebradillas						
50% of Median Income	Income	\$ 9,250	\$10,550	\$11,850	\$13,150	\$ 14,250
60% of Median Income	Income	\$11,100	\$12,660	\$14,220	\$15,780	\$ 17,100
Caguas						
50% of Median Income	Income	\$10,300	\$11,800	\$13,250	\$14,700	\$ 15,900
60% of Median Income	Income	\$12,360	\$14,160	\$15,900	\$17,640	\$ 19,080
Fajardo						
50% of Median Income	Income	\$10,700	\$12,200	\$13,750	\$15,250	\$ 16,500
60% of Median Income	Income	\$12,840	\$14,640	\$16,500	\$18,300	\$ 19,800
Guayama						
50% of Median Income	Income	\$ 9,400	\$10,750	\$12,100	\$13,400	\$ 14,500
60% of Median Income	Income	\$11,280	\$12,900	\$14,520	\$16,080	\$ 17,400
Mayaguez						
50% of Median Income	Income	\$10,150	\$11,600	\$13,050	\$14,450	\$ 15,650
60% of Median Income	Income	\$12,180	\$13,920	\$15,660	\$17,340	\$ 18,780
Ponce						
50% of Median Income	Income	\$10,850	\$12,400	\$13,950	\$15,500	\$ 16,750
60% of Median Income	Income	\$13,020	\$14,880	\$16,740	\$18,600	\$ 20,100
San German-Cabo Rojo						
50% of Median Income	Income	\$ 8,800	\$10,050	\$11,300	\$12,550	\$ 13,600
60% of Median Income	Income	\$10,560	\$12,060	\$13,560	\$15,060	\$ 16,320
San Juan-Guaynabo						
50% of Median Income	Income	\$11,350	\$12,950	\$14,550	\$16,150	\$ 17,450
60% of Median Income	Income	\$13,620	\$15,540	\$17,460	\$19,380	\$ 20,940
Yauco						
50% of Median Income	Income	\$ 8,700	\$ 9,950	\$11,200	\$12,400	\$ 13,400
60% of Median Income	Income	\$10,440	\$11,940	\$13,440	\$14,880	\$ 16,080
All Other (Nonmetropolitan)						
50% of Median Income	Income	\$ 8,700	\$ 9,950	\$11,200	\$12,400	\$ 13,400
60% of Median Income	Income	\$10,440	\$11,940	\$13,440	\$14,880	\$ 16,080

* See page 3 for the list of Municipalities within region.



GDB

PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX D

**QUALIFIED ALLOCATION
PLAN 2012**

REV.
ANN 2012

U.S.C. 1448(b). Under both procedures, CBP Forms 3461 and 3461 ALT are the source documents in the packages presented to Customs and Border Protection (CBP). The information collected on CBP Forms 3461 and 3461 ALT allow CBP officers to verify that the information regarding the consignee and shipment is correct and that a bond is on file with CBP. CBP also uses these forms to close out the manifest and to establish the obligation to pay estimated duties in the time period prescribed by law or regulation. CBP Form 3461 is also a delivery authorization document and is given to the importing carrier to authorize the release of the merchandise.

CBP Forms 3461 and 3461 ALT are provided for by 19 CFR parts 141 and 142. These forms are accessible at: <http://www.cbp.gov/xp/cgov/toolbox/forms/>.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

CBP Form 3461

Estimated Number of Respondents: 6,529.

Estimated Number of Responses per Respondent: 1,411.

Estimated Total Annual Responses: 9,210,160.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 2,302,540.

CBP Form 3461 ALT

Estimated Number of Respondents: 6,795.

Estimated Number of Responses per Respondent: 1,390.

Estimated Total Annual Responses: 9,444,069.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 472,203.

Dated: October 24, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011-27875 Filed 10-26-11; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Prior Disclosure

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0074.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning Prior Disclosure. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

DATES: Written comments should be received on or before December 27, 2011, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229-1177.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229-1177, at (202) 325-0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments

will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Prior Disclosure.

OMB Number: 1651-0074.

Form Number: None.

Abstract: The Prior Disclosure program establishes a method for a potential violator to disclose to CBP that they have committed an error or a violation with respect to the legal requirements of entering merchandise into the United States, such as underpaid tariffs or duties or misclassified merchandise. The procedure for making a prior disclosure is set forth in 19 CFR 162.74 which requires that respondents submit information about the merchandise involved, a specification of the false statements or omissions, and what the true and accurate information should be. A valid prior disclosure will entitle the disclosing party to the reduced penalties pursuant to 19 U.S.C. 1592(c)(4).

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 3,500.

Estimated Number of Annual Responses: 3,500.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 3,500.

Dated: October 24, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011-27876 Filed 10-26-11; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5575-N-01]

Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for 2012

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: This document designates "Difficult Development Areas" (DDAs) for purposes of the Low-Income Housing Tax Credit (LIHTC) under Section 42 of the Internal Revenue Code



of 1986 (IRC) (26 U.S.C. 42). The United States Department of Housing and Urban Development (HUD) makes new DDA designations annually. The designations of "Qualified Census Tracts" (QCTs) under IRC Section 42 published October 6, 2009, remain in effect.

In addition to announcing the 2012 DDA designations, HUD seeks public comment on whether it should use Small Area Fair Market Rents (FMRs), rather than metropolitan-area FMRs, in future designations of metropolitan DDAs.

DATES: Comment Due Date: December 27, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit comments, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between

8 a.m. and 5 p.m. eastern time weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on how areas are designated and on geographic definitions, contact Michael K. Hollar, Senior Economist, Economic Development and Public Finance Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8234, Washington, DC 20410-6000; telephone number 202-402-5878, or send an email to Michael.K.Hollar@hud.gov. For specific legal questions pertaining to Section 42, contact Branch 5, Office of the Associate Chief Counsel, Passthroughs and Special Industries, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224; telephone number 202-622-3040, fax number 202-622-4753. For questions about the "HUB Zones" program, contact Mariana Pardo, Assistant Administrator for Procurement Policy, Office of Government Contracting, Small Business Administration, 409 Third Street, SW., Suite 8800, Washington, DC 20416; telephone number 202-205-8885, fax number 202-205-7167, or send an email to hubzone@sba.gov. A text telephone is available for persons with hearing or speech impairments at 202-708-8339. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUD User at 800-245-2691 for a small fee to cover duplication and mailing costs.

Copies Available Electronically: This notice and additional information about DDAs and QCTs are available electronically on the Internet at <http://www.huduser.org/datasets/qct.html>.

SUPPLEMENTARY INFORMATION:

This Document

This notice designates DDAs for each of the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. The designations of DDAs in this notice are based on final Fiscal Year (FY) 2011 Fair Market Rents (FMRs), FY 2011 income limits, 2000

Decennial Census population counts for nonmetropolitan areas, and 2010 Decennial Census population counts for metropolitan areas, as explained below.

This notice also seeks public comment on whether HUD should change the methodology for determining metropolitan DDAs to use Small Area FMRs (SAFMRs), estimated at the ZIP-Code level based on the relationship of ZIP-Code rents to metropolitan area rents, as the housing cost component of the DDA formula rather than metropolitan-area FMRs. Such a change would more widely distribute DDAs to metropolitan areas around the country than the current methodology, and encourage the development of LIHTC and tax-exempt bond-financed housing in neighborhoods with potentially greater opportunities for resident employment and education.

2000 and 2010 Census

Data from the 2010 census on total population of metropolitan areas and from the 2000 census for nonmetropolitan areas are used in the designation of DDAs. Population totals from the 2000 census are used for the designation of nonmetropolitan areas because 2010 population totals are not uniformly available for all nonmetropolitan areas, specifically Guam and the Virgin Islands. The Office of Management and Budget (OMB) first published new metropolitan area definitions incorporating 2000 census data in OMB Bulletin No. 03-04 on June 6, 2003, and updated them periodically through OMB Bulletin No. 09-01 on November 20, 2008. The FY 2011 FMRs and FY 2011 income limits used to designate DDAs are based on these metropolitan statistical area (MSA) definitions, with modifications to account for substantial differences in rental housing markets (and, in some cases, median income levels) within MSAs.

Background

The U.S. Department of the Treasury (Treasury) and its Internal Revenue Service (IRS) are authorized to interpret and enforce the provisions of the IRC, including the LIHTC found at Section 42. The Secretary of HUD is required to designate DDAs and QCTs by IRC Section 42(d)(5)(B). In order to assist in understanding HUD's mandated designation of DDAs and QCTs for use in administering IRC Section 42, a summary of the section is provided. The following summary does not purport to bind Treasury or the IRS in any way, nor does it purport to bind HUD, since HUD has authority to interpret or administer the IRC only in instances

where it receives explicit statutory delegation.

Summary of the Low-Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low-income housing. IRC Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (credit ceiling) is limited by population. Each state is allowed a credit ceiling based on a statutory formula indicated at IRC Section 42(h)(3). States may carry forward unallocated credits derived from the credit ceiling for one year; however, to the extent such unallocated credits are not used by then, the credits go into a national pool to be redistributed to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low-income housing buildings whose owners have applied for the credit. Besides IRC Section 42 credits derived from the credit ceiling, states may also provide IRC Section 42 credits to owners of buildings based on the percentage of certain building costs financed by tax-exempt bond proceeds. Credits provided under the tax-exempt bond "volume cap" do not reduce the credits available from the credit ceiling.

The credits allocated to a building are based on the cost of units placed in service as low-income units under particular minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: (1) 20 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the Area Median Gross Income (AMGI), or (2) 40 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term "rent-restricted" means that gross rent, including an allowance for tenant-paid utilities, cannot exceed 30 percent of the tenant's imputed income limitation (*i.e.*, 50 percent or 60 percent of AMGI). The rent and occupancy thresholds remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low-income character of the building for at least an additional 15 years.

The LIHTC reduces income tax liability dollar-for-dollar. It is taken annually for a term of 10 years and is intended to yield a present value of either: (1) 70 percent of the "qualified basis" for new construction or

substantial rehabilitation expenditures that are not federally subsidized (as defined in Section 42(i)(2)), or (2) 30 percent of the qualified basis for the cost of acquiring certain existing buildings or projects that are federally subsidized. The actual credit rates are adjusted monthly for projects placed in service after 1987 under procedures specified in IRC Section 42. Individuals can use the credits up to a deduction equivalent of \$25,000 (the actual maximum amount of credit that an individual can claim depends on the individual's marginal tax rate). For buildings placed in service after December 31, 2007, individuals can use the credits against the alternative minimum tax. Corporations, other than S or personal service corporations, can use the credits against ordinary income tax, and, for buildings placed in service after December 31, 2007, against the alternative minimum tax. These corporations also can deduct losses from the project.

The qualified basis represents the product of the building's "applicable fraction" and its "eligible basis." The applicable fraction is based on the number of low-income units in the building as a percentage of the total number of units, or based on the floor space of low-income units as a percentage of the total floor space of residential units in the building. The eligible basis is the adjusted basis attributable to acquisition, rehabilitation, or new construction costs (depending on the type of LIHTC involved). These costs include amounts chargeable to a capital account that are incurred prior to the end of the first taxable year in which the qualified low-income building is placed in service or, at the election of the taxpayer, the end of the succeeding taxable year. In the case of buildings located in designated DDAs or designated QCTs, eligible basis can be increased up to 130 percent from what it would otherwise be. This means that the available credits also can be increased by up to 30 percent. For example, if a 70-percent credit is available, it effectively could be increased to as much as 91 percent.

IRC Section 42 defines a DDA as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. All designated DDAs in metropolitan areas (taken together) may not contain more than 20 percent of the aggregate population of all metropolitan areas, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all nonmetropolitan areas.

IRC Section 42(d)(5)(B)(v) allows states to award an increase in basis up

to 30 percent to buildings located outside of federally designated DDAs and QCTs if the increase is necessary to make the building financially feasible. This state discretion applies only to buildings allocated credits under the state housing credit ceiling and is not permitted for buildings receiving credits in connection with tax-exempt bonds. Rules for such designations shall be set forth in the LIHTC-allocating agencies' qualified allocation plans (QAPs).

Explanation of HUD Designation Methodology

A. Difficult Development Areas

In developing the list of DDAs, HUD compared housing costs with incomes. HUD used 2010 census population for metropolitan areas, 2000 census population data for nonmetropolitan areas, and the MSA definitions, as published in OMB Bulletin No. 09-01 on November 20, 2008, with modifications, as described below. In keeping with past practice of basing the coming year's DDA designations on data from the preceding year, the basis for these comparisons is the FY 2011 HUD income limits for very low-income households (very low-income limits, or VLILs), which are based on 50 percent of AMGI, and final FY 2011 FMRs used for the Housing Choice Voucher (HCV) program. In formulating the FY 2011 FMRs and VLILs, HUD modified the current OMB definitions of MSAs to account for substantial differences in rents among areas within each new MSA that were in different FMR areas under definitions used in prior years. HUD formed these "HUD Metro FMR Areas" (HMFAs) in cases where one or more of the parts of newly defined MSAs that previously were in separate FMR areas had 2000 census-based 40th-percentile recent-mover rents that differed, by 5 percent or more, from the same statistic calculated at the MSA level. In addition, a few HMFAs were formed on the basis of very large differences in AMGIs among the MSA parts. All HMFAs are contained entirely within MSAs. All nonmetropolitan counties are outside of MSAs and are not broken up by HUD for purposes of setting FMRs and VLILs. (Complete details on HUD's process for determining FY 2011 FMR areas and FMRs are available at <http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr11>. Complete details on HUD's process for determining FY2011 income limits are available at <http://www.huduser.org/portal/datasets/il/il11/index.html>.)

HUD's unit of analysis for designating metropolitan DDAs, therefore, consists

of: entire MSAs, in cases where these were not broken up into HMFAs for purposes of computing FMRs and VLILs; and HMFAs within the MSAs that were broken up for such purposes. Hereafter in this notice, the unit of analysis for designating metropolitan DDAs will be called the HMFA, and the unit of analysis for nonmetropolitan county or county equivalent area. The procedure used in making the DDA calculations follows:

1. For each HMFA and each nonmetropolitan county, a ratio was calculated. This calculation used the final FY 2011 two-bedroom FMR and the FY 2011 four-person VLIL.

a. The numerator of the ratio, representing the development cost of housing, was the area's final FY 2011 FMR. In general, the FMR is based on the 40th-percentile gross rent paid by recent movers to live in a two-bedroom apartment. In metropolitan areas granted a FMR based on the 50th-percentile rent for purposes of improving the administration of HUD's HCV program (see 76 FR 52058), the 40th-percentile rent was used to ensure nationwide consistency of comparisons.

b. The denominator of the ratio, representing the maximum income of eligible tenants, was the monthly LIHTC income-based rent limit, which was calculated as 1/12 of 30 percent of 120 percent of the area's VLIL (where the VLIL was rounded to the nearest \$50 and not allowed to exceed 80 percent of the AMGI in areas where the VLIL is adjusted upward from its 50 percent-of-AMGI base).

2. The ratios of the FMR to the LIHTC income-based rent limit were arrayed in descending order, separately, for HMFAs and for nonmetropolitan counties.

3. The DDAs are those with the highest ratios cumulative to 20 percent of the 2010 population of all metropolitan areas and 2000 population of all nonmetropolitan areas. Population totals from the 2000 census are used for the designation of nonmetropolitan areas because 2010 population totals are not uniformly available for all nonmetropolitan areas, specifically Guam and the Virgin Islands.

B. Application of Population Caps to DDA Determinations

IRC Section 42 requires the application of caps, or limitations, as noted above. The cumulative population of metropolitan DDAs cannot exceed 20 percent of the cumulative population of all metropolitan areas, and the cumulative population of nonmetropolitan DDAs cannot exceed

20 percent of the cumulative population of all nonmetropolitan areas.

In applying caps, HUD established procedures to deal with how to treat small overruns of the caps. The remainder of this section explains those procedures. In general, HUD stops selecting areas when it is impossible to choose another area without exceeding the applicable cap. The only exceptions to this policy are when the next eligible excluded area contains either a large absolute population or a large percentage of the total population, or the next excluded area's ranking ratio, as described above, was identical (to four decimal places) to the last area selected, and its inclusion resulted in only a minor overrun of the cap. Thus, for both the designated metropolitan and nonmetropolitan DDAs, there may be minimal overruns of the cap. HUD believes the designation of additional areas in the above examples of minimal overruns is consistent with the intent of the IRC. As long as the apparent excess is small due to measurement errors, some latitude is justifiable, because it is impossible to determine whether the 20 percent cap has been exceeded. Despite the care and effort involved in a Decennial Census, the Bureau of the Census and all users of the data recognize that the population counts for a given area and for the entire country are not precise. Therefore, the extent of the measurement error is unknown. There can be errors in both the numerator and denominator of the ratio of populations used in applying a 20 percent cap. In circumstances where a strict application of a 20 percent cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting small variances above the 20 percent limit.

C. Exceptions to OMB Definitions of MSAs and Other Geographic Matters

As stated in OMB Bulletin 09-01, defining metropolitan areas:

OMB establishes and maintains the definitions of Metropolitan * * * Statistical Areas, * * * solely for statistical purposes. * * * OMB does not take into account or attempt to anticipate any non-statistical uses that may be made of the definitions[.] In cases where * * * an agency elects to use the Metropolitan * * * Area definitions in nonstatistical programs, it is the sponsoring agency's responsibility to ensure that the definitions are appropriate for such use. An agency using the statistical definitions in a nonstatistical program may modify the definitions, but only for the purposes of that program. In such cases, any modifications should be clearly identified as deviations from the OMB statistical area definitions in order to avoid confusion with OMB's official

definitions of Metropolitan * * * Statistical Areas.

Following OMB guidance, the estimation procedure for the FY 2011 FMRs incorporates the current OMB definitions of metropolitan areas based on the Core-Based Statistical Area (CBSA) standards, as implemented with 2000 Census data, but makes adjustments to the definitions, in order to separate subparts of these areas in cases where FMRs (and in a few cases, VLILs) would otherwise change significantly if the new area definitions were used without modification. In CBSAs where subareas are established, it is HUD's view that the geographic extent of the housing markets are not yet the same as the geographic extent of the CBSAs, but may approach becoming so as the social and economic integration of the CBSA component areas increases.

The geographic baseline for the new estimation procedure is the CBSA Metropolitan Areas (referred to as Metropolitan Statistical Areas or MSAs) and CBSA NonMetropolitan Counties (nonmetropolitan counties include the county components of Micropolitan CBSAs where the counties are generally assigned separate FMRs). The HUD-modified CBSA definitions allow for subarea FMRs within MSAs based on the boundaries of "Old FMR Areas" (OFAs) within the boundaries of new MSAs. (OFAs are the FMR areas defined for the FY 2005 FMRs. Collectively, they include the June 30, 1999, OMB definitions of MSAs and primary MSAs (old definition MSAs/primary metropolitan statistical areas (PMSAs), metropolitan counties deleted from old definition MSAs/PMSAs by HUD for FMR-setting purposes, and counties and county parts outside of old definition MSAs/PMSAs referred to as nonmetropolitan counties). Subareas of MSAs are assigned their own FMRs when the subarea 2000 census base FMR differs significantly from the MSA 2000 census base FMR (or, in some cases, where the 2000 census base AMGI differs significantly from the MSA 2000 census base AMGI). MSA subareas, and the remaining portions of MSAs after subareas have been determined, are referred to as "HUD Metro FMR Areas (HMFAs)," to distinguish such areas from OMB's official definition of MSAs.

In the New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), HMFAs are defined according to county subdivisions or minor civil divisions (MCDs), rather than county boundaries. However, since no part of an HMFA is outside an OMB-defined,

county-based MSA, all New England nonmetropolitan counties are kept intact for purposes of designating Nonmetropolitan DDAs.

For the convenience of readers of this notice, the geographical definitions of designated Metropolitan DDAs are included in the list of DDAs.

Future Designations

DDAs are designated annually as updated income and FMR data are made public. QCTs are designated periodically as new data become available, or as metropolitan area definitions change. QCTs are not redesignated for 2012 because household income distribution and poverty data is not available for 2010 census tract boundaries. The most recent data for which household income by tract is available is from the 2005–2009, 5-year American Community Survey (ACS). This data, however, was released using the 2000 census tract boundaries, while the 2010 decennial census population counts were released using the 2010 census tract boundaries. The geography of the population counts does not match the geography of the income and poverty rate information. This makes the most recent data incompatible for QCT designation, meaning HUD cannot designate QCTs in accordance with statute.

The next release of census tract-level data from the ACS, which will be the 2006–2010, 5-year data using 2010 Decennial Census boundaries, is scheduled for December 2011. At this point, all data needed to designate QCTs in accordance with statute will be tabulated to compatible geographies. Since the LIHTC program, for which QCTs are designated, operates on a calendar-year annual allocation cycle, HUD's standing practice is to designate QCTs in the fall prior to the effective date, which coincides with the calendar year. This provides lead time for the LIHTC developers and administrators to adjust plans in accordance with the revised designations. Thus, the next scheduled designation of QCTs using data released in December 2011 is the fall of 2012, for an effective date of January 1, 2013.

Effective Date

The 2012 lists of DDAs are effective: (1) For allocations of credit after December 31, 2011; or

(2) For purposes of IRC Section 42(h)(4), if the bonds are issued and the building is placed in service after December 31, 2011.

If an area is not on a subsequent list of DDAs, the 2012 lists are effective for the area if:

(1) The allocation of credit to an applicant is made no later than the end of the 365-day period after the applicant submits a complete application to the LIHTC-allocating agency, and the submission is made before the effective date of the subsequent lists; or

(2) For purposes of IRC Section 42(h)(4), if:

(a) The bonds are issued or the building is placed in service no later than the end of the 365-day period after the applicant submits a complete application to the bond-issuing agency, and

(b) The submission is made before the effective date of the subsequent lists, provided that both the issuance of the bonds and the placement in service of the building occur after the application is submitted.

An application is deemed to be submitted on the date it is filed if the application is determined to be complete by the credit-allocating or bond-issuing agency. A "complete application" means that no more than *de minimis* clarification of the application is required for the agency to make a decision about the allocation of tax credits or issuance of bonds requested in the application.

In the case of a "multiphase project," the DDA or QCT status of the site of the project that applies for all phases of the project is that which applied when the project received its first allocation of LIHTC. For purposes of IRC Section 42(h)(4), the DDA or QCT status of the site of the project that applies for all phases of the project is that which applied when the first of the following occurred: (a) The building(s) in the first phase were placed in service, or (b) the bonds were issued.

For purposes of this notice, a "multiphase project" is defined as a set of buildings to be constructed or rehabilitated under the rules of the LIHTC and meeting the following criteria:

(1) The multiphase composition of the project (i.e., total number of buildings and phases in project, with a description of how many buildings are to be built in each phase and when each phase is to be completed, and any other information required by the agency) is made known by the applicant in the first application of credit for any building in the project, and that applicant identifies the buildings in the project for which credit is (or will be) sought;

(2) The aggregate amount of LIHTC applied for on behalf of, or that would eventually be allocated to, the buildings on the site exceeds the one-year limitation on credits per applicant, as

defined in the Qualified Allocation Plan (QAP) of the LIHTC-allocating agency, or the annual per-capita credit authority of the LIHTC allocating agency, and is the reason the applicant must request multiple allocations over 2 or more years; and

(3) All applications for LIHTC for buildings on the site are made in immediately consecutive years.

Members of the public are hereby reminded that the Secretary of Housing and Urban Development, or the Secretary's designee, has sole legal authority to designate DDAs and QCTs, by publishing lists of geographic entities as defined by, in the case of DDAs, the several states and the governments of the insular areas of the United States and, in the case of QCTs, by the Census Bureau; and to establish the effective dates of such lists. The Secretary of the Treasury, through the IRS thereof, has sole legal authority to interpret, and to determine and enforce compliance with the IRC and associated regulations, including Federal Register notices published by HUD for purposes of designating DDAs and QCTs. Representations made by any other entity as to the content of HUD notices designating DDAs and QCTs that do not precisely match the language published by HUD should not be relied upon by taxpayers in determining what actions are necessary to comply with HUD notices.

The designations of "Qualified Census Tracts" under IRC Section 42, published October 6, 2009 (74 FR 51304), remain in effect. The above language regarding 2012 and subsequent designations of DDAs also applies to the designations of QCTs published October 6, 2009 (74 FR 51304) and to subsequent designations of QCTs.

Interpretive Examples of Effective Date

For the convenience of readers of this notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose DDA status. The examples covering DDAs are equally applicable to QCT designations.

(Case A)

Project A is located in a 2012 DDA that is NOT a designated DDA in 2013. A complete application for tax credits for Project A is filed with the allocating agency on November 15, 2012. Credits are allocated to Project A on October 30, 2013. Project A is eligible for the increase in basis accorded a project in a 2012 DDA because the application was filed BEFORE January 1, 2013 (the assumed effective date for the 2013 DDA lists), and because tax credits were

allocated no later than the end of the 365-day period after the filing of the complete application for an allocation of tax credits.

(Case B)

Project B is located in a 2012 DDA that is NOT a designated DDA in 2013 or 2014. A complete application for tax credits for Project B is filed with the allocating agency on December 1, 2012. Credits are allocated to Project B on March 30, 2014. Project B is not eligible for the increase in basis accorded a project in a 2012 DDA because, although the application for an allocation of tax credits was filed before January 1, 2013 (the assumed effective date of the 2013 DDA lists), the tax credits were allocated later than the end of the 365-day period after the filing of the complete application.

(Case C)

Project C is located in a 2012 DDA that was not a DDA in 2011. Project C was placed in service on November 15, 2011. A complete application for tax-exempt bond financing for Project C is filed with the bond-issuing agency on January 15, 2012. The bonds that will support the permanent financing of Project C are issued on September 30, 2012. Project C is not eligible for the increase in basis otherwise accorded a project in a 2012 DDA, because the project was placed in service before January 1, 2012.

(Case D)

Project D is located in an area that is a DDA in 2012, but is not a DDA in 2013. A complete application for tax-exempt bond financing for Project D is filed with the bond-issuing agency on October 30, 2012. Bonds are issued for Project D on April 30, 2013, but Project D is not placed in service until January 30, 2014. Project D is eligible for the increase in basis available to projects located in 2012 DDAs because: (1) One of the two events necessary for triggering the effective date for buildings described in Section 42(h)(4)(B) of the IRC (the two events being bonds issued and buildings placed in service) took place on April 30, 2013, within the 365-day period after a complete application for tax-exempt bond financing was filed, (2) the application was filed during a time when the location of Project D was in a DDA, and (3) both the issuance of the bonds and placement in service of Project D occurred after the application was submitted.

(Case E)

Project E is a multiphase project located in a 2012 DDA that is not a

designated DDA in 2013. The first phase of Project E received an allocation of credits in 2012, pursuant to an application filed March 15, 2012, which describes the multiphase composition of the project. An application for tax credits for the second phase Project E is filed with the allocating agency by the same entity on March 15, 2013. The second phase of Project E is located on a contiguous site. Credits are allocated to the second phase of Project E on October 30, 2013. The aggregate amount of credits allocated to the two phases of Project E exceeds the amount of credits that may be allocated to an applicant in one year under the allocating agency's QAP and is the reason that applications were made in multiple phases. The second phase of Project E is, therefore, eligible for the increase in basis accorded a project in a 2012 DDA, because it meets all of the conditions to be a part of a multiphase project.

(Case F)

Project F is a multiphase project located in a 2012 DDA that is not a designated DDA in 2013. The first phase of Project F received an allocation of credits in 2012, pursuant to an application filed March 15, 2012, which does not describe the multiphase composition of the project. An application for tax credits for the second phase of Project F is filed with the allocating agency by the same entity on March 15, 2014. Credits are allocated to the second phase of Project F on October 30, 2014. The aggregate amount of credits allocated to the two phases of Project F exceeds the amount of credits that may be allocated to an applicant in one year under the allocating agency's QAP. The second phase of Project F is, therefore, not eligible for the increase in basis accorded a project in a 2012 DDA, since it does not meet all of the conditions for a multiphase project, as defined in this notice. The original application for credits for the first phase did not describe the multiphase composition of the project. Also, the application for credits for the second phase of Project F was not made in the year immediately following the first phase application year.

Request for Public Comment on Designating DDAs Using Small Area FMRs in Metropolitan Areas

HUD is considering a major policy change in the method of designating metropolitan DDAs beginning with the 2013 designations. Rather than using FMRs established for HUD Metropolitan FMR Areas as the measure of "construction, land, and utility costs relative to area median gross income,"

HUD would use "Small Area FMRs" (SAFMRs) defined at the ZIP Code level within metropolitan areas. In general, HUD estimates SAFMRs by multiplying the ratio of ZIP-Code area to metropolitan-area median gross rent by the metropolitan-area FMRs (a complete description of how SAFMRs are estimated was published in a Federal Register notice at 75 FR 27808-12 (May 18, 2010) and is available at: http://www.huduser.org/portal/datasets/fmr/fmr2010f/Small_Area_FMRs.pdf). HUD would use the same income measure as used in the current metropolitan DDA designation method, the HUD income limits for very low-income households, or VLILs, estimated at the HUD Metropolitan FMR Area level, which are used to determine LIHTC and tax-exempt bond-financed project maximum rents and tenant income limits.

HUD would otherwise designate Small Area Difficult Development Areas (SADDAs) in the same way as it designates metropolitan DDAs as described above in this notice, except that the unit of analysis is the metropolitan ZIP Code instead of the HUD Metropolitan FMR Area. Thus, the population-weighted 20 percent of ZIP Codes with the highest ratios of SAFMR to metropolitan VLIL would be designated as DDAs.

HUD has available an evaluative list of the 2,118 metropolitan ZIP Codes that would be designated Small Area DDAs based on the data available to HUD at the time of this publication. The main piece of currently missing data that HUD would have for a 2013 designation of SADDAs is the 2010 Decennial Census population counts for ZIP Codes. Thus, HUD used the ZIP Code-to-metropolitan area rent relationships and ZIP Code populations from the 2000 Decennial Census to create the evaluative list of SADDAs. In general, the metropolitan areas designated DDAs in this notice have many, but not all, ZIP Codes designated as SADDAs, while a number of metropolitan areas that have never been DDAs in the history of the program get one or more SADDAs. Under SADDAs, the additional subsidy available under section 42 would be limited to the higher opportunity areas of high-cost rental markets, and to the highest opportunity areas of otherwise lower-cost rental markets.

HUD seeks comments on the relative merits of SADDAs versus existing metropolitan DDA policy in advancing HUD's goals of meeting the need for quality affordable rental homes and utilizing housing as a platform for improving quality of life.

Findings and Certifications**Environmental Impact**

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(6) of HUD's regulations, the policies and procedures contained in this notice provide for the establishment of fiscal requirements or procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Therefore, they are categorically excluded from the requirements of the National Environmental Policy Act, except for extraordinary circumstances, and no Finding of No Significant Impact is required.

Federalism Impact

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any policy document that has federalism implications if the document either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the document preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This notice merely designates DDAs as required under Section 42 of the IRC, as amended, for the use by political subdivisions of the states in allocating the LIHTC. This notice also details the technical methodology used in making such designations. As a result, this notice is not subject to review under the order.

Dated: October 20, 2011.

Raphael W. Bostic,
Assistant Secretary for Policy Development
and Research.

[FR Doc. 2011-27817 Filed 10-26-11; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[LLAZ910000.L14300000.ET0000.
LXSIURAM0000 241A; AZA-35138]

Notice of Availability of the Northern Arizona Proposed Withdrawal Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management

Act (FLPMA), the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Northern Arizona Proposed Withdrawal and by this notice is announcing its availability.

DATES: The Final EIS will be distributed and made available to the public for a minimum of 30 days following the publication of a Notice of Availability in the Federal Register by the Environmental Protection Agency (EPA). As the decision maker in this matter, the Secretary of the Interior will not issue a final decision on the proposal for a minimum of 30 days after the date that the EPA publishes this notice in the Federal Register.

ADDRESSES: Copies of the Northern Arizona Proposed Withdrawal Final EIS are available for public inspection at: Bureau of Land Management, Arizona Strip District Office, 345 East Riverside Drive, St. George, Utah 84790; Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004-4427; and U.S. Forest Service, Kaibab National Forest, 800 South 6th Street, Williams, Arizona 86046. Interested persons may also review the Final EIS on the Internet at <http://www.blm.gov/az/st/en/prog/mining/timeout.html>.

FOR FURTHER INFORMATION CONTACT: Chris Horyza, Project Manager, Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004-4427, (602) 417-9446, e-mail chris_horyza@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877-8339 to contact the above individual during normal business hours. The service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: On July 21, 2009, the U.S. Department of the Interior published notice of a proposal to withdraw (Proposed Withdrawal) approximately 1 million acres of Federal locatable minerals in northern Arizona from location and entry under the Mining Law of 1872, (30 U.S.C. 22-54) (Mining Law), subject to valid existing rights, by the Secretary of the Interior (Secretary).

Under Section 204 of FLPMA, publication of the Federal Register notice of the Proposed Withdrawal had the effect of segregating the lands involved for up to 2 years from the location and entry of new mining claims, subject to valid existing rights.

For detailed information pertaining to the location of the Proposed Withdrawal, refer to the map dated August 11, 2011, posted on the Internet at: <http://www.blm.gov/az/st/en/prog/mining/timeout.html>. This map is also on file at the Arizona Strip District Office at the address above and can be viewed there upon request. Detailed legal descriptions of each withdrawal alternative are included as Appendix C in the Northern Arizona Proposed Withdrawal Final EIS. On June 27, 2011, the Secretary published a Public Land Order withdrawing, under the Secretary's emergency withdrawal authority in Section 204(e) of FLPMA, the same Federal lands from location and entry under the Mining Law, subject to valid existing rights. The emergency withdrawal was effective on July 21, 2011, and expires on January 20, 2012. The BLM has completed an Environmental Analysis of the Proposed Withdrawal in accordance with NEPA.

The Proposed Action analyzed in the Final EIS is the withdrawal of 1,006,545 acres of Federal lands near Grand Canyon National Park from location and entry under the Mining Law for a period of 20 years. This has also been selected as the Preferred Alternative. The purpose of the action is to protect the natural, cultural, and social resources in the Grand Canyon watershed from the possible adverse effects of the reasonably foreseeable locatable mineral exploration and mining that could occur in the area proposed for withdrawal.

The need for action is based on a history of hardrock mining activities in the Grand Canyon watershed dating back to the 1860s. In some cases, these mining activities have left lasting impacts within the watershed, primarily associated with older copper and uranium mines. These historical impacts and the recent increase in the number and extent of mining claims located in the area, particularly for uranium, have raised concerns that future hardrock mining activities in the Grand Canyon watershed could result in adverse effects to resources.

Public scoping for this project began on August 26, 2009 (74 FR 43152), with publication of a Notice of Intent in the Federal Register, and closed on October 30, 2009. During that time, 83,525 comment letters were received. Important issues identified during scoping include:

- Change in geologic conditions and availability of uranium resources;
- Dewatering of perched aquifers and changes in water availability in deep aquifers;
- Contamination of both ground and surface water;

2012 IRS SECTION 42(d)(5)(B) METROPOLITAN DIFFICULT DEVELOPMENT AREAS
 (OMB Metropolitan Area Definitions, November 20, 2008 [MSA] and derived FY2011 HUD Metro FMR Area Definitions [HMFA])

State	Metropolitan Area	Metropolitan Area Components			
Arizona	Flagstaff, AZ MSA	Coconino County			
	Yuma, AZ MSA	Yuma County			
California	Los Angeles-Long Beach, CA HMFA	Los Angeles County			
	Napa, CA MSA	Napa County			
	Orange County, CA HMFA	Orange County			
	Oxnard-Thousand Oaks-Ventura, CA MSA	Ventura County	San Bernardino County		
	Riverside-San Bernardino-Ontario, CA MSA	Riverside County			
	San Benito County, CA HMFA	San Benito County			
	San Diego-Carlsbad-San Marcos, CA MSA	San Diego County	San Francisco County	San Mateo County	
	San Francisco, CA HMFA	Marin County			
	San Jose-Sunnyvale-Santa Clara, CA HMFA	Santa Clara County			
	Santa Barbara-Santa Maria-Goleta, CA MSA	Santa Barbara County			
Santa Cruz-Watsonville, CA MSA	Santa Cruz County				
Florida	Cape Coral-Fort Myers, FL MSA	Lee County			
	Deltona-Daytona Beach-Ormond Beach, FL MSA	Volusia County			
	Miami-Miami Beach-Kendall, FL HMFA	Miami-Dade County			
	Naples-Marco Island, FL MSA	Collier County	Orange County	Osceola County	Seminole County
	Orlando-Kissimmee-Sanford, FL MSA	Lake County			
	Palm Coast, FL MSA	Flagler County			
	Port St. Lucie, FL MSA	Martin County	St. Lucie County		
	Punta Gorda, FL MSA	Charlotte County			
	Sebastian-Vero Beach, FL MSA	Indian River County			
	Tampa-St. Petersburg-Clearwater, FL MSA	Hernando County	Hillsborough County	Pasco County	Pinellas County
Hawaii	Honolulu, HI MSA	Honolulu County			
		Hancock County	Harrison County	Stone County	
Mississippi	Gulfport-Biloxi, MS MSA	Tunica County			
	Tunica County, MS HMFA	Clark County			
Nevada	Las Vegas-Paradise, NV MSA	Hudson County			
New Jersey	Jersey City, NJ HMFA	Bronx County	Kings County	New York County	Putnam County
New York	New York, NY HMFA	Queens County	Richmond County	Rockland County	Westchester County
		Aguada Municipio	Aguadilla Municipio	Rincón Municipio	San Sebastián Municipio
Puerto Rico	Aguadilla-Isabela-San Sebastián, PR MSA	Lares Municipio	Moca Municipio	Añasco Municipio	Isabela Municipio
	Arecibo, PR HMFA	Arecibo Municipio	Camuy Municipio	Hatillo Municipio	Maunabo Municipio
	Barranquitas-Aibonito-Quebradillas, PR HMFA	Aibonito Municipio	Barranquitas Municipio	Ciales Municipio	
		Orocovis Municipio	Quebradillas Municipio		Gurabo Municipio
	Caguas, PR HMFA	Caguas Municipio	Cayey Municipio	Cidra Municipio	
		San Lorenzo Municipio			
	Fajardo, PR MSA	Ceiba Municipio	Fajardo Municipio	Luquillo Municipio	
	Guayama, PR MSA	Arroyo Municipio	Guayama Municipio	Patillas Municipio	
	Mayagüez, PR MSA	Hormigueros Municipio	Mayagüez Municipio		
	Ponce, PR MSA	Juana Díaz Municipio	Ponce Municipio	Villalba Municipio	San Germán Municipio
	San Germán-Cabo Rojo, PR MSA	Cabo Rojo Municipio	Lajas Municipio	Sabana Grande Municipio	San Germán Municipio
	San Juan-Guaynabo, PR HMFA	Agua Buenas Municipio	Barceloneta Municipio	Bayamón Municipio	Corozal Municipio
		Carolina Municipio	Cataño Municipio	Comerio Municipio	Humacao Municipio
		Dorado Municipio	Florida Municipio	Guaynabo Municipio	Manatí Municipio
		Juncos Municipio	Las Piedras Municipio	Loíza Municipio	Río Grande Municipio
		Morovis Municipio	Naguabo Municipio	Naranjito Municipio	Trujillo Alto Municipio
		San Juan Municipio	Toa Alta Municipio	Toa Baja Municipio	
	Vega Alta Municipio	Vega Baja Municipio	Yabucoa Municipio		
	Guánica Municipio	Guayanilla Municipio	Peñuelas Municipio	Yauco Municipio	
	Yauco, PR MSA				

2012 IRS SECTION 42(d)(5)(B) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (OMB Metropolitan Area Definitions, November 20, 2008)

State	Nonmetropolitan Counties or County Equivalents			
Mississippi (cont'd)	Lincoln County	Marion County	Monroe County	Montgomery County
	Neshoba County	Newton County	Noxubee County	Oktibbeha County
	Panola County	Pearl River County	Pike County	Prentiss County
	Quitman County	Scott County	Sharkey County	Smith County
	Sunflower County	Tallahatchie County	Tippah County	Tishomingo County
	Union County	Walthall County	Warren County	Washington County
	Wayne County	Webster County	Wilkinson County	Winston County
Yalobusha County	Yazoo County			
Missouri	Taney County			
Montana	Beaverhead County	Madison County	Meagher County	Mineral County
	Park County			
Nevada	Douglas County			Grafton County
New Hampshire	Belknap County	Carroll County	Cheshire County	Taos County
New Mexico	Guadalupe County	McKinley County	Mora County	Genesee County
New York	Cortland County	Essex County	Fulton County	Otsego County
	Greene County	Hamilton County	Jefferson County	Sullivan County
	Schuyler County	Seneca County	Steuben County	Hyde County
North Carolina	Avery County	Chowan County	Cleveland County	Perquimans County
	Jones County	McDowell County	Mitchell County	Watauga County
	Rutherford County	Transylvania County	Tyrrell County	
	Wilson County			
Oregon	Clatsop County	Coos County	Crook County	Curry County
	Douglas County	Gilliam County	Grant County	Hood River County
	Josephine County	Lincoln County	Linn County	Morrow County
	Sherman County	Tillamook County	Wasco County	Wheeler County
		Wayne County		
Pennsylvania	Monroe County	Jasper County		
South Carolina	Beaufort County	Haywood County	Sevier County	
Tennessee	Bedford County	Burnet County	Coke County	Coleman County
	Angelina County	Frio County	Henderson County	Houston County
Texas	Dallam County	Lamar County	Llano County	Madison County
	Kerr County	Nacogdoches County	Navarro County	San Saba County
	Mills County	Trinity County	Walker County	
	Titus County			
Utah	Duchesne County			Lamolle County
Vermont	Addison County	Bennington County	Essex County	Windor County
	Orange County	Rutland County	Windham County	
Virginia	Northampton County	Prince Edward County		
Washington	Clallam County	Island County	Jefferson County	Lewis County
	Mason County	San Juan County		
American Samoa	Eastern District	Manu'a District	Swains Island	Western District
Guam	Guam			
Northern Mariana Islands	Northern Islands Municipality	Rota Municipality	Saipan Municipality	Tinian Municipality
Puerto Rico	Adjuntas Municipio	Coamo Municipio	Culebra Municipio	Jayuya Municipio
	Las Marias Municipio	Maricao Municipio	Salinas Municipio	Santa Isabel Municipio
	Utado Municipio	Vieques Municipio		
Virgin Islands	St. Croix	St. John	St. Thomas	

**2012 IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS
(2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)**

METROPOLITAN AREA: Abilene, TX MSA	TRACT	TRACT	TRACT	TRACT								
COUNTY OR COUNTY EQUIVALENT	101.00	102.00	103.00	104.00	108.00	110.00	117.00	119.00	121.00			
Taylor County												

METROPOLITAN AREA: Aguadilla-Isabela-San Sebastián, PR MSA	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
COUNTY OR COUNTY EQUIVALENT	4304.02	4305.02										
Aguada Municipio	4006.00	4008.00	4009.00	4010.00	4011.00							
Aguadilla Municipio	4106.00											
Isabela Municipio	9578.00	9579.00	9581.00	9582.00	9583.00	9584.00						
Lares Municipio	9593.00	9892.00										
San Sebastián Municipio												

METROPOLITAN AREA: Akron, OH MSA	TRACT											
COUNTY OR COUNTY EQUIVALENT	6015.01	6015.02	6015.03									
Portage County	5011.00	5012.00	5013.01	5013.02	5017.00	5018.00	5019.00	5021.01	5024.00	5025.00	5032.00	5034.00
Summit County	5038.00	5041.00	5042.00	5044.00	5046.00	5051.00	5053.00	5056.00	5063.04	5065.00	5066.00	5067.00
	5068.00	5069.00	5074.00	5075.00	5101.00	5103.01						

METROPOLITAN AREA: Albany, GA MSA	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
COUNTY OR COUNTY EQUIVALENT	2.00	3.00	8.00	12.00	13.00	14.01	14.02	15.00	103.01	103.02	106.01	
Dougherty County	9803.00											
Terrell County												

METROPOLITAN AREA: Albany-Schenectady-Troy, NY MSA	TRACT	TRACT	TRACT									
COUNTY OR COUNTY EQUIVALENT	1.00	2.00	4.04	5.01	6.00	7.00	8.00	11.00	15.00	21.00	23.00	25.00
Albany County	26.00	128.00	129.00	132.00								
Rensselaer County	404.00	405.00	406.00	407.00	408.00	410.00	515.00					
Schenectady County	201.02	202.00	203.00	208.00	209.00	210.01	210.02	211.02	214.00	217.00		

2012 IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS
(2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)

METROPOLITAN AREA: Lynchburg, VA MSA	TRACT											
COUNTY OR COUNTY EQUIVALENT	105.02											
Amherst County	2.03	4.00	5.00	6.00	7.00	11.00						
Lynchburg city												

METROPOLITAN AREA: Macon, GA MSA	TRACT											
COUNTY OR COUNTY EQUIVALENT	101.00	104.00	105.00	108.00	107.00	111.00	112.00	113.00	114.00	115.00	122.00	123.00
Bibb County	125.00	126.00	127.00	128.00	129.00	130.00						

METROPOLITAN AREA: Madera, CA MSA	TRACT											
COUNTY OR COUNTY EQUIVALENT	6.02	8.00	9.00									
Madera County												

METROPOLITAN AREA: Madison, WI MSA	TRACT											
COUNTY OR COUNTY EQUIVALENT	6.00	11.00	12.00	14.01	16.01	16.02	17.01	32.00				
Dane County												

METROPOLITAN AREA: Manchester-Nashua, NH MSA	TRACT											
COUNTY OR COUNTY EQUIVALENT	4.00	5.00	14.00	15.00	20.00	105.00	107.00	108.00				
Hillsborough County												

METROPOLITAN AREA: Mansfield, OH MSA	TRACT											
COUNTY OR COUNTY EQUIVALENT	1.00	2.00	3.00	6.00	7.00							
Richland County												

METROPOLITAN AREA: Mayagüez, PR MSA	TRACT											
COUNTY OR COUNTY EQUIVALENT	801.00	802.00	803.00	805.00	806.00	809.00	810.00	811.00	812.00			
Mayaguez Municipio												



**2012 IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS
(2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)**

METROPOLITAN AREA: Pittsfield, MA MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Berkshire County	9001.00	9211.00											

METROPOLITAN AREA: Pocatello, ID MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Bannock County	8.00	9.00	16.01	16.03									

METROPOLITAN AREA: Ponce, PR MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
* Juana Diaz Municipio	7102.00												
Ponce Municipio	702.02	703.00	704.00	708.00	709.00	713.00	716.02	719.00	721.01	727.04			
Villalba Municipio	7201.00												

METROPOLITAN AREA: Portland-South Portland-Biddeford, ME MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Cumberland County	3.00	5.00	6.00	10.00	12.00								

METROPOLITAN AREA: Portland-Vancouver-Beaverton, OR-WA MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Multnomah County, OR	11.01	21.00	22.01	22.02	23.01	33.01	34.01	34.02	40.01	42.00	44.00	49.00	
	51.00	52.00	53.00	54.00	55.00	56.00	76.00	83.01	96.06	98.01			
Washington County, OR	332.00												
Clark County, WA	410.05	416.00	417.00	423.00	424.00	427.00							

METROPOLITAN AREA: Port St. Lucie-Fort Pierce, FL MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Martin County	8.00	18.00											
St. Lucie County	1.00	2.00	3.00	4.00	5.00	9.01	14.02						

**2012 IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS
(2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)**

METROPOLITAN AREA: San Francisco-Oakland-Fremont, CA MSA

COUNTY OR COUNTY EQUIVALENT	TRACT											
Alameda County	4007.00	4008.00	4009.00	4010.00	4011.00	4013.00	4014.00	4015.00	4016.00	4017.00	4018.00	4021.00
	4022.00	4024.00	4025.00	4026.00	4027.00	4028.00	4029.00	4030.00	4031.00	4033.00	4034.00	4054.00
	4057.00	4058.00	4059.00	4060.00	4061.00	4062.01	4062.02	4063.00	4065.00	4066.00	4070.00	4072.00
	4073.00	4074.00	4075.00	4076.00	4084.00	4085.00	4086.00	4087.00	4088.00	4089.00	4090.00	4091.00
	4092.00	4093.00	4094.00	4095.00	4096.00	4097.00	4101.00	4102.00	4103.00	4204.00	4224.00	4225.00
	4226.00	4227.00	4228.00	4229.00	4232.00	4235.00	4236.02	4240.01	4240.02	4340.00	4375.00	4377.00
Contra Costa County	3050.00	3072.02	3100.00	3120.00	3141.04	3160.00	3280.00	3361.01	3361.02	3650.02	3672.00	3680.00
	3690.01	3730.00	3750.00	3760.00	3770.00	3790.00						
Marin County	1122.00	1290.00										
San Francisco County	107.00	113.00	114.00	115.00	117.00	118.00	120.00	121.00	122.00	123.00	124.00	125.00
	161.00	176.01	178.00	179.02	201.00	208.00	230.02	231.01	231.02	231.03	234.00	332.01
	603.00	605.02	607.00									
San Mateo County	6102.02	6102.03	6106.01	6117.00								

METROPOLITAN AREA: San Germán-Cabo Rojo, PR MSA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cabo Rojo Municipio	8301.00											
Lejas Municipio	8501.02	8503.00										
Sabana Grande Municipio	9608.00											

METROPOLITAN AREA: San Jose-Sunnyvale-Santa Clara, CA MSA

COUNTY OR COUNTY EQUIVALENT	TRACT											
Santa Clara County	5008.00	5009.01	5009.02	5010.00	5015.01	5015.02	5016.00	5017.00	5018.00	5020.02	5031.05	5031.10
	5031.12	5031.13	5032.13	5032.14	5036.01	5037.06	5037.09	5046.01	5116.06	5116.07	5126.01	

**2012 IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS
(2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)**

METROPOLITAN AREA: Wilmington, NC MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
New Hanover County	101.00	103.00	105.01	110.00	111.00	113.00	114.00						

METROPOLITAN AREA: Winston-Salem, NC MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Forsyth County	1.00	2.00	3.01	3.02	4.00	5.00	6.00	7.00	8.01	8.02	9.00	15.00	
	16.02	17.00	19.01										

METROPOLITAN AREA: Worcester, MA MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Worcester County	7105.00	7107.00	7312.01	7312.02	7313.00	7314.00	7315.00	7316.00	7317.00	7318.00	7319.00	7320.01	
	7321.00	7324.00	7325.00	7330.00	7384.00	7421.00	7443.00	7542.00	7543.00	7572.00	7573.00		

METROPOLITAN AREA: Yakima, WA MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Yakima County	1.00	2.00	6.00	15.00	20.01	25.00	27.02						

METROPOLITAN AREA: Yauco, PR MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
Guánica Municipio	9609.00	9610.00	9612.00	9613.00									
Guayanilla Municipio	7404.00												
Yauco Municipio	7501.01												

METROPOLITAN AREA: York-Hanover, PA MSA													
COUNTY OR COUNTY EQUIVALENT	TRACT												
York County	1.00	2.00	5.00	7.00	9.00	10.00	11.00	12.00	15.00	16.00			

**2012 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(2000 Census Data; OMB Metropolitan Area Definitions, November 20, 2008)**

NONMETROPOLITAN PART OF: American Samoa

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Eastern District	9501.00	9504.00										
Manu'a District	9517.00	9518.00										
Swains Island	9520.00											
Western District	9510.00	9515.00										

NONMETROPOLITAN PART OF: Guam

COUNTY OR COUNTY EQUIVALENT	TRACT											
Guam	9508.00	9513.00	9515.00	9518.00	9522.00	9524.00	9526.00	9528.00	9530.00	9533.00	9534.00	9544.00
	9548.00	9554.00										

NONMETROPOLITAN PART OF: Northern Mariana Islands

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Northern Islands Municipality	9501.00											
Saipan Municipality	9507.00	9509.00	9510.00	9511.00	9512.00	9513.02						

NONMETROPOLITAN PART OF: Puerto Rico

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adjuntas Municipio	9564.00	9565.00	9568.00									
Coamo Municipio	9543.00											
Las Marias Municipio	9598.00	9599.00										
Maricao Municipio	9601.00											
Utuado Municipio	9569.00	9574.00	9575.00									
Vieques Municipio	9501.00	9503.00										

NONMETROPOLITAN PART OF: Virgin Islands

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
St. Croix	9702.00	9703.00	9708.00	9709.00	9711.00	9713.00						



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PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX E

**QUALIFIED ALLOCATION
PLAN 2012**

REV.
JAN 2012

ANNEX E: BINDING COMMITMENT FOR SUBSEQUENT YEAR

**BINDING COMMITMENT FOR A CERTIFICATE
OF RESERVATION FOR A LOW INCOME
HOUSING TAX CREDIT ALLOCATION IN 20XX**

The Puerto Rico Housing Finance Authority (PRHFA) hereby commits to reserving Low-Income Housing Tax Credits pursuant to Section 42 (h)(1)(C) of the Internal Revenue Code of 1986, as amended (Code), by the issuance of this Binding Commitment as follows:

1. Allocation Year: 20XX
2. Amount of Tax Credits to Be Reserved: \$ _____
3. Name and Address of the Project:
 - Name: _____
 - Address: _____
 - _____
 - _____
4. Residential Buildings in the Project: _____
5. Units in the Project: _____
6. Type of building (s):
 - New Construction
 - Existing Building
 - Substantial Rehabilitation
7. Name, Address and Taxpayer Identification Number of Project Owner:
 - Name: _____
 - Address: _____
 - _____
 - Identification Number: _____

8. Name, Address and Taxpayer Identification Number of Allocating Agency:

Name: PUERTO RICO HOUSING FINANCE AUTHORITY
Address: P.O. Box 71361
San Juan, P.R. 00936-8461

Identification Number: 66-0433752

9. Date of this Binding Commitment: _____, 20XX.

10. Building Identification Numbers: To Be Assigned

11. Project falls within one of the following categories (mark one):

- a. Credit is deemed necessary to facilitate the restructuring of financing provided to a project confronting economic difficulties.
- b. Credit is deemed necessary to preserve the low-income housing status of the Project or to maintain the total number of available low-income housing units within Puerto Rico.
- c. Credit is requested in connection with the acquisition of a project from the government of Puerto Rico, or any department, agency, entity or political subdivision thereof.
- d. Tax Credit is requested in connection with a project utilizing the Tax Credit Program as their only subsidy.
- e. The Project is part of a Community Revitalization Master Plan.
- f. Due to unforeseen circumstances that the PRHFA at its sole discretion, believe are valid.

12. PRHFA commits itself to enter into a Carryover Allocation Agreement with the Project Owner in the year 20XX

13. The Owner commits to achieve the Basic Threshold and Minimum Ranking Points as required in the 20XX Qualified Allocation Plan. The Owner also commits to pay the Processing Fee equal to a .25% of the annual tax credit requested.

PRHFA represents and warrants that this Binding Commitment binds PRHFA and its successors and assigns and that PRHFA is the housing credit agency for the Commonwealth of Puerto Rico. The Binding Commitment is a commitment to reserve Tax Credits to the Project Owner, its successors and assigns, under Section 42(h)(1)(C) of the Code with respect to the Project and that the State Housing Credit Ceiling [as defined in Section 42(h)(1)(F) of the Code] shall be reduced in 20XX to reflect this commitment. Pursuant to Section 42(h)(1)(F) of the

Code, the portion of Tax Credits to be allocated to each building in the Project shall be specified no later than the close of the calendar year in which each such building is placed in service and shall be reflected in IRS Form 8609 for each such building. The Project Owner represents and warrants that no portion of the Project has been placed in service by the Project Owner in the calendar year, or prior to the calendar year, in which this Binding Commitment is made.

Agency: **Puerto Rico Housing Finance Authority**
P O Box 71361
San Juan, PR 00936-8461
COMMONWEALTH OF PUERTO RICO
ID Number: 66-0433752

By: _____
Executive Director

Commitment Date: _____, 20XX

Acknowledged, Agreed and Accepted:

Owner: _____
By: _____
Title: _____

Affidavit _____:

Sworn to and subscribed before me by [name], [title] of [name of General Partner], General Partner of [name of Owner], of legal age, [legal status], and resident of _____, and [name], Executive Director of Puerto Rico Housing Finance Authority, of legal age, [legal status], and resident of _____, both personally known to me.

In San Juan, Puerto Rico, on this _____, 20XX.

NOTARY PUBLIC

(SEAL)



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PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX F

**QUALIFIED ALLOCATION
PLAN 2012**

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ANNEX F: FAIR HOUSING ACT ACCESSIBILITY CHECKLIST

The following is a checklist of design and construction requirements of the Fair Housing Act. This checklist represents many, but not all, of the requirements to the Act. This checklist is not intended to be exhaustive; rather, it is a helpful guide in determining if the major requirements of the Act have been met in designing and constructing a particular multifamily development.

GENERAL REQUIREMENTS

- Development has buildings containing 4 or more units and was designed and constructed for first occupancy on or after March 13, 1991.
- If it is an elevator building, all units are "covered units".
- All units in buildings with elevators have features required by the Act.
- If it is a non-elevator building, all ground-floor units "covered units"
- All ground floor units in buildings without elevators have features required by the Act.

NOTE: There is a narrow exception, which provides that a non-elevator building in a development need not meet all of the Act's requirements if it is impractical to have an accessible entrance to the non-elevator building because of hilly terrain or other unusual characteristics of the site.

1. ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE

- The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all other amenities.
- The accessible route also connects to parking lots, public streets, public sidewalks, and to public transportation stops.
- All slopes are no steeper than 8.33%.
- All slopes between 5% and 8.33% have handrails.
- Covered units have at least one entrance on an accessible route.
- There are sufficient curb cuts for a person using a wheelchair to reach every building in the development.

2. COMMON AND PUBLIC USE AREAS

- At least two percent of all parking spaces are designated as handicapped parking.
- At least, one parking space at each common and public use amenity is designated as handicapped parking.
- All handicapped parking spaces are properly marked.
- All handicapped parking spaces are at least 96" wide with a 60" wide access aisle, which can be shared between two spaces.
- The accessible aisle connects to a curb ramp and the accessible route.
- The rental or sales office is readily accessible and usable by persons with disabilities.

- All mailboxes, swimming pools, tennis courts, clubhouses, rest rooms, showers, laundry facilities, trash facilities, drinking fountains, public telephones, and other common and public use amenities offered by the development are readily accessible and usable by persons with disabilities.

3. **USABLE DOORS**

- All doors into and through covered units and common use facilities provide a clear opening of at least 32" nominal width.
- All doors leading into common use facilities have lever door handles that do not require grasping and twisting.
- Thresholds at doors to common use facilities are no greater than 1/2".
- All primary entrance doors to covered units have lever door handles that not require grasping and twisting.
- Thresholds at primary entrance doors to covered units are no greater than 3/4" and beveled.

4. **ACCESSIBLE ROUTE INTO AND THROUGH THE COVERED UNIT**

- All routes through the covered units are no less than 36" wide.

5. **ACCESSIBLE ENVIRONMENTAL CONTROLS**

- All light switches, electrical outlets, thermostats, and other environmental controls must be no less than 15" and no greater than 48" from the floor.

6. **REINFORCED BATHROOM WALLS FOR GRAB BARS**

- Reinforcements are built into the bathroom walls surrounding toilets, showers, and bathtubs for the future installation of grab bars.

7. **USABLE KITCHEN AND BATHROOMS**

- At least 30" x 48" of clear floor space at each kitchen fixture and appliance.
- At least 40" between opposing cabinets and appliances.
- At least a 60" diameter turning circle in U-shaped kitchens unless the cook top or sink at the end of the U-shaped kitchen has removable cabinets beneath for knee space.
- In bathroom, at least 30" x 48" of clear floor space outside the swing of the bathroom door.
- Sufficient clear floor space in front of and around sink, toilet, and bathtub for use by persons using wheelchairs.

This checklist represents many, but not all, of the accessible and adaptive design and construction requirements of the Fair Housing Act. This checklist is not a safe harbor for compliance with the Fair Housing Act. HUD and the Department of Justice recognize the following standards as safe harbors when used in conjunction with the Fair Housing Act, regulations, and Fair Housing Act Accessibility Guidelines (i.e. scoping requirements)

1. HUD's March 6, 1991 Fair Housing Accessibility Guidelines (the Guidelines), and the June 28, 1994 Supplemental Notice to Fair Housing Accessibility Guidelines, Questions and Answers about the Guidelines;
2. HUD's Fair Housing Act Accessibility Design Manual;
3. ANSI A117.1-1986, used in conjunction with the Act and HUD's regulations, and the Guidelines;
4. CABO/ANSI A117.1-1992, used in conjunction with the Act, HUD's regulations, and the Guidelines;
5. ICC/ANSI A117.1-1998, used in conjunction with the Act, HUD's regulations, and the Guidelines;
6. *Code Requirements for Housing Accessibility 2000 (CRHA)*, approved and published by the International Code Council (ICC), October 2000;
7. *International Building Code 2000 (IBC)* as amended by the *IBC 2001 Supplement to the International Codes*.

Failure to comply with all of the accessible and adaptive design and construction requirements of the Fair Housing Act may result in loss of tax credits pursuant to 26 C.F.R. § 1.42-9. Therefore, you should consult an attorney and/or design professional to ensure that the construction of the multi-family development complies with the accessible and adaptive design and construction requirements of the Fair Housing Act.

COVERED BUILDINGS

IS THE DEVELOPMENT SUBJECT TO THE ACT?

- ✓ Development has buildings containing 4 or more units and was designed and constructed for first occupancy on or after March 13, 1991
- ✓ Building contains elevator so all units in building are "covered units"
- ✓ All units in buildings with elevators are designed and constructed with features required by the Act
- ✓ Building does not contain elevator so only ground-floor units in building are "covered units"
- ✓ All ground-floor units in buildings without elevators are designed and constructed with features required by the Act Development contains "covered units," so the public and common use facilities must be designed and constructed with features required by the Act NOTE: Fair Housing Act Accessibility Guidelines contains a narrow "Site Impracticality Exception" which provides that a non-elevator building does not have to meet all of the Act's requirements if it is impractical to have an accessible entrance to the building because of the natural hilly terrain or other unusual characteristics of the site.

FAIR HOUSING ACT CONTACT INFORMATION

Fair Housing Act - General Information U.S. Department of Housing and Urban Development Bryan Greene Office of Fair Housing & Equal Opportunity Tel: (202) 708-1145 Fax: (202) 708/3527 www.hud.gov

**Fair Housing Act - Accessibility Issues
U.S. Department of Housing and Urban Development
Cheryl Kent
Office of Fair Housing and Equal Opportunity
Tel: (202) 708-2333
Fax: (202) 708-1251**

**Section 202 and Section 811 Program Information
U.S. Department of Housing and Urban Development
Aretha Williams
Grant Policy and Management Division
Tel: (202) 708-2866**

**U.S. Justice Department - Point of Contact
Diane Houk, Esq.
Civil Rights Division
Housing Section
Tel: (202) 514-4713
Fax: (202) 514-1116
www.usdoj.gov/crt/housing**

**U.S. Treasury Department - Point of Contact
Jack Malgeri, Esq.
Internal Revenue Service
Office of Chief Counsel
Tel: (202) 622-3040
Fax: (202) 622-4753**



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PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX G

**QUALIFIED ALLOCATION
PLAN 2012**

REV
JAN 2012

ANNEX G: OWNER'S CERTIFICATION**[THIS FORM MUST BE INCLUDED WITH APPLICATION]****CERTIFICATION**

Individually, or as the general partner(s) or officers of the applicant entity, I am familiar with the provisions of the Tax Reform Act of 1986 and subsequent revisions, with respect to the Low Income Housing Tax Credit Program and to the best of my knowledge and belief, the applicant entity has complied, or will comply with all of the requirements which are prerequisite to issuance of tax credits by the Puerto Rico Housing Finance Authority. I understand that the Low Income Housing Tax Credit Program is governed and controlled by rules and regulations issued and to be issued by the United States Department of the Treasury.

To the best of my knowledge and belief, no information contained in this application or in the listed attachments is any way false or incorrect; that it is truly descriptive of the project or property for which Low Income Housing Tax Credits are being applied, and the proposed construction/rehabilitation will not violate zoning ordinances or deed restrictions.

I hereby make application to the Puerto Rico Housing Finance Authority for an allocation of housing tax credits. I agree that the Puerto Rico Housing Finance Authority or any of its directors, officers, employees, and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the Low Income Housing Tax Credit Program: therefore, I assume the risk of all damages, losses, costs, and expenses related thereto and agree to indemnify and save harmless the Puerto Rico Housing Finance Authority or any of its directors, officers, employees, and agents against any and all claims, suits, losses, damages, costs, and expenses of any kind and of any nature that the Puerto Rico Housing Finance Authority may hereinafter suffer, incur, or pay arising out of its decision concerning the application for Low Income Housing Tax Credits or the use of the information concerning the application for Low Income Housing Tax Credits or the use of the information concerning the Low Income Housing Tax Credit Program. I also agree that the Puerto Rico Housing Finance Authority has made no representations about the effect of the tax credit upon my taxes or that of any other person connected with this project.

I understand and agree that my application for a low income housing credit, all attachments thereto, and all correspondence relating to my application in particular or the credit in general are subject to a request for disclosure under the Constitution and Laws of the Commonwealth of Puerto Rico and I expressly consent to such disclosure.

I hereby represent and certify to the Puerto Rico Housing Finance Authority that the owner, developer or applicant and their shareholders, directors, officers, and partners, as applicable, are in compliance with Section 42 requirements and that there are no

outstanding findings of noncompliance with the Agency's Office of Audit and Compliance as of the date of this application in any other project that received tax credit and in which they have an interest.

I further understand and agree that any and all correspondence to me (us) by the Puerto Rico Housing Finance Authority or other Puerto Rico Housing Finance Authority generated documents relating to my application are subject to a request for disclosure under the Constitution and Laws of the Commonwealth of Puerto Rico. I expressly consent to such disclosure. I agree to hold harmless the Puerto Rico Housing Finance Authority and the directors, officers, employees, and agents of the Puerto Rico Housing Finance Authority against all claims, suits, losses, damages, costs, and expenses or any kind (including, but not limited to, attorney's fees, litigation and court costs) directly or indirectly resulting from or arising out of the release of all information pertaining to my application pursuant to a request under such request. I further waive, with regard to such application, correspondence or other documents, any applicable rights of confidentiality that I may have under Section 6103 of the US Internal Revenue Code or other provisions of federal law.

I also agree that Puerto Rico Housing Finance Authority may request additional information in order to evaluate this application.

I hereby certify that the above information and any attachments in support thereof are true, accurate, and complete. I understand that any misrepresentations in this application or supporting documentation may result in a withdrawal of tax credits by the Puerto Rico Housing Finance Authority, my (and related parties) being barred from future program participation, and notification to the Internal Revenue Service.

Date: _____

Name of Applicant

Name of Development Project

By: _____

Title

I, the undersigned, a Notary Public in and for the Commonwealth of Puerto Rico, hereby certify that _____ whose name(s) _____ signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of this document, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____, 200__.

Notary Public

(SIGNED AND SEALED)



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PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX H

**QUALIFIED ALLOCATION
PLAN 2012**

REV
JAN 2012

ANNEX H: ACCOUNTANT'S OPINION LETTER

[THIS FORM MUST BE INCLUDED WITH THE APPLICATION]

[ACCOUNTANT'S LETTERHEAD]

Insert Date

Puerto Rico Housing Finance Authority
P O Box 71361
San Juan, PR 00936-8461

Re: **Low Income Housing Tax Credit Program**
Name of Development: _____

Gentlemen:

In connection with the application filed with the Authority by (the "Owner") for low income housing credits made available pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, for low income units in (insert number of buildings in development) building(s) in the proposed reference Development, the undersigned, have made the following reviews:

1. Review of the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated pursuant thereto (the "Regulations") applicable to low income housing credits.
2. Review of each computation of credits submitted to you by the owner with respect to each applicable type of credit for each building of the development.
3. Review, made with the Owner, of the projections, facts and circumstances with respect to the computations of the amount of each applicable type of credit for each building in accordance with the applicable provisions of the Code and the Regulations

Based upon the foregoing reviews, we, the undersigned, are of the opinion that the computations have been made and calculated in conformity with the applicable provisions of the Code and Regulations.

Sincerely,



GDB

PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX I

**QUALIFIED ALLOCATION
PLAN 2012**

REV

ANNEX I

ANNEX I: Attorney's Opinion Letter

[This Form Must Be Included With Application]

(This Opinion Must be Submitted Under Law Firm's Letterhead - Any changes to the form of opinion other than filling in blanks or making the appropriate selections in bracketed language must be accompanied by a black-lined version indicating all additional changes to the opinion. Altered opinions are subject to acceptance by the Authority and should be approved prior to the application deadline)

Date: _____

TO: Puerto Rico Housing Finance Authority
P.O. Box 71361
San Juan, Puerto Rico 00936-8461

RE: 2011 Low Income Housing Tax Credit Program
Name of Project: _____
Name of Owner: _____

Gentlemen:

This undersigned firm represents the above-referenced Owner as its counsel. It has received a copy of and has reviewed the completed application package (the "Application") dated _____ (of which this opinion is a part) submitted to you for the purpose of requesting, in connection with the captioned Development, a reservation of low income housing tax credits ("Credits") available under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"). It has also reviewed Section 42 of the Code, the regulations issued pursuant thereto and such other binding authority as it believes to be applicable to the issuance hereof (the regulations and binding authority hereinafter collectively referred to as the "Regulations").

Based upon the foregoing reviews and upon due investigation of such matters as it deems necessary in order to render this opinion, but without expressing any opinion as to either the reasonableness of the estimated or projected figures or the veracity or accuracy of the factual representations set forth in the Application, the undersigned is of the opinion that:

1. It is more likely than not that the inclusion in eligible basis of the Development of such cost items or portions thereof, as set forth in Parts 22, 23 and 24 of the Application, complies with all applicable requirements of the Code and Regulations.
2. The calculations (a) of the Maximum Allowable Credit available under the Code with respect to the Development in Part 23 of the Application and (b) of the Estimated Qualified Basis of each building in the Development in Page 16 of the Application comply with all applicable requirements of the Code and regulations, including the selection of credit type implicit in such calculations.

ATTORNEY'S OPINION LETTER, continued

3. The appropriate type(s) of allocation(s) have been requested in Part 2 of the Application.
4. The information set forth in Part 20 of the Application as to proposed rents satisfies all applicable requirements of the Code and Regulations.
5. The site of the captioned Development is controlled by the Owner, as identified in Part 15 of the Application, for a period of not less than four (4) months beyond the application deadline.
6. [Delete if inapplicable] The type of the nonprofit organization involved in the Development is an organization described in Code Section 501(c)(3) or 501(c)(4) and exempt from taxation under Code Section 501(a), whose purposes include the fostering of low-income housing.
7. [Delete if inapplicable] The nonprofit organization's ownership interest in the development is all the general partnership interests of the ownership entity of the development as described in Part 33 of the Application.
8. [Delete if inapplicable] It is more likely than not that the representations made under Part 22 of the Application as to the Development's compliance with or exception to the Code's minimum expenditure requirements for rehabilitation projects are correct.
9. [Delete if inapplicable] After reasonable investigation, the undersigned has no reason to believe that the representations made under Part 26 of the Application as to the Development's compliance with or eligibility for exception to the ten year "look-back-rule" requirement of Code §42(d)(2)(B) are not correct.

Finally, the undersigned is of the opinion that, if all information and representations contained in the Application and all current law were to remain unchanged, upon the placement in service of each building of the Development during this calendar year 20XX and/or, if the Owner intends to request all or any portion of its final allocation pursuant to Section 42(h)(1)(E) of the Code, upon compliance by the Owner with the requirements of such section, the Owner would be eligible under the applicable provisions of the Code and the Regulations to an allocation of Credits in the amount(s) requested in the Application.

This opinion is rendered solely for the purpose of inducing the Puerto Rico Housing Finance Authority (PRHFA) to issue a reservation of Credits to the Owner. Accordingly, it may be relied upon only by PRHFA and may not be relied upon by any other party for any other purpose.

Firm Name
By: _____
Its: _____

(Title)



GDB

PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX J

**QUALIFIED ALLOCATION
PLAN 2012**

REV
JAN 2012

ANNEX J: Designer's Preliminary Certification

[This Form Must Be Included With Application]

[This Opinion Must Be Submitted Under Designer Firm's Letterhead]

Date: _____

TO: Puerto Rico Housing Finance Authority
P.O. Box 71361
San Juan, Puerto Rico 00936-8461

RE: 2011 Low Income Housing Tax Credit Program
Project Name: _____
Owner: _____

Gentlemen:

The undersigned, an architect/engineer duly licensed and registered in Puerto Rico, will provide full design services, including without limitation, preparing for [project's owner], plans and specifications, in connection with the proposed construction/rehabilitation of a (insert number of units in proposed development) units project on certain real property known as [project's name] (the Premises).

The undersigned hereby certifies that:

1. The plans and specifications will be in compliance with the requirements of all municipal, local, state, and federal government authorities having jurisdiction thereover.
2. The condition of the Premises and the Project, after completion of the construction/rehabilitation in accordance with Plans and Specifications, will be in compliance with:
 - a. all government and municipal authorities having jurisdiction thereover;
 - b. all applicable zoning, building, fire and other federal, state, local laws, ordinances, rules, regulations, restrictions;
 - c. other requirements, including without limitations:
 - i. the Fair Housing Act,
 - ii. the American with Disabilities Act;
 - iii. other local and/or state access codes; and
 - iv. standards of professional practice.

Respectfully,

Firm Name

By: _____

Its: _____

(Title)

(SEAL)



GDB

PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX K

**QUALIFIED ALLOCATION
PLAN 2012**

REV. 01
JAN 2012

ANNEX K: DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW INCOME HOUSING CREDITS

DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW-INCOME HOUSING TAX CREDITS

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW-INCOME HOUSING TAX CREDITS (this "Agreement"), dated as of , by , a [limited partnership or limited liability company] organized and existing under the laws of the State of , and its successors and assigns (the "Owner") is given as conditions precedent to the allocation of low-income housing tax credits by Puerto Rico Housing Finance Authority, a public corporation subsidiary of the Government Development Bank, and an instrumentality of the Commonwealth of Puerto Rico (together with any successor its rights, duties and obligations, the "Authority").

WITNESSETH

WHEREAS, the Authority has been designated by the Governor of the Commonwealth of Puerto Rico as the housing tax credit agency for the Commonwealth of Puerto Rico for the allocation of low-income housing tax credit dollars pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, the Owner holds or will hold [fee simple title or leasehold title] to the real property located in the Municipality of , of the Commonwealth of Puerto Rico, as more fully described in Exhibit A attached hereto and made a part hereto (the "Land"), known as or to be know as [name of the project] (the "Project");

WHEREAS, Owner has applied to the Authority for an allocation of low-income housing tax credit dollars (the "Tax Credits");

WHEREAS, the Owner has represented to the Authority in Owner's application that it will impose additional rent restrictions or will covenant to maintain the rent and income restrictions under Section 42 of the Code for a period of time of [15 years plus the number of additional years beyond the original compliance period] years;

WHEREAS, the Code has required as a condition precedent to the allocation of the Tax Credit that the Owner execute, deliver and record in the appropriate Registry of the Property the deed covering this Agreement in order to create certain covenants running with the land for the purpose of enforcing the requirements of Section 42 of the Code by

regulating and restricting the use, occupancy and transfer of the Project as set forth herein; and

WHEREAS, the Owner, under this Agreement, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Project will be and are covenants running with the Land for the term stated herein and binding upon all subsequent owners of the Project for such term, and are not merely personal covenants of the Owner;

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner agrees as follows:

SECTION 1 - DEFINITIONS

All words and phrases defined in Section 42 of the Code and all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States Department of the Treasury, or the Internal Revenue Service, or the Department of Housing and Urban Development from time to time pertaining to Owner's obligations under Section 42 of the Code and affecting the Project (the "Regulations") will have the same meanings in this Agreement.

SECTION 2 - FILING AND RECORDING; COVENANTS TO RUN WITH THE LAND

a) Upon execution and delivery by the Owner, the Owner will cause this Agreement and all amendments hereto to be filed and recorded in the appropriate Registry of Property, and will pay all fees and charges incurred in connection therewith. Upon filing, the Owner will immediately transmit to the Authority a certified copy of the filed deed showing the date, volume and page numbers of record. The owner agrees that the Authority will not issue the Internal Revenue Service Form 8609 constituting final allocation of the Tax Credit unless and until the Authority has received the filed certified copy of the deed containing the land use in this Agreement.

b) The Owner intends, declares, and covenants, on behalf of itself and all future owners and operators of the Project during the term of this Agreement, that this Agreement and the covenants and restrictions set forth in this Agreement regulating and restricting the use, occupancy and transfer of the Land and the Project (i) will be and are covenants running with the Land, encumbering the Project for the term of this Agreement, binding upon the Owner's successors in title and all subsequent owners and operators of the Project, (ii) are not merely personal covenants of the Owner, and (iii) will bind the Owner (and the benefits will inure to the Authority and any past, present or prospective tenant of the Project) and its respective successors and assigns during the term of this Agreement.

The Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Puerto Rico to be satisfied in order for the provisions of this

Agreement to constitute deed restrictions and covenants running with the land will be deemed to be satisfied in full, and that any requirements of privileges of estate are intended to be satisfied. For the longer of the period this Tax Credit is claimed or the term of this Agreement, each and every contract, deed or other instrument hereafter executed conveying the Project or portion thereof will expressly provide that such conveyance is subject to this Agreement, provided, however, the covenants contained herein will survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Project or portion thereof provides that such conveyance is subject to this Agreement.

c) The Owner covenants to obtain the consent of any prior recorded lienholder on the Project to this Agreement and such consent will be a condition precedent to the issuance of Internal Revenue Service Form 8609 constituting final allocation of the Tax Credit.

SECTION 3 - REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner hereby represents, covenants and warrants as follows:

(a) The Owner (i) is a [limited partnership or limited liability company] duly organized and existing under the laws of the State of IL, and is qualified to transact business under the laws of the Commonwealth of Puerto Rico, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Owner (i) will not violate or, as applicable, have not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, have not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Owner is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Owner will, at the time of execution and delivery of this Agreement, have good and marketable title to the Land constituting the Project free and clear on any lien or encumbrance (subject of encumbrances created pursuant to this Agreement, any Loan Documents relating to the Project or other permitted encumbrances).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the owner, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

(e) The Project constitutes or will constitute a qualified low-income building or qualified low-income project, as applicable, as defined in Section 42 of the Code and the Regulations.

(f) Each unit in the Project contains complete facilities for living, sleeping, eating, cooking and sanitation (unless the Project qualifies as a single-room occupancy project or transitional housing for the homeless), which are to be used on other than a transient basis.

(g) During the term of this Agreement, all units subject to the Tax Credit will be leased and rented, or made available to members of the general public who qualify as Low-Income Tenants (or otherwise qualify for occupancy of the low-income units) under the applicable election specified in Section 42(g) of the Code.

(h) The Owner agrees to comply fully with the requirements of the Fair Housing Act as it may from time to time be amended.

(i) During the term of this Agreement, the Owner covenants, agrees and warrants that each low-income unit is and will remain suitable for occupancy.

(j) Subject to the requirements of Section 42 of the Code and this Agreement, the Owner may sell, transfer or exchange the entire Project at any time, but the Owner will notify in writing and obtain the agreement in writing of any buyer or successor or other person acquiring the Project or any interest therein that such acquisition is subject to the requirements of this Agreement and to the requirements of Section 42 of the Code and the Regulations. This provision will not act to waive any other restriction on sale, transfer or exchange of the Project or any low-income portion of the Project. The Owner agrees that the Authority may void any sale, transfer or exchange of the Project if the buyer or successor or other person fails to assume in writing the requirements of this Agreement and the requirements of Section 42 of the Code.

(k) The Owner agrees to notify the Authority in writing of any sale, transfer or exchange of the entire Project or any low-income portion of the Project.

(l) The Owner will not demolish any part of the Project or substantially subtract from any real or personal property of the Project or permit the use of any residential rental unit for any purpose other than rental housing during the term of this Agreement unless required by law.

(m) The Owner represents, warrants and agrees that if the Project, or any part thereof, will be damaged or destroyed or will be condemned or acquired for public use, the Owner will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement.

(n) The Owner warrants that it has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

(o) The Owner agrees that it will not refuse to lease any low-income unit in the Project to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, as amended, because of the status of the prospective tenant as such a holder.

SECTION 4 - INCOME RESTRICTION; RENTAL RESTRICTIONS

The Owner represents, warrants and covenants throughout the term of this Agreement and in order to satisfy the requirements of Section 42 of the Code ("Section 42 Occupancy Restrictions") that:

(a) 1 At least 20% or more of the residential units in the Project are both rent-restricted and occupied by individuals whose income is 50% or less of area median income; or

2 At least 40% or more of the residential units in the Project are both rent-restricted and occupied by individuals whose income is 60% or less of area median income.

(b) The determination of whether a tenant meets the low-income requirement will be made by the Owner at least annually on the basis of the current income of such Low-Income Tenant.

(c) The applicable fraction (as defined in Section 42(c)(1)(B) of the Code for each taxable year during the term of this Agreement will be not less than 1 %.

(d) Throughout the term of this Agreement the low-income units will rent for at least 1 % lower than the maximum gross rent allowed under Section 42 of the Code.

SECTION 5 - TERM OF THE AGREEMENT

(a) Except as hereinafter provided, this Agreement herein will commence with on first day in the Project period on which any building which is part of the Project is placed in service and will end on the date which is 1 years after the close of the compliance period (the "Extended Use Period").

(b) Notwithstanding subsection (a) above, the Owner will comply with the requirements of Section 42 of the Code relating to the Extended Use Period; provided, however, the Extended Use Period for any building which is part of this Project will terminate on the date the building is acquired by foreclosure or instrument in lieu of foreclosure unless the Secretary of the United States Treasury Department determines

that such acquisition is part of an arrangement with Owner a purpose of which is to terminate such period.

(c) Notwithstanding subsection (b) above, the Owner will not evict or terminate the tenancy (other than for good cause) of an existing tenant of any low-income unit and will not increase the gross rent above the maximum allowed under the Code with respect to such low-income unit for the entire term of the Extended Use Period, regardless of whether such Extended Use Period is terminated by foreclosure or instrument in lieu of foreclosure relating to such building (such restrictions collectively referred to as the "Vacancy Controls").

SECTION 6 - ENFORCEMENT OF THE OCCUPANCY RESTRICTIONS

(a) The Owner will permit, during normal business hours and upon reasonable notice, any duly authorized representative of the Authority, to inspect any books and records of the Owner regarding the Project with respect to the incomes of Low-Income Tenants which pertain to compliance with the Section 42 Occupancy Restrictions and the Vacancy Controls specified in this Agreement.

(b) The Owner will submit any other information, documents or certifications requested by the Authority, which the Authority will deem reasonably necessary to substantiate the Owner's continuing compliance with the provisions of the Occupancy Restrictions and the Vacancy Controls specified in this Agreement.

SECTION 7 - ENFORCEMENT OF SECTION 42 OF THE CODE OCCUPANCY RESTRICTIONS

(a) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code and the Regulations. Moreover, Owner covenants to take any lawful action (including amendment of this Agreement as may be necessary, in the opinion of the Authority) to comply fully with the Code and with the Regulations.

(b) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the restrictions provided in this Agreement is to assure compliance of the Project and the Owner with Section 42 of the Code and Regulations, AND BY REASON THEREOF, THE OWNER IN CONSIDERATION FOR RECEIVING LOW-INCOME HOUSING TAX CREDITS FOR THIS PROJECT HEREBY AGREES AND CONSENTS THAT THE AUTHORITY AND ANY INDIVIDUAL WHO MEETS THE INCOME LIMITATION APPLICABLE UNDER SECTION 42 OF THE CODE (WHETHER PROSPECTIVE, PRESENT OR FORMER OCCUPANT) WILL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY THE OWNER OF ITS OBLIGATIONS UNDER THIS AGREEMENT IN A COURT OF COMPETENT JURISDICTION. The Owner hereby further specifically acknowledges that the beneficiaries of the Owner's obligations

hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

(c) The Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the Authority and all persons interested in Project compliance under Section 42 of the Code and Regulations.

(d) The Owner agrees that if at any point following execution of this Agreement, Section 42 of the Code or the Regulations require the Authority to monitor the Section 42 Occupancy Restrictions, or, alternatively, the Authority chooses to monitor Section 42 Occupancy Restrictions or the Occupancy Restrictions, the Owner will take any and all actions reasonably necessary and required by the Authority to substantiate the Owner's compliance with the Section 42 Occupancy Restrictions or Occupancy Restrictions and will pay the fee established by the Authority in its Allocation Plan for such monitoring activities performed by the Authority.

SECTION 8 - MISCELLANEOUS

(a) Severability. The invalidity of any clause, part or provision of this Agreement will not affect the validity of the remaining portion thereof.

(b) Notices. All notices to be given pursuant to this Agreement will be in writing and will be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

To the Authority

Puerto Rico Housing Finance Authority
P O Box 71361
San Juan, PR 00936-8461

ATTENTION: Low-income Housing
Tax Credit Program

To the Owner:

[]

ATTENTION: []

The Authority, and the Owner, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications will be sent.

(c) Amendment. The Owner agrees that it will take all actions necessary to effect amendment of this Agreement as may be necessary to comply with the Code and the Regulations.

(d) Subordination of Agreement. This Agreement and the restrictions hereunder are subordinate to the loan and loan documents, if any, on the Project except for the

Vacancy Controls specified herein and insofar Section 42 of the Code and the Regulations require otherwise.

(e) Governing Law. This Agreement will be governed by the laws of the Commonwealth of Puerto Rico and, where applicable, the laws of the United States of America.

(f) Survival of Obligation. The obligations of the Owner as set forth herein and in the Application will survive the allocation of the Tax Credit and will not be deemed to terminate or merge with the awarding of the allocation.

IN WITNESS WHEREOF, the Owner has caused this Agreement to be signed by its duly authorized representatives, as of the day and year first written above.

[]

BY: [] , [General Partner or Managing Member]

BY: _____
[]
[Title]

PUERTO RICO HOUSING FINANCE AUTHORITY

BY: _____
[]
Executive Director



GDB

PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX L

**QUALIFIED ALLOCATION
PLAN 2012**

REV
JAN 2012

**ANNEX L INDEPENDENT ACCOUNTANT'S REPORT
10% PERCENT TEST CERTIFICATION**

(To be submitted on Auditor Firm's letterhead)

Date:

To: PUERTO RICO HOUSING FINANCE AUTHORITY
P.O. Box 71361
San Juan, PR 00936-8461

and

Owner: _____
Address _____

Re: Project Name: _____
Application Number _____
Owner Tax ID: _____

We have examined the accompanying Certification of Costs Incurred ("Exhibit A") of the Owner for (The Project) as of _____, 20____. Exhibit A is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on Exhibit A based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting Exhibit A and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

The accompanying Exhibit A was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and by the Puerto Rico Housing Finance Authority ("PRHFA"), which is a comprehensive basis of accounting other than generally accepted accounting principles.

The 10% Test includes an estimate prepared by Owner of total development costs and reasonably expected basis, as defined in Treasury Regulation Section 1.42-6. We have not examined or performed any procedures in connection with such estimated total development costs and reasonably expected basis and, accordingly, we do not express any opinion or any other form of assurance on such estimates. Furthermore, even if the Project is developed and completed there will usually be differences between the projected and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this report for events and circumstances occurring after the date of this report.

In our opinion, Exhibit A referred to above presents fairly, in all material respects, costs incurred for the Project as of _____, 20____, on the basis of accounting described above.

In addition to examining Exhibit A, we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to this Project. These procedures, which were agreed to by the Owner

and PRHFA, were performed to assist you in determining whether the Project has met the 10% test in accordance with the Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation 1.42-6. These agreed-upon procedures were performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

1. We calculated, based on estimates of total development costs provided by the Owner, the Project's total reasonably expected basis, as defined in Treasury Regulation Section 1.42-6, to be \$ ___ as of ____, 20__.
2. We calculated the reasonably expected basis incurred by the Owner as of ____, 20__ to be \$ ___.
3. We calculated the percentage of the development fee incurred by the Owner as of ____, 20__ to be ___% of the total development fee.
4. We compared the reasonably expected basis incurred as of ____, 20__ to the total reasonably expected basis of the Project and calculated that ___% had been incurred as of ____, 20__.
5. We determined that Owner uses the accrual method of accounting, and has not included any construction costs in carryover allocation basis that have not been properly accrued.
6. Based on the amount of total reasonably expected basis listed above, for the Owner to meet the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6, we calculated that the Project needed to incur at least \$ ___ of costs prior to December 31, 20__. As of 20__ costs of at least \$ ___ had been incurred, which is approximately ___% of the total reasonably expected basis of the Project.

We were not engaged to, and did not perform an audit of the Owner's financial statements or of the Project's total reasonably expected basis. Furthermore, even if the Project is developed and completed there will usually be differences between the projected and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Owner and the Owner's management and for filing with PRHFA and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

Name of Professional's Firm

Date

Signature of Professional

Title of Signatory

Printed Name of Signatory

**EXHIBIT A TO INDEPENDENT AUDITOR'S REPORT FOR CARRYOVER ALLOCATION
ITEMIZED EXPENDITURES
AS OF _____**

	PROJECT'S EXPECTED BASIS	ELIGIBLE 10% TEST EXPENDITURE	EXPENDITURES AS % OF EXPECTED BASIS
LAND AND BUILDING*			
Land Costs	\$ _____	\$ _____	_____ %
Existing Structures	\$ _____	\$ _____	_____ %
On-site Work	\$ _____	\$ _____	_____ %
Off-site Work	\$ _____	\$ _____	_____ %
Garages	\$ _____	\$ _____	_____ %
Other**	\$ _____	\$ _____	_____ %
TOTAL	\$ _____	\$ _____	_____ %

REHABILITATION OR CONSTRUCTION COSTS

New Building	\$ _____	\$ _____	_____ %
Rehabilitation	\$ _____	\$ _____	_____ %
Accessory Buildings	\$ _____	\$ _____	_____ %
Contractor Overhead	\$ _____	\$ _____	_____ %
Contractor Profit	\$ _____	\$ _____	_____ %
General Requirements	\$ _____	\$ _____	_____ %
Construction Contingency	\$ _____	\$ _____	_____ %
Fees	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
TOTAL	\$ _____	\$ _____	_____ %

PROFESSIONAL FEES

Architect	\$ _____	\$ _____	_____ %
Architect - Supervision	\$ _____	\$ _____	_____ %
Engineer/Surveyor	\$ _____	\$ _____	_____ %
Attorney	\$ _____	\$ _____	_____ %
Accountant	\$ _____	\$ _____	_____ %
Consultant Fees	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
TOTAL	\$ _____	\$ _____	_____ %

CONSTRUCTION PERIOD COSTS

Insurance	\$ _____	\$ _____	_____ %
Bond Premium	\$ _____	\$ _____	_____ %
Construction Loan Interest	\$ _____	\$ _____	_____ %
Loan Origination Fee	\$ _____	\$ _____	_____ %
Taxes and Fees	\$ _____	\$ _____	_____ %
Title and Recording	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
TOTAL	\$ _____	\$ _____	_____ %

PERMANENT FINANCING \$ _____

	PROJECT'S EXPECTED BASIS	ELIGIBLE 10% TEST EXPENDITUR	EXPENDITURES AS % OF EXPECTED BASIS
SOFT COSTS			
Market Study	\$ _____	\$ _____	_____ %
Environmental Study	\$ _____	\$ _____	_____ %
Appraisal	\$ _____	\$ _____	_____ %
Tax Credit Fees	\$ _____	\$ _____	_____ %
Cost Certification	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
TOTAL	\$ _____	\$ _____	_____ %
SYNDICATION COSTS**	\$ _____		
DEVELOPER FEES ***			
Developer Fees	\$ _____	\$ _____	_____ %
Consultant	\$ _____	\$ _____	_____ %
Other	\$ _____	\$ _____	_____ %
TOTAL	\$ _____	\$ _____	_____ %
PROJECT RESERVES	\$ _____		
TOTAL DEVELOPMENT COSTS****	\$ _____	\$ _____	_____ %
FEES PAID TO RELATED ENTITIES***			
Related Entity	\$ _____	\$ _____	_____ %
Related Entity	\$ _____	\$ _____	_____ %
Related Entity	\$ _____	\$ _____	_____ %
TOTAL	\$ _____	\$ _____	_____ %

- * Legal fees and interest expense related to the land must be broken out and entered in this category.
- ** All Syndication costs must be separated from other project costs and included on this line.
- *** If any portion of the developer fee is deferred, supporting documentation must be submitted (e.g. promissory note).
- **** All fees, including the developer fee, which are paid to the developer or to any entity with an identity of interest with the developer must be clearly identified in the section, entitled Fees Paid to Related Entities.



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PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX M

**QUALIFIED ALLOCATION
PLAN 2012**

REV
JAN 2012

ANNEX M: FINAL COST CERTIFICATION

Independent Accountant's Report
 (Must be submitted with Final Cost Certification)
 (To be submitted under Accounting's Firm Letterhead)

Date: _____

To: Puerto Rico Housing Finance Authority
 P.O. Box 71361
 San Juan, PR 00936-8461

Re: Name of Project
Address of Project
Project Owner
Project Building Identification Number (BIN)

We have examined the accompanying Puerto Rico Housing Finance Authority ("PRHFA") Final Cost Certification (the "Final Cost Certification") of insert Owner's name (the "Owner") for (insert Project's Name) (the "Project") as of _____, 20____. The Final Cost Certification is responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on the Final Cost Certification based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the Final Cost Certification and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

The accompanying Final Cost Certification was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service, under the accrual method of accounting, and in conformity with the format and qualified allocation plan rules set by PRHFA, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion the Final Cost Certification presents fairly, in all material respects, the actual costs of \$_____ and eligible basis of \$_____ of the Owner for the Project as of _____, 20____, on the basis of accounting described above.

This report is intended solely for the information and use of Project Owner and Owner's management and for filing with PRHFA and should not be used for any other purpose.

We have no financial interest in the Project other than in the practice of our profession.

/s/Independent Auditors

**INDEPENDENT AUDITOR'S REPORT
FINAL COST CERTIFICATION**

SCHEDULE A: ITEMIZED COSTS & ELIGIBLE BASIS

ITEMIZED COSTS	Final Costs	Eligible Basis by Credit Type	
		4% Credit	9% Credit
LAND AND BUILDING *			
1 Land Costs	\$	\$	\$
2 Existing Structures	\$	\$	\$
3 Acquisition Fees	\$	\$	\$
4 Other: _____	\$	\$	\$
5 TOTAL	\$	\$	\$

SITE WORK			
6 On-site Work	\$	\$	\$
7 Off-site Work	\$	\$	\$
8 Other: _____	\$	\$	\$
9 TOTAL	\$	\$	\$

REHABILITATION OR CONSTRUCTION COSTS			
10 New Building	\$	\$	\$
11 Rehabilitation	\$	\$	\$
12 Accessory Buildings	\$	\$	\$
13 Contractor Overhead	\$	\$	\$
14 Contractor Profit	\$	\$	\$
15 General Requirements	\$	\$	\$
16 Construction Contingency	\$	\$	\$
17 Fees	\$	\$	\$
18 Other: _____	\$	\$	\$
19 TOTAL	\$	\$	\$

PROFESSIONAL FEES			
20 Design	\$	\$	\$
21 Supervision	\$	\$	\$
22 Engineer/Surveyor	\$	\$	\$
23 Real Estate Attorney	\$	\$	\$
24 Consultant Fees	\$	\$	\$
25 Other: _____	\$	\$	\$
26 TOTAL	\$	\$	\$

INTERIM COSTS			
27 Insurance	\$	\$	\$
28 Bond Premium	\$	\$	\$
29 Construction Loan Interest	\$	\$	\$
30 Loan Origination Fee	\$	\$	\$
31 Taxes and Fees	\$	\$	\$
32 Title and Recording	\$	\$	\$
33 Other: _____	\$	\$	\$
34 TOTAL	\$	\$	\$

ITEMIZED COSTS	Final Costs	Eligible Basis by Credit Type	
PERMANENT FINANCING			
35 Bond Premium	\$	\$	\$
36 Credit Report	\$	\$	\$
37 Loan Origination Fee	\$	\$	\$
38 Legal Fees	\$	\$	\$
39 Title and Recording	\$	\$	\$
40 Other: _____	\$	\$	\$
41 TOTAL	\$	\$	\$
SOFT COSTS			
42 Market Study	\$	\$	\$
43 Environmental Study	\$	\$	\$
44 Appraisal	\$	\$	\$
45 Tax Credit Fees	\$	\$	\$
46 Cost Certification	\$	\$	\$
47 Rent Up	\$	\$	\$
48 Other: _____	\$	\$	\$
49 TOTAL	\$	\$	\$
SYNDICATION COSTS **			
50 Organizational	\$	\$	\$
51 Tax Opinion and Title Policy	\$	\$	\$
52 Other: _____	\$	\$	\$
53 TOTAL	\$	\$	\$
DEVELOPER FEES			
54 Developer Fees	\$	\$	\$
55 Consultant	\$	\$	\$
56 Other: _____	\$	\$	\$
57 TOTAL	\$	\$	\$
PROJECT RESERVES			
58 Rent Up	\$	\$	\$
59 Operating Reserve	\$	\$	\$
60 Other: _____	\$	\$	\$
61 TOTAL	\$	\$	\$
OTHERS			
62 Working Capital	\$	\$	\$
63 Bridge Loan	\$	\$	\$
64 Other: _____	\$	\$	\$
65 TOTAL	\$	\$	\$
66 TOTAL DEVELOPMENT COSTS	\$	\$	\$

* Legal fees and interest expense related to the land must be broken out and entered in this category.

** All Syndication costs must be separated from other project costs and included on this line.

SCHEDULE B: QUALIFIED BASIS TEST

1. Total Development Costs (Line 66 from Schedule A):		<u>\$</u>
Less Costs Ineligible for Tax Credit Basis (from Schedule A):		
Land (Line 5)	<u>\$</u>	
Market Study (Line 42)	<u>\$</u>	
Permanent Financing Fees (Line 41)	<u>\$</u>	
Syndication Costs (Line 53)	<u>\$</u>	
Project Reserves (Line 61)	<u>\$</u>	
Other: _____	<u>\$</u>	
Other: _____	<u>\$</u>	
 2. Eligible Basis		<u>\$</u>
Total Number of Units	_____	
Total Number of Low Income Units	_____	
 3. Applicable Fraction ***		<u>%</u>
4. Qualified Basis (Applicable Fraction x Eligible Basis)		<u>\$</u>
Difficult to Develop Area Adjustment, <u>if applicable</u>		130 %
 5. Total Eligible Basis		<u>\$</u>
(Qualified Basis x 130%)		
Tax Credit Rate (as stated in Carryover Allocation Agreement)		<u>%</u>
 6. Annual Tax Credit - Qualified Basis Test		<u>\$</u>
(Total Eligible Basis x Tax Credit Rate)		

*** Use the smaller of the unit fraction (LI units/residential units) or the floor space fraction (LI unit floor space/residential unit floor space)

SCHEDULE C: EQUITY GAP TEST

1. Total Development Costs (Line 66 from Schedule A)		\$
2. Permanent Financing Sources*		
First Mortgage:	\$	
Second Mortgage		
Grants		
Owner Equity		
Other: _____		
TOTAL		\$
3. Equity Gap (Line 1 less Line 2 Total)		\$
4. Syndication Rate (net cent per credit \$)		
5. Investor Ownership Percentage		
6. 10 year Credit Allocation [Line 3/(Line 4 multiplied by Line 5)]		\$
7. Annual Credit - Equity Gap Test (Line 6 divided by 10)		\$

* In general these funding sources should include only permanent financing sources of cash funding expected to be repaid out of project operations. Do not include deferred fees, such as deferred developer fees or imputed capital for which cash is not received.

Schedule D: ANNUAL TAX CREDIT DETERMINATION

- | | |
|---|----------|
| A. Tax Credit Allocation
(From Carryover Allocation Agreement) | \$ _____ |
| B. Annual Tax Credit - Qualified Basis Test
(Schedule B - Line 6) | \$ _____ |
| C. Annual Tax Credit - Equity Gap Test
(Schedule C - Line 7) | \$ _____ |
| D. Final Tax Credit Determination **
(the lowest amount between lines A, B or C) | \$ _____ |
| E. Returned Credits (Line A less Line D)
(If zero or less, enter 0) | \$ _____ |

** The actual allocation may be less than this amount.

Exhibit A
Schedule E: Qualified Basis on a Building by Building Basis:

Address (must be complete)	30% PV				70% PV				Place in Service Date
	Eligible	Square	Applicable	Qualified	Eligible	Square	Applicable	Qualified	
	Basis	Feet	Fraction	Basis	Basis	Feet	Fraction	Basis	
1)	\$			\$	\$			\$	
2)	\$			\$	\$			\$	
3)	\$			\$	\$			\$	
4)	\$			\$	\$			\$	
5)	\$			\$	\$			\$	
6)	\$			\$	\$			\$	
7)	\$			\$	\$			\$	
8)	\$			\$	\$			\$	
9)	\$			\$	\$			\$	
10)	\$			\$	\$			\$	
TOTALS	\$			\$	\$			\$	



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ANNEX N

**QUALIFIED ALLOCATION
PLAN 2012**

REV.
JAN 2012

ANNEX N: Designer's Certification of Completion of Construction

**[This Form Must Be Included With the Final Cost Certification]
[This Opinion Must Be Submitted Under Designer Firm's Letterhead]**

Date: _____

TO: Puerto Rico Housing Finance Authority
P.O. Box 71361
San Juan, Puerto Rico 00936-8461

RE: Low Income Housing Tax Credit Program
Project: _____
Owner: _____

Gentlemen:

The undersigned, an architect/engineer duly licensed and registered in Puerto Rico, has provided full design services, including without limitation, preparing for [project's owner], final plans and specifications, pursuant to certain agreement between the undersigned and the owner dated _____ in connection with the construction/rehabilitation of a (insert number of units in project) units project on certain real property known as (insert project's name) (the Premises).

The undersigned hereby certifies that:

1. The plans and specifications comply with and conform in all respects to the requirements of law, have been duly filed with and have been approved by Regulations & Permits Administration (ARPE by its Spanish acronym); or the Autonomous Municipality of _____ (as the case may be).
2. Upon examination of the Premises, the Project, the plans and specifications after completion of the construction/rehabilitation we have concluded that the construction is in compliance with:
 - a. all government and municipal authorities having jurisdiction thereover;
 - b. all applicable zoning, building, fire and other federal, state, local laws, ordinances, rules, regulations, restrictions;
 - c. other requirements, including without limitations:
 - i. the Fair Housing Act,
 - ii. the American with Disabilities Act;
 - iii. other local and/or state access codes; and
 - iv. standards of professional practice

Respectfully,

Firm Name

By: _____

Its: _____

(Title)

(SEAL)



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Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

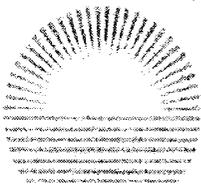
P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX O

**QUALIFIED ALLOCATION
PLAN 2012**

REV
JAN 2012



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PUERTO RICO HOUSING FINANCE AUTHORITY
Subsidiary of the Government Development Bank for Puerto Rico

COMPLIANCE MONITORING PLAN

LOW INCOME HOUSING TAX CREDIT PROGRAM

Audit & Compliance Office
Barbosa Ave. 606 • Juan C. Cordero Dávila Bldg. • Río Piedras, PR 00919
Phone 787.765-7577 • Fax 787.767-8927

May 2009

**Compliance Monitoring Plan
Table of Contents**

Introduction	1
Federal Laws and Regulations Governing the LIHTC Program	2
I. Program Summary	
A. Minimum Set-Aside Requirements	4
B. Income Limits & Calculations	6
C. Maximum Rent Requirements	6
D. Establishing Maximum Rents	7
E. Applicable Fraction	9
F. Full Time Resident Manager's Unit	9
G. Calculating the First Year Applicable Fraction	11
H. Qualified Basis	13
I. Claiming Credits	13
J. Compliance Period	13
II. Owner's Responsibilities	
A. Source of Program Requirements	16
B. Proper Administration	16
C. Progress Report, Notice of Project Changes and Semi-Annual Reports	17
D. Recordkeeping Provisions	18
E. Record Retention	19
F. Certification and Review Provision	20
G. Compliance Fees	23
H. Noncompliance	23
III. PRHFA Responsibilities	
A. Conducting Compliance Monitoring Briefings	24
B. Compliance Inspections	25
C. Notification to the Owner	28
D. Notification to IRS of Noncompliance	29
E. PRHFA Records Retention	30
F. PRHFA Circular Letters	30
G. Liability	30

**Compliance Monitoring Plan
Table of Contents**

IV. Project Rental Requirements	
A. Initial Interview	30
B. Residency Application	30
C. Minimum Lease Requirement	31
D. Household Size	32
E. Utility Allowance	34
F. Income Certification	41
G. Tenant Income Certification	41
H. Income Certifications where Owners Acquires or Rehabilitates Existing Building	42
I. Available Unit Rule	42
J. Vacant Unit Rule	43
K. Physical Requirements of Qualified Units, Suitable for Occupancy	43
L. Discrimination Prohibited in Project	44
M. General Public Use	44
N. Students	45
O. Loss of Eligibility Upon Becoming a Full-Time Student	46
P. Section 8 and Rural Development Rents	47
Q. Annual Recertification	48
R. Tenant Transfers	48
S. Multifamily Tax-Exempt Bonds Projects	49
V. Compliance and Monitoring during the Extended Use Period	
A. Extended Use Period	51
B. Tenant Eligibility Criteria During Extended Use Period	53
C. Monitoring Compliance During the Extended Use Period	54
D. Consequences of Noncompliance During the Extended Use Period	56

APPENDIXES

- A – Income Verification Requirements and Procedures
- B – Annual Recertification

**Compliance Monitoring Plan
Table of Contents**

FORMS AND INSTRUCTIONS

- PRHFA-01 Owner's Certificate of Continuing Program Compliance Form
- PRHFA-02 Tenant Income Certification and Instructions Form
- PRHFA-03 Employment Verification Form
- PRHFA-04 Student Verification Form
- PRHFA-05 Certification of Zero Income Form
- PRHFA-06 Under \$5,000 Asset Certification Form
- PRHFA-07 Section 8 Tenants Income Verification Form
- PRHFA-08 Alternate Certification Form

Tax Credit Program Overview

Introduction

The Internal Revenue Code (IRC) in its Section 42 and the applicable Treasury Department regulations govern the administration of the Low Income Housing Tax Credit Program (LIHTC). The federal law requires that the state allocating agencies monitor the Tax Credit projects for compliance with the provisions of Section 42 of the IRC. Furthermore, the state credit agency will notify the Internal Revenue Service (IRS) of any noncompliance with the program.

As the State Credit Agency, Puerto Rico Housing Finance Authority (PRHFA) is responsible for monitoring the Low Income Housing Tax Credit projects. The PRHFA has administered the LIHTC Program for the Commonwealth of Puerto Rico since December 30, 1987. As of May 31, 2009 the PRHFA monitors the compliance of Section 42 requirements for 126 projects with 10,021 tax credit units segregated for low-income families throughout the island.

This guide describes the rules and responsibilities of each one of the parties involved in the compliance process and provides a practical reference to owners and managers of projects participating in the LIHTC Program. It was prepared and reviewed in compliance with the final regulations published on September 2, 1992 by the IRS in 26 CFR Parts 1 and 602, "Procedure for Monitoring Compliance with Low Income Housing Credit Requirements", final regulations published on January 14, 2000 by the IRS in 26 CFR Parts 1 and 602, "Compliance Monitoring and Miscellaneous Issues Relating to the Low-Income Housing Credit", IRS notices and other regulations.

In January 2007 the Internal Revenue Service (IRS) released its Guide for Completing Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition (8823 Guide). This guide was not intended to change any Section 42 rules or policies, but to provide definitions of what IRS considers "In compliance" and for consistency in reporting "out of compliance", and "back in compliance," on IRS Form 8823.

Most of PRHFA compliance, monitoring, and reporting policy and procedure are already reflective of instructions in the 8823 Guide. However, some adjustments needed to be made and this manual is reflective of those adjustments. Owners are required to comply with the new policy and procedure by January 1, 2008.

On July 30, 2008 H.R. 3221, also known as the Housing and Economic

Recovery Act of 2008, was passed. This bill was signed by President Bush on July 23, 2008. Final passage by the Senate on July 26, exactly as passed by the House on July 30, 2008, which becomes the "date of enactment" for purposes of certain effective date provisions.

This Act was passed in response to the current market conditions and affects Tax Credit, Tax-Exempt Bond, rehab Tax Credit and other affordable housing programs. It also covers both compliance and development issues. The majority of provisions are contained in Division C – the Housing Assistance Tax Act of 2008, but some in Division B – the Foreclosure Prevention Act of 2008.

This manual has not been reviewed or approved by the IRS and should not be relied upon for the interpretation of federal income tax legislation and regulations.

This manual has not been reviewed or approved by the Internal Revenue Service (IRS) and should not be relied upon for the interpretation of federal income tax legislation or regulations. This manual is to be used only as a complement to compliance with the Code and all other applicable laws, rules and regulations. The responsibility for the compliance with the Code relies in the owner of the building(s) for which the credit was allocated. PRHFA obligation to monitor for compliance with the requirements of the Code does not make PRHFA liable for an owner's noncompliance (Treas. Reg. §1.42-5(g) (1994)).

Federal Laws and Regulations Governing the LIHTC Program

The Low Income Housing Tax Credit was introduced with the Tax Reform Act of 1986. Congress intended to create a subsidy that would provide incentives to increase the low income housing occupancy level while imposing limitations on the amount rent owners could charge tenants.

During 1988 Congress passed the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), which affected the tax credit provisions under the 1986 statute. The major change was the liberalization of the rules regarding the project's placed-in-service date. Under TAMRA a building could be placed in service up for two years following the year during which the credit was allocated to the project, if certain tests were satisfied.

Afterwards, Congress passed the Omnibus Budget Reconciliation Act of 1989 and the Omnibus Budget Reconciliation Act of 1990, extending the credit through December 31, 1990 and December 31, 1991, respectively.

On December 11, 1991 President Bush signed the Tax Extension Act of 1991, extending the program through June 30, 1992; however, the PRHFA received authorization to use the 1991 remaining tax credit balance through December 31, 1992.

On October 10, 1993, President Clinton signed the Omnibus Reconciliation Act of 1993 (OBRA 93) which permanently extended the credit through July 1, 1993. The act clarified some of the technical language of previous legislation, including some minor changes to the program.

On December 15, 2000 both houses passed the credit reform bill which includes changes to Section 42. The effective date of those provisions was January 1, 2001. The bill requires regular site inspections by the Housing Credit Agencies to monitor compliance with habitability standards applicable to the project. IRS regulations, effective January 2001, mandate site visits at least once every three years.

Puerto Rico Housing Finance Authority incorporates those changes and further IRS changes into its Compliance Monitoring Plan.

The Owner is responsible for being aware of all applicable rules and regulations.

This Low-Income Housing Tax Credit Compliance Manual (the "Manual") is intended to provide a basic description and explanation of the rules and regulations to maintain compliance for properties which have received an allocation of affordable housing tax credits pursuant to Section 42 of the Internal Revenue Code (the "Code"). In addition to a narrative description, the Manual includes copies of current forms used to collect resident and income information.

Note: Virtually every tax credit rule has a variation or exception for specific circumstances. The following overview by necessity oversimplifies some aspects; otherwise, no overview would be possible. It is the responsibility of the property owner and management company to be aware of applicable rules and regulations affecting the property and to ensure compliance with tax credit regulations and any additional compliance agreements that may be required by other programs.

In return for the tax credits, an owner must, at a minimum, commit to serve households earning at or below 60% or the Area Median Gross Income (AMGI) for the county in which the property is located.

The minimum election of 60% or 50% AMGI affects all low-income units within a property

Once the set-aside choice is made, it is irrevocable.

I. Program Summary

A. Minimum Set-Aside Requirements

When applying for an allocation of tax credits, the developer must choose one of two minimum set-aside requirements that must be followed during the compliance period. Set-asides obligate the property owner to rent a certain percentage of the dwelling units to households of a specified income level. Once the developer chooses which of the Internal Revenue Code set-asides to use, his choice is irrevocable. The minimum set-asides are as follows:

20/50 - No less than 20 percent or more of the residential units in such developments are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, or;

40/60 - No less than 40 percent or more of the residential units in such developments are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Each building is considered a separate project under IRC Section 42(g)(3)(D), and the minimum set-aside applies separately to each building, unless the owner elects to treat buildings as a multiple-building project, in which case the minimum set-aside applies on a project-wide basis. Owner identifies the building(s) in a multiple-building project by attaching a statement to the owner's first-year tax return. See instruction for Form 8609, line 8b for details.

Management Company or manager should confirm the set-aside that was established by the building owner at the time the set-aside option was made (the election is made on Form 8609 for the first year of the credit period), to ensure continued compliance. Once selected, the option cannot be changed. Note that this is only the minimum set-aside income and rent election. For example, for 20/50 minimum set-aside, if building applicable fraction is 100%, all tax credit units must have an income and rent restriction of 50% AMGI.

To earn more ranking points in the competitive process of applying for tax credits, owners may select additional set-asides that are more stringent than the 40/60 and 20/50 set-asides. If chosen, these optional set-asides will be described in the project's

Agreement as to Restrictive Covenants.

If a property is financed using HOME funds which:

- Have not been subtracted from the basis calculation or
- Have an interest rate below the Applicable Federal Rate and the owner receives tax credits at the 70% present value rate

Then the owner must rent 40% of the units in each building to households whose income is 50% less of area median income.

There is not a corresponding rent restriction with this HOME income limit set-aside. Rent limits are set according to the elected tax credit set-aside and/or any additional rent restrictions under which the allocation was made.

Note: Buildings placed in service after July 30, 2008 are not subject to this provision.

1. Deep Rent Skewed Election

In addition to the basic minimum set-aside, a developer can also choose to follow a set-aside for "deep rent skewed" developments. This set-aside provides that, in addition to the 40/60 or 20/50 set-aside, the owner will also reserve 15 percent or more of the residential units as rent-restricted and occupied by individuals whose income is 40 percent or less of area median gross income. In exchange for making this election, tenant household incomes can increase to 170% of the limit before they become over-income tenants.

2. Deadline for Meeting Set-Asides

The selected set-aside must be met by the end of the first year of the credit period (the end of the first tax year for which the owner chooses to claim tax credits). If management fails to meet the minimum set-aside by this time, the development can only receive a substantially reduced amount of credits for the entire compliance period.

A unit must be rented to a low-income household before it can be considered a low-income unit and counted toward meeting the minimum set-aside. Units that are vacant and have never been rented to a low-income household have "no character" and do not count toward the set-aside.

Units that are vacant and have never been rented to a low-income household do not count toward the set-aside

Management should not attempt to move existing low-income residents to previously unrented units in order to make those units count toward the minimum set-aside. This "unit swapping" practice is monitored and will not benefit the development because first year credits are calculated based on monthly occupancy rates.

B. Income Limits & Calculations

Every year, the Department of Housing & Urban Development (HUD) publishes median income of the metropolitan and non metropolitan area in which the project resides, adjusted to family size. HUD's Low Income level is 80% of the median income based on family size.

Do not use the Low Income (80%) numbers for tax credit purposes. The Very Low Income figures are 50% of the median income based on family size. These figures may be used as tax credit income limits for properties using the 20/50 set-aside. Multiply the very low income figures by 1.2 to compute the 60% income limits for properties using the 40/60 set-aside.

The PRHFA will provide annually an update of Tax Credit Income and Rent limits to development sponsors and managers. However, it is the owner's responsibility to obtain these limits when they are published by HUD and to implement the new limits within 45 days of the effective date.

C. Maximum Rent Requirements

Gross rent must include an allowance for utilities if they are paid by the tenant. Gross rent does not include utility allowances paid under Section 8 of the U.S. Housing Act of 1937 or any comparable rental assistance program.

Gross rent does not include any fees for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the tenant of the unit) by any governmental program of assistance (or by an organization described in Section 501 (c)(3) of the Internal Revenue Code and exempt from tax under Section 501 (a) of the Internal Revenue Code) if such program (or organization) provides assistance for rent and the amount of assistance provided

for rent is not separable from the amount of assistance provided for supportive services. All other fees for supportive services must be included in the gross rent.

D. Establishing Maximum Rent

1. Family Size Rent Calculations (1987-1989)

Properties which received tax credit allocations between January 1, 1987 and December 31, 1989 whose owners did NOT elect to use the "number of bedrooms" method of calculating maximum rent may charge tenants a maximum gross rent of thirty percent (30%) of the annual median income limit adjusted for family size for the county in which the development is located.

2. Bedroom Size Rent Calculations (1990 - Forward)

For developments receiving an allocation of Low Income Tax Credits from January 1, 1990 forward, the maximum gross rents are computed based on the number of bedrooms in the unit.

Units with no separate bedroom are treated as being occupied by one (1) person; larger units are treated as being occupied by 1.5 persons per each separate bedroom (see chart below).

Between 1987 through 1989 LIHTC owners who DID ELECT to use the "number of bedrooms formula and filed a Notice of Election form (NOE-1) with the IRS and the PRHFA by February 7, 1994 calculate their maximum rent this way also.

0 Bedroom Unit =	1.0 person income
1 Bedroom Unit =	1.5 person income
2 Bedroom Unit =	3.0 person income
3 Bedroom Unit =	4.5 person income
4 Bedroom Unit =	6.0 person income

Example:

To calculate the Maximum Gross Rent by bedroom size for projects that received an allocation from January 1, 1990 forward the following steps must be performed:

-----Income Limits by Household Size-----							
% AMGI	1	2	3	4	5	6	7
60%	12,720	14,520	16,380	18,180	19,620	21,060	22,560

- Select the unit factor that applied based on the bedroom size. For a 1 bedroom unit the factor is 1.5 person incomes.
- To obtain the 1.5 person income an average must be calculated between the Income Limit for a Household size of one person and two persons; the result must be divided by 2.

$\frac{12,720 + 14,520}{2} = \frac{27,240}{2} = \$13,620$

- The income limit for 1.5 persons must be multiplied by 30% to calculate the annual rent. To obtain the monthly rent divide the annual rent by 12. The result is the Maximum Gross Rent by bedroom size.

$13,620 \times 30\% = \$4,086 \quad \text{Annual Rent}$
$\frac{4,086}{12} = \$340 \quad \text{Maximum Gross Rent (Monthly)}$

3. Establishing LIHTC Rents in Subsequent Years

Each year, the owner must re-compute the maximum allowable rent and the utility allowances for each project using the latest publication by HUD. If a LIHTC restricted unit is rented to an unqualified tenant or the owner charges rents in excess of the maximum allowable rent, the unit could be subject to recapture. The project should never fall below the minimum set-aside.

Most Tax Credit
Properties are
100%
"affordable"
Units

E. Applicable Fraction

The applicable fraction is the lesser of:

- The unit fraction, which is the number of low-income units in a building divided by the total number of residential rental units; or
- The floor space fraction, which is the total floor space of the low-income units in the building divided by the total floor space of the residential rental units in the building.

When determining the units to be included in the numerator (low-income units), and in the denominator (total units) of the applicable fraction, the following aspects should be taking into consideration:

- Units that have never been occupied or are occupied by a nonqualified household cannot be included in the numerator, but must be included in the denominator;
- Vacant units that were last occupied by a nonqualified household cannot be included in the numerator, but must be included in the denominator.
- Units not suitable for occupancy, including tax credit units being rehabilitated in the first year of the credit period, cannot be included in the numerator, but must be included in the denominator.
- Common space units (units for FT manager, FT maintenance or security -see par. E, below), are not included in either the numerator or denominator.

F. Full Time Resident Manager's Unit

The Full time resident or on-site manager's unit may or may not be included in determining the applicable fraction depending on the circumstances.

According to IRS Revenue Ruling 92-61, the ways in which the on-site manager's unit may be considered are:

- For buildings that have been placed in service after September 9, 1992, the full time manager's unit must be treated as common space (i.e., it would not be included in either the numerator or denominator of the applicable fraction).
- For buildings that were placed in service prior to September 9, 1992, the full time manager's unit may be treated as follows:
 - a. The full time manager's unit is considered a qualified low-income unit (the rent is restricted to a qualifying amount and the resident manager is a certified low-income tenant); or
 - b. The full time manager's unit is considered common space. As common space, the unit would not be included in either the numerator or the denominator of the applicable fraction.

Example:

A building contains 24 units and the applicable fraction is 100%. Credits were allocated on 23 units. This means that the manager's unit was treated as common space when credit was allocated. The applicable fraction would be 23/23 or 100%.

A full time manager or maintenance person must occupy a resident manager's unit. The number of hours worked does not define full-time; rather it is defined that the manager's presence on site is reasonably required for the development. Some things to consider are: what is warranted by the type, size and/or location of the development, as well as what is needed in terms of the resident population. Some developments may not need to employ a resident manager for what is normally considered full-time and other developments may need to employ more than one on-site manager or maintenance person. Full-time is considered to be whatever is reasonably required to make operations run smoothly at the development. As a general guide, a manager who performs management functions such as leasing units, preparing certification paperwork, cleaning, general maintenance, preparing turnover, collecting rent, etc., and is available to the site on an on-call basis to respond to emergencies may be considered a full-time manager under this ruling. According to Revenue Ruling 2004-82, dated August 30, 2004, a unit may also be occupied by a full-time security

officer and be treated as common space, if reasonably required.

All developments, especially those that are new allocations, need to notify PRHFA of the status of common space unit(s) and which method is being used. When notifying PRHFA, it is necessary to include the project name and LIHTC number, the building address and BIN number, the unit number, the number of bedrooms in the unit, the square footage, the current resident manager, maintenance person, or security personnel's name and a description of duties and time involved. If not previously considered as part of the allocation process, PRHFA will issue a letter acknowledging such common space unit. For the most part, PRHFA will rely on the owner's determination of whether a full time unit is reasonably required by the development. However, if PRHFA becomes aware that the unit is not occupied by a full time manager, maintenance, or security personnel, as represented by the owner, it may become a noncompliance issue.

Note: If the owner is charging rent for the unit, the Internal Revenue Service may determine that the unit is not reasonably required by the project because the owner is not requiring the manager, maintenance or security personnel to occupy the unit as a condition of employment.

G. Calculating the First Year Applicable Fraction

The applicable fraction for the first year is calculated as follows:

- Find the low-income portion as of the end of each full month that the building was in service during the year.
- Add these percentages together and divide by 12 (per instructions on IRS Form 8609 and Schedule A). Note that the applicable fraction must be calculated for both the unit and floor space fraction (See table in the next page).

Example:

Assume that a low-income building of 50 units was placed in service on March 1, 2008, and has the following lease-up schedule during the first year of the credit period:

Month	Low-Income Units	Total Units	Monthly Unit Fraction	Low Income Sq Ft	Total Square Feet	Monthly Square Foot Fraction
January	3	50	*0%	2,400	50,000	*0.00%
February	10	50	*0%	8,000	50,000	*0.00%
March	15	50	30%	12,000	50,000	24%
April	30	50	60%	24,000	50,000	48%
May	40	50	80%	32,000	50,000	64%
June	50	50	100%	50,000	50,000	100%
July	50	50	100%	50,000	50,000	100%
August	50	50	100%	50,000	50,000	100%
September	50	50	100%	50,000	50,000	100%
October	50	50	100%	50,000	50,000	100%
November	50	50	100%	50,000	50,000	100%
December	50	50	100%	50,000	50,000	100%
Totals	Sum of monthly Unit Fraction/12		72.50%	Sum of monthly Sq Ft Fraction/12		69.67%

*The owner may not count the unit occupied in January and February toward the first-year applicable fraction since the building was not placed in service for a full month. For all other months, even if a resident moved in to a unit on the last day of the month, that unit is considered occupied at the end of the month. The first year applicable fraction for this building would be 69.67% based on this lease-up schedule.

H. Qualified Basis

Qualified basis is the portion of the eligible basis applicable to Housing Tax Credit units in a building. Qualified Basis is the product of a project's Eligible Basis multiplied by the Applicable Fraction. The original qualified basis is determined as of the last day of the first year of the credit period and is reported to the IRS on Part II of Form 8609.

I. Claiming Credits

The credits may be taken annually for 10 years and are based on a percentage of the qualified costs of the building. For 1987, the applicable rates were 9 percent for new construction and substantial rehabilitation and 4 percent for buildings with federal subsidies and for acquisition and rehabilitation of existing buildings. In order for an existing building to qualify for the credit in connection with substantial rehabilitation, there must be a period of at least 10 years between the date of acquisition and the date the building was last placed in service.

After 1987, the credit percentage is based on the Applicable Federal Rate (AFR) for the month the project is placed in service, or, at the owner's election, the month in which a carryover/commitment is entered into by the owner and PRHFA.

Owners of qualified residential rental projects must satisfy the minimum set aside and gross rent requirements for a minimum 15-year period, and in many cases, a 30-year period, depending on the deed restrictions. Developments with allocations in 1990 and each year thereafter are required to comply with these requirements for a minimum of 30 years.

J. Compliance Period

1. All LIHTC Developments

In order to receive the credit, all developments receiving a credit allocation since 1987 must comply with eligibility requirements for a period of 15 years beginning with the first taxable year of a building's credit period. The credit period for a building begins in either the year it is placed in service or the

first year after, as declared in Part II of the IRS for 8609. This 15 year period is referred to in the Code as the "Compliance Period" [Section 42(i) (1)].

2. Developments that received allocations from 1987 through 1989

These developments are only subject to a fifteen- (15) year compliance period. However, any building in such a development that received an additional allocation of credit after December 31, 1989, must comply with eligibility requirements in effect beginning January 1, 1990, and will also be bound by the Declaration of Land Use Restrictive Covenants.

3. Developments which received LIHTC allocations after December 31, 1989

These developments must comply with eligibility requirements for a minimum compliance period of fifteen (15) years and an extended use period of an additional fifteen (15) year period stipulated by a recorded agreement as to restrictive covenants.

Federal Requirements

- To qualify for tax credits, a property must meet either the 20/50 or 40/60 test (see Program Summary for an explanation of the 20/50 – 40/60 test)
- All affordable unit Households must have their anticipated income for the next 12 months certified at time of initial occupancy.
- Re-certifications of income are required after the first year
- Individuals in a Household don't have to be related.
- All affordable units must be rent and income-restricted
- Rent charged is determined after subtracting out a utility allowance for any Resident-paid utilities.

Summary

- Rules specify which utility allowance to use, depending on whether buildings received HUD or Rural Development assistance, or whether a Resident receives Section 8 assistance.
- Affordable units must be suitable for occupancy and be rented to the general public on a non-Transient basis.
- A unit is not "qualified" until it is initially occupied by a qualified Household.
- If an affordable unit becomes vacant, and the last occupant was a qualified Household, the vacant unit continues to be considered an affordable unit, as long as the next available unit of comparable size or smaller is rented to a qualified Household (Vacant Unit Rule)
- If an affordable Household's income increases above 140% of the elected applicable minimum election income limit (50% or 60%), the next available unit of comparable size must be rented to a qualified affordable Household (Available Unit Rule)
- Certain Households are not qualified for tax credit housing, e.g., if all the occupants of a unit are fulltime Students, the unit is generally not eligible for tax credits.
- Properties must comply with all Fair Housing regulations.
- After January 1, 1990, all tax credit properties must have a Regulatory Agreement (extended use agreement) recorded as a restrictive covenant against the subject property.
- Owners must make annual certifications regarding compliance and must maintain records verifying Household qualification.
- Noncompliance is reportable to the IRS and may result in recapture of credit claimed.

II. *Owner's Responsibilities*

Each property owner or developer has decided to participate in the LIHTC program to take advantage of the tax benefits it provides. In exchange for these tax benefits, the owner must meet requirements designed to make sure the housing development will benefit a particular class of low-income tenants. A description of these program requirements follows:

A. Source of Program Requirements

Section 42 of Internal Revenue Service, IRS Regulations found in 26 CFR Section 1.42, IRS Revenue Rulings and Revenue Procedures, additional program rules prescribed by the PRHFA, representations in a development's application, and provisions included in the Agreement as to Restrictive Covenants, all regulate how low-income housing properties are to be operated. For the entire compliance period, owners are obligated to provide the PRHFA with required reporting documents and any other information requested in relation to the property, the tenants and units in the property, and documentation filed with the Service for the purpose of claiming the tax credits.

B. Proper Administration

The owner or developer is responsible to the PRHFA to insure that the project is properly administered and maintained. The owner must make certain that the on-site management team understands and complies with all appropriate rules, regulations and policies that govern LIHTC developments and he must keep the development well maintained so that units are suitable for occupancy.

If the Management Company or owner determines that a development is not in compliance with LIHTC requirements, they should notify the PRHFA immediately. Most noncompliance is correctable issues and the PRHFA will work with owners and managers to remedy them within a reasonable amount of time.

Because the owner is ultimately responsible for a development's compliance with program rules, the PRHFA will direct any correspondence about noncompliance and corrections to the owner, as well as to the management company.

C. Progress Report, Notice of Project Changes and Semi-Annual Reports

It is the responsibility of the owner or developer to keep the PRHFA informed throughout all phases of development, rent-up and operation. This includes the construction phase during which owners are responsible for sending the PRHFA progress reports, notice of the scheduled placed-in-service date, and notice of any major changes in the development's costs, financing, syndication, unit types, and completion schedule.

After all the buildings in a development are placed-in-service, the owner or company in charge of the management of a LIHTC project must submit to the PRHFA, via electronically, the following information on a semi-annual basis:

1. Building Status Report General Information for each building in each project
2. Tenant Income Information of each new move-in and annual re-certifications of income for each existing tenant.

This information must be submitted to the PRHFA by the 15th day after the end of each semester during the compliance period. The PRHFA will provide the Tax Credit Certifications Online Reporting Software for the electronic submission of this information.

The COL System is an internet based reporting system. It enables management companies to enter and submit the following information:

1. Tenant Income Information of each new move-in and annual re-certifications of income for each existing tenant.
2. Annual Owner Certifications

Each management company is responsible for the data input into COL, the accuracy of all information on COL, and associated Tenant Income Certifications Forms generated by the program. The PRHFA is not responsible for computer input discrepancies. The management company/project sponsor should review all computer generated forms for completeness and accuracy prior to the

electronic submission of the data to the PRHFA.

D. Recordkeeping Provisions

Under the record keeping provision of Reg. 1.42-5, the owner of a low income Tax Credit project must keep records for each building for each year in the compliance period showing the following information:

- The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- The number of occupants in each Tax Credit unit and the student resident status.
- The number and percentage of residential rental units in the building that are Tax Credit units, models, offices, and management units;
- The rent charged on each residential rental unit in the building (including utility allowance) as well as any additional charges to tenants. Documentation must include rent rolls, leases, and utility allowances as required by Internal Revenue Service;
- The Tax Credit unit vacancies in the building, marketing information, and information which shows when and to whom each of the next available units were rented;
- The annual income certification of each Tax Credit tenant;
- Documentation to support each Tax Credit tenant's income certification. Anticipated income of all adult persons expecting to occupy the unit must be verified and included on a Tenant Income Certification prior to occupancy and annually re-certified for continued eligibility (i.e. Written third party verification is always preferred. Income verifications are sent directly to and returned by the source to management, not through the applicant).
- The character and use of the nonresidential portion of the building included in the building's eligible basis under

Section 42(d) (e.g. tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project); and

- The eligible basis and qualified basis of the building at the end of the first year of the credit period.
- Records demonstrating that any state established set-aside elected by the owner has been complied with for each year of the compliance period.

E. Record Retention

Owner must retain the records described above for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

The Revenue Ruling 2004-82, published on August 30, 2004 clarified that owners may comply with the record retention provisions under IRC Section 1.42-5(b) by using an electronic storage system instead of maintaining hardcopy (paper) books and records, provided that electronic storage system satisfies the requirements of Revenue Procedure 97-22. Be advice that the owner must satisfy any additional recordkeeping and record retention requirements of the monitoring procedures adopted by our agency.

Owners must maintain applicant and tenant information in a way to ensure confidentiality. Any applicant or tenant affected by negligent disclosure or improper use of information may bring civil action for damages and seek other relief, as appropriate. Owners must dispose of records in a manner that will prevent any unauthorized access to personal information, e.g. burn, pulverize, shred, etc.

F. Certification and Review Provision

The PRHFA requires the owner to certify, under penalty of perjury, at least annually during the compliance period that, for the preceding 12 months, the development met the requirements of Section 42 of the IRS. This requirement is satisfied by completing an Annual Owner's Certification (see PRHFC-01). This certification must be made under oath and subject to the penalties of perjury.

The Owner certifies that:

1. The project meets the minimum requirements of the 20-50 test or the 40-60 test, as applicable:
 - at least 20% or more of the residential units in the Project are both rent-restricted and occupied by individuals whose income is 50% or less of area median income; or
 - at least 40% or more of the residential units in the Project are both rent-restricted and occupied by individuals whose income is 60% or less of area median income.
2. There has been no change in the applicable fraction for any building in the project (as defined in Section 42(c)(1)(B) of the Code);
3. The owner has received an annual Tenant Income Certification from each low-income resident and documentation to support that certification, or the owner has a re-certification waiver letter from the IRS in good standing, has received an annual Tenant Income Certification from each low-income resident, and documentation to support the certification at their initial occupancy;
4. Each low-income unit in the project is rent-restricted as defined in Section 42(g)(2) of the Code;
5. All units in the project are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under

Section 42(i)(3)(B)(iii) of the Code);

6. No finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court;
7. Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project;
8. There has been no change in the eligible basis (as defined in Section 42(d) of the Code) of any building in the project since last certification submission;
9. All tenant facilities included in the eligible basis under the Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, and parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without a charge to all tenants in the buildings;
10. If a low-income unit in the project has been vacant during the year, reasonable attempts are made to rent that unit or next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income;
11. If the income of tenants of low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income;
12. An extended low-income housing commitment as described in Section 42(h) (6) was in effect, including the requirement under Section 42(h) (6) (B) (iv) that an owner cannot refuse to lease a unit in the project to an applicant because the

applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment (not applicable to buildings with tax credits from years 1987-1989);

13. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning to Section 469(h) of the Code (if applicable).
14. The owner has complied with Section 42(h) (6) (E) (ii) (I) and not evicted or terminated the tenancy of an existing tenant of any low-income unit other than for good cause.
15. The owner has complied with Section 42(h)(6)(E)(ii)(II) and not increased the gross rent above the maximum allowed under Section 42 with respect to any low-income unit.
16. There has been no change in the ownership or management of the project.

Filling Instructions: The Annual Owner Certification must be prepared and submitted to the PRHFA using the COL System. This document must be notarized and sent to the PRHFA by January 31 of each calendar year. Non-receipt of this notarized form by the due date will automatically trigger the submission of a notice of noncompliance to the owner.

If the project is not yet in the first year of the credit period, submit:

- Annual Owner Certification with appropriate designation of not yet placed in service, or placed in service but elect to begin credit period in the year following placed in service. Sign, date and notarize.

If the project is in the first year of the credit period and later, submit:

- A completed, signed, dated and notarized Annual Owner Certification (PRHFC-1);
- compliance monitoring fees;
- IRS forms 8609 for each building, with Part II completed, dated and signed;
- Completed Schedule A for each building; and 8586, as filed with the IRS.

The PRHFA will review the certifications submitted for compliance with the requirements of Section 42.

G. Compliance Fees

Property owners must pay to PRHFA an annual compliance monitoring fee of \$25.00 for each LIHTC unit contained in each building. The annual monitoring fees must be submitted with the Annual Owner's Certification by January 31st of each year. Owners and developers should take note that participation in PRHFA programs requires a certification of good standing with the PRHFA. Failing to pay fees will bar any further participation in the programs administered by the PRHFA.

The PRHFA reserves the right to make adjustments in the amount of the annual compliance monitoring fee as it deems necessary to defray the cost of compliance monitoring.

H. Noncompliance

If the management agent and/or the owner determines that a building or entire project is not in compliance with program requirements, PRHFA must be notified immediately. The management agent and/or the owner must formulate a plan to bring the project back into compliance, and advise PRHFA in writing of such a plan.

III. PRHFA Responsibilities

Once a final allocation is awarded to a project, the PRHFA has the responsibility of monitoring the project to guarantee compliance with Section 42 of the Internal Revenue Code and its regulations.

This Section briefly describes the PRHFA's monitoring activity. These compliance monitoring procedures may be changed as the PRHFA deems necessary or as required by the Internal Revenue Code, IRS Regulations, Revenue Rulings, and Revenue Procedures.

A. Conducting Compliance Monitoring Briefings

Owners, managers, and any other personnel who are directly involved in the management of a housing development and do not have previous experience with the LIHTC program may be required to attend a basic, educational Monitoring Seminar before the PRHFA releases Forms 8609 allocating the placed-in-service tax credits. The PRHFA also reserves the right to require management personnel to attend briefings at any time during the compliance period if the property's compliance efforts are deficient or if staff changes occur. The PRHFA will offer continuing education to the owner or developer, the Management Company and on-site personnel to guarantee compliance with federal regulations and PRHFA's rules.

The purpose of the briefing is to provide instruction on the following:

- Federal regulations for determining eligibility of low-income tenants;
- PRHFA procedures for determining eligibility of low-income tenants;
- Specific information which must be obtained from a prospective tenant through the rental application;
- Income and Rent Limits;
- Income Verifications;
- Annual Income and Asset Verification ; and
- PRHFA Required Forms and or Documentation

Such other topics which the PRHFA or the representatives of the development may deem necessary to the proper management of the development as a successful LIHTC participant.

B. Compliance Inspections

The PRHFA will conduct an on-site inspection, at least once every three (3) years, of all buildings in each low income housing project and, for each tenant in at least 20% of the project's low-income units selected, review the low-income certification, the documentation supporting such certification, and the rent record. The Tax Credit projects to be inspected or reviewed must be chosen in a manner that will not give owners of Tax Credit projects advance notice that their records for a particular year will or will not be inspected. The first inspection for new projects will occur no later than the end of the second year of the credit period. In the event that extensive noncompliance is identified, PRHFA should consider expanding the number of units inspected/files reviewed beyond the 20 percent sample required under Treas. Reg. 1.42-5(c)(2)(ii).

The PRHFA may give an owner reasonable notice that an inspection will occur so that the owner may assemble records. This notification letter is considered the agency's announcement of an upcoming compliance review. Noncompliance that is identified and corrected by the owner *prior to notification* of an upcoming compliance review or inspection need not be reported to IRS.

During the inspection, the PRHFA will inspect the units and review the current rent record and, at minimum, verify the following from the tenant's files for at least 20 percent of the project's low-income units:

- Rental application completed, including certification of assets and disposal of assets, if applicable;
- Tenant income certification completed for move-in and current year, including all required signatures and dates;
- Calculation of move-in income eligibility
- Income verification(s) completed and documented;
- Assets documented, and verified if total assets are more than \$5,000 in value;

- Student eligibility documented;
- Lease and lease addendum completed at move-in; and
- Current year utility allowance on file.

On-site building inspections involve physically checking building and dwelling units for compliance with applicable housing quality standards. The Compliance Monitoring Regulations published January 14, 2000, require housing credit agencies to conduct physical inspections consistent with standards governed by the Department of Housing and Urban Development's Uniform Physical Conditions Standards. These standards require properties to be in "decent, safe and sanitary condition and in good repair" and require agencies to inspect the following five major areas:

1. **Site:** The site includes components such as fencing and retaining walls, grounds, lighting, mailboxes, signs (such as those identifying the development or areas of the development), parking lots/driveways, play areas and equipment, refuse disposal, roads, storm drainage and walkways. The site must be free of health and safety hazards and be in good repair.
2. **Building exterior:** Each building on the site must be structurally sound, secure, habitable, and in good repair. The building's exterior components such as doors, fire escapes, foundations, lighting, roofs, walls and windows, where applicable, must be free of health and safety hazards, operable, and in good repair.
3. **Building systems:** The building's systems include components such as domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system. Each building's systems must be free of health and safety hazards, functionally adequate, operable, and in good repair.
4. **Dwelling units :**
 - (i) Each dwelling unit within a building must be structurally sound, habitable, and in good repair. All areas and aspects of the dwelling unit (for example the unit's bathroom, call-for-aid, ceiling, doors, electrical systems, floors, hot water heater, HVAC (where individual units are provided), kitchen,

lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls and windows) must be free of health and safety hazards, functionally adequate, operable, and in good repair.

(ii) Where applicable, the dwelling unit must have hot and cold running water, including an adequate source of potable water.

(iii) If the dwelling unit includes its own sanitary facility, it must be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste.

(iv) The dwelling unit must include at least one battery operated or hard wired smoke detector in proper working condition on each level of the unit.

5. Common areas – The common areas must be structurally sound, secure and functionally adequate for the purposes intended. The common areas include components such as basement/garage/carport, restrooms, and closets, utility, mechanical, community rooms, day care, halls/corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas, if applicable. The common areas must be free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, outlets/switches, smoke detectors, stairs, walls, and windows, to the extent applicable, must be free of health and safety hazards, operable, and in good repair.

All areas and components of the housing must be free of health and safety hazards. These areas include, but are not limited to: air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead based paint. For example, the buildings must have fire exits that are not blocked and have handrails that are undamaged and have no other observable deficiencies. The housing must have no evidence of infestation by rats, mice, or other vermin, or of garbage and debris. The housing must have no evidence of electrical hazards, natural hazards, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold, odor (e.g., propane, natural gas, methane gas), or other observable deficiencies. The housing must comply with all

regulations and requirements related to the ownership of pets, and the evaluation and reduction of lead-based paint hazards and have available proper certifications of such.

Notwithstanding the above inspection requirements, a low-income housing project under Section 42 must continue to satisfy local health, safety, and building codes.

The PRHFA will report on its findings and the owner and/or the management company must respond in writing within thirty (30) days to the PRHFA. The response must indicate the manner in which corrective actions have been taken.

For new buildings, the final regulations, published on January 14, 2000, extended the time limit for inspection to the end of the second calendar year of the credit period.

The PRHFA reserves the right, under the provisions of Section 42 of the Internal Revenue Code and Regulation 1.42-5, to perform on-site inspections and/or unit inspections of LIHTC developments at any time during the compliance period as it may deem necessary. The owner refusal to allow a site visitation or access to tenants' records constitutes a noncompliance reportable to the IRS.

C. Notification to the Owner

The PRHFA will provide prompt written notice to the owner of a Tax Credit project if the PRHFA does not receive the required certification, semi-annual reports and other forms, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records, or discovers by inspection, review, or in some other manner, that the project is not in compliance with the provisions of Section 42 or its Declaration of Land Use Restrictive Covenants.

The owner will have ninety (90) days from the date of notice to supply the missing certification, or to correct the noncompliance. However, if the PRHFA determines that there is good cause to extend the correction period, it may extend the initial ninety (90) days period up to one hundred twenty (120) days.

The PRHFA will review the owner's response and supporting documentation, if any, to determine whether the noncompliance

has been corrected.

D. Notification to IRS of Noncompliance

The PRHFA will file Form 8823, "Low Income Housing Credit Agencies Report of Non-Compliance or Building Disposition," with the IRS no later than 45 days after the end of the correction period (as described below, including extensions permitted under that paragraph) and no earlier than the end of the correction period. The PRHFA will check the appropriate box on Form 8823 indicating the nature of the non-compliance or failure to certify and indicate whether the owner has corrected the non-compliance or failure to certify. If the non-compliance or failure to certify is corrected, the PRHFA will provide a date on which the noncompliance was corrected. If the PRHFA cannot determine that an owner's actions have corrected the noncompliance, no correction date will be provided. The final regulations adopt a limit to a 3 year period after the end of the correction period the requirement that the PRHFA files form 8823 "Low Income Housing Credit Agencies Report of Noncompliance" with the IRS reporting the correction of the noncompliance or failure to certify.

Any change in either the applicable fraction or eligible basis under paragraph (c) (1) (ii) and (vii) of Reg. 1.42-5, respectively, that results in a decrease in the qualified basis of the project under Section 42 (c) (1) (A) is non-compliance that must be reported to the IRS. Changes in ownership must be reported by the PRHFA to the IRS on Form 8823. The correction period described below will not apply to notification of changes in ownership.

If the PRHFA reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the PRHFA need not file Form 8823 in subsequent years to report that building's non-compliance. The PRHFA will send the owner a copy of the form 8823 after it has been filed with the IRS.

PRHFA will no longer report issues of noncompliance that have been identified and corrected prior to notification of an upcoming compliance review or inspection by PRHFA. IRS considers the date of the notification letter a "bright line" date.

E. PRHFA Records Retention

PRHFA will retain records of non-compliance or failure to certify for six years beyond the filing date of the respective Form 8823. In all other cases, PRHFA will retain the certifications and records described in Reg. 1.42-5(c) for three years from the end of the calendar year (the) that PRHFA receives the certifications and records.

F. PRHFA Circular Letters

The PRHFA will establish, from time to time, through circular letters changes or clarification concerning IRS section 42 requirements and guidelines. The objective is to maintain the Compliance Monitoring Plan current to solve any conflict with the standards required.

G. Liability

Compliance with the requirements of Section 42 is the responsibility of the owner of the building for which the credit is allowable. PRHFA's obligation to monitor for compliance with the requirements of Section 42 does not make the PRHFA liable for an owner's non-compliance.

IV. *Project Rental Requirements*

A. Initial Interview

On-site managers of a LIHTC development should tell applicants early in their initial visit that there are maximum income limits which determine who may live in these dwelling units. Managers should explain to prospective tenants that the total anticipated income of everyone who will occupy the unit must be disclosed on a Tenant Income Certification form (PRHFC-02) and will be verified before they can move in. Applicants should be told that this income-disclosing and verifying process will be repeated at least annually for as long as they live in the development. It may be useful to explain to applicants that all information they provide is considered confidential and will be handled accordingly.

B. Residency Application

Before allowing anyone to move into low-income units, the management must obtain from prospective tenants an application

for residency that discloses enough information to determine whether or not the applicant household qualifies under the program rules. The application for residency should include, at minimum:

- The name and age of each person who will occupy the unit (legal name should be given just as it will appear on the lease and Tenant Income Certifications); and
- All sources and amounts of current and anticipated annual income expected to be derived during the twelve (12) month certification period (including total assets and asset income); and
- The head of household's signature and that of all occupants over age 18 and the date the application was completed.
- The student status of each applicant.

C. Minimum Lease Requirement

All tenants occupying set-aside units are required to be certified and to execute at least an initial six-month lease. (Exceptions for housing for the homeless and single room occupancy are listed below). Succeeding leases are not subject to a minimum lease period.

The lease must reflect the correct date of move-in, or the date the tenant takes possession of the unit. At a minimum, the lease should include:

1. the legal name of parties to the agreement and all other occupants,
2. a description of the unit to be rented,
3. the date the lease becomes effective,
4. the term of the lease,
5. the amount of rent
6. the use of the premises,
7. the rights and obligations of the parties, including the obligation of the household to annually recertify its income,
8. the signatures of all household members 18 years of age or older,
9. a statement explaining that the development is participating in the Tax Credit Program, and that tax credit units are under certain program regulations including income eligibility of the household.

10. a statement requiring that each tenant immediately notifies management of any change in student status.

Single Room Occupancy (SRO) housing must have a minimum lease term of one month. SRO housing is allowed to have tenants share bathrooms, cooking facilities, and dining areas. Federal rules allow for month-by-month leases for the following types of SRO housing for homeless individuals:

1. SRO units in projects receiving McKinney Act and Section 8 Moderate Rehabilitation assistance;
2. SRO units intended as permanent housing and not receiving McKinney Act assistance;
3. SRO units intended as transitional housing operated by a governmental or nonprofit entity and providing certain supportive services.

D. Household Size

The number of household members is needed in order to determine the maximum allowable income. It is also necessary to calculate the rent for units in pre-1990 developments, which must determine rent based on household size and not on the number of bedrooms in the unit.

When determining family size for income limits, the owner must include the following individuals who are not living in the unit:

- Children temporarily absent due to placement in a foster home;
- Children in joint custody arrangements who are present in the household 50% or more of the time;
- Children who are away at school but who live with the family during school recesses;
- An unborn child of pregnant women; when a pregnant woman is an applicant, the unborn child is included in the size of the household, and may be included for purposes of determining the maximum allowable income. The rental application should ask the following question: "Will there be any changes in household composition within the next 12 month period?" If an applicant answers that a child is expected, the manager should explain to the tenant that in

order to count the child as an additional household member and use the corresponding income limit, a self-certification of pregnancy must be provided.

- Children who are in the process of being adopted;
- Temporarily absent family members who are still considered family members. For example, the owner may consider a family member who is working in another State on assignment to be temporarily absent. Persons on active military duty are considered temporarily absent (except if the person is not the head, co-head or spouse or has no dependents living in the unit). If the person on active military duty is the head, co-head, or spouse, or if the spouse or dependents of the person on active military duty resides in the unit, that person's income must be counted in full;
- Family members in the hospital or a rehabilitation facility for periods of limited or fixed duration. These persons are temporarily absent as defined above; and
- Persons permanently confined to a hospital or nursing home. The family decides if such persons are included when determining family size for income limits. If such persons are included, they must be listed on the Tenant Income Certification as "other adult family member". This is true even when the confined person is the spouse of the person who is or will become the head. If the family chooses to include the permanently confined person as a member of the household, the owner must include income received by these persons in calculating family income.

When determining family size for establishing income eligibility, the owner must include all persons living in the unit except the following:

1. A live-in aide/attendant is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:
 - a) Is determined to be essential to the care and well-being of the person(s);
 - b) Is not obligated to support the person(s); and
 - c) Would not be living in the unit except to provide the necessary supportive services.

While a relative may be considered to be a live-in aide/attendant, they must meet the above requirements, especially the last. The live-in aide qualifies for occupancy only as long as the individual needing supportive services requires the aide's services and remains a tenant, and may not qualify for continued occupancy as a remaining family member. Managers must obtain verification of the need for a live-in care attendant and should not add the attendant to the lease.

Foster adults or children should be included in the size of the household, but are not included for the purpose of determining the maximum allowable income.

E. Utility Allowance

The Internal Revenue Service requires that utility allowances be set according to 26 C.F.R. 1.42-10 (April 24, 1994), effective May 2, 1994, and amended 7/29/2008. Please read these regulations carefully.

A utility allowance is an estimate of the monthly cost of a tenant's utilities, other than telephone and cable, which are not included in the rent and are paid directly to the service provider by the tenant. To calculate the maximum amount of rent an LIHTC property may charge tenants, the utility allowance is subtracted from the maximum rent limit applicable to the particular household.

1. Where to Obtain Utility Allowances

- a. USDA Rural Housing Service (RHS) financed projects, or units with tenants receiving RHS assistance, must use the RHS utility allowance.
- b. HUD regulated buildings must use the HUD utility allowance (project based HUD financing).
- c. Any individual apartments occupied by residents who receive HUD assistance (Section 8 Existing, etc.), must use the HUD utility allowance from the Public Housing Authority (PHA) administering the assistance. As of May 2, 1994, the PHA utility allowance would only need to be used for the specific apartment the PHA resident occupied. Check to find out who administers the local Section 8 Existing Housing

Program; it may be the city or county HRA/PHA.

- d. For Section 42 buildings without RHS or HUD assistance, the following options may be used:
- i. A PHA utility allowance from the local housing authority administering section 8 vouchers.
 - ii. A utility company estimate. Any interested party (including a low-income tenant, a building owner, or an agency) may request the utility company estimation of utility consumption in the building's geographic area. The estimate is obtained when the interested party receives, in writing, information from a local utility company providing the estimated cost of that utility for a unit of similar size and construction for that geographic area. Costs incurred in obtaining the estimate are borne by the initiating party. The party that obtains the local utility company estimate must retain the original of the utility company estimate and must furnish a copy to the owner and the monitoring agency. The owner of the building must make copies available to all tenants in the building. In the case of deregulated utility services, the interested party is required to obtain an estimate only from one utility company even if multiple companies can provide the same utility service to a unit. However, the utility company must offer utility services to the building in order for that company's rates to be used. The estimate should include all component deregulated charges for providing the utility service.
 - iii. An "Agency Estimate" based on actual utility usage data and rates for the building. See Sec. F, Owner's Average of Actual Consumption, Utility Allowance Procedures for instructions.
 - iv. A HUD Utility Schedule Model. This model can be found on HUD's website at www.huduser.org/datasets/lihtc.html, or successor URL. Utility rates using the HUD utility model must be no older than the rates in place 60 days prior to the effective date of the utility allowance.

- v. An Energy Consumption Model using an energy and water and sewage consumption and analysis model. The model must at a minimum take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The utility consumption estimates must be calculated by a mechanical engineer properly licensed. The engineer and building owner must not be related within the meaning of IRC section 267(b) or 707(b), to which the engineer and building owner must certify. The owner and engineer must also certify that the model complies with the minimum requirements described above. Use of the energy consumption model is limited to a building's consumption data and local rates for the 12 month period ending no earlier than 60 days prior to the effective date of the utility allowance. In the case of new buildings with less than 12 months of consumption data, 12 months of data can be used for units of similar size and construction in the geographic area.

With the exception of HUD and RD-regulated properties, owners may combine any methodology for each utility service type (electric, water gas etc.) For example, if residents are responsible for electricity and water, an owner may use the appropriate PHA allowance to determine the water portion of the allowance and use the Owner's Average of Actual Consumption to determine the electric portion of the allowance. Be advised, however, that the effective date of the PHA allowance will likely be different than the Owner's Average of Actual Consumption resulting in adjustments to utility allowances and, potentially, rents multiple times during the year.

Failure to maintain or provide the Utility Allowance and supporting documentation annually is considered noncompliance; without proof of the amount of the allowance, there is no way to correctly compute the rent. In addition, an incorrect utility allowance calculation may result in noncompliance for rents that exceed the tax credit rent limits.

It is the owner's responsibility to contact the appropriate organization to request current utility allowance information. PRHFA does not collect or maintain the various utility allowances. Unless otherwise provided for above, any costs incurred in obtaining a utility allowance are the responsibility of the owner.

Utility allowances and supporting documentation for options d and e must be submitted to PRHFA at the beginning of the 90-day period before utility allowances can be used in determining the gross rent.

The owner must maintain and make the data upon which the utility allowance schedule is calculated available for inspection by the tenants. Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling unit of the tenant at the convenience of both the apartment owner and tenant. The HUD Utility Schedule Model and energy consumption model must be made available to tenants no later than 90 days after the effective date.

Rents may need to be adjusted twice in a year because the release of median income figures and utility estimates may occur at different times. Any increase in the utility allowance may cause gross rent to exceed the limit. For example, assume the rent charged on an apartment is at the maximum allowable rent; if the \$50 utility allowance is increased to \$60, the rent paid by the tenant must be lowered by \$10 in order to remain below the rent limit. The new utility allowance must be implemented within 90 days of the effective date and is valid for one year. Any change to resident paid rent must be in conformance with respective resident leases.

2. Owner's Average of Actual Consumption Utility Allowance Procedures

- Allowances must be based on the most recent 12-month period available (most recent month must be no older than 60 days from the effective date).
- Sampling must include a twelve month history of occupied low-income units. Units that were vacant for 2 weeks or more in any given month may not be included in the calculation.
- Sampling must be representative of all buildings of similar type (i.e., separate allowances are required for apartments vs. townhouses and/or single family dwellings) and of each bedroom size. Sampling must not contain a disproportionate number of small households vs. larger and to the extent possible must represent a variety of household sizes.
- Properties with less than 50 low-income units must use sampling by respective bedroom size as follows:
 - If 16 units or more, include 50% of the units. Sampling does not need to include more than 16 total units;
 - If less than 16 units but more than 6, include 75% of the units. Sampling does not need to include more than 8 total units;
 - If 6 or less units, include all of the units.

Example –less than 50 low-income units (always round up to a whole unit):

Bedroom Size	1BR	Sample	2BR	Sample	3 BR	Sample
# of units	20	10	15	8	6	6

- Properties with 50 or more low-income units must use sampling by respective bedroom size as follows:
 - If 30 units or more, include 50% of the units. Sampling does not need to include more than 30 total units;
 - If less than 30 units but more than 10, include 75% of the units. Sampling does not need to include more than 15 total units;
 - If 10 units or less, include all of the units.

Example – more than 50 low-income units (always round up to a whole unit):

Bedroom Size	1BR	Sample	2BR	Sample	3 BR	Sample
# of units	90	30	29	15	10	10

- The local utility provider may provide actual consumption records; however the print out must include the name of the provider. It may be necessary to obtain the resident's permission when requesting consumption records from local utility providers. A form of release can be found in the UA Sample Average of Actual Consumption excel file.
- Monthly utility billings received by tenants are acceptable. When copies of actual utility bills are used, the provider's name, unit number and resident's name must be visible on the billing.
- Monthly actual usage must be categorized by utility type (gas, oil, LP, electric, water, etc.), by unit size (1BR, 2BR, etc., regardless of differences in amenities such as additional bath or den, or square footage) and itemized by unit number in a spreadsheet which calculates an average utility allowance per unit size and includes all taxes and fees for which residents are responsible. This

calculation must be consistent with the PRHFA UA Sample Average of Actual Consumption excel file.

- Averages ending in cents must be rounded up to the next whole dollar.
- The completed documentation must be submitted to PRHFA for review and approval prior to implementation. PRHFA will base its review and decision for approval or non-approval on a random sampling of information provided. Approval of the utility allowance does not constitute a guarantee that the utility allowance is absolutely correct. If at any time it is determined that a utility allowance has been understated and, therefore, some or all of the units are not rent restricted under section 42(g)(2), then PRHFA must report the noncompliance to the IRS on form 8823.

Owners must collect actual consumption records and conduct the analysis using the methodology above and determine a new utility allowance annually. Changes must be implemented no later than 90 days after the effective date. Any adjustment to rent must be in accordance with the respective lease agreement.

Owners utilizing this methodology to calculate the utility allowance should be aware of the risk with any variation from section 1.42-10. This methodology to calculate allowances has not been approved by the IRS.

Note: Pursuant to Treas. Reg. 1.42-10, units occupied by households with a Section 8 Housing Choice Voucher or PRHFA rental assistance must use the utility allowance required by the applicable rental assistance program.

3. Updating Utility Allowances

Utility allowances *must* be updated *at least annually* to ensure that the tenant's gross monthly rent does not exceed the LIHTC gross rent limits. The ability allowance regulations require that new utility allowances be used to compute rents that are due 90 days after the effective dates of the new allowance. The property owner or manager may choose to verify utility allowances with each initial move-in or re-certification.

F. Income Certification

Tenant eligibility is determined at the time of move-in certification. Before a household takes occupancy, the owner shall verify all income, household characteristics, and any circumstances that may affect eligibility and compliance with the LIHTC requirements. The detailed procedures are included in Appendix A "Verification Requirement and Procedures".

G. Tenant Income Certification

After all the income and asset information has been obtained and computed, the management personnel must prepare a Tenant Income Certification (PRHFC-02). The form is a legal document which, when fully executed, satisfies the income certification requirement of the Code. The completed form and lease agreement must be executed by all adult household members before they move in. A unit may not be counted as a set-aside unit unless the household has been properly certified. The following guidelines for certifying household income apply:

- Management should instruct all adult household members to sign the TIC exactly as the name appears on the form.
- The Tenant Income Certification should be executed on or before the date of move-in.
- **No one** may live in a designated unit in the development unless he/she is income certified and under lease. **THERE ARE NO PERMISSIBLE EXCEPTIONS TO THIS RULE.**
- Tenant Income Certification forms must also be executed (signed and dated) by the Owner or Owner's representative.

When properly executed, the RHS 1944-8 form (Tenant Certification) may also be used to document projected income for tax credit certifications; an executed Tenant Income Certification is not required. Management must be aware that various low-income housing programs define income differently so, if the RHS 1944-8 certification form is used, it should contain all information necessary to calculate household income as defined under the LIHTC rules.

H. Income Certifications Where Owner Acquires or Rehabilitates Existing Building

For households occupying a unit at the time of acquisition by the owner, the initial tenant income certification is completed within 120 days after the date of acquisition using the income limits in effect on the day of acquisition. The effective date of the tenant income certification is the date of acquisition since there is no move-in date.

In the event that the household occupies a unit at the time of acquisition, but the tenant income certification is completed more than 120 after the date of acquisition, the household is treated as a new move-in. Owners use the income limits in effect at the time of the tenant income certification and the effective date is the date the last adult member of the household signed the certification (this is an exception to the general rule for effective dates because there is no move-in date).

When the household moves into a unit after the building is acquired but before the beginning of the first year of the compliance period, the tenant income certification is completed using the income limits in effect at the time of the certification and the effective date is the date the household moves into the unit.

I. Available Unit Rule

Following initial certification, an eligible household's income can increase to 140% of the maximum income level. A household whose income exceeds the maximum income level by more than 140% (an "over-income" household) will remain in compliance as long as the unit continues to be rent restricted and the next available unit or any available unit of comparable or smaller size in the same building is rented to an eligible household at the qualifying rent. The owner must continue to rent any available

comparable unit to a qualified household until the percentage of low-income units in a building (excluding the over-income units) is equal to the percentage of low-income units on which the credit is based. At that point, failure to maintain the over-income units as low-income units has no immediate significance.

If any comparable unit that is available or that subsequently becomes available is rented to a nonqualified household, all over-income units for which the available unit was a comparable unit within the same building lose their status as LIHTC units; thus, comparably sized or larger over-income units would lose their status as LIHTC units.

A comparable unit must be measured by the same method the taxpayer used to determine qualified basis for the credit year in which the comparable unit became available (i.e., floor space fraction or unit fraction). A unit that is no longer available for rent due to a reservation that is binding under local law is not an "available unit" for purposes of this rule.

J. Vacant Unit Rule

As part of the requirements for the annual certification, Treas. Reg. §1.42-5(c)(1)(ix) states, "If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income."

As long as reasonable attempts are being made to rent to qualified low income households, vacant LIHC units will continue to be included as qualified low-income units for purposes of determining the minimum set-aside (IRC §42(g)(1)) and calculating the applicable fraction (IRC §42(c)(1)(B)).

If the vacant unit rule is violated, all vacant units previously occupied by qualified households lose their low-income status and are not considered qualified units.

K. Physical Requirements of Qualified Units, Suitable for Occupancy

Qualified Units rented to, or reserved for, eligible tenants:

- Must have substantially the same equipment and amenities

- (excluding luxury amenities) as other units in the Project;
- Must be substantially the same size as other units in the Project; and
- Cannot be geographically segregated from other units in the Project.

The low-income units must be suitable for occupancy under Uniform Physical Conditions Standards and local health, safety and building codes. In units that are not suitable for occupancy, including previously qualified low-income units being rehabilitated in the first year of the credit period, are considered "out of compliance". The noncompliance is corrected when the unit is again suitable for occupancy, and the unit's character will be determined based on the household that occupied the unit immediately preceding the rehabilitation. This reduction in eligible basis need not occur if an election is made to exclude such excess costs pursuant to Section 42(d)(3) of the Code.

L. Discrimination Prohibited in Project

The Tax Credit developments are subject to Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act. The Fair Housing Act (42 U.S.C. sections 3601 through 3619) prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability.

It also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities. The failure of Tax Credit properties to comply with the requirements of the Fair Housing Act will result in the denial of the Tax Credit on a per unit basis.

M. General Public Use

The tax credit properties are otherwise available to the general public. Under Treas. Reg. 1.42-9(b) if a residential unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for credit under Section 42. Residential rental units either designated for a single occupational group, or through a preference for an occupational group, also violate the general public use requirements.

Note that the General Public Use Rule was clarified on July 30, 2008, to allow occupancy restrictions or preferences that favor tenants 1) with special needs, 2) who are members of a specified group under a federal or state program or policy that supports housing for such specified group, or 3) who are involved in artistic or literary activities.

N. Students

A household comprised entirely of students, whether full or part-time, must complete the Student Certification Form (PRHFC-04), upon application/certification or re-certification. The PRHFA will no longer require Student Certifications for households where not all occupants are full time students.

Full-time student is defined as: "an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins

- a. is a full-time student at an educational organization described in section 170(b)(1)(A)(ii) of the IRS Code; or
- b. is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of the educational organization described in section 170(b)(1)(A)(ii) of the IRS Code or of a State or political subdivision of a State." (Reg. 1.151-3(b)).

Part-time students are not "students" for this section and their eligibility is not subject to special restrictions. Under Section 42 Regulations, most households where all of the members are full-time students are not eligible tenants and units occupied by these households may not be counted as LIHTC units. (See IRS Code Section 151(c)(4) for student definition).

There are five exceptions to the limitation on households where all members are full-time students. Full-time student households that are income eligible and satisfy one or more of the following conditions can be considered to be eligible. Third party verifications must be obtained to support the student status and the applicable exception (s).

1. Students are married and entitled to file a joint tax

- return;
2. The household consists of a single-parent with child(ren) and the parent is not a dependent of someone else, and the child(ren) is/are not dependent(s) of someone other than a parent;
 3. At least one member of the household receives assistance under Title IV of the Social Security Act (formerly Aid to Families with Dependent Children (AFDC), now known as Temporary Assistance for Needy Families (TANF),
 4. At least one member of the household participates in a program receiving assistance under the Job Training Partnership Act (JTPA) or other similar federal, state, or local laws**.; or
 5. At least one member of the household was previously in foster care***.

**The JTPA program was repealed in 1998, and replaced with the Workforce Investment Act (WIA). WIA, and JTPA when it existed, funds programs such as adult literacy, English as a second language, General Education Diploma (GED) courses, vocational services for the blind, employment and training programs for Native Americans and migrant and seasonal farmworkers, job corps, veterans employment programs, summer youth employment and training, employment and training for dislocated workers and displaced homemakers, etc. Students in those programs are eligible for the JTPA exemption provided the school or community education dept., verifies that the applicant/resident is a participant in a program similar to those funded under JTPA or WIA.

An applicant claiming any of the exceptions must be able to provide documentation to prove that status. If any applicant (in a household consisting entirely of full-time students) cannot claim one of the exceptions, housing in a Section 42 apartment must be denied.

O. Loss of Eligibility Upon Becoming a Full-Time Student

If a previously qualified Tax Credit resident becomes a full-time student and intends to continue living in a Section 42 apartment, he/she must meet at least one of the above criteria and be able to prove such status. Under current legal interpretations of federal LIHTC regulations and requirements, the "next available unit" rule that applies to LIHTC units with tenants that are no longer income

eligible does not apply to student households that qualify under one of the exceptions above and later ceases to qualify. Unlike changes in income, it appears that a unit occupied by a student household that no longer meets one of the above exceptions ceases to count as a LIHTC unit immediately.

If a building owner or rental agent has questions as to the occupancy of students, they should seek legal assistance since the IRS has not published guidance on the interpretation of this part of the LIHTC rules.

P. Section 8 and Rural Development Rents

Section 8 - Subsidy payments to an owner under various HUD Section 8 programs or any other comparable program are excluded and not considered in determining gross rent. Only the tenant's portion of the rent payment is considered in determining if the rent exceeds the gross rent maximum for the county. Sec. 42(O)(2)(B)(i).

Example 1: Household Portion of Rent is Below Limit

A Section 8 household moved into a unit on February 1, 2005; the maximum LIHC gross rent is \$450 and market rate is \$650. Household pays \$200 and the assistance pays \$450; the total rent is \$650. There is no noncompliance since the household portion of rent is below the maximum LIHC rent allowed.

The portion of the rent paid by Section 8 tenants can exceed the LIHC rent ceiling as long as the owner receives a Section 8 assistance payment on behalf of the resident. If no subsidy is provided, the tenant may not pay more than the LIHC rent ceiling.

Example 2: Tenant's Portion of Rent Exceeds Rent Limit

A Section 8 household with an annual income of \$12,000 applies for an LIHC unit for which the rent is restricted to \$500 and for which the market rate rent is \$750. Assistance will pay a maximum of \$500, and the applicant's portion is \$600 (40 percent of income). Since the applicant is required to pay \$600, Section 8 will pay \$150. There is no noncompliance.

This example reflects HUD's requirement under the Section

8 housing choice program. The family share may not exceed 40 percent of the family's share monthly adjusted income when the family initially moves into the unit or signs the first assisted lease for a unit.

Rural Development - Originally, the rent restrictions for projects with Rural Development assistance were computed using the general rules for LIHC housing. Beginning in 1991, however, gross rent does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the USDA Rural Housing Service⁸ under section 515 of the Housing Act of 1949. See IRC §42 (g)(2)(B)(iv).

In other words, as long as the owner pays Rural Development the rent amount over the limit (all of the overage) that unit is in compliance.

Example 1: Rent Above Limit (Owner Pays Rural Development, formerly known as FmHA)

Assume a 1991 credit allocation to a property with Rural Development assistance. The maximum gross LIHC rent is \$500 and the household's calculated rent under Rural Development regulations is \$650, which the owner charges. The owner provides documentation that the \$150 above the tax credit maximum has been remitted directly to Rural Development. There is no noncompliance.

With the passage of the Omnibus Budget Reconciliation Act of 1993, owners are prohibited from refusing to lease to a prospective tenant based solely on the fact that the applicant holds a Section 8 rental voucher or certificate.

Q. Annual Recertification

The annual re-certification shall be complied with a procedure detailed in Appendix B. The PRHFA requires an annual re-certification of tenant income in 100 percent Tax Credit projects. An Annual Re-certification Waiver is not an option at this time.

R. Tenant Transfers

Same Building - When a current HTC household moves to a different unit within the same building, the newly occupied unit

adopts the status of the vacated unit. Thus, if a current household, whose income exceeds the applicable income limitation moves from an over-income unit to a vacant unit in the same building, the newly occupied unit is treated as an over-income unit. The vacated unit assumes the status the newly occupied unit had immediately before it was occupied by the current resident.

Different Building - When a household whose income is no greater than 140% of the income limit moves to a low income unit in a different building within the project during any year of the 15-year credit period, the vacated unit assumes the status the newly occupied unit had immediately before it was occupied by the current resident. If a household whose income exceeds 140% of the applicable income limit wishes to move to a different building, the newly occupied unit will be treated as a non-qualifying unit. Mixed income properties can rely on the most recent income certification. Properties that are exempt from income recertification requirements must perform an income recertification prior to the unit transfer to assess whether household income exceeds 140% of the income limit. Note that IRS considers buildings that are not part of a multiple building project as separate projects. Therefore, transfers between buildings that are not part of a multiple building project will be considered a move-out and in order to treat the newly occupied unit as a qualified tax credit unit the household must meet initial eligibility requirements. Owners make the election for multiple building projects on Part II, line 8b of IRS form 8609. Until PRHFA becomes aware of an owner's election, for purposes of unit transfers, PRHFA will treat the property as if all buildings are part of a multiple building project.

PRHFA will provide a form entitled "Documentation of Unit Transfer" to assist in documenting when a unit transfer occurs and the status of the units involved.

S. Multifamily Tax-Exempt Bonds Projects

PRHFA will monitor developments that received an allocation through the issuance of tax-exempt bonds. Tax-exempt bond developments must comply with the same IRS requirements and LIHTC compliance monitoring procedures as non-tax exempt bond developments.

The property must then maintain compliance with both the tax-

exempt bond rules and the tax credit program. While certain rules overlap, such as the property meeting either the 40/60 or 20/50 test, the rules do not exactly match, and the Owner is responsible for being aware of and complying with both sets of requirements. Usually, there will be two separate Regulatory Agreements filed against the property, one for the bond requirements and one for the tax credit requirements. The tax-exempt bond rules and the tax credit program. While certain rules overlap, such as the property meeting either the 40/60 or 20/50 test, the rules do not exactly match, and the Owner is responsible for being aware of and complying with both sets of requirements.

Tax-exempt bond financed residential properties must meet the same 40/60 or 20/50 income requirement as is required for tax credit properties. However, the bond financing does not require rent restrictions — it only requires that the affordable Households be income-certified. However, rents must be restricted for all units on which tax credits are claimed. The rules for determining income are the same for both programs. The primary difference is that compliance with tax-exempt bond requirements is determined property-wide, while federal tax credit requirements are determined building by-building. Owners must comply with both sets of requirements, which may result in maintaining more affordable units than originally planned in order to maintain compliance with both programs. In addition, the Available Unit Rule is applied property-wide for bond compliance whereas it is applied on a building-by-building basis for tax credit compliance. Bond-financed properties with tax credits must maintain compliance with both Available Unit Rules.

V. Compliance and Monitoring During the Extended Use Period

After the 15-year Compliance Period has expired, there may be no tax impact in the event of noncompliance. IRC Section 1.42-5 contains the regulations for agencies' compliance monitoring during the Compliance Period; however, the regulations do not require agencies to monitor according to these regulations in the Extended Use Period. IRS officials and other experts have indicated verbally that agencies may not report noncompliance to IRS after the Compliance Period is over. The tax benefit to the owner is exhausted and IRS can no longer recapture or disallow credits. Therefore, PRHFA must establish policy regarding how properties are to be monitored and consequences for noncompliance during the Extended Use Period.

In addition, based on the requirements of the Extended Use Period specified in IRC Section 42 regulations and in Declaration of Land Use Restrictive Covenants referenced below, the agency has the authority to establish different criteria for eligible/ineligible student households, available unit rule, unit transfers, and the process for performing annual recertifications during the Extended Use Period, as long as income and rent restrictions, general use requirements (fair housing), Section 8 acceptance, minimum set-aside, applicable fraction, and initial and annual recertifications are required.

A. Extended Use Period

IRC Section 42(h)(6) establishes that buildings are eligible for the credit only if there is a minimum long-term commitment to low-income housing. Specifically, in order to receive a credit allocation in 1990 and later, the owner must record an extended low-income housing commitment. The document that evidences this commitment is called the Declaration of Land Use Restrictive Covenants for Housing Tax Credits (Declaration). The Declaration is recorded with the respective County Recorder and/or Registrar of Titles and "runs with the land", regardless of subsequent changes in ownership.

1. For purposes of this section, the term "Extended Use Period" means the period:
 - a. beginning on the last day in the Compliance Period on which such building is part of a qualified low-income housing project, and
 - b. ending on the later of—
 - i. the date specified by the agency in the Declaration, or
 - ii. the date which is 15 years after the close of the Compliance Period.

IRC Section 42(h)(6)(E) provides exceptions to the Extended Use Period in the case of a legitimate foreclosure or deed in lieu or, for projects that have not waived this right, if the agency is unable to present a qualified contract pursuant to IRC Section 42(h)(6)(F). This Compliance Plan does not contain guidance for the provisions of IRC 42(h)(6)(F) regarding the qualified contract referenced in IRC Section 42(h)(6)(E)(i)(II).

2. Under IRC Section 42(h)(6)(E)(ii) the termination of an Extended Use Period due to foreclosure or deed in lieu, or for failure to present a qualified contract shall not be construed to permit

before the close of the 3-year period following such termination:

- a. the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or
 - b. any increase in the gross rent with respect to such unit not otherwise permitted by the applicable rent limits.
3. Under the PRHFA Declaration of Land Use Restrictive Covenants for Housing Tax Credits the owner agrees to comply with the following for the term of the agreement:
- a. it will maintain the applicable fraction by leasing units to individuals or families whose income is 50% or 60%, as irrevocably elected by the owner at the time of allocation, or less of the area median gross income (including adjustments for family size) as determined in accordance with IRC Section 42;
 - b. it will maintain the Section 42 rent and income restrictions;
 - c. all units subject to the credit shall be leased and rented or made available to members of the general public who qualify as low-income tenants (or otherwise qualify for occupancy of the low-income units) under the applicable election specified in IRC Section 42(g) (Section 42(g) pertains to the minimum set-aside election);
 - d. the owner agrees to comply fully with the requirements of the Fair Housing Act as it may from time to time be amended;
 - e. the owner will not refuse to lease a unit to the holder of a Section 8 voucher because of the status of the prospective tenant as such a holder;
 - f. each low income unit will remain suitable for occupancy;
 - g. the determination of whether a tenant meets the low-income requirement shall be made by the owner at least annually on the basis of the current income of such low-income tenant ; and
 - h. other restrictions as required under the specific year's Qualified Allocation Plan (QAP) and related points the owner received in order to obtain a credit allocation.

These restrictions are property-specific within the respective Declarations and to the extent they are not otherwise time-limited, the additional restrictions remain in force and effect during the Extended Use

Period.

Note that the Declarations have changed from year-to-year according to the respective Qualified Allocation Plans. However, the basic language pertaining to the Extended Use Period required by IRC has not materially changed.

B. Tenant Eligibility Criteria During the Extended Use Period

During the Extended Use Period, PRHFA requires tenant eligibility and certification of income, as follows:

1. Tenant Income Certification

The initial income certification is required (calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937 ("Section 8")). However, owners are no longer required to verify income and income from assets at annual recertification. Any household that experiences a change in composition within the first six (6) months of occupancy (not including birth or death) must meet the initial eligibility requirements and a new initial tenant income certification must be performed.

2. Rent Restriction

Rent limits as elected by the owner at the time of allocation continue to be in force during the Extended Use Period. Owners of properties that were awarded selection points for additional rent restrictions should refer to the respective Qualified Allocation Plan or Declaration to determine whether those additional rent restrictions are time-limited or if they are in effect for the full term of the Extended Use Period.

3. Student Status

Since student status is not one of the defined requirements of the Declaration, the student rules under IRC Section 42 are no longer applicable.

4. Unit Transfers

Unit transfers from building to building are allowed without triggering noncompliance regardless of whether a household's

income is over the applicable limit at the time of transfer.

5. Available Unit Rule

The available unit rule is revised to provide that if a household's income goes over 140% of the applicable income limit, a currently vacant unit or the next unit in the same building must be rented to a qualifying household (the "comparable or smaller" requirement no longer applies). This is essentially a one-for-one unit replacement.

6. Applicable Fraction

Only the unit fraction will be examined to determine a building's applicable fraction.

7. Utility Allowances

Utility Allowances must continue to be updated annually. Revised utility allowances must be implemented within 90 days of their published effective date.

The Housing Tax Credit Program income and rent limits based on the Section 8 income limits published by HUD annually will continue to update by the PRHFA.

C. Monitoring Compliance During the Extended Use Period

PRHFA will perform the following monitoring procedure during the Extended Use Period:

1. Annual Certification

PRHFA will require all owners to submit an annual certification of compliance by January 31. The PRHFA will provide the Owner's Certification of Compliance During the Extended Use Period Form, which will contain agency-defined certification language pursuant to the terms of the Declaration.

2. Annual Reporting

LIHTC project must submit to the PRHFA, via electronically, the Tenant Income information of each new Moving and Annual Re-certifications of income for each existing tenant.

This information must be submitted to the PRHFA by January 15th of each year during the extended use period. The PRHFA will provide the Tax Credit Certifications Online Reporting Software for the electronic submission of this information.

3. Inspections

Every five years, PRHFA will perform a physical inspection of the property and review of tenant files and other pertinent documentation. The first review in the Extended Use Period will be five years from the last inspection conducted during the Compliance Period.

A minimum of 3 low-income units chosen at random or maximum of 10% of the low-income units in any development will be inspected. Different units may be chosen for the file review as those receiving a physical inspection.

PRHFA compliance staff will continue to work with other inspection entities such as local inspection officials, other government agencies, PRHFA staff etc., to share inspection information. Also, we will accept Age HQS Staff inspections done in the same year as our review. If inspected by PRHFA Tax Credit Compliance staff, inspection will be pursuant to Uniform Physical Conditions Standards.

PRHFA reserves the right to conduct a review of any building after serving appropriate notice and to examine all records pertaining to rental of tax credit units. PRHFA may perform a review at least through the end of the Extended Use Period of the buildings in the project.

4. Annual Monitoring Fees

The amount of annual compliance monitoring fees will be \$20 per unit since inspections are less frequent and are done on a smaller number of units. The agency reserves the right to adjust the fee due to changing circumstances. Fees are due at the same time as the Annual Certification.

5. Transfer of Ownership or Ownership Interest

A transfer agreement is required in the event of a transfer of

ownership or ownership interest. Such transfer agreement will put the new owner or partner on notice that it is subject to the terms of the Declaration including all compliance restrictions and annual compliance monitoring. Documentation of signatory authorization for the new owner or partner may be requested. Owners contemplating transfers of ownership or ownership interest should notify PRHFA and request a copy of the appropriate transfer agreement.

6. Expiration or Termination of Extended Use Period

During the 3-year period after the Declaration has expired or terminated pursuant to IRC Section 42(h)(6)(E)(ii), owners are required to annually submit a list of all low-income households that occupied a unit at the end of the term of the Declaration, the respective tenant-paid rent, utility allowance, and move-out date, if applicable, along with a certification that no low-income residents have been evicted or displaced for other than good cause. This report and certification will be due on January 31th. No monitoring fees will be due during this 3-year period and PRHFA is not required to perform inspections.

The Declaration of Land Use Restrictive Covenants allows for an amendment by written agreement between PRHFA and the owner. An amendment to the Declaration may be negotiated in the event a property suffers from a decline in market conditions that is not expected to improve and subsequent vacancies compromise the economic viability of the property. Owner must demonstrate that reasonable efforts have been made to meet all compliance requirements. A change in applicable fraction, rent limits or other terms may be negotiated with PRHFA in order to preserve as many low-income units as possible, but still protect the economic viability of a property.

D. Consequences of Noncompliance During the Extended Use Period

The following are the procedures for and consequence(s) of noncompliance:

1. All properties whose Compliance Period has expired and are subject to the requirements of the Extended Use Period will be listed on categorized in either "Good Standing" or "Not in Good Standing".

2. If an owner fails to comply with the monitoring requirements and/or terms of the Declaration, PRHFA will issue a Notice of Noncompliance and recommendations for correction similar to what is issued during the Compliance Period. All owners will be given a period of time not to exceed 90 days with which to clarify or correct noncompliance and report to PRHFA that all corrections have been made. An extension of an additional 90 days may be granted, with good cause. If a property has one or more compliance violations, but the owner is making a good faith effort to correct within a reasonable time then the property can be considered In Good Standing. If the violation(s) cannot be corrected within the 90-day correction period (or within the 90-day extension, if granted) PRHFA may request that the owner and/or management agent formulate a plan and reasonable timeline to bring the violation(s) back into compliance and advise PRHFA in writing of such a plan.

Owners will have demonstrated good faith efforts by carrying out the plan within the referenced timeline and the property will remain in Good Standing.

3. If an owner repeatedly delays requests for monitoring reviews, fails to submit annual certifications, reports and compliance monitoring fees, does not correct violations timely or according to the agreed-upon plan, where applicable, or otherwise chooses to ignore the compliance and monitoring requirements (serious and/or flagrant noncompliance) the following are consequences:
 - a. The owner & management company are considered to be Not in Good Standing;
 - b. A Report of Development Not in Good Standing will be issued for such serious and/or flagrant noncompliance. This report will be sent to the owner and filed with the PRHFA Development team. No further PRHFA funds or tax credits will be awarded to the owner, its partners and/or proposed developments to be managed by the management company until the property is back in Good Standing. Once good faith efforts are demonstrated to the agency's satisfaction, the agency will reinstate the property, owner and management company in Good Standing.

- c. The agency and any interested party have the right to enforce specific performance of the Declaration through the court system.

Important: Owners and management agents must keep careful track of when a development, and in some cases certain buildings within a development, transition from the Compliance Period into the Extended Use Period. Premature implementation of the Extended Use Period compliance and monitoring guidelines may result in noncompliance with IRC Section 42 for which PRHFA would be required to file IRS form 8823.

PRHFA reserves the right to modify this Compliance Manual Plan including but not limited to the foregoing policy and procedure for compliance and monitoring during the Extended Use Period, as needed.

APPENDIXES

INCOME VERIFICATION REQUIREMENTS AND PROCEDURES

A. General Requirements

1. Owners shall verify all income, household characteristics, and any circumstances that may affect eligibility and compliance under the LIHTC guidelines.
2. When determining annual income, owners must include all anticipated known sources of income. If a household is accepted as low-income and subsequently becomes over income, the owner should be prepared to prove due diligence.
3. Whenever possible, written verification of income is required from the income sources.
4. Owners are advised to maintain documentation of all verification efforts for at least three years after the effective date of the tenant's certification or recertification.
5. For units receiving Section 8 rental assistance, the verification requirement is satisfied if the Public Housing Authority ("PHA") provides the building owner with a statement that "the gross annual income of the tenants in the unit does not exceed the applicable income limit under Section 42(g) of the Internal Revenue Code." The Section 8 Tenant Income Verification Form may be used to satisfy this requirement. Owners may have the PHA contact the Compliance staff of the Agency if more information is needed. Income of Section 8 assistance recipients can also be verified in the usual way (by contacting employers, etc.) and requesting that they complete Income Verification forms. When the tenant household has no income, Certification of Zero Income (PRHFA-05) will be the only verification document.

B. Acceptable Methods for Verifying Information

1. Written verification by a third party is preferred, as follows:

- a. the owner's request for verification should state why the information is being requested and include a statement signed by the applicant/tenant authorizing the release of the information;
- b. owners must send the verification forms directly to the source, not through the applicant.
- c. when written verification is not possible, as a last resort, the Agency accepts a direct contact with the source and must be confirmed by written verification within 10 days. The owner must document the conversation for the applicant's file and include all information that would have been provided in a written verification plus the date, time and the person's name providing the information and his qualification to provide it.

2. Review of Applicant Supplied Documents

Owners may use documents submitted by the applicant when information does not require third party verification (i.e. birth certificate) or third party verification is impossible or delayed beyond four weeks of initial date of request.

3. Applicant's Affidavit

Owners may accept an applicant's notarized statement or signed affidavit only if other preferred forms of verification cannot be obtained.

4. Faxed Verification

Recipients may reply to a request for income or asset verification by fax. The Agency accepts faxes as written

verification if they are completely legible, date-stamped, and include the signature, name, job title, and phone number of the person making the verification and the date the form was signed.

C. Effective Term of Verification

Third-party Verifications of income are valid for 90 days prior to move-in. If after 90 days, if the Tenant has not yet moved in, the information may be verbally updated from the source. This verbal Verification is valid for an additional 30 days, but only if documented. After this time, a new written third party Verification must be obtained.

D. Expediting the Verification Procedure

1. In order to expedite the verification process, owners should maintain a checklist for each tenant to document the verification process.
2. Develop standard forms for all information that must be verified (see forms included in this plan).
3. Ask applicants/tenants to sign the copies of each verification form retaining one original in the applicant's file.
4. Make personal contacts with large employers and public assistance agencies from which a large number of tenants receive income or benefits.
5. Give the applicant an opportunity to explain any significant differences between the amounts reported by the applicant and the amounts reported on third party verifications in order to extract the correct information. Re-examine if necessary.

E. Acceptable Forms of Verification

Sources of Verification given under each type of income are listed in order of preference.

1. Employment Income

- a. Employment Verification Form (PRHFA-03) completed by the employer or a statement from the employer on company letterhead; or
- b. check stubs or earning statements showing employee's gross pay per pay period and frequency of pay;
- c. W-2 forms if applicant has had the same job for at least two years and pay increases can be accurately projected;
- d. a copy of the most recent income tax returns signed by the applicant providing the amount of income, including income from tips and other gratuities. This form of verification alone may not be acceptable as income certification.

2. Self-Employment Income

The tenant must provide a projection or estimate of income and expenses to be realized by the business during the next 12 months. The owner may use the previous years' financial information to substantiate the reasonableness of the tenant's projection. The following documentation should be used in the verification process.

- a. Accountant's or bookkeeper's statement of net income; or
- b. Financial statement(s) of the business along with an affidavit or notarized statement from the applicant forecasting the anticipated income for the twelve (12) months following certification; or
- c. The applicant's most recent income tax return along with a notarized statement. This form of income verification alone may not be acceptable as income certification. Year-to-date income verification can be used to supplement other methods of certification.
- d. Applicant's notarized statement or affidavit as to net income realized from the business during previous year.

3. Social Security, Pensions, Disability Income

- a. Benefit print-out completed by the agency providing the benefits; or
- b. An award or benefit notification letter prepared and signed by the authorizing agency, dated within 90 days of the certification date. Since checks or bank deposit slips show only net amount remaining after deducting SSI, Medicare or state health insurance, they may be used only when award letters cannot be obtained. Any withholdings must be verified and included in annual income.
- c. If a local Social Security Administration (SSA) office refuses to provide written verification, the owner may accept a photocopy of a check or automatic deposit slips as interim verification. Otherwise, State Health Insurance withholdings will be included in annual income.

4. Unemployment Compensation

- a. A verification form completed by the unemployment compensation agency; or
- b. Records from unemployment office stating payment dates and amount.

5. Alimony or Child Support Payments

- a. A copy of a separation or settlement agreement, divorce decree, or support order stating the amount and type of support payment schedule. If the document is not dated within the 90-day time frame, obtain a notarized statement from the applicant stating that the amount of child support currently received is the same as stated in the agreement, decree, or order; or
- b. a letter from the person paying support; or
- c. a copy of the latest check and documentation of how often the check is received; or
- d. as a last alternative, the applicant's notarized statement of the amount of child support being received, including a written explanation detailing why *a* and *b* above cannot be provided.

6. Recurring Contributions and Gifts

- a. Notarized statement or affidavit signed by the person providing the assistance. The statement should define the purpose, dates, and value of gifts. Copies of canceled checks or receipts can be used to verify tuition, fees, books, and equipment, and other such net income and expenses not expected to change during the next 12 months.
- b. A letter from a bank, attorney or a trustee providing required verification; or
- c. As a last alternative, the applicant's notarized affidavit giving the same information, including a written explanation detailing why (1) or (2) above cannot be provided.

7. Unemployed Applicants

- a. The income of unemployed applicants with regular income from any source, such as Social Security, pension, recurring gifts, etc., must be verified as

described previously; or

- b. If the applicant is unemployed with no regular verifiable income from any source and intends to live from assets only, an Asset Addendum to the Tenant Income Certification must be submitted along with the application. The applicant may not be certified as qualified by use of this form alone. An asset analysis must be included with the application to determine the applicant's actual income.

F. Assets

Assets are items of value, other than necessary personal items, and are considered along with verified income in determining the eligibility of a household. The Agency does not require third party verification of assets having a value of less than \$5,000 but, assets valued at \$5,000 or more, must be verified by third parties (for example, the amount of money held in a savings account may be verified by the bank). The asset information (total value and income to be derived) must be obtained at the time of application. Asset information must be collected on ALL family members.

If a household claims to have zero (0) assets, and have sold no assets for less than fair market value during the two year period preceding the execution of the Tenant Income Certification, they must certify this information by inserting (0) in the "Income derived from assets" blanks for ALL family members on the Tenant Income Certification and signing and dating the form in the spaces provided.

For units receiving Section 8 rental assistance, the verification requirement is satisfied if the Public Housing Authority ("PHA") provides the building owner with a statement that "the gross annual income of the tenants in the unit does not exceed the applicable income limit under Section 42(g) of the Internal Revenue Code." The Section 8 Tenant Income Verification Form (PRHFA-07) may be used to satisfy this requirement. Owners may have the PHA contact the Compliance staff of the Agency if more information is needed. Income of Section 8 assistance recipients can also be verified in the usual way (by contacting employers, etc.) and requesting that they complete Income Verification forms. When the tenant household has no income, the Certification of Zero Income form (PRHFA-05) will be the only verification document.

ANNUAL RECERTIFICATION

Effective July 30, 2008, 100 percent (100%) tax credit property owners no longer need to annually recertify resident household incomes. That is, residents must continue to be income qualified upon initial residency, but need not be recertified thereafter. Property files will still need to contain thorough third-party verifications of income upon initial occupancy.

For Semi Annual reporting purposes through COL system the PRHFA will not require anymore the submission of the tenant annual recertification information. However PRHFA will still require the following information:

- Information of all project Move-Ins
- Move-out transactions
- Transfers, and
- Changes in tenant rents

PRHFA will still require the preparation of the first annual recertification of all the units in the project. This certification process is identical to the initial certification. Owners must re-verify income of those tenants in set aside units who plan to remain in that unit for another lease term, or any portion thereof, and have a new Tenant Income Certification executed together with updated supporting documentation. The use of the Alternate Certification is required for all the subsequent anniversary dates.

1. For Recertification purposes Management must:

- a. approximately 120 days before the lease expiration, notify the tenants in writing that re-certification is due and schedule an appointment for an interview;
- b. interview tenants to obtain current information on anticipated income, assets, and family composition for the ensuing certification year, and have tenants sign the necessary verification form(s) giving permission for release of the information requested;
- c. obtain third-party verification of the tenant's income;
- d. complete the Tenant Income Certification, have adult household members sign and date where indicated; and
- e. sign and date the Tenant Income Certification where indicated.

2. Adding a New Tenant to a Resident Household

The addition of new member(s) to an existing low-income household requires the income certification for the new member of the household, including third party verification. The new tenant's income is added to the income disclosed on the existing household's tenant income certification. If the total income combined exceeds 140% of the income limit, the Available Rule is applied.

A household may continue to add members as long as at least one member of the original low-income household continues to live in the unit. Once all the original tenants have moved out of the unit, the remaining tenants must be certified as a new income-qualified household unless the remaining tenants were income qualified at the time they moved into the unit.

3. Interim Re-Certifications

Except when adding a new tenant to an existing household, the Authority does not require management to recertify a household due to a change in household composition or income before the annual recertification date in order to comply with LIHTC program rules. However, some LIHTC developments that also participate in other low income housing programs will have to recertify a household in order to comply with the other program's requirements.

4. Tax Credit Units Which Receive Federal Rental Assistance

In the case of a unit which receives rental assistance payments from a Federal agency, a change in household composition or income may require an interim recertification by the agency that is providing the assistance. Owners of these units should recertify tenants simultaneously with the annual recertification completed by the provider of the rental assistance payments.

FORMS & INSTRUCTIONS

OWNER'S CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

To: Puerto Rico Housing Finance Authority P.O. Box 71361, San Juan, PR 00936-8461

Certification Dates:	From: <u>January 1, 20</u>	To: <u>December 31, 20</u>
Project Name:	Project No. :	
Project Address:	City:	Zip code:
Tax ID # of Ownership		

<input type="checkbox"/>	No buildings have been Placed in Service
<input type="checkbox"/>	At least one building has been placed in service but owner elects to begin credit period in the following year. If either of the above applies, please check the appropriate box, and proceed to page to sign and date this form.

The undersigned _____ on behalf of _____
(the "owner"), hereby certifies that:

- 1- The project meets the minimum requirements of: (check one)
 - 20 - 50 test under Section 42(g)(1)(A) of the Code
 - 40 - 60 test under Section 42(g)(1)(B) of the Code
 - 15 - 50 test for "deep rent-skewed" projects under Section 42(g)(4) and 142(d)(4)(B) of the Code

- 2- There has been no change in the applicable fraction (as defined in Section 42©(1)(B) of the Code) for any building in the project:
 - NO CHANGE CHANGE

If "Change", the applicable fraction to be reported to the IRS for each building in the project for the certification year on page 3:

- 3- The owner has received an annual Tenant Income Certification from each low-income resident and documentation to support that certification, or the owner has a re-certification waiver letter from the IRS in good standing, has received an annual Tenant Income Certification from each low-income resident, and documentation to support the certification at their initial occupancy.
 - YES NO

- 4- Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code:
 - YES NO

- 5- All low-income units in the project has been for use by the general public and used on non-transient basis (except for transitional housing for the homeless provided under Section 42(f)(3)(B)(iii) of the Code):
 - YES NO HOMELESS

- 6- No finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgement from a federal court:
 - NO FINDING FINDING

- 7- Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habilitiy standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project.
 - YES NO

If "No", state nature of violation on page 3 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.

- 8- There has been no change in the eligible basis (as defined in section 42(d) of the Code) of any building in the project since last certification submission:
 - NO CHANGE CHANGE

If "change", state nature of change (e.g. a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed to the allocation authority in writing) on page 3:

- 9- All tenant facilities, included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:
 YES NO
- 10- If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented not having a qualifying income:
 YES NO
- 11- If the income of tenants of a low-income unit any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:
 YES NO
- 12- An extended low-income housing commitment as described in Section 42(h)(6) was in effect, including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United State Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment (not applicable to building with tax credits from years 1987-1989):
 YES NO N/A
- 13- The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organization" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.
 YES NO N/A
- 14- The owner has complied with Section 42(h)(6)(B)(ii)(I) and not evicted or terminated the tenancy of an existing tenant of any low-income unit other than for good cause:
 YES NO N/A
- 15- The owner has complied with Section 42(h)(6)(B)(ii)(II) and not increased the gross rent above the maximum allowed under Section 42 with respect to any low-income unit:
 YES NO N/A
- 16- There has been no change in the ownership or management of the project:
 NO CHANGE CHANGE
 If "change", complete page 3 detailing the changes in ownership or management of the project.

Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.

The project is otherwise in compliance with the Code, including any Treasury Regulation, the applicable State Allocation Plan, and all other laws, rules and regulations. This certification and any attachments are made UNDER PENALTY OF PERJURY.

 (Ownership Entity)

By: _____

Title: _____

Date: _____

TENANT INCOME CERTIFICATION

Initial Certification
 Recertification
 Other

Effective Date _____
 Move-in Date _____
 MM/DD/YYYY

PROPERTY IDENTIFICATION DATA
 Property Name: _____ County: _____ BIN#: _____
 Address: _____ Unit Number: _____ # Bedrooms _____

PART II HOUSEHOLD COMPOSITION

HH-Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth MM/DD/YY	F/T Student (Y or N)	Social Security or Alien Reg. No
1			HEAD			
2						
3						
4						
5						
6						
7						

PART III GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH-Mbr #	(A) Employment or Wages	(B) Social Security/Pensions	(C) Public Assistance	(D) Other Income
Total	\$ -	\$ -	\$ -	\$ -

Add totals from (A) through (D), above **TOTAL INCOME (B)** \$ -

PART IV INCOME FROM ASSETS

HH-Mbr #	(E) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
Total			\$ -	\$ -

Column (H) if over \$ _____ X 2.00 % = (J) Imputed Income \$ -

Enter the greater of the total of column I, or J; Imputed Income **TOTAL INCOME FROM ASSETS (K)** \$ -

(L) Total Annual Household Income from all Sources [add (B) + (K)] \$ -

The information on this form will be used to determine maximum income eligibility. I/ we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/ we agree to notify the landlord immediately upon any of the household moving out of the unit or any new member moving in. I/ we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

RENTAL AFFORDABILITY DETERMINATION OF INCOME ELIGIBILITY

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 \$

Household meets Income Restriction at:
 60% 50%
 40% 30%

RECERTIFICATION ONLY:
 Current Income Limits X 140% : \$ _____
 Household Income exceeds X 140 % Recertification:
 Yes No

Current Income Limit per Family Size: \$ _____
 Household Size at Move-in: _____

Household Income at move-in: \$ _____

RENT UNIT COSTS

Tenant Paid Rent: \$ _____
 Utility Allowance: \$ _____

Rent Assistance: \$ _____
 Other non-optional charges: \$ _____

GROSS RENT PER UNIT:
 (Tenant paid rent plus utility Allowance & other non-optional charges) \$

Unit Meets Rent Restriction at:
 60% 50% 40% 30% _____

Maximum Rent Limit for this unit: \$ _____

RENTAL UNIT INDEPENDENT STATUS

ARE ALL OCCUPANT FULL TIME STUDENT?
 Yes No

If yes, Enter student explanation * (Also attach document)
 Enter 1-4

* Student Explanation:
 1. TANF assistance
 2. Job Training Program
 3. Single parent/dependant child
 4. Married/joint return

RENTAL PROGRAMS

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit <input type="checkbox"/> See part V above.	b. HOME <input type="checkbox"/> Income Status <input type="checkbox"/> <= 50 % AMGI <input type="checkbox"/> <= 60 % AMGI <input type="checkbox"/> <= 80 % AMGI <input checked="" type="checkbox"/> OI **	c. Tax Exempt <input type="checkbox"/> Income Status <input type="checkbox"/> 50 % AMGI <input type="checkbox"/> 60 % AMGI <input type="checkbox"/> 80 % AMGI <input type="checkbox"/> OI **	d. AHDP <input type="checkbox"/> Income Status <input type="checkbox"/> 50 % AMGI <input type="checkbox"/> 80 % AMGI <input type="checkbox"/> OI **	e. <input type="checkbox"/> Income Status <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> OI **
---	---	---	---	--

**Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual (s) named in part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land use restriction. Agreement (if applicable), to live a unit in this project.

 SIGNATURE OF OWNER/REPRESENTATIVE

 DATE

**INSTRUCTION FOR COMPLETING
TENANT INCOME CERTIFICATION**

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If other designate the purpose of the recertification (i.e. a unit transfer, a change in household composition, or other state-required recertification).

Move-in Date Enter the date the tenant has or will take occupancy of the unit.

Effective Date Enter the effective date of the certification. For Move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re) certification.

Property Name Enter the name of the development.

County Enter the county (or equivalent) in which the building is located.

BIN # Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).

Address Enter the address of the building.

Unit Number Enter the unit number.

Bedrooms Enter the number of bedrooms in the unit.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definition:

H-	Head of Household	S-	Spouse
A-	Adult co-tenant	O-	Other family member
C-	Child	F-	Foster child(ren)/ adult(s)
L-	Live-in- caretaker	N-	None of the above

Enter the date of birth, student status and social security number or alien registration number for each occupant.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification

Part III - Annual Income

See Handbook 4350.3 for complete instruction of verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income sources, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A) Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/ or net income from a business.

Column (B) Enter the annual amount of social security, Supplemental Security Income, pensions, military retirement, etc.

Column (C) Enter the annual amount of income received from public assistance (i.e. TANF, general assistance, disability, etc.)

Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.

Row (E) Add the totals from column (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List respective household member number from Part II and complete a separate line for each member.

Column (F) List the type of asset (i.e. checking account, saving account, etc.)

Column (G) Enter C (for current, if the family currently owns or holds the assets), or I (for imputed family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).

Column (H) Enter the cash value of the respective asset.

Column (I) Enter the anticipated annual income from the asset (i.e., saving account balance multiplied by the annual interest rate).

TOTALS Add the total of column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$ 5,000 you must do an imputed calculation of asset income. Enter the total cash value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K) Enter the greater of the total in column (I) or (J)

Row (L) Total Annual Household Income from all sources Add (B) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verification of income and/ or assets have been received and calculated, each household member age 18 and older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed earlier than 5 days prior to the effective date of the certification.

Part V - Determination of Income Eligibility

Total Annual Household Income Enter the number from item (L) from all sources

Current Income Limit per Family Enter the current Move-in Income Limit for the household size.
Size

Household income at move-in For recertification, only. Enter the household income from the move-in
Household size at move-in certification. On the adjacent line, enter the number of the household members from the move-in certification.

Household meets Income Check the appropriate box for the income restriction that the household meets
Restriction according to what is required by the set-aside(s) for the project.

Current Income Limit X 140 % For recertification only. Multiply the Current Maximum Move-in Income Limit by 140 % and enter the total. Below, indicate whether the household income exceeds that total. If the gross Annual Income at recertification is greater than 140 % of the current income limit, then the available unit rule must be followed.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays, all utilities, enter zero.
Other non-optional charges	Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent Plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

* Full time is determined by the school the student attends.

Part VIII - Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempted Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
Home	If the property participates in the Home program and the unit this household will count toward the HOME program set-asides, mark the appropriate box indicating the household's designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household's designation.
ADHP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count toward the set-aside requirements, mark the appropriate box indicating the household's designation.
Other	If the property participates in any other affordable program, complete the information as appropriate.

SIGNATURE OF THE OWNER/ REPRESENTATIVE

Is it the responsibility of the owner or owner's representative to sign and date document immediately following executing by the residents.

The responsibility of the documentation and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

This instruction should not be considered as a complete guide on tax credit compliance. The responsibility for compliance with federal regulations lies with the owner of the building(s) for which the credit is allowable.

EMPLOYMENT VERIFICATION

THIS SECTION SHOULD BE COMPLETED BY EMPLOYER MANAGEMENT AND RETURNED BY COURAGE

To: (Name & address of employer) Date: _____

RE: Applicant/Tenant name Social Security Number Unit # (if assigned)

I hereby authorize release of my employment information.

Signature applicant/Tenant Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

Project Owner/ Management

Return Form To:



THIS SECTION SHOULD BE COMPLETED BY EMPLOYER

Employer Name: Job Title:

Presently Employed: Yes No Date First Employed Last Day of Employment:

Current Wage/Salary: \$ (Mark one) hourly weekly bi-weekly semi-monthly monthly yearly Other

Average # of regular hours per week: Year-to-date earnings: \$ through

Overtime Rate: \$ per hour Average # of overtime hours per week:

Shift Differential Rate: \$ per hour Average # of shift differential hour per week:

Commissions, bonuses, tips, other: \$ (Mark one) hourly weekly bi-weekly semi-monthly monthly yearly Other

List any anticipated change in the employee's rate of pay within the next 12 month: Effective Date:

If the employee's work is seasonal or sporadic, please indicate the layoff period(s):

Additional remarks:

Employer's Signature Employer's Printed Name Date

Employer [Company] Name and Address

Phone # Fax # e-mail

NOTE: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United State as any matter within its jurisdiction.

STUDENT VERIFICATION

THIS SECTION COMPLETED BY MANAGEMENT AND EXECUTED BY STUDENT

This student verification is being delivered in connection with the undersigned's eligibility for residency in the following apartment:

Project Name: _____

Building Address: _____

Unit Number if assigned: _____

I hereby grant disclosure of the information requested below from _____
Name of Educational Institution

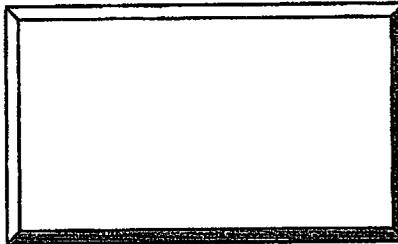
Signature

Date

Printed Name

Student ID #

Return Form to:



THIS SECTION TO BE COMPLETED BY EDUCATIONAL INSTITUTION

This above-named individual has applied for residency or is currently residing in housing that requires verification of student status. Please provide the information requested below:

Is the above-named individual a student at this educational institution? YES NO

If so, part-time or full time? PART-TIME FULL -TIME

If full-time, the date the student enrolled as such: _____

Expected date of graduation: _____

I hereby certify that the information supplied in this section is true and complete to the best of my knowledge.

Signature: _____

Date: _____

Print your name: _____

Phone: _____

Title: _____

Educational Institution: _____

NOTE: Section 1001 of Title 18 of the U.S. Code makes it criminal offense to make willful false statements or misrepresentation to any Department or Agency of the United States as to any matter within its jurisdiction.



GDB

PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX P

**QUALIFIED ALLOCATION
PLAN 2012**

REV.
JAN 2012

PUERTO RICO HOUSING FINANCE AUTHORITY

**QUALIFIED CONTRACT PROCESS
2012**

Qualified Contract

The qualified contract (QC) is an offer to acquire the tax credit property for a defined price to assure continued affordability restrictions. IRS regulations determine that if the Authority is unable to present an agreement for a QC price, the extended use period can be terminated. A QC may be requested at any point after the fourteenth (14th) year of the compliance period.

The terms, conditions, and procedures contained in this Process (Process) will allow the Authority to administer QC requests from property owners (Owner) who intend to make a request under IRS Code Section 42(h)(6)(E)(i)(II) (QC Request) to produce a QC.

Initial Eligibility

The Authority will require an initial application (Initial Application) to determine eligibility, before an Owner may submit a QC Request. The IP will not bind Owners to submit a QC Request and does not start the one year threshold (OYT). The Authority will accept IPs at any time during the year. Upon receipt of the IP, the Authority will determine if the property is eligible for consideration.

Information submitted in the IP shall include at a minimum:

1. Documented ownership of all properties, including address and other pertinent property information (Attachment 1).
2. copy of Tax Credit (Tax Credits or LIHTC) documents, including:
 - a. first year 8609s for all buildings in the Project;
 - b. all loan and regulatory agreements, including LURA (documents submitted should include original, current, and any amendments);
3. Owner certification that all necessary documentation, defined in the list below, is available and that all other purchase options will be waived;
4. non-refundable preliminary application fee; and
5. Owner certification and documentation of release of existing purchase options.

Evaluation

Eligibility to request a QC will be based on previous commitments and actions of the Owner, and compliance with regulatory requirements on the property. Properties will be eligible to submit a QC Request if:

1. The property has completed the initial 15-year compliance. Dates for determining compliance with the initial 15 years are:
 - a. the last day of the 14th year of the compliance period of the last building placed in service, or
 - b. the last day of the 14th year of the last allocation of a multiple year allocation to the same property.

2. There exists no waiver of rights to a QC in the LURA.
3. The property is not subject to affordability and regulatory restrictions based on financing and rental subsidies received on the property other than the Section 42 LIHTC financing (*i.e.*, HOME, Sec. 8, etc).
4. The property complies with financial, audit, and compliance requirements under LIHTC and other financing resources.
5. The property is not subject to existing purchase options, including a non-profit general partner's right of first refusal. Owners must obtain a full waiver of existing purchase options and rights of first refusal in order to make an eligible QC Request.

Eligibility Determination

The Authority will notify the Owner upon completion of the pre-application eligibility review, indicating whether the property is eligible or not to make a QC Request.

If a project is deemed eligible for a QC, the Owner will receive a notification letter and application packet. The Authority must receive a non-refundable review and processing fee to begin the QC Request review. The QC Request from an Owner will be accepted at any time during the calendar year.

The QC Request must include:

1. QC Request letter (**Attachment 2**) where the Owner certifies that:
 - a. has reviewed all due diligence materials used in the calculation of the QC worksheets and that they are **solely responsible** for documents and information used in the calculation of the QC Price (QCP) (worksheets A-E in Appendix), using the procedures set forth in Section 42(h)(6)(F) of the Internal Revenue Code. The Owner will sign a statement verifying the accuracy of the assumptions used in the computation of the QCP and will hold the Authority harmless in the use of the development information;
 - b. will reasonably cooperate with the Authority in all aspects related to the sale of the property.
2. **The Application Packet**, containing:
 - a. First year 8609s for all buildings in the Project.
 - b. Completed worksheets A through E. An independent certified public accountant must certify all computations.

- c. Annual partnership tax returns for all years of operation since the start of the compliance period.
- d. Annual property audited financial statements for all years.
- e. Loan documents for all secured debt during the compliance period (original, current, and any interim amendments).
- f. Partnership agreement (original, current and all interim amendments).
- g. Current and complete rent-roll.
- h. A narrative description of the project, including amenities.
- i. Sales prospectus (applicable if property is currently being offered for sale.)
- j. Physical needs assessment for the entire property.
- k. Phase I environmental (Phase II analysis, if conditions from the Phase I analysis determine a Phase II is necessary).
- l. Appraisal for the property.
- m. Market study for the property.
- n. Current title report.

Owners will incur all costs associated with necessary third party reports. Should third party costs exceed the Owner's initial deposit, the Authority will request additional funds. If the Owner is unable to contribute necessary funds, the OYT will be suspended, and the Authority may halt processing or terminate a QC Request.

The non-refundable QC fees are:

1. Preliminary application: \$1,000.
2. QC Request: \$4,000. It must be submitted when the QC Request Letter is presented to the Authority.

The Authority may revise fees as necessary to insure the cover the Authority's corresponding expenses.

The OYT shall begin when the Authority receives a complete QC Request package including all of the above items. The OYT will be delayed or suspended pending receipt of all applicable items.

Review Process

1. After *all* documents are received the Authority will notify the Owner and start the OYT.
2. The Authority will verify the QC calculations and supporting documentation to determine the viability of extending a QC offer.
3. The Authority will conduct the following notice of LIHTC properties seeking QCP:
 - a. The Authority will post on its website a listing of properties, with property information, determined eligible to submit a QC.
 - b. The Authority will provide information on properties, with property information, for which a completed QC Request has been received. Information may be forwarded to:
 - i. Posted on the Authority website.
 - ii. Current owners of Authority portfolio and LIHTC properties.
 - iii. Interested affordable housing preservation organizations and stakeholders.

Presenting a QC

Under IRS (42(h)(6)(E)(i)(II), the Authority's obligation is to present to the Owner a bona fide contract to acquire the property for the QCP (Contract). Once the QCP is affirmed, and a prospective buyer is identified, and the Authority has determined to pursue this course of action, the Authority will present a Contract to the Owner. If the Authority presents a Contract (regardless if the Owner accepts it or not), the possibility of terminating the extended use period is removed, and the property remains bound to the provisions in the LURA. Should the Owner choose to accept the Contract, the buyer will be responsible for adhering to the provisions in the LURA.

If the Owner does not accept the Contract, the property will remain under the existing affordability restrictions. There is no requirement in the IRS Code that the prospective buyer purchase the property. Whether or not the seller executes a contract and closes the transaction is a separate, legally unrelated matter.

Three-Year Eligibility for Existing Tenants

If the Authority does not present a Contract prior to the expiration of the OYT (or a longer period as the Owner may agree to in writing) the Project may be released from the LURA's requirements.

However, the Project will be subject to the requirements of Section 42(h)(6)(E)(ii) for a three-year period beginning at the end of the compliance period where the Owner may not:

1. evict or terminate a tenancy (other than for good cause) of an existing tenant of any low income unit; or

2. increase the gross rent with respect to any low-income unit except as permitted under Section 42 of the Code, as well as the requirements of the regulatory agreement.

Requirements

- Qualified Contract Price:** The Authority will resolve every case of doubt or interpretation in determining the QCP, both with regard to the overall process and for particular properties, in favor of a lower value.
- QC Process Amendments:** The Authority may add to or amend the Process with at least 30 days notice on the website and to Owners engaged in the QC Process.

Disqualification of QC Request:

1. Owners may cancel the QC Request at anytime during the Process. However the Authority may determine that an Owner cannot submit another request.
2. The Authority must have continuous cooperation from the Owner respecting all aspects of property information, financial statements, and tax returns. Lack of cooperation will cause the Process to terminate.
3. Should the Authority receive notification of IRS's investigation or audit regarding the tax credit property at any time during the QC Request, the OYT will be suspended and the Process will stop until the audit or investigation is complete.
4. Default or material noncompliance with Section 42 will result in suspension of the review until the Authority can respond.

In the event of a suspension due to noncompliance or audit, the property must operate under the LURA.

ATTACHMENT 1: Initial Application

Please complete the preliminary application forms and return forms and documentation, a multifamily fee payment form (available for download at www.bgfpr.com/principalsubsidiaries/housing-finance-authority) and a check for the application fee to:

**Puerto Rico Housing Finance Authority
Attn: Multifamily Housing Finance and Development Dept.
P.O. Box 71361
San Juan, Puerto Rico 00936-8461**

Owner:

Taxpayer Identification #

Project Name:

PRHFA Project ID #:

Property Address:

Date of Allocation:

1. Owner/ General Partner(s) Contact Information:

Entity Name

Address

Principal

Fax

Email

Entity Name

Address

Principal

Fax

Email

2. Total # of Buildings:

Total #of Units:

Total # Low Income Units:

BIN # Placed in Service Date 1st Year Credits Claimed

Is the property a Mixed-Income Development?

3. Does the Property Agreement or other legal documentation grant any form of preference for purchasing the property? (e.g., a right of first refusal granted to a nonprofit partner?)

If yes, provide information on the individual or entity holding such right.

Entity Name	Address	Principal	Phone
-------------	---------	-----------	-------

4. Has the property been cited for any violations that have required an 8823 to be filed with the IRS that remains uncorrected?

If yes, state the nature and date of the violation (including copies of 8823s).

Nature of Violation	Violation Date
---------------------	----------------

5. Is the property subject to additional affordability restrictions (e.g., USDA Rural Development, HUD, state/local funding, etc)?

If yes, submit copy of restrictions.

6. Does the property have project-based rental assistance?

I CERTIFY, to the best of my knowledge, that:

1. the information in this application is complete and accurate;
2. all purchase options will be waived.

I UNDERSTAND, AGREE AND ACCEPT THE PROCESS, INCLUDING THAT THE OYT DOES NOT START UNTIL THE AUTHORITY DETERMINES THAT THE OWNER MEETS ALL SUBMISSION REQUIREMENTS.

Owner:

Date:

ATTACHMENT 2: Qualified Contract Request letter

Puerto Rico Housing Finance Authority
Attn: Multifamily Housing Finance and Development Dept.
P.O. Box 71361
San Juan, Puerto Rico 00936-8461

Re: **Qualified Contract Request Letter**
Property Name:
Tax Credit Number:
Address:

Dear :

I hereby request that the Puerto Rico Housing Finance Authority (PRHFA) present a Qualified Contract (QC) for the purchase of [Property Name]. This request is made pursuant to Section 42(h)(6)(E)(i)(II) of the Internal Revenue Code (Code). We understand that PRHFA will have one year from its receipt of this letter and all of the accompanying information described below, to present a QC to purchase the Project.

We have enclosed:

1. First year 8609s for all buildings in the Project.
2. Worksheets A -E. Completed, or reviewed and approved, by the accountant for the Project, [Accountant's Name].
3. Annual tax returns for all years of operation since the start of the compliance period.
4. Annual property financial statements for all years.
5. Loan documents for all secured debt during the compliance period (original, current, and any interim amendments).
6. Partnership agreement (original, current and all interim amendments).
7. Current and complete rent-roll.
8. A narrative description of the Project, including amenities.
9. Sales prospectus (applicable if property is currently being offered for sale).

We understand that the one-year period allowed for offering a QC will not begin until all information is received and PRHFA deems it satisfactory.

We also understand that the above information may be shared with prospective purchasers, real estate brokers and agents of PRHFA and summary data may be posted on PRHFA's website.

We will reasonably cooperate with PRHFA and its agents with respect to PRHFA's efforts to present a QC for the purchase of the Project. In this regard, we understand that prior to the presentation of a QC, we may need to share Project due diligence with PRHFA and with prospective purchasers, including but not limited to, additional rent rolls, Project tax returns, income certifications and other Section 42 compliance records, records with respect to repair and maintenance of the Project, operating expenses and debt service. Provided, before information is shared with a prospective purchaser, we may require that it enter into a commercially reasonable form of nondisclosure agreement.

We will also share with PRHFA, at its request, the documents and other information that were used to prepare the enclosed calculation of QCP, including Worksheets A - E. We also agree to allow PRHFA, its agents, and prospective purchasers, upon reasonable prior written notice, to visit and inspect the Project, including representative units.

We also understand that if PRHFA finds a prospective purchaser willing to present an offer to purchase the Project for an amount equal to or greater than the QCP, we agree to enter into a commercially reasonable form of earnest money agreement or other contract of sale for the Project which will allow the prospective purchaser a reasonable period of time to undertake additional, customary due diligence prior to closing the purchase.

Sincerely,

Owner

Attachment

ATTACHMENT 3: Qualified Contract Price

Before the Authority can begin review of a QCP and begin marketing the project you must complete the QCP Form attached to these instructions (QCP Form). This calculation shall establish the minimum price at which the Authority can market the Project and present an offer for its purchase.

To fill out the QCP Form, you must complete Worksheets A through E, where applicable. The results of Worksheets A through E are transferred to the QCP Form to determine the QCP.

The QCP Form is derived from Section 42(h)(6)(F) of the Code. The statutory formula divides the purchase price between the low and non low-income portion of the Project, if any. The QCP for the low-income portion of the Project equals the applicable fraction of the Project indebtedness (Worksheet A), adjusted investor equity (Worksheet B), and other capital contribution (Worksheet C), reduced by the total cash distributions from, or available for distribution, from the Project (Worksheet D). If the Project has any market rate units or commercial space the QCP is increased by the fair market value of those units (Worksheet E).

The OYT for finding a buyer shall NOT commence until the QCP Form, and Exhibits A through E, are complete and delivered to the Authority with the pre-application, QC Request, all support documents requested, all charges paid to the Authority and third party contractors and a QC Request letter. An independent certified public accountant from an accredited accounting firm must prepare and certify the QCP Form.

QUALIFIED CONTRACT PRICE

A. Low-Income Portion of Payment

- i. Outstanding Indebtedness secured by, or with Respect to the Building (Worksheet A) \$ _____
- ii. Adjusted Investor Equity (Worksheet B) \$ _____
- iii. Other Capital Contributions not reflected in i or ii (Worksheet C) \$ _____
- iv. **TOTAL of i, ii, iii** \$ _____
- v. Cash Distributions from or available from, the Project (Worksheet D) \$ _____
- vi. **LINE iv LESS LINE v** \$ _____
- vii. Applicable fraction (LURA) _____ %
- viii. Low-Income Portion of QC Price [Line (vi) multiplied by Line (vii)] \$ _____

B. Fair Market Value of Non Low-Income Portion Of Building(s) (Worksheet E) \$ _____

C. Qualified Contract Price [Line A (viii) PLUS Line B] \$ _____

WORKSHEET A

Outstanding Indebtedness

1. Mortgage Loans:

- i. Lender
 - ii. Principal Balance \$ _____
 - iii. Accrued Interest \$ _____
 - iv. Maturity Date:
 - v. Other Information:
- SUBTOTAL** \$ _____

2. Other Loans/Indebtedness:

- i. Lender
 - ii. Principal Balance \$ _____
 - iii. Accrued Interest \$ _____
 - iv. Maturity Date:
 - v. Other Information:
- SUBTOTAL** \$ _____

TOTAL \$ _____

WORKSHEET B

Adjusted Investor Equity

Adjusted Investor Equity (AIE) is the aggregate amount of cash that taxpayers invested with respect to the low-income buildings, increased by the applicable cost-of-living adjustment.

Not all capital contributions with respect to the Project qualify as AIE. Cash invested in the Project should be included in Worksheet B only if:

1. cash is contributed as a capital contribution and not as a loan or advance; and
2. the amount
3. is reflected in the adjusted basis of the Project (cash contributions used to directly fund adjusted basis and cash contributions used to pay off a construction or bridge loan, the proceeds of which directly funded adjusted basis); and
4. there was an obligation to invest the amount as of the beginning of the credit period (cash invested before the beginning of the credit period and cash invested after the beginning of the credit period for which there was an obligation to invest at the beginning of the credit period).

BCY: calendar year with or within which the first taxable year of the credit period ends.

Subsections (ii) and (iii): lower of the Consumer Price Index (CPI) figures or 5% for applicable years.

Adjusted Investor Equity

- i. BCY: _____
 - ii. Average CPI figure for the most recent 12-month period ending in ____: _____
 - iii. Average CPI figure for 12-month period ending in ____ of the BCY: _____
 - iv. Cost-of-living adjustment [Divide ii by iii] _____
 - v. Investment Amount \$ _____
- Total Adjusted Investor Equity [Multiply v by iv]:** \$ _____

If the AIE differs from the equity amount used in the Project's Final Cost Certification, explain the difference.

WORKSHEET C

Other Capital Contributions

Not limited to cash and, therefore, include "in-kind" contributions such as land. However, if you include any non-cash contributions in this worksheet, please describe in detail the type of contribution, the value you have assigned to the contribution, and your justification for assigning that value.

Do not include in this Worksheet C any amounts included in Worksheets A or B. Further, all amounts included in this worksheet must constitute contributed capital and not be debt or advance.

1. Investment Amount \$ _____

i. Name of Investor: _____

ii. Date of Investment: _____

iii. Use of Contributions/ Proceeds: _____

iv. Other Information: _____

2. Investment Amount \$ _____

i. Name of Investor: _____

ii. Date of Investment: _____

iii. Use of Contributions/ Proceeds: _____

iv. Other Information: _____

3. [Add as needed.]

TOTAL (1 - _____) \$ _____

WORKSHEET D

Cash Distributions from or available from the Project

The QCP is reduced by the total of all cash distributions from, or available from, the Project.

In Section A, set forth all cash distributions with respect to the Project beginning with the BCY through the date of the completion of Worksheet D. This shall include all cash payments and distributions from net operating income. Distributions set forth in Section A shall include, but not be limited to amounts paid to partners or affiliates as fees and those distributed to partners as a return of capital or otherwise.

A. Cash Distributed

- 1. BCY Distributions
 - i. Total Distributions \$ _____
 - ii. Recipient _____
 - iii. Type (e.g., return of capital, fee, etc.) _____

 - 2. BCY+1 Distributions
 - i. Total Distributions \$ _____
 - ii. Recipient _____
 - iii. Type (e.g., return of capital, fee, etc.) _____

 - 3. BCY+ through 13 Distributions
 - i. Total Distributions \$ _____
 - ii. Recipient _____
 - iii. Type (e.g., return of capital, fee, etc.) _____
- Total BCY through BCY+13 Distributions (Sum of Lines 1(i) - 14(i))** \$ _____

B. Cash Available for Distribution:

- 1. Replacement Reserve Account(s) \$ _____
 - a. Available for Distribution \$ _____

 - 2. Operating Reserve Account(s) \$ _____
 - a. Available for Distribution \$ _____

 - 3. Other Reserve Accounts (identify account, terms) \$ _____
 - a. Available for Distribution \$ _____

 - 4. Partnership Accounts Other than Reserves \$ _____
 - a. Available for Distribution \$ _____
- Total Available for Distribution**
(Sum of Lines 1a- 4a) \$ _____

Total Cash Distributed and Available for Distribution
(Sum of Sections A and B) \$ _____

C. All Non-Cash Distributions:

1. Asset Distributed
Recipient
Date of Distribution
Estimated Value of Asset at time of Distribution \$ _____
Valuation Method
Reason for/ or Characterization of Distribution

2. Asset Distributed
Recipient
Date of Distribution
Estimated Value of Asset at time of Distribution \$ _____
Valuation Method
Reason for/ or Characterization of Distribution

TOTAL VALUE OF ASSETS AVAILABLE FOR DISTRIBUTION \$ _____

TOTAL AVAILABLE FOR DISTRIBUTION (CASH + ASSETS) \$ _____

WORKSHEET E

Fair Market Value on Non-Low-Income Portion of Building(s)

Fair market value of the non-low income portion of the Project is \$_____.



GDB

PUERTO RICO HOUSING FINANCE AUTHORITY

Subsidiary of the Government Development Bank For Puerto Rico

COMMONWEALTH OF PUERTO RICO

P.O. Box 71361 San Juan, Puerto Rico 00936-8461



ANNEX Q

**QUALIFIED ALLOCATION
PLAN 2012**

REV
JAN 2012

ANNEX Q: GLOSSARY

ACCEPTED UNITS: (AS. NOTED ON THE LIHTC QUARTERLY STATUS REPORT) (FORM TC-92 CM1). UNITS FOR WHICH CERTIFICATES OF OCCUPANCY HAVE BEEN ISSUED.

AGENCY: PUERTO RICO HOUSING FINANCE AUTHORITY, AS DESIGNATED STATE CREDIT AGENCY FOR THE COMMONWEALTH OF PUERTO RICO.

ANNUAL INCOME: TOTAL INCOME ANTICIPATED TO BE RECEIVED BY A TENANT FROM ALL SOURCES INCLUDING ASSETS FOR THE COMING YEAR.

ANNUAL HOUSEHOLD INCOME: A REVIEW OF ALL PERSONS WHO INTEND TO PERMANENTLY RESIDE IN A UNIT. THE ANNUAL INCOME IS DEFINED AS INCOME AS OF THE DATE OF OCCUPANCY FOR THE COMING YEAR.

ANNUAL MANAGEMENT REVIEW: A REVIEW OF A PROJECT MADE ANNUALLY BY THE AGENCY, WHICH INCLUDES AN EXAMINATION OF RECORDS, A REVIEW OF OPERATING PROCEDURES, AND A VISUAL INSPECTION OF THE PROJECT.

APPLICATION: FORM COMPLETED BY A PERSON OR FAMILY SEEKING RENTAL OF A UNIT IN A PROJECT. AN APPLICATION SHOULD BE IN A FORM APPROVED BY THE AGENCY AND SHOULD SOLICIT SUFFICIENT INFORMATION SO AS TO DETERMINE THE APPLICANT'S ELIGIBILITY AND COMPLIANCE WITH FEDERAL AND AGENCY GUIDELINES.

ASSETS: ITEMS OF VALUE, OTHER THAN NECESSARY PERSONAL ITEMS, WHICH ARE CONSIDERED IN DETERMINING THE ELIGIBILITY OF A HOUSEHOLD.

ASSET INCOME: THE AMOUNT OF MONEY RECEIVED BY A HOUSEHOLD FROM ITEMS OF VALUE AS DEFINED.

AWARD OR BENEFIT LETTER: NOTIFICATION OF INCOME FORM, WHICH IS COMPLETED BY THE AGENCY OR COMPANY PROVIDING BENEFITS TO TENANTS. SUCH INCOME WOULD INCLUDE SOCIAL SECURITY, PENSION, SUPPLEMENTARY SECURITY INCOME (SSI) OR DISABILITY INCOME.

CERTIFICATION YEAR: THE 12-MONTH PERIOD BEGINNING ON THE DATE THE UNIT IS FIRST OCCUPIED AND EACH 12-MONTH PERIOD COMMENCING ON THE SAME DATE THEREAFTER.

COMPLETION CERTIFICATE: THE DEVELOPER'S STATEMENT, FURNISHED TO THE AGENCY THAT THE ACQUISITION AND CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF THE PROJECT HAS BEEN SUBSTANTIALLY COMPLETED.

COMPLETION DATE: THE SPECIFIED DATE ON WHICH A PROJECT IS COMPLETED AS SET FORTH IN THE COMPLETION CERTIFICATE.

COMPLIANCE: THE ACT OF MEETING THE REQUIREMENTS AND CONDITIONS SPECIFIED UNDER THE LAW AND THE LIHTC PROGRAM REQUIREMENTS.

COMPLIANCE TRAINING CONFERENCE: A MEETING HELD BY THE AGENCY OR THE MONITORING AGENT WITH THE OWNER/DEVELOPER AND/OR REPRESENTATIVE AND MANAGEMENT STAFF, IF POSSIBLE, WITHIN 45 DAYS OF RECEIPT OF A FINAL TAX CREDIT ALLOCATION TO REVIEW FEDERAL STATE LAW AGENCY POLICIES AND REPORTING PROCEDURES FOR THE LIHTC PROGRAM.

CURE PERIOD: A REASONABLE TIME AS DETERMINED BY THE AGENCY FOR AN OWNER TO CORRECT ANY VIOLATIONS WHICH HAVE RESULTED IN DEFAULT UNDER THE LAND USE RESTRICTION AGREEMENT.

CURRENT ANTICIPATED INCOME: GROSS INCOME AS OF THE DATE OF OCCUPANCY THAT IS EXPECTED TO BE RECEIVED BY THE TENANT OR TENANTS FOR THE UPCOMING TWELVE MONTHS.

DEVELOPER: ANY INDIVIDUAL, ASSOCIATION, CORPORATION, JOINT VENTURE OR PARTNERSHIP, WHICH IS A SPONSOR OF A LIHTC PROJECT.

DISCREPANCY LETTER: LETTER SENT BY THE AGENCY OR THE COMPLIANCE MONITORING AGENT TO THE PROJECT MANAGER, MANAGEMENT COMPANY AND/OR OWNER/DEVELOPER LISTING ANY DISCREPANCIES NOTED ON A PARTICULAR QUARTERLY STATUS REPORT (FORM TC-92 MC1) AND ANNUAL REPORT, OR AN ANNUAL MANAGEMENT REVIEW.

EARNED INCOME TAX CREDIT: INCOME IN THE FORM OF A TAX CREDIT GIVEN TO FAMILIES WITH BOTH A DEPENDENT AND ANNUAL EMPLOYMENT INCOME OF LESS THAN THE AMOUNT SPECIFIED ON THE EARNED INCOME CREDIT TABLE ISSUED BY THE INTERNAL REVENUE SERVICE. IT IS COUNTED AS INCOME ONLY TO THE EXTENT THAT IT EXCEEDS TAX LIABILITY.

EFFECTIVE TERM OF VERIFICATION: NOT TO EXCEED 120 DAYS. A VERIFICATION IS VALID FOR 90 DAYS, AND MAY BE UPDATED ORALLY FOR AN ADDITIONAL 30 DAYS. VERIFICATION MUST BE WITHIN THE EFFECTIVE TERM AT TIME OF TENANT'S INCOME CERTIFICATION.

ELIGIBLE PERSON: ONE OR MORE PERSONS OR A FAMILY DETERMINED TO BE OF VERY LOW-INCOME.

EMPLOYMENT INCOME: WAGES, SALARIES, TIPS, BONUSES, OVERTIME PAY, OR OTHER COMPENSATION FOR PERSONAL SERVICES FROM A JOB.

EVENT OF NONCOMPLIANCE: OCCURS WHEN THE DEVELOPER FAILS IN THE PERFORMANCE OF COMPLIANCE OBLIGATIONS.

FAIR MARKET VALUE: AN AMOUNT, WHICH REPRESENTS THE TRUE VALUE AT WHICH PROPERTY, WOULD BE SOLD ON THE OPEN MARKET.

GROSS INCOME - SEE ANNUAL HOUSEHOLD INCOME

HOUSEHOLD: THE INDIVIDUAL, FAMILY, OR GROUP OF INDIVIDUALS LIVING TOGETHER AS A UNIT.

IMPUTED INCOME (FROM ASSETS): THE ESTIMATED EARNING POTENTIAL OF ASSETS HELD BY A TENANT USING THE POTENTIAL EARNING RATE ESTABLISHED BY HUD. THE CURRENT RATE IS PROVIDED BY THE AGENCY IN ITS INSTRUCTIONS TO THE INCOME CERTIFICATION.

INCOME CERTIFICATION: DOCUMENT BY WHICH THE TENANT CERTIFIES HIS/HER INCOME, FOR THE PURPOSE OF DETERMINING WHETHER THE TENANT WILL BE OF VERY LOW-INCOME ACCORDING TO THE PROVISIONS OF THE LIHTC PROGRAM.

INCOME LIMITS: MAXIMUM INCOMES AS DEFINED BY THE AGENCY FOR PROJECTS GIVING THE MAXIMUM INCOME LIMITS PER UNIT FOR VERY LOW-INCOME (50% OR 60% OF MEDIAN) UNITS. THESE LIMITS WILL BE ADJUSTED PERIODICALLY BY THE AGENCY BASED ON MEDIAN FIGURES PROVIDED BY HUD.

INELIGIBLE PERSON: ONE OR MORE PERSONS OR A FAMILY WHO APPLY FOR RESIDENCY IN A SET-ASIDE VERY LOW-INCOME UNIT AND WHOSE COMBINED INCOME EXCEEDS THE CHOSEN INCOME LIMITATION (I.E., 50% OR 60% OF MEDIAN) OR SOMEONE LIVING IN A SET-ASIDE UNIT WHO IS NOT CERTIFIED OR UNDER LEASE.

LAND USE RESTRICTIVE COVENANTS AGREEMENT: THE AGREEMENT BETWEEN THE AGENCY AND THE DEVELOPER RESTRICTING THE USE OF THE PROJECT DURING THE TERM OF THE LIHTC COMPLIANCE PERIOD.

LEASE: THE LEGAL AGREEMENT BETWEEN THE TENANT AND THE OWNER WHICH DELINEATES THE TERMS AND CONDITIONS OF THE RENTAL OF A UNIT.

MANAGEMENT COMPANY: A FIRM SELECTED BY THE OWNER/DEVELOPER TO OVERSEE THE OPERATION AND MANAGEMENT OF THE PROJECT AND WHO ACCEPTS COMPLIANCE RESPONSIBILITY.

MANAGEMENT PLAN: PLAN, WHICH DELINEATES POLICIES UNDER WHICH A PROJECT WILL BE MANAGED SUCH AS OCCUPANCY STANDARDS, AND MAINTENANCE PLAN.

MEDIAN INCOME: A DETERMINATION MADE THROUGH STATISTICAL METHODS ESTABLISHING A MIDDLE POINT FOR DETERMINING INCOME LIMITS. MEDIAN IS THE AMOUNT THAT DIVIDES THE DISTRIBUTION INTO TWO EQUAL GROUPS: ONE GROUP HAVING INCOME ABOVE THE MEDIAN AND ONE GROUP HAVING INCOME BELOW THE MEDIAN.

MONITORING AGENT: THE AGENCY OR ITS DESIGNATE RESPONSIBLE FOR MONITORING THE OWNER/DEVELOPER'S COMPLIANCE WITH THE TERMS AND CONDITIONS SPECIFIED UNDER THE LAW AND THE LIHTC PROGRAM.

OWNER/DEVELOPER - SEE DEVELOPER

PERSONAL PROPERTY CONSIDERED AS ASSETS: PROPERTY HELD AS AN INVESTMENT (GEMS, JEWELRY, COIN COLLECTIONS, ANTIQUE CARS). NECESSARY ITEMS (SUCH AS CLOTHING, FURNITURE, CARS, ETC.) ARE NOT CONSIDERED AS ASSETS.

PROJECT: RENTAL HOUSING DEVELOPMENT RECEIVING A LIHTC ALLOCATION.

PRHFA: PUERTO RICO HOUSING FINANCE AUTHORITY (STATE CREDIT AGENCY)

REAL PROPERTY CONSIDERED AS ASSETS: OWNERSHIP IN BUILDINGS OR LAND.

SECTION 8 OF THE U. S. HOUSING ACT OF 1937, AS AMENDED: REGULATIONS USED IN DEFINING AND DETERMINING INCOME AS REQUIRED UNDER SECTION 103(B) (4) (A) OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED.

STUDENT - (FOR PURPOSES OF THE INCOME CERTIFICATION): ANY INDIVIDUAL WHO HAS BEEN, OR WILL BE, A FULL-TIME STUDENT AT AN EDUCATIONAL INSTITUTION WITH REGULAR FACILITIES AND STUDENTS, OTHER THAN CORRESPONDENCE SCHOOL, DURING FIVE MONTHS OF THE YEAR.

SUBSTANTIAL REHABILITATION PROJECTS: FOR PURPOSES OF THE LIHTC PROGRAM, PROJECTS IN WHICH THE GREATER OF 10 PERCENT OF THE ADJUSTED BASIS OF THE BUILDING OR \$3,000 PER LOW-INCOME SET-ASIDE UNITS IS EXPENDED FOR REHABILITATION PURPOSES.

TENANT: OCCUPANT OF A UNIT TO WHOM THE UNIT IS LEASED.

TENANT FILES: COMPLETE AND ACCURATE RECORDS PERTAINING TO EACH DWELLING UNIT, CONTAINING THE APPLICATION FOR EACH TENANT, VERIFICATION OF INCOME OF EACH TENANT, INFORMATION AS TO ASSETS, AN INCOME CERTIFICATION, AND LEASE. ANY AUTHORIZED REPRESENTATIVE OF THE AGENCY, THE COMPLIANCE MONITORING AGENT, THE DEPARTMENT OF TREASURY OR THE INTERNAL REVENUE SERVICE MAY BE PERMITTED ACCESS TO THESE FILES.

VERIFICATION: INFORMATION FROM A THIRD PARTY WHICH IS COLLECTED IN ORDER TO CORROBORATE THE ACCURACY OF INFORMATION CONCERNING INCOME PROVIDED BY APPLICANTS TO A PROJECT.

VERIFICATION REQUEST FORM: THE FORM USED BY MANAGEMENT TO REQUEST VERIFICATIONS OF INCOME FROM THE SOURCE OF THE INCOME. THE FORM MUST STATE THE PURPOSE OF THE REQUEST, INCLUDE A RELEASE STATEMENT BY THE APPLICANT, AND REQUEST THE FREQUENCY AND AMOUNT OF PAY.

* SOURCE: HOUSING TAX CREDITS 1991: STATE AGENCY ADMINISTRATION AND THE PRIVATE AND NON-PROFIT SECTORS, PART vi, "STATE AGENCY MONITORING", PAGES vi-13, THRU vi-16, MARCH 20-21, 1991.