The 2001 Low Income Housing Tax Credit Qualified Allocation Plan
For the State of North Carolina

I. INTRODUCTION

The Qualified Allocation Plan (the "Plan") has been developed by the North Carolina Housing Finance Agency (the "Agency") as administrative agent for the North Carolina Federal Tax Reform Allocation Committee (the "Committee") in compliance with Section 42 of the Internal Revenue Code of 1986, as amended (the "Code", refer to **Appendix T**). For purposes of the Plan, the term "Agency" shall mean the Agency acting on behalf of the Committee, unless otherwise provided.

The Plan was reviewed in three public hearings held in compliance with the Code, prior to final adoption by the Committee. The staff of the Agency was present at the hearings to take comments and answer questions.

Federal and State low-income housing tax credits and Rental Production Program ("RPP") loan funds are available to owners, on a competitive basis, for the development of affordable rental housing in North Carolina. The Agency's goals include supporting the best developments possible given the limited resources available. Therefore, the Agency will select projects which propose developments serving low-income residents for the longest period of time, at appropriate locations and with strong market demand, with the healthiest financial structures, the best architectural design, the best quality of building materials and workmanship, and with the most qualified ownership and management.

The Agency is committed to the development of safe and decent affordable housing that includes supportive services to improve the quality of life for families, the elderly and other individuals with special needs. The Plan, which specifically includes the Multifamily Rental Production General Requirements, the Rental Production Program loan product information outlined below, and all appendices attached hereto, is written and is to be interpreted to support these goals.

Projects utilizing Rental Production Program (RPP) funds should refer to **Appendix R** for special requirements. Projects utilizing state tax credits should refer to **Appendix S**, and those utilizing tax exempt bonds should refer to **Appendices U and V**.

For taxable years beginning on or after January 1, 2000, a North Carolina state tax credit is available for any project that receives an allocation of tax credits under section 42(h)(1) of the Code, and meets the requirements of N.C.G.S. Section 105-129.16B, et seq. The amount of the state credit must be calculated and presented as a source of equity in all applications submitted under the Plan unless the project formally declines or is ineligible for the state credit. Information concerning the state credit can be found in **Appendix S**.

Any applicant proposing to use tax-exempt bonds with four percent (4%) housing tax credits must meet all of the requirements outlined in **Appendix U**. They should also carefully read the Plan, as the Code requires they be in compliance with the Plan to receive four percent (4%) tax credits. The application, application process, deadlines, and fees are the same for applicants applying for four percent (4%) tax credits with bond financing, as those applying for the nine percent (9%) credits.

Applicants financing more than 50% of their project with tax-exempt bond proceeds and not seeking a low-income housing tax credit allocation from the Committee must complete a separate application and are not required to fully comply with the Plan as explained in **Appendix V**.

The Committee will only allocate low-income housing tax credits in compliance with the Plan. The Code requires that the Plan contain certain elements. In general, these elements and others added by the Committee are:

A. Description of the project selection criteria to be used in determining housing priorities appropriate for local conditions.

B. Criteria which give preference to:

1. Project location and site suitability.
2. Evidence of sufficient market demand and other characteristics such as local housing needs and priorities.
3. Serving the lowest income tenants.
4. Serving qualified tenants for the longest periods.
5. Project characteristics including design and quality of construction, bedroom mix, supportive service plans and amenities packages.
6. Soundness of the proposed financial structure.
7. Diversity of Principal(s) and their experience, quality and quantity of development and management experience, and the ability to maintain regulatory compliance.
8. Participation of local tax-exempt nonprofit organizations.
9. Tenant populations with special housing needs.
10. Willingness to solicit referrals from public housing waiting lists.

C. A description of the Agency's compliance monitoring program, including a description of procedures to notify the Internal Revenue Service of noncompliance with the requirements of the program.

The following sections of the Plan contain these requirements. If you have questions, please contact:
Rental Investment Group of the North Carolina Housing Finance Agency
P.O. Box 28066
Raleigh, NC 27611-8066, phone: (919) 877-5712

II. DEFINITIONS

The following terms as defined below are used throughout the Plan.
Affiliate: As to any person or entity (i) any entity of which a majority of the voting interest is owned by such person or entity, (ii) any person or entity directly or indirectly controlling (10% or more) such person or entity, (iii) any person or entity under direct or indirect common control with any such person or entity, or (iv) any officer, director, employee, manager, stockholder (10% or more), partner or member of any such person or entity or of any person or entity referred to in the preceding clauses (i), (ii) or (iii).

Applicant: The ownership entity that is applying for the tax credits and/or any RPP loan funds, as applicable.

Allowable Development Cost: Cost upon which the Agency calculates allowable developer fees. Includes lines 2-36 less lines 8, 9 and 10 in the Project Development Cost Description in the application.

Code: The Internal Revenue Code of 1986, as amended, including any successor provisions. See **Appendix T** for excerpt.

Developer: Any individual or entity responsible for initiating and controlling the development process and ensuring that all, or any material portion of all, phases of the development process are accomplished. Furthermore, the developer is the individual or entity reflected in the Ownership Entity Agreement and any and all Development Fee Agreements.

Displacement: The moving of a person and/or such person’s personal property from their current residence as a direct result of an applicant’s project being developed at the site of such residence.

Displacement, temporary: Displacement that will result in the displaced person remaining as a tenant in the project that is receiving tax credits and/or loan funds administered by the Agency.

An example of temporary displacement includes the acquisition and rehabilitation of an existing multifamily residential development in which half the units are vacant. The vacant units would be rehabilitated first, creating opportunities to relocate current tenants within the development to minimize project costs and disruption to tenants.

Distressed Neighborhood: For municipalities with populations greater than 25,000 residents only, a distressed neighborhood includes, but is not limited to, a census tract (or tracts, if a site is on or near a tract boundary, a determination the Agency will make at its discretion) in which 25% or more of the households have incomes that are

at or below the national poverty level, based on most recent census data. The applicant must supply the poverty rate percentage (percentage of households below the poverty level) for the census tract(s) in which the project is to be located for projects in municipalities with populations greater than 25,000 residents, as part of the Preliminary Application, and the Agency will verify this data as part of its contracted market analysis work.
A distressed neighborhood also includes, but is not limited to, the following conditions within a half-mile radius:

- a majority of structures that are deteriorated, dilapidated, not occupied and/or poorly maintained
- concentrations of minority and/or low income households
- deteriorating infrastructure
- low access to public transportation and basic services and retailing

The Agency will have final discretion in determining if a neighborhood qualifies as distressed.

Efficiency Apartment: A dwelling unit with a minimum of 450 square footage (assuming new construction) in which the bedroom and living area are contained in the same room. Each unit has a full bathroom (shower/bath, lavatory and water closet) and full kitchen (stove top/oven, sink, full size refrigerator) which is located in a separate room.

Elderly Housing: Owners may choose one of three established definitions for each project. A single project cannot be divided into both elderly and general population, regardless of how units are physically configured. The first two definitions are specifically described in the Federal Fair Housing Law. Owners should read the law itself and obtain professional guidance to determine compliance. These definitions are provided for general information only.

1. Housing that is intended and operated for occupancy by persons 55 years of age or older. At least 80% of the occupied units must be occupied by at least one person who is 55 years of age or older.

2. All units are restricted to households in which all members are over the age of 62.

3. Housing in which the mortgage is financed by a federal program specifically designed for the elderly which has its own occupancy requirements. This includes housing developed under the HUD Section 202 program and elderly projects financed using Rural Development (RD) Administration programs. NCHFA financing alone does not make a project eligible for this definition.

Entity: Without limitation, any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, public agency or other entity, other than a human being.

Gross Square Footage or Floor Area: Space measured from outside walls to include all building footprints and covered spaces.

HOME Program Rents: Generally, projects using RPP loan funds must set rents below the lesser of the rent calculated as affordable for households at 50% of median income or the Fair Market Rent (FMR) listed in Appendix J and published by HUD. Users should contact the Agency concerning this calculation if they are unfamiliar with HOME Program rules.

Homeless Populations: The homeless include persons without a fixed nighttime residence, persons living in a shelter or in a transient residence for persons that provides temporary quarters, and persons staying in a place not designed or ordinarily used for sleeping.

Housing Quality Standards: Minimum physical standards established by the Department of Housing and Urban Development (HUD).

Immediate Family: With respect to any Person, his or her spouse, children, including adopted children, step-children, parents, parents-in-law, nephews, nieces, brothers, sisters, brothers-in-law, and sisters-in-law, each whether by birth, marriage, or adoption, as well as any *inter vivos* trusts created for the benefit of such Person.

Management Agent: Individual(s) or Entity responsible for the day to day operations of the development, which may or may not be related to the Owner(s) or ownership entity.

Material Participation: Involvement in the development and operation of the project on a basis which is regular, continuous and substantial throughout the compliance period as defined in Code sections 42 and 469 (h) and the regulations promulgated thereafter.

Maximum Housing Expense: The maximum rent, utilities and any other required charges paid by the tenant calculated on a monthly basis as permitted under Section 42 of Internal Revenue Code (**Appendix T**).

Neighborhood: Areas within one-half mile radius of subject property.

Net Square Footage: The outside to outside measurements of all finished areas that are heated and cooled (conditioned). Examples include hallways, community and office buildings, dwelling units, meeting rooms, sitting areas, recreation rooms, game rooms, etc. Breezeways, stairwells, gazebos and picnic shelters are examples of un-conditioned outside structures that can not be used as net square footage.

One Bedroom Apartment: A dwelling unit of at least 600 square feet (assuming new construction), meeting state and local building code requirements, containing at least four separate rooms including a living/dining room, full kitchen, a bedroom and full bathroom.

Owner(s): Person(s) or entit(ies) that own an equity interest in the Ownership Entity.

Ownership Entity: The ownership entity to which tax credits and/or any RPP loan funds will be awarded..

Ownership Entity Agreement: A written, legally binding agreement describing the rights, duties and obligations of owners in the ownership entity. The agreement should identify all parties involved in the project, including all owners and principals, and describe each party's duties, responsibilities and any actual or expected benefits, including fees and earnings. The owner(s) who receive points for owner experience in the project applying for the nonprofit set aside must, by the terms of the ownership entity agreement, remain an owner in the ownership entity for the applicable elected tax credit compliance period, unless such owner(s) receives prior written approval from the Agency to withdraw or be replaced in the ownership entity before the end of such compliance period. The owner(s) who receive points for owner experience in a project with for-profit owners must, by the terms of the ownership entity agreement, remain an owner in the ownership entity for at least five years from placed in service, unless such owner receives prior written approval from the Agency to withdraw or be replaced in the ownership entity before the end of such five year period.

Paint to Paint Square Footage: Interior heated rental dwelling space (does not include community room space).

Person: *A*ny individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so requires.

Principal: Principal includes (1) all such persons or entities who directly or indirectly earn a portion of the development fee for development services with respect to a project and/or earn any compensation for development services rendered to such project, which compensation is funded directly or indirectly from the development fee of such project, and such amount earned exceeds the greater of 15% of the development fee for such project or $50,000, and (2) all affiliates of such persons or entities in clause (1) who directly or indirectly earn a portion of the development fee for development services with respect to any project in the current year and/or earn any compensation for development services rendered to any project in the current year, which compensation is funded directly or indirectly from the development fee of any such project, and such amount earned exceeds the greater of 15% of the development fee for such project or $50,000.

Qualified Corporation: Any corporation if 100% of the stock of such corporation is held by a nonprofit organization as determined under Code Section 42 (h) (5) at all times such corporation is in existence.

Qualified Unit: A unit receiving tax credits and/or RPP loan funds from the Agency. Such units must be rented to households with incomes at or below the appropriate tenant income limit (by household size) elected in the application.

Rental Production Program (RPP): Agency loan program for multifamily affordable rental housing administered and serviced by the North Carolina Housing Finance Agency. RPP funds may include both federal HOME funds as well as State Housing Trust Funds. It is used in conjunction with tax credits as a source of gap financing. See Rental Production Program information (**Appendix R**).

Significant Non-Compliance (for purposes of deducting points from an application): An event occurring after June 30, 1993 that results in the issuance of an 8823 for any of the following, provided the issue was not subsequently corrected: 1) Failure to maintain accurate records for each unit, 2) Failure to rent to a Section 8 voucher or certificate holder, 3) Rents for the development are not properly restricted, 4) The development has transient occupancy, 5) Any unit for which low income housing tax credits were allocated is not available to the general public, 6) There are ineligible tenants found to be occupying qualifying units, 7) Failure of the development to maintain minimum housing quality standards, or 8) Failure to re-certify low income tenants on an annual basis.

Single Room Occupancy (SRO) Unit: A single room dwelling unit with a minimum of 250 square feet (assuming new construction) that is the primary residence of its occupant(s). The unit must contain either food preparation or sanitary facilities. At least one component of either a full bathroom (shower, water closet, lavatory) and/or a full kitchen (refrigerator, stove top and oven, sink) is missing. A SRO serves a special population and has targeted supportive services on site or at an appropriately convenient location to which transportation is provided for that population. There are shared common areas in each building which contain elements of food preparation and/or sanitary facilities that are missing in the individual units.

Stabilized Occupancy: Maintenance of at least 93% occupancy for six consecutive months.

Substantial Renovation: Replacement of one or more major building components. Major building components include roof structures, wall or floor structures, foundation, plumbing system, electrical system, central heating and cooling systems. Hard construction costs must exceed $7,000 per unit, calculated using lines 2 through 7 in the Project Development Cost Description in Part A of the application and certified at final cost certification.

In order to receive ranking points, an owner of an occupied property must perform at least $10,000 in hard construction cost renovations per occupied unit, calculated using lines 2 through 7 in the Project Development Cost Description in Part A of the application, and only if supported by the physical needs assessment.

Please note the special requirement for all projects using RPP funding that any rehabilitation project must involve substantial rehabilitation of at least $25,000 per unit in total development cost. If any units are currently occupied, applicant must have a plan with the local government for tenant relocation, and must have funding for relocation using funds other than RPP funds.

Studio Apartment: A dwelling unit with a minimum of 375 square feet (assuming new construction) in which the bedroom, living area and kitchenette are contained in the same room. Each unit has components of a full bathroom (shower/bath, lavatory and water closet) and full kitchen (stove top/oven, sink, refrigerator).

Three Bedroom Apartment: A dwelling unit with a minimum of 1,000 square feet (assuming new construction), meeting state and local building code requirements containing at least seven separate rooms including a living/dining room, full kitchen, three bedrooms and 1.75 bathrooms, with each unit including a minimum of one bath with a full tub and one bath with an upright shower stall.

Two Bedroom Apartment: A dwelling unit with a minimum of 800 square feet (assuming new construction), meeting state and local building code requirements containing at least five separate rooms including a living/dining room, full kitchen, two bedrooms and full bathroom.

Window of Affordability: Ninety-five percent of the Maximum Housing Expense for low-income areas and ninety percent of the Maximum Housing Expense for high-income areas (see **Appendix K**). This calculation determines the highest total housing expense (including rent, tenant-paid utilities and any other required fees) permitted by the Agency for projects receiving low-income housing tax credits or RPP funds. This requirement must be met for the entire compliance period. Note: Tax credit projects that select the minimum set-aside of 40% at 60% but also choose to target more deeply (i.e. 50% of units at 50%) will **not** be required to use the window of affordability when figuring the rents for these lower targeted units.

III. SET-ASIDE PROCEDURES

A. In general, the total volume cap of federal low-income housing tax credits available to North Carolina is $1.25 per person living in the state plus any unused carryover from the previous year and any surrendered credits from the previous two years. For 2001, the population allocation is estimated to be $9,564,000. The Committee reserves the right to revise the available credits in each set-aside, prorated from any new population volume cap and made available by issuance by the IRS of carryforward rules, regulations, or guidelines.

In order to ensure that the tax credits are distributed geographically and to projects of different sizes, the Committee has established certain set-asides. These set-asides will apply to the ranking and selection of all projects. If there is insufficient demand by eligible projects in any geographic area, funds will be transferred to other areas and projects will be awarded in descending order of the project point rankings.

No county or project will be awarded tax credits exceeding $1,500,000 unless it is necessary to meet another set-aside requirement of this Plan or to completely fund a project request. At its sole discretion, the Agency may waive this limit for proposals utilizing HOPE VI financing or for other large scale revitalization efforts characterized by a high degree of committed public subsidies or in order to implement a disaster relief plan.

In order to encourage broad participation in the development of tax credit projects by a variety of developers across North Carolina and to attempt to minimize the impact of the departure or financial failure of one or more developers, during the calendar year, any principal will be limited to an award of not more than 15% of the total tax credits available to the state. All persons and entities meeting the definition of principal as defined by the Plan will be certified by the applicant on the application, at credit reservation and at carryover allocation. Any project that qualifies for a reservation of credits but that would result in a principal exceeding this 15% limit will be disqualified and ineligible for a credit reservation in the current year, provided, however, if a qualifying project results in a principal exceeding this 15% limit and at least one-half of the projects' credits would be within the principal's 15% limit, such project will not be disqualified or ineligible for credits, and the 15% limit for such principal is waived to the extent of the credits in excess of the 15% limit needed to fully fund such project with credits.

B. Set-Aside Categories. The following set-asides apply for calendar year 2001.

1. Geographic Set-Asides

2001 Tax Credit Set Asides

TOTAL	**WEST (15%)**	**CENTRAL (50%)**	**EAST (35%)**
$9,564,000	$1,434,600	$4,782,000	$3,347,400

The distribution to geographic regions is based primarily on population and follows the State's Consolidated Plan. **Appendix O** lists the counties by region.

2. Non-Profit Set-Aside

Congress mandates that 10% of the State's tax credit ceiling must be set aside for projects with nonprofit entities, as owners that materially participate in the project. The Committee has set aside an additional 10% of the ceiling for such projects. A nonprofit entity seeking to apply for the nonprofit set-aside must be a community-based 501 (c)(3) or 501 (c)(4) nonprofit in existence in North Carolina for at least 12 months prior to applying for credits that has as one of its exempt purposes the fostering of low income housing, and it must be an owner, directly or indirectly in the ownership entity applicant. In addition the nonprofit entity (or qualifying corporation) must have material participation in the development, ownership and management of the proposed project throughout the full tax credit compliance period. The nonprofit entity cannot be controlled by or affiliated with or have an identity of interest with a for-profit organization other than a qualifying corporation.

Twenty percent (20%) of the total tax credits will be set-aside for projects with nonprofit owners demonstrating material participation. A nonprofit or qualifying corporation must be able to demonstrate that they meet the material participation requirement of Section 469(h) by being involved on a regular, continuous and substantial basis in the development and operation of the project throughout the full tax credit compliance period, and they must meet all other requirements of a project involving a nonprofit entity as stated in the Plan and the Code. Credits will be awarded, within the geographic region where the project is located to eligible projects with qualified nonprofits owners in descending order of their point ranking. These projects will take precedence over other projects until the nonprofit set-aside is exhausted. Any applications for projects with qualified nonprofit owners left after the 20% set-aside must compete equally with all other applications in the region. Please note that, regardless of whether a project with qualified nonprofit ownership received a reservation of credits from the 20% set-aside, every application the Agency receives that chooses the nonprofit applicant designation will be required to comply with the requirements for projects with qualified nonprofit ownership, including but not limited to, material participation standards, set forth in the Plan and the Code.

The Committee reserves the right to authorize a forward commitment of 2002 tax credits to the last application awarded for the year in order to fully fund an application that otherwise would have received a partial award of credits in accordance with Section VI. A. 1.

IV. APPLICATION PROCEDURES

A. The following schedule will apply to the application process for 2001.

December 15, 2000	Preliminary applications: The submission window will be December 15, 2000 through January 19, 2001.
January 19, 2001	Last day for submittal of preliminary applications. Applications will be accepted by the Agency until 4:30 p.m.
March 26, 2001	Agency will notify applicants of their site and market scores.
April 27, 2001	Deadline to submit a full application for tax credits, RPP funds and a tax-exempt bond allocation to be used with 4% tax credits.
Late July, early August 2001	Final awards will be announced.
November 15, 2001	Cost certifications are due for projects receiving allocations to be placed in service in 2001. For projects with reserved tax credits not placed in service by the end of 2001. Carryover allocation agreements along with third party certification of costs expended on **Appendix X** are due to the Agency by 4:30 p.m.

B. Page 2 of Application Part A lists the Exhibits required to be submitted with each application and identifies minimum threshold requirements for submission and eligibility to be considered for project selection.

C. Processing, application and reservation fees for tax credits are due at the time applications are submitted as follows:

1. All applicants are required to pay a nonrefundable processing fee of $4,500 at the submission of the preliminary application requiring site and market information.

2. At the time of submitting a full application, for-profit applicants are required to pay a reservation fee equal to 5% of a single year's tax credits, calculated using the full 9% and/or 4% AFR, less the $500 processing fee. This requirement also applies to applicants seeking 4% housing credits with tax-exempt bond financing.

3. At the time of submitting a full application, nonprofit applicants are not required to pay an additional fee. If reserved tax credits, the nonprofit applicant must pay a reservation fee equal to 5% of a single year's tax credits, calculated using the full 9% and/or 4% AFR, at the time of reservation less the $500 processing fee.

4. If tax credits are reserved for a project, the reservation fee is considered earned and will be retained by the Agency whether the credits are used or not. If tax credits are not reserved to a project, the Agency will refund the reservation fee less $500 for processing.

5. If expenditures of legal services are incurred by the Committee or Agency to correct mistakes of the Owner which jeopardize use of the tax credits, such legal costs will be paid by the Owner in the amount charged to the Agency or the Committee.

D. All information that an applicant wants the Agency to consider should be submitted to the Agency by the application deadline. The Agency reserves the right to work with applicants to modify elements of an application after the submission deadline to maximize compliance with the Plan.

E. Applications should be mailed to:

N.C. Housing Finance Agency
Rental Investment Group
P.O. Box 28066
Raleigh, NC 27611-8066

Or delivered to:

N.C. Housing Finance Agency
Rental Investment Group
3508 Bush Street
Raleigh, NC 27609

V. PROJECT SELECTION CRITERIA USED TO DETERMINE HOUSING PRIORITIES

To meet the statutory requirements of Code Section 42, which defines basic requirements for the Plan, and to provide a reasonable selection process, the following point ranking system will be used to prioritize projects. Each project will be ranked by awarding points under sections A, B, C, D, E, F and G. Preliminary applications will be evaluated first on the suitability of the chosen site and market for affordable housing. See the threshold requirements described in the General Requirements, Section VI of the Plan. If the site and market do not meet **all** of the site thresholds outlined in the General Requirements, Section VI of the Plan, the project will not be allowed to submit a full application.

Full applications will be considered based on their site and market, rent affordability, financial structure, development team, design quality, creation of affordable units, geographic distribution, supportive services and targeted populations. Applications must meet all threshold requirements described in Section VI. B. of the Plan to be considered for award and funding. Further, full applications, including those planning to use tax-exempt financing with four percent (4%) housing tax credits must receive at least 285 points to receive a reservation. Points received in the earlier site and market analysis (Section A below) will be added to points received in Sections B, C, D, E, F and G.

An allocation of tax credits by the Committee for any specific project does not constitute a representation or warranty that the ownership entity or its owners will qualify for or be able to use the tax credits according to Section 42 of the Code. In addition, the Agency's interpretation of Section 42 of the Code is not binding on the Internal Revenue Service, and the Agency neither represents nor warrants to any owner, equity investor, principal or other program participant how the Internal Revenue Service will interpret or apply any provision of the Code in any instance. Each owner and its agents should consult its own legal and tax advisors on these issues.

Any misrepresentation, false information or omission in the application document may (in the sole discretion of the Agency) result in disqualification of the application for the year. This may also result in projects in which the owner and/or principal(s) who were involved in such misrepresentation, false information or omission being disqualified for consideration for tax credits. Any misrepresentation, false information or omission in the application document may (in the sole discretion of the Agency) result in a revocation of an allocation of credits to the project.

A. SITE AND MARKET EVALUATION (MAXIMUM 215 POINTS)

1. SITE EVALUATION (MAXIMUM 140 POINTS)

The following evaluation will be based upon a preliminary application submitted to the Agency prior to the submission of the full application. The Agency will evaluate the site's existing conditions and the effects of known future planned adjacent land uses. Example of future uses may include road, public utility, commercial, institutional, or industrial projects. Evaluation of individual sites will include a relative comparison with other sites the Agency considers to be within the same market area and which will compete with one another, in the Agency's discretion. The Agency reserves the right in its discretion to assess negative points to less qualified sites in the same market area to avoid market saturation of low income targeted units in a particular market area. The Agency will consider the market analysis in making this determination.

(a) NEIGHBORHOOD CHARACTERISTICS (MAXIMUM 80 POINTS) This category focuses on how the neighborhood will affect the proposed development. "Neighborhood" is defined as the areas within a one-half mile radius of subject property. Revitalization plans will be considered only if other funding is already committed for comprehensive revitalization. Evidence of significant revitalization activities already implemented will contribute to more favorable scoring under this section.

(1) Physical conditions of buildings and grounds in the neighborhood, whether commercial, industrial, multifamily or single family residential are acceptable with no noticeable deterioration. Proposed developments in distressed neighborhoods must submit evidence with the preliminary application of a community revitalization plan adopted and funded by a unit of government or nonprofit organization. This information should include evidence of any recent revitalization activities as well as details and timing of planned development.

(2) Existing neighborhood and surrounding land uses are compatible with proposed development. The ideal neighborhood should be primarily residential and have a **balance** of other land uses, including non-competing multifamily and single family dwelling units, recreational facilities, schools, churches, shopping and services

(3) For new construction projects, there are no other competitive multifamily rental developments in less than very good condition (including tax credit developments) within the market area as determined by the Agency of the proposed project. Existing developments within the market area as determined by the Agency of proposed projects must be in very good physical condition and have no vacancy problems. (For phase two projects, phase one developments will not be considered to violate the market area delineation requirement).

(b) SITE SUITABILITY (MAXIMUM 40 POINTS)

(1) Street and/or access road serving the proposed project has adequate capacity for the volume of new traffic.

(2) Site is free from excessive traffic and noise, including that from cars, trains and airplanes, per HUD regulation 24 CFR Part 51 (**Appendix P**). The Agency reserves the right to request an engineer's noise study at the owner's expense. Sites adjacent to existing or proposed beltlines, interstate highways and multilane thoroughfares will be required to submit an engineer's noise study. The Agency will consider noise mitigation proposals. The proposals must be incorporated in the preliminary and full application, architectural plans and project specifications.

(3) Site does not enter or exit onto a major high-volume traffic artery. The speed limit and the number of travel lanes in each direction will also be considered. If adverse conditions exist, a traffic study may be required.

(4) No obvious physical barriers to development should be present. Examples include steep slopes, deep ravines, marshes, wetlands, and excessive overhead utilities.

(c) DEVELOPMENT COMPATIBILITY (MAXIMUM 20 POINTS)

This category focuses on how the proposed development affects the existing neighborhood.

New Construction Projects:

(1) Proposed development is compatible in use, scale, and aesthetics with existing neighborhood.

(2) Proposed development does not add to an existing preponderance of assisted or subsidized units as determined by the Agency.

Rehab/Adaptive Reuse Projects:

(1) Development/building is compatible in use, scale, and aesthetics with existing neighborhood.

(2) Physical condition of the building is acceptable.

(3) Building is suitable for residential use considering proposed floor plans, size, parking, structure and scale.

(4) Proposed development does not add to an existing concentration of income targeted, assisted or subsidized units as determined by the Agency.

2. MARKET ANALYSIS (MAXIMUM 75 POINTS)

The Agency will contract directly with market analysts to perform market studies. Applicants will still be able to contract independently with market analysts to conduct research to identify development sites, and will be allowed to submit such market information to the Agency as optional supplemental data that the Agency will take into consideration on an advisory basis only. In cases in which the findings of the Agency's market study differ from those of the applicant's market study, the Agency will rely for scoring purposes on the analysis presented in its study. The Agency will make research assignments to analysts in such a way as to ensure that potential conflicts of interest in particular markets are eliminated.

Market studies will be scored based on the following criteria:

A comprehensive and integrated review with low capture rate based on need and demand analysis and low vacancy rates of comparable units in market area (Up to 75 points)

B. RENT AFFORDABILITY (MAXIMUM 95 POINTS)

1. Federal Rent Subsidies (Maximum 20 points)

(a) A maximum of 15 points will be awarded for a firm commitment that provides project-based rental subsidies. Committed subsidies for 100% of the units earn 15 points; committed subsidies for at least 60% of the units earn 10 points. If assistance is for fewer than five years, to receive points, applicants must submit a letter from the issuing Agency committing to renew the subsidy contract for as long as possible subject to Congressional funding.

(b) Five (5) points will be awarded for a written agreement between the owner and a public housing authority (PHA). The agreement must commit (i) the PHA to include the development in any listing of housing opportunities where households with tenant-based subsidies are welcome, and (ii) the project's management agent to actively seek referrals from the PHA to apply for units at the proposed development. This agreement should be in the form of a letter submitted to and signed by both the owner and the PHA following the format in Appendix H. If the PHA refuses to cooperate for any reason, a copy of the PHA declination letter must be submitted as well as a statement of commitment by the applicant to seek referrals from the PHA.

2. Mortgage Subsidies (Maximum 40 points)

Sources of mortgage subsidies include the Federal Home Loan Bank Affordable Housing Program, the Division of Community Assistance, a Public Housing Authority, local Community Development Block Grant funds, other local development funds and Rural Development. Other sources of public funding may qualify provided they are approved in writing in advance by the Agency.

Uncommitted RPP funds will not be considered in the calculation.
Only loans from established lenders or foundations will be considered a subsidy.

The resulting percentages will earn points as described below:

Forty (40) points will be awarded for any firm mortgage subsidy commitment that will reduce the debt service by 25% or more. Twenty (20) points will be awarded for any firm commitment that will reduce the debt service by more than 10% but less than 25%. Reduction in project debt service will be measured in the following way:

Formula:
Step one: Divide (Projected debt service including the subsidized debt terms)
by
(Debt service if all debt were amortized at the same terms as the market rate debt)
Step two: Subtract result of step one from 1(one).

3. Tenant Rent Levels (Maximum 20 points)

(PROJECTS WILL BE MONITORED FOR RENT RESTRICTIONS FOR THE GREATER OF THE PERIOD INDICATED IN THE EXTENDED USE AGREEMENT OR 15 YEARS, SUBJECT TO THE CODE.)

The applicant may earn points under one of the following scenarios:

If the project is in a high-income county:

(a) Fifteen (15) points will be awarded for projects in which 100% of qualified units will be rent restricted and affordable to households with incomes less than 50% of county median income adjusted for family size.

(b) Five (5) points will be awarded for projects in which at least 50% of qualified units will be rent restricted and affordable to households with incomes less than 50% of county median income adjusted for family size. The remaining units must be rent restricted and occupied by households with incomes less than 60% of the county median income adjusted for family size.

If the project is in a low-income county:

(a) Twenty (20) points will be awarded for projects in which at least 50% of qualified units will be rent restricted and affordable to households with incomes less than 50% of county median income adjusted for family size. The remaining units must be rent restricted for households with incomes less than 60% of the county area median adjusted for household size.

(b) Fifteen (15) points will be awarded for projects in which at least 40% of qualified units will be rent restricted and affordable to households with incomes less than 50% of county median income adjusted for family size. The remaining units must be rent restricted for households with incomes less than 60% of the county area median adjusted for household size.

(c) Five (5) points will be awarded for projects in which 100% of qualified units will be rent restricted and occupied by households with incomes less than 60% of county median income adjusted for family size.

If an applicant is planning a mixed income project, they will receive the points described above based on the total number of qualified units for which tax credits are proposed and how deeply rents for these units are targeted. Market rate units will not be considered in the calculation.

4. Commitment to Extend Low-income Occupancy (Maximum 15 points)

Up to fifteen (15) points will be awarded for projects based on a binding commitment to extend the low- income occupancy requirement beyond the 15-year compliance period. Points will be added at 1 point for each additional year beyond 15 years up to 30 years. To receive these points, an applicant must sign an Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (aka: extended use agreement) that will be recorded with the register of deeds in the county the property is located. In doing so, the applicant binds the project to maintain affordable units for low-income occupancy as proposed in the application and extended use agreement.

C. FINANCIAL STRUCTURE (ONLY NEGATIVE POINTS AVAILABLE)

Program Requirements describe how the Agency will underwrite each project. Below are areas where projects will lose points due to costs determined to be higher than typically warranted.

1. While the Agency uses both "per unit" and "per square foot" standards to evaluate costs, we also recognize that a single standard cannot fairly measure every one of a wide array of project types. In order to more equitably compare costs between different development types, the Agency will apply either the following "per unit" or "per net square foot" standard, whichever is less.

The equity raised from historic preservation tax credits will be subtracted from the total development cost before this calculation is made.

The following points will be deducted for projects where the total development cost less land and reserves are above $69,000 per unit or $69 per net square foot and up to the following levels:

$70,000per unit	**or**	$70 per net square foot	(-2)
$71,000		$71	(-4)
$72,000		$72	(-6)
$73,000		$73	(-8)
$74,000		$74	(-10)
$75,000		$75	(-15)
$76,000		$76	(-20)
$77,000		$77	(-35)
$78,000		$78	(-50)
$81,000		$81	(-75)
$84,000+		$84+	(-100)

One hundred (100) points will be deducted where total development costs are greater than $84,000 per unit or $84 per net square foot. The Agency reserves the right to waive the assessment of negative points in this section for proposals which foster decreased density, mixed income and/or mixed use through development of non-garden, non-townhouse designs such as duplex, triplex and quadplex construction, or address unique local downtown circumstances, and are also part of a larger publicly funded comprehensive revitalization plan. Non-garden duplex, triplex and quadplex construction with a maximum of 24 units in towns of 10,000 population or less may also qualify for a waiver under this section.

D. CAPABILITY OF THE PROJECT TEAM (MAXIMUM 60 POINTS)

A maximum of 30 points total will be awarded for projects based on the experience of the owner(s) in the ownership entity in successfully developing, placing in service, operating, and maintaining compliance in low-income rental and/or conventional market rate rental housing as owner(s) during the past 10 years. The Agency will score either in-state **or** out-of-state experience, not both, in order to derive the maximum potential points under this section must complete the form in **Appendix C**. The Agency will have final discretion in determining whether to award experience points to owners that formerly served as staff for an established development firm and are requesting owner experience points based on that prior work experience. Using the criteria above, the Agency will determine, on a case-by-case basis and upon detailed independent review, whether such experience credit is justified.

The Agency will require executed, written agreements that clearly specify division of duties, rights, and obligations, including compensation, among owners and principals in a project.

<u>Local housing authority applicants and sponsors:</u> The Agency will consider evaluations by HUD through the Public Housing Assessment System (PHAS) process to evaluate the performance of local housing authority applicants and sponsors. Authorities with a PHAS score of less than 90 will not receive points in this section, unless they partner with an experienced developer eligible to earn points in this section. Authorities with scores over 90 are eligible to receive points. They will be scored according to the number of units they have developed in the past 10 years.

1. Owner Experience: (Maximum 30 points)

(a) **In-State** Development Experience (Maximum 30 Points)

- At least three (3) projects totaling at least 72 units developed and operating in compliance with applicable codes and regulations earns 15 points.
- Five (5) or more projects totaling at least 120 units developed and operating in compliance with applicable codes and regulations earns 30 points.

(b) **Out-of-State** Development Experience (Maximum 15 Points)

- At least three (3) projects totaling at least 72 units developed and operating in compliance with applicable codes and regulations earns 8 points.
- Five (5) or more projects totaling at least 120 units developed and operating in compliance with applicable codes and regulations earns 15 points.

(c) If the owner is found to be directly or indirectly responsible for any other projects in which there is uncorrected significant noncompliance more than three months from the date of notification by the Agency, to the extent that the Agency at its discretion deems such noncompliance to be correctable within that period, the project may be assessed up to negative forty (-40) points at the Agency's sole discretion for each such other project.

The Agency reserves the right to determine the capacity of a owner(s) to undertake a project that is significantly different than anything successfully completed previously. The Agency also may request individual and/or corporate credit reports.

2. Management Experience: (Maximum 30 points)

The Agency will score either in-state **or** out-of-state experience, not both, in order to derive the maximum potential points under this section. Projects found out of compliance, in poor physical condition or with a history of financial problems will not be counted in awarding points.

The Agency will have final discretion in determining whether to award experience points to a management agent based on the prior management experience of a person or entity staffing the management agent. The Agency will determine, on a case-by-case basis and upon detailed independent review, whether such experience credit is justified.

The management agent listed on application must be used by the ownership entity of the development for at least two years after project completion, unless the agent is guilty of specific nonperformance of duties. The Agency will require, prior to carryover allocation, the submission of an executed contract with at least a two-year term between the ownership entity and the management agent for management services for the project. Upon prior written notification to the Agency, a substitution of management agent prior to the end of the two-year period will be allowed if the replacement agent would score at least as many experience points as the agent listed in the application.

The Agency will look favorably on entities subcontracting with established management companies to supplement their management capacity.

(a) **In-State** Management Experience (Maximum 20 Points)
A maximum of 20 points will be awarded for projects based on the experience of the management agent to manage and maintain compliance of **low-income housing tax credit units in North Carolina during the past 10 years**

- 20 to 100 units managed earns 5 points;
- 101 to 250 units managed earns 10 points;
- 251 to 500 units managed earns 15 points; and
- 501 or more units managed earns 20 points.

OR

- Management companies managing over 500 units of other kinds of multifamily housing in compliance with applicable income restrictions will earn 10 points.

(b) **Out-of-State** Management Experience (Maximum 10 Points)

A maximum of 10 points will be awarded for projects based on the experience of the management agent to manage and maintain compliance of **low-income housing tax credit units outside North Carolina during the past 10 years.**

In order to be eligible to receive points under this section, the applicant must supply to the Agency, as part of the full application, letters from each appropriate state housing agency or designated monitoring agent from the state in which management experience is being claimed. Such letters must be on state housing agency letterhead, clearly identify each project name, the number of low income units as well as the number of total units. The letters must also verify that each development being proposed for consideration has no outstanding uncorrected significant noncompliance conditions. See the Definition section for a description of Significant Noncompliance.

- 101 to 250 units managed earns 5 points;
- 251 to 500 units managed earn 8 points; and
- 501 or more units managed earn 10 points.

OR

- Management companies managing over 500 units of other kinds of multifamily housing in compliance with applicable income restrictions will earn 5 points.

(c) Management Questionnaire
A maximum of 10 points will be awarded for the satisfactory completion of the Management Questionnaire (Appendix C) to operate and maintain compliance at the proposed development.

(d) If the management agent is found to be directly or indirectly responsible for any other projects in which there is uncorrected significant noncompliance more than three months from the date of notification by the Agency, to the extent that the Agency at its discretion deems such noncompliance to be correctable within that period, the project may be assessed up to negative forty (-40) points at the Agency's sole discretion for each such other project.

If the owner and the management agent with respect to a project are the same person(s) or entity(ies), the Agency may, in its discretion, determine not to assess negative points to the project under both D.1.(c) and D.2.(d) for the same incident of noncompliance.

3. Project Team Negative Assessments and Restrictions:

Any owner, principal or management agent that has been debarred or received a limited denial of participation in the past 10 years by any federal or state agency may, in the Agency's discretion, be barred from participating in any Agency multifamily rental development program.

Any project with an owner or principal who is found to be directly or indirectly responsible for any other projects in which there is uncorrected significant noncompliance more than six months from the date of notification by the Agency, to the extent that the Agency at its discretion deems such noncompliance to be correctable within that period, with respect to any other tax credit project, may be disqualified at the Agency's sole discretion.

(a) Up to negative twenty (-20) points may be assessed against a project with an owner, principal or the management agent who within the past ten years has been in a bankruptcy, an adverse fair housing settlement, an adverse civil rights settlement, or an adverse federal or state government proceeding and settlement.

(b) Up to negative twenty (-20) points may be assessed against a project with an owner or principal who has been in a mortgage default or arrearage of three months or more within the last five years on an FHA-insured project, an RD funded rental project, a tax-exempt bond funded mortgage, a tax credit project or any other publicly subsidized project. Resolution of all outstanding Agency concerns regarding the default or arrearage may be considered in assessing negative points.

(c) Up to negative twenty (-20) points may be assessed against a project with an owner or principal who has been involved within the past ten years in a project which previously received an allocation of tax credits but failed to meet compliance standards of the tax credit allocation. This includes returning a reservation of tax credits to the Agency after the carryover agreement has been signed.

E. CREATION OF AFFORDABLE UNITS (MAXIMUM 10 POINTS)

1. Ten (10) points will be awarded for new construction projects.

2. Ten (10) points will be awarded for the substantial rehabilitation of a vacant building or the conversion of a vacant building to housing.

3. Ten (10) points will be awarded for the substantial rehabilitation of occupied low-income rental housing in which hard construction costs exceed $10 ,000 per unit. These costs will be calculated using lines 2 through 7 in the Project Development Cost Description in Part A of the application and certified at final cost certification.

4. Five (5) points will be awarded for the acquisition and substantial rehabilitation of a project to preserve low-income rental housing which might otherwise be converted from low-income tenancy, including Section 8 projects with expiring contracts.

5 . Fifteen (15) points will be subtracted from any non-elderly, new construction project with more than 76 qualified units but less than 101 qualified units. Thirty-five (35) points will be subtracted from any non-elderly, new construction project with 101 or more qualified units or more but less than 125 qualified units and 50 points will be subtracted from any non-elderly, new construction project with 125 qualified

units or more. The Agency reserves the right to waive the penalties in this section for HOPE VI proposals which foster overall low income and minority de-concentration through mixed income and mixed use strategies. If the current project application proposes to add a second phase to an existing development, the number of qualified units in the first phase of the existing project will be added to the number of qualified units in the proposed second phase in determining whether negative points should be assessed for large project size.

F. BONUS POINTS (MAXIMUM 55 POINTS)

1. **Economically Distressed Counties: (See Appendix N)** Ten (10) points will be awarded for projects that are developed in Tier One counties. Five (5) points will be awarded for projects that are developed in Tier Two counties. These designations are based on standards compiled by the N.C. Department of Commerce.

2. **Rural Development Financing and Project-Based Rental Assistance:**
Thirty (30) points will be awarded to projects in rural areas that have an obligation of funds from the U.S. Department of Agriculture, Rural Development (RD), including Rental Assistance (RA) appropriate for the project.

3. **Special Populations:** Fifteen (15) points will be awarded for projects that are developed to give priority to assist special populations. The market study must show a clear demand (a low capture rate and low vacancy rates in potentially competing projects) for such housing or no points will be awarded. These populations include:
   - Elderly (ensure compliance with definition of elderly in General Requirements)
   - Mobility impaired handicapped (i.e., at least 25% or more of the units are fully handicap accessible)
   - Persons with any other disabilities recognized by the NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services (at least 10% of units)
   - Other special needs target populations such as farm workers and homeless persons (at least 25% of units)

   Support service plans are required in all projects that specifically target these special populations and must meet minimum criteria to receive these points as determined by the agency.

4. **Supportive Services Plan:** Up to ten (10) points will be awarded to projects that **do not** target a special population but which **do** provide an acceptable Supportive Services Plan for their residents. Points will be given to projects with service plans which are well targeted, carefully accounting for what the population of the proposed development will likely be, and their needs for supportive services, as well as a budget supporting such activities.

   - The Agency reserves the right to require revisions to the applicant's Supportive Services Plan if it is deemed unsatisfactory.
   - An unsatisfactory Support Services Plan will result in no points being awarded either for targeting the Special Populations or for the Plan itself.
   - All Supportive Services Plans must follow the outline in **Appendix D**.

   (a) The following criteria for Supportive Service Plans must be met:

   (1) Appropriately targeted supportive services plan including general descriptions showing quality and depth of services to meet established goals.

   (2) Staffing plan: commitment of personnel, office space, supplies, and/or contracted services;

   (3) Community space: that meets the needs of the residents, community agencies providing services, and the supportive services coordinator.

(4) A sources and uses budget: identifying and committing resources required to implement appropriate plan for the residents

(5) Community support: evidence of <u>service</u> commitment and strong integration of available and specific services to be utilized in the plan. Note: General letters of community support do not constitute service commitments.

(b) Support service coordinators are required to attend educational workshops sponsored by the Agency. They include:

(1) In the first year, service coordinators should attend a two-day basic training workshop. They will receive a certificate and will not be required to attend this workshop again.

(2) In the first year and every year after through the compliance period, service coordinators should attend two specialized Agency workshops on service provision. Four are held annually by the Agency.

Failure to follow through on previous Supportive Service Plan commitments will result in negative points for supportive service proposals in subsequent years.

G. DESIGN STANDARDS (MAXIMUM 100 POINTS)

All proposed measures must be shown on the plans or in specifications in the application in order to receive points.

1. New and Adaptive Re-use Construction: A maximum of 100 points will be awarded for projects based on evaluation of the site plan design and layout, building and floor plan design and construction characteristics as they relate to the development cost per unit. Design standards are found in **Appendix B** and must be used for all projects receiving low-income housing tax credits and/or RPP funding or points may be deducted for non-compliance.

(a) Site plan considerations: A maximum of 25 points will be given for projects which

- Propose an attractive, scattered building layout focusing on visual appeal and privacy;
- Propose site amenities, including playgrounds, gazebos, garden spots, walking trails, picnic areas, ball fields, basketball/tennis courts, exercise rooms and swimming pools, have natural areas with trees between buildings (for new construction);create accessible walks linking buildings to each other, to common areas and to parking; have large open spaces for recreational activities, have a well-designed entry to the site with attractive signage, lighting and landscaping.

In order to receive points, the items listed above must be clearly indicated on the site drawings.

(b) Building and floor plan design: A maximum of 45 points will be given for project which

- Propose creative and versatile architectural designs. Examples of exterior building designs include broken roof lines, front gables, dormers or front extended facades, wide banding and vertical and horizontal siding applications, some brick veneer, front porches and attractive deck rail patterns.
- Propose open, flowing floor plans. Examples include spacious kitchens, bathrooms, living rooms and dining rooms, dwelling units that exceed minimum square footages, bedrooms that exceed minimum square footages, bathrooms that are large with vanities and open floor spaces, kitchens that provides an abundance of counter top working space and cabinets, availability of storage space other than bedroom closets, and the adequacy of closet space, including large walk-in closets.

(c) Construction characteristics: A maximum of 30 points will be given to projects which

- Propose low maintenance, high durability, energy efficient products, and quality components. Examples include: High-grade vinyl or VC tile in kitchens, bathrooms, entryways, and laundry areas.
- Propose energy efficient components that exceed Agency and/or building code minimum standards.
- Propose measures to provide good attic and roof ventilation, use vinyl or aluminum windows and steel insulated exterior doors.
- Propose to use quality exterior siding, such as vinyl, hardiplank, or brick veneer and have pre-finished aluminum exterior trim, including fascia, soffit, and porch posts.

(d) Completion of previously approved projects: Negative points will be assessed for projects with owners, or principals of prior project(s) that were not built in accordance with the plans and specifications on which such prior project(s') Design Standards score was based, if deviation from such plans and specifications results in conditions that would justify a reduction in that prior project(s') original Design Standards score(s), The number of negative points assessed to the project in the current year will be equal to the cumulative number of points by which each such prior project's original Design Standards score would have been so reduced to reflect the deviation, adjusted to reflect any change in the scale of the Design Standards scoring. For example, if the reduction in the prior project's Design Standards score as a result of the deviation from its plans and specifications is determined to be 10 points based on a scale of 50 maximum Design Standards points at the time such prior project was awarded credits, if there is a current scale of 100 maximum Design Standards points, the negative points assessed to the current project based on that prior project's deviation from its plans and specifications would be 20 points. Design and construction changes approved in writing by the Agency will not result in any negative points assessed under this section

2. Substantial Renovation Projects

A maximum of 100 points will be given to projects which:

- Propose making some existing “common areas” that are handicap accessible, spending additional money on landscaping/fencing, creating or improving sidewalks, improving quality and durability of exterior by installing vinyl or hardiplank siding, installing new roof shingles, adding gutters, sealing brick veneers, applying exterior paint, and resurfacing or re-paving parking areas.
- Propose to improve site lighting and exterior dwelling lighting.
- Propose to make the exterior of buildings more aesthetically pleasing by adding gables, porches, dormers or roof sheds.
- Propose to use energy-efficient related products to replace inferior ones, including insulated windows and doors, and increasing insulation values by adding additional insulation.
- Propose to improve heating and cooling units in dwelling units, improving plumbing fixtures, water heaters, toilets, sinks, faucets and tub/shower units.
- Propose to improve quality of interior conditions and fixtures, including carpet, vinyl, interior doors, painting, drywall repairs, cabinets, appliances, light fixtures and mini-blinds.
- Propose a scope of rehabilitation that is reflected in the Physical Needs Assessment.

VI. GENERAL REQUIREMENTS

A. GENERAL REQUIREMENTS FOR PROJECT PROPOSALS

1. Set-Asides of Tax Credits

(a) The Agency has established geographic set-asides of tax credits based on HUD population projections and the State's Consolidated Plan. Applications are reserved credits starting with those earning the highest scoring totals within each geographic set-aside and continuing in descending score order through the last project that can be fully funded with credits in that geographic region. The remaining credits from all three geographic set-asides are then added together and reserved for the next highest scoring application(s) statewide.

If, after every application that has been fully funded with credits in each geographic region, the next highest scoring application statewide is requesting, according to the Agency equity needs analysis, a credit amount greater than three times the remaining credits available in that credit year, then such remaining credits will be distributed among all nonprofit applicants, in amounts corresponding to each project's ratio of federal credit equity to total development cost.

(b) If applications are not sufficient to use the credits within geographic regions, then the credits will be reallocated to other ranked projects that meet the minimum requirements of the Plan.

(c) The Agency reserves the right to authorize a forward commitment of the next year's tax credits to the last application awarded credits for the year in an amount necessary to fully fund that application if it would otherwise receive a partial award of credits this year; provided that according to the Agency equity needs analysis, such amount is less than three times the remaining credits available in the current year.

(d)

Twenty percent (20%) of the total tax credits will be set-aside for projects with nonprofit owners demonstrating material participation and meeting all other requirements for such nonprofit owners under the Plan and the Code. A nonprofit (or a qualifying corporation) must be able to demonstrate that they meet the material participation requirements of Section 469(h) by being involved on a regular, continuous and substantial basis in the development and operation of the project throughout the full tax credit compliance period, and they must meet all other requirements of a project involving a nonprofit entity as stated in the Plan or the Code. Credits will be awarded, within the geographic region where the project is located, to eligible projects with qualified nonprofits owners in descending order of their point ranking. These projects will take precedence over other projects until the nonprofit set-aside is exhausted. Any applications for projects with qualified nonprofit ownership remaining after the 20% set-aside must compete equally with all other applications in the region.

Please note that, regardless of whether a project with qualified nonprofit ownership received a reservation of credits from the 20% set-aside, every application the Agency receives that chooses the nonprofit applicant designation will be required to comply with the requirements for projects with qualified nonprofit ownership, including but not limited to, material participation standards, set forth in the Plan and the Code.

2. Unit Types

(a) Tax credits may be used for any type of rental unit, however, preference is given to certain types of units as described in the Plan, such as housing designed for the handicapped, elderly, special needs, and large families. Units must be rented using a lease of not less than six months.

(b) There is no minimum or maximum number of units for an application, except no applicant may request tax credits in excess of the maximum county or principal set-asides in Section III of the Plan.

(c) Projects must do at least one of the following:

(i) Provide new construction of affordable units.
(ii) Substantially renovate existing units. See the Agency definition for substantial renovation.
(iii) Acquire and substantially rehabilitate existing buildings. Owners may receive a 4% tax credit on the adjusted basis of an existing building that meets the following requirements: 1) The building is acquired by purchase, 2) A substantial renovation must be proposed as defined in the General Requirements, and 3) There is a period of at least 10 years between the date of acquisition by the taxpayer and the later of (i) the date the building was last placed in service, or (ii) the date of the last substantial rehabilitation costing 25% or more of the adjusted basis for which certain tax depreciation elections were made. Certain exceptions to the ten-year rule are specified in the Code.

B . AGENCY DEVELOPMENT THRESHOLD REQUIREMENTS AND CONSIDERATIONS

The Agency will promote the development of affordable housing on sites that are well configured, integrated into a residential community, and close to services and amenities. Sites must meet minimum threshold requirements described below to receive either tax credit or RPP funding. Projects whose sites do not meet all minimum site threshold requirements will be disqualified and a full application will not be accepted. After preliminary application review, applications meeting minimum Agency threshold requirements will be scored based on the Plan. All of these projects may submit full applications. Scores will be made known to applicants so that they may assess their chances of being funded in the full application process. Full applications will be evaluated on the basis of meeting all site and financial threshold requirements. Projects that do not meet one or more of the threshold requirements may not be considered for funding.

Applications for tax credits on buildings located on separate sites should be considered separate applications for purposes of the Agency's preliminary application process. Each application will require a separate initial application fee. Projects may be considered one application in the full application submission if, sites are secured by one permanent mortgage and are not intended for separation and sale after receipt of the tax credit allocation.

1. Site Threshold Requirements

(a) Sites should be sized to accommodate the number and type of units proposed. Required zoning must be in place, including any special use permits, traffic studies, conditional use permits and other land use requirements as well as the conclusion of all public hearings required to develop the site by April 27, 2001 for full application submission. Land cost allocated to the project cannot include excess acreage unnecessary for the construction and use of the current project.

(b) Site control (Valid Option/Contract or Warranty Deed reflective of filing).

(c) Adequate utilities (water, sewer, gas, and electricity) should be available to service the site. Sites should be accessed directly by existing paved, publicly maintained roads. If not, it will be the applicant's responsibility to extend utilities and roads to the site. In such cases, the applicant must explain and budget for such plans at the preliminary application stage, as well as document the applicant's right to perform such work through, for example, language in the real estate option/contract, separate contract or consent by the City or Town.

(d) Sites must be integrated into a residential community and must not be isolated in areas with large amounts of undeveloped land. Surrounding uses must be compatible with the proposed project, and the proposed design compatible with existing architecture in the area. Incompatible uses include adjacent sites with environmental or other problems such as high-voltage transmission lines, sources of excessive noise, existing and proposed freeways and high traffic corridors, flood hazards, or close proximity to potential pollution from industrial, waste treatment, and agricultural sources.

(e) A project will not receive tax credits or RPP funding if it is in the same market area as previously funded tax credit or RPP projects which have not reached stabilized occupancy (see definitions), unless a viable market is otherwise clearly substantiated by the market study. Projects within the same market area as existing competitive tax credit developments that have a recent history of high vacancy rates will not receive tax credits or RPP funding. If there are competing projects in the same market where there is evidence all can not be supported, only such projects that can be supported will receive tax credits or RPP funding.

(f) The quality, financial health and market of phase one projects will be evaluated before phase two projects will receive tax credits or RPP funding . Phase two developments will not receive tax credits or RPP funding where the previous phase has had a recent history of high vacancy rates or a long lease up period. The total number of qualified units in both phases will be considered when scoring phase two projects in the Plan under Section V.E. 5.

(g) There must be a strong market for the proposal. The market area must be realistically narrow enough to attract tenants to the project. The Agency will contract for an independent market analysis as outlined in **Appendix A**.

(h) Physical structures in neighborhoods surrounding the proposed development must be in good condition. Specifically, the majority of structures must be occupied and/or well maintained for their use. If the surrounding area is dilapidated, there must be a plan and public commitment of funds to revitalize the area. Proposed developments in distressed neighborhoods must submit with the preliminary application evidence of a community revitalization plan adopted and funded by a unit of government or nonprofit organization. This information should include evidence of recent revitalization activities as well as details and timing of planned development.

(i) Proposed construction must not be located within a 100-year floodplain. Proposed construction includes driveways, parking areas, playgrounds, community building/office, residential buildings, maintenance buildings, refuse collection areas, laundry rooms, mail collection areas, or any other permanent structure or fixture. The Agency may waive this restriction in certain counties in the East Region where viable alternatives do not exist and where sound measures to mitigate flood hazards are proposed.

2. General Threshold Requirements

(a) Projects with Historic Tax Credits

Buildings must be placed on the National Register of Historic Places entitling the project to receive historic credits by the submission date of the full application. If a building is not on the National Register, Part 1 of the US Department of the Interior Historic Preservation Certification Application must be approved at the time of full application. Evidence of meeting this requirement should be provided.

(b) NonProfit Owners in a Joint Venture

For purposes of receiving a tax credit reservation and allocation from the nonprofit set-aside, a nonprofit owner in a project l must meet several requirements. It must: 1) be qualified as a nonprofit under Section 501(c) (3) or (4) of the Code, 2) be domesticated in North Carolina for at least 12 months prior to submitting an application, 3) have local community involvement on the board of directors, 4) materially participate (or a qualified corporation must materially participate) in the acquisition, development, ownership, and ongoing operation of the property for the entire compliance period, and 5) have as one of its exempt purposes the fostering of low income housing. Material participation is defined in Section 469(h) of the Code and Treasury Regulations thereunder 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.

As a condition of every reservation of credits to an applicant applying for nonprofit set-aside, the Agency will require the submission of an attorney's opinion letter stating that condition 4 outlined above is true. At a minimum, the nonprofit or a qualified corporation must be a general partner or managing member in the ownership entity. The Agency reserves the right to make a determination that the nonprofit owner is not affiliated with or controlled by a for-profit entity or entities other than a qualified corporation. There can be no identity of interest between any nonprofit owner and for-profit entity, other than a qualified corporation.

Every nonprofit applicant must submit a narrative statement, certified by a resolution of the nonprofit's Board of Directors, with the full application describing the nonprofit's plan for material participation during the development of the project and compliance period.

(c) Acquisition and Substantial Rehabilitation projects

(i) The Agency will require that all proposals claiming acquisition tax credits submit an attorney's opinion letter, as a condition of a reservation of credits, which states that the proposed project meets the ten-year ownership or substantial rehabilitation rule and that the new ownership structure qualifies under the appropriate IRC Section 179(d)(2)(A) Related Person rules.

(ii) In substantial rehabilitation projects, hard construction costs must exceed $7,000 per unit. These costs will be calculated using lines 2 through 7 in the Project Development Cost Description in Part A of the application and certified at final cost certification. Points are only received for the substantial rehabilitation of occupied low-income rental housing in which hard construction costs exceed $10,000 per unit.

(iii) Environmental Hazards – All renovation projects must submit a hazardous material report which provides the results of testing for asbestos containing materials, lead based paint, Polychlorinated Biphenyls (PCB's), underground storage tanks, petroleum bulk storage tanks, Chlorofluorocarbons (CFC's), and other hazardous materials. The testing must be performed by professionals licensed to do hazardous materials testing. A report written by an architect or building contractor or developer will not suffice. A plan and projected costs for removal of hazardous materials must also be included.

(iv) Appraisals - The Agency will not allow the project budget to include more for land costs than its appraised market value. Any project budgeting more than $1,000 toward land costs must submit a real estate "as is" appraisal prepared by an independent, state certified appraiser, providing a land value with submission of the full application. All rehabilitations require an "as is" appraisal that breaks out the land and building values from the total value.

3. **Other Considerations**

(a) Minority and low-income concentration: Projects cannot be in areas of minority and low-income concentration (this is measured by comparing the concentration in the site's census tract with the percentage of minority and low-income households in the community overall). An exception can be made for projects in economically distressed areas which have revitalization plans with public funds committed to support the effort. The Agency will analyze the market area to determine the appropriateness of the density and the diversity of the housing and population.

(b) Displacement: Proposed projects must minimize displacement, as this activity is strongly discouraged. In every instance of displacement, the applicant must supply with the full application a plan describing how displaced persons will be relocated, and the costs and source of relocation expenses. The applicant is responsible for all relocation expenses, and they must be included in the project's development budget.

For any project requesting a Rental Production Program (RPP) loan or any other federal funding that will result in displacement, the applicant must comply fully with all requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA).

For any projects requesting tax credits but not requesting RPP funds or any other federal funds that will result in either permanent or temporary displacement, the applicant must comply fully with all URA requirements, except as provided for by the guidelines outlined in **Appendix F**.

(c) Tax Information Authorization: IRS Revenue Ruling 9-98 establishes a process for the Agency to obtain tax credit background information of applicants. The Agency has signed a Memorandum of Understanding with the Internal Revenue Service in order to implement this process. Applicants must submit an executed IRS Form 8821 with their full applications. Every owner should submit a separate form. The IRS will provide the Agency with all federal tax information pertaining to low income housing tax credits, including audit findings and assessments for all tax periods specified on Form 8821, Tax Information Authorization. The form and instructions are supplied in **Appendix Z**.

4. Underwriting Threshold Requirements

The following minimum financial underwriting requirements apply to all projects. Projects that cannot meet these minimum requirements will not receive credits or RPP funding. Underwriting will be completed at the time of full application.

(a) Loan Underwriting Standards
All projects will be underwritten assuming a constant 7% vacancy rate with rents increasing at 3% and operating expenses and replacement reserve accounts increasing at 4% annually. All project proformas must reflect at least a 1.15 debt coverage ratio (DCR) for the term of any debt financing on the project.

The repayment schedule for RPP loans should be structured to achieve an appropriate level of subsidy while maintaining a 1.15 DCR. The Agency reserves the right to adjust its interest lending rate to avoid negative amortization of its RPP loans.

(b) Operating Expenses
Assumptions for projects over 16 units:

New construction: $2,100 per unit per year not including taxes, reserves and resident support services

Renovation: $2,300 per unit per year not including taxes, reserves and resident support services.

Owner projected operating expenses will be used if they are higher than Agency minimums. The owner must have the proposed management agent (or management staff if there is an identity of interest) sign a statement in the application that they have reviewed these costs and agree they are reasonable projections.

(c) Equity Pricing

The Agency will examine the individual project pricing for tax credits and compare it to the average market price for tax credit syndications as published in the *Tax Credit Advisor*. Projects will be underwritten using equity pricing equal to at least the national market average. Owner equity projections will be used when an equity payment greater than average national pricing is projected. At application submission, applicants are required to submit a letter of intent from the investor confirming the financial assumptions of the purchase. Individual project pricing will be determined using the following formula:

Net equity from the projected sale of low-income housing tax credits - DIVIDED BY - *Tax credit allocation request multiplied by Limited Partners percent of ownership* (example: 99.99% multiplied by 10 years). Net equity should be calculated net of any syndication fees. Bridge loan interest typically incurred by the syndicator to enable an up front payment of equity should not be charged to the project directly, but be reflected in the net payment of equity. Equity should be based on tax credits to be used by the investor(s), excluding those allocated to the principals unless these entities are making an equity contribution in exchange for the tax credits.

(d) Reserves

(i) <u>Rent-up Reserve</u>: Required for all except bond financed projects. A reasonable amount should be established based on the projected rent-up time considering the market and target population, but in no event shall be less than $200 per unit. These funds should be available to the management agent to pay rent-up expenses incurred in excess of rent-up expenses budgeted for in the project development costs. The funds are to be deposited in a separate bank account and evidence of such transaction provided to the Agency 90 days prior to expected placed in service. All funds remaining in the rent-up reserve at the time the project reaches 93% occupancy must be transferred to the project operating reserve account.

For those projects receiving loan funds from Rural Development (RD), the 2% initial operating and maintenance capital established by RD will be considered the required rent-up reserve deposit.

(ii) <u>Operating Reserve</u>: Required for all projects except those receiving loan funds from Rural Development. The operating reserve will be based on six month's debt service and operating expenses, and must be maintained for two full years starting after reaching stabilized occupancy. From that point forward, an operating reserve balance equal to three month's debt service and operating expenses must be maintained throughout the term of the tax credit compliance period or RPP loan term, whichever is greater.

Projects receiving RPP funds must capitalize the operating reserve account prior to the RPP loan closing. The Agency must approve any withdrawals from the operating account to meet project's operating deficits that exceed $2,000 in aggregate during any three month period

The operating reserve can be funded by deferring the developer's fees of the project. If this method is utilized, the deferred amounts owed to the developer can only be repaid from cash flow if all required replacement reserve deposits have been made. For tax credit projects where no RPP loan applies, the operating reserve can be capitalized by an equity pay in up to one year after certificate of occupancy is received. This will be monitored by the Agency.

For applicants seeking 4% housing credits with tax-exempt bond financing, the operating reserve will be based on four month's debt service and operating expenses. The period for which this reserve must be maintained can be established by the bond issuer.

(iii) <u>Replacement Reserve</u>: All new construction projects must budget replacement reserves of $250 per unit per year. Renovation projects involving an adaptive reuse effort must budget replacement reserves of $350 per unit per year. Renovation projects involving a building currently or previously used as housing must budget replacement reserves of $350 per unit per year. The replacement reserve must be capitalized from the project's operations, escalating by 4% annually.

This will be monitored by the Agency. Projects with an RPP loan must have Agency approval of withdrawals for capital improvements throughout the term of the loan.

In both types of renovation projects mentioned above, the Agency reserves the right to increase the required amount of annual replacement reserves if staff determines such an increase is warranted after a detailed review of the project's physical needs assessment.

For those projects receiving Rural Development (RD) loan funds, the required funding of the replacement reserve will be established, administered and approved by RD, and the replacement reserve will not escalate annually.

Funds remaining in the operating and replacement reserve accounts at the end of the RPP loan term must be used for project maintenance costs approved by the Agency or applied against the loan.

Summary chart of the underwriting requirements for projects:

Project Type	**Rent Up Reserve**	**Operating Reserve**	**Operating Expense**	**Replacement Reserve**
New Construction	*$200/unit*	*6 Months of debt & operating expenses*	*$2100/unit*	*$250/unit*
Rehab	*$200/unit*	*6 Months of debt & operating expenses*	*$2300/unit*	*$350/unit*
Adaptive Reuse	*$200/unit*	*6 Months of debt & operating expenses*	*$2300/unit*	*$350/unit*
Rural Housing	*Considered part of 2% Operating and Maintenance*	*2% Operating & Maintenance Account*	*$2100/unit – New* *$2300/unit – Rehab*	*Established by Rural Development*
Bond Project w/Tax Credits	*Recommended*	*4 Months of debt & operating expenses*	*$2100/unit – New* *$2300/unit – Rehab* *$2300/unit – Adaptive Reuse*	

(e) Deferred Developer Fees:

Developer fees can be deferred to cover a gap in funding sources as long as fees are projected to be repaid within 10 years. The obligation to repay the deferred amounts owed to the developers must meet the standards required by the IRS to stay in basis. Repayment projections must not negatively impact the operations of the project using Agency underwriting standards. Developers should include a statement describing the terms of the deferred repayment obligation to the project including any interest rate charged and the source of repayment with the application. Nonprofit organizations should include a resolution from the Board of Directors allowing such a deferred payment obligation to the project. The Agency will require a note evidencing the principal amount and terms of repayment of any deferred repayment obligation be submitted at the time of cost certification. The developer may not charge interest on this note beyond the long term AFR.

(f) Financing Commitment:

For all projects proposing **private** permanent financing, a letter of intent is required. This letter should clearly state the term of the loan is at least 18 years, how the interest rate will be indexed and the current rate at the time of the letter, the amortization period, any prepayment penalties, anticipated security interest in the property and lien position. The interest rate must be fixed and no balloon payments may be due for 18 years. The bank must complete a cover letter using the format in **Appendix E**, and submit it with the letter of intent. Applicants must submit a letter of commitment for financing within 90 days of receiving an award of tax credits.

For all projects proposing **public** permanent financing, binding commitments are required to be submitted by May 18, 2001. All loans must have a fixed interest rate and no balloon payments for at least 18 years after project completion. A binding commitment is defined as a letter, resolution or binding contract from a unit of government. The same terms described for the letter of intent from a private lender must be included in the commitment. A sample commitment letter can be found in **Appendix E**.

It is not necessary to have Federal Home Loan Bank Affordable Housing Program (AHP) or NC Division of Community Assistance Community Development Block Grant subsidy commitments in place at the time of the application. All projects applying for tax credits and the NC Division of Community Assistance (DCA) Community Development Block Grant (CDBG) subsidy must submit the application to DCA at the same time as the Agency's application deadline. However, the Agency will only consider AHP financing that has been submitted in the FHLB's first offering round of the calendar year. Any other financing from a foundation or alternative resource provided at below market terms must be committed by July 14, 2001. Public lenders must submit a cover letter outlined in **Appendix E** with the required letter of commitment. (Applicants using funds from the Division of Community Assistance refer to **Appendix Q**).

(g) Developer/Builder Fees:

(i) Developer's fees shall be a maximum of 15%, or a lesser percentage adjusted for project size as described below. The Agency calculates developer's fees by adding lines 2-36 less lines 8 and 9 from the Project Development Cost Description in the application and multiplying by the applicable percentage to determine the maximum allowable developer fee.

0-60 units	15%
61-100 units	12.5%
101 units plus	10%

In addition to the fees described above, a maximum developer's fee of 4% is allowed on the acquisition cost of buildings (not including land value/cost) purchased for substantial renovation.

(ii) Builder's general requirements shall be limited to 6% of hard costs.

(iii) Builder's profit and overhead shall be limited to 10% (8% profit, 2% overhead) OF TOTAL HARD COSTS including general requirements.

(iv) Where an identity of interest exists between the owner and builder, the builder's profit and overhead shall be limited to 8% (6% profit, 2% overhead).

(h) Consulting Fees:

Consulting fees for a project must be paid out of developer fees, so that the aggregate of any consulting fees and developer fees is no more than the maximum developer fee allowed to that project.

(i) Investor Services Fees:

Investor services fees must be paid from net cash flow and not be calculated into the minimum debt coverage ratio.

(j) Project Contingency Funding:

All new construction projects shall have a hard cost contingency line item of NO LESS OR NO MORE THAN 3% of total hard costs, including general requirements, builder profit and overhead.

Renovation projects shall include a hard cost contingency line item of NO LESS OR NO MORE THAN 6% of total hard costs.

(k) Developments with Rural Development (RD) Financing Projects:

Those projects which apply for RPP funds that have a commitment of financing or rental assistance from the Rural Development, will be underwritten with the following guidelines**.**

RPP Loan Term: 30 years
Interest Rate: 0%
Amortization Period: 30 years
Income and Expenses shall trend to RD guidelines.

(l) Project Ownership:

There must be common ownership between all units and buildings within a single project for the duration of the compliance period.

(m) Section 8 Project-Based Rental Assistance

For all projects that propose to utilize Section 8 project-based rental assistance, the Agency will underwrite the rents according to the tax credit and HOME limits as provided in **Appendices I and J** respectively. These limits are based on data published annually by HUD. If the Section 8 HAP contract administrator is willing to allow rents above these limits, the project may receive the additional revenue in practice, but Agency underwriting will use the lower revenue projections regardless of the length of the Section 8 contract.

Given the uncertainty of long-term Congressional commitment to Section 8 rental assistance funding, the Agency considers underwriting to the more conservative revenue levels to best serve the project's long-term financial viability.

C. AGENCY TARGETING REQUIREMENTS

1. Qualified units are all units receiving tax credits and/or RPP loan funds from the Agency and are rented to families with incomes below 60% of area median income adjusted for household size. Forty percent (40%) of the qualified units in projects with RPP funds must be affordable to and occupied by households with incomes of less than 50% of the area median income adjusted for household size.

2. Mixed income projects which propose a mix of qualified units and market rate units may be financed with both tax credits and RPP funds; however, certain restrictions apply.

(a) Tax Credit Restrictions (Minimum Set-aside). There are two set-aside selections that an owner applying for tax credits must choose between:

(ii) At least 20% of the units must be affordable to and occupied by tenants with incomes at 50% or less of the area median income. If this designation is chosen by the owner, no household in a unit for which the owner is receiving tax credits may earn more than 50% of the gross area median income adjusted for household size. OR,

(ii) At least 40% of the units must be affordable to and occupied by tenants with incomes at 60% or less of the gross area median income, adjusted for household size. If this designation is chosen by the owner, no household in a unit for which the owner is receiving tax credits may earn more than 60% of the gross area median income adjusted for household size. Owners who desire a mix of qualified units targeted to households at both 50% and 60% of median income should choose this set-aside.

See **Appendix I** for area median income amounts and income limits by family size. Tax credit rules dictate that the owner, at a minimum, must irrevocably elect to comply with either the 20%/50% or 40%/60% income and rent restrictions at the time of application but no later than the first tax return after the project is placed in service.

(b) Additional Set-aside: Additional units in excess of the minimum set-aside may be targeted as qualified units. However, if any units are targeted toward households at 60% of median income, then the minimum set-aside must be 40%/60%. If a 20%/50% minimum set-aside is chosen then all additional targeting must be at no greater than 50% of median income.

(c) Rental Production Program Restrictions: Market rate units are not considered qualified units and would not fall under the restrictions of the RPP program, or be counted in per unit calculations described in the RPP Loan Product Sheet.

3. Extended Use Requirements

The Extended Low-Income Occupancy election in the application binds the ownership entity to continue to use the building for low-income housing for an extended period of time beyond the first 15 years. If this election is not made, owners may elect to discontinue low-income occupancy at the end of 15 years by notifying the Tax Credit Allocation Committee through the Agency by the end of the 14th year. If the Agency cannot assist the ownership entity in finding a qualified buyer for the project, the low-income occupancy may be discontinued with certain restrictions. Restrictions include a ban on rent increases for three years for qualified low-income occupants beyond the applicable tax credit levels nor may they be evicted for other than good cause.

4. Maximum Rent Calculation for Low-Income Housing Tax Credits and RPP Funds

Tax Credit Rent Calculation Requirements:

The Agency uses a two step process to determine maximum rents that may be charged on a project. Rents, including utilities, may not exceed the applicable low-income rent ceiling based on 30% of the household income limit calculated at 1.5 qualified occupants per bedroom known as the "maximum housing expense". Efficiency, studio, single room occupancy units are an exception as rents are calculated using 1.0 qualified occupants per bedroom. See Appendix I for area median income amounts and maximum housing expenses.

*(As of 10/00, HUD has not yet published revised maximum family income limits for 2001. The Agency expects to forward the 2001 income limits, an updated **Appendix I**, to applicants under separate cover in early January 2001, as soon as we receive them from HUD.)*

EXAMPLE: Applicant chooses to target rents to families at 50% of the area median income in order to receive additional points under the QAP. Referring to **Appendix I**, the maximum housing expense allowable under the tax credit rules for a two bedroom unit in Alamance County for households at 50% of the area median income in 2000 would be calculated as follows:

2 bedrooms times 1.5 persons per bedroom	3-person income limit
Maximum Income of Three Persons	$22,950.00
Divided by 12 months	$ 1,912.50
Multiplied by 30%	$ 574.00
Maximum Housing Expense	**$ 574.00**

Additionally, the Committee and the Agency require maximum rents be set with a "Window of Affordability". Maximum housing expense for a project is to be no greater than 90% of the applicable total monthly housing expense ceiling (as calculated above) in high-income counties, or no greater than 95% of the applicable total monthly housing expense ceiling in low-income counties. This window of affordability will be monitored by the Agency during the compliance period for projects receiving an allocation of credits in 1998 and beyond. See **Appendix K** for list of high-income and low-income counties. Using the example above, Alamance County in considered a high-income county per **Appendix K**, therefore, the following calculation is required:

EXAMPLE:	
Maximum Housing Expense:	$574.00
Multiply by 90% (window of affordability)	$516.00
Maximum Housing Expense Permitted by the Agency:	$516.00

NOTE: The Maximum Housing Expense figures listed in Appendix I have been calculated to include the applicable Window of Affordability. Additionally, these rents include utilities. To calculate net rents (i.e. the rent collected by the development), utilities charged to the tenant must be subtracted from $516.00.

Tax credit projects that select the minimum set-aside of 40% at 60% but also choose to target more deeply (i.e. 50% of units at 50%) will **not** be required to use the window of affordability when figuring the rents for these lower targeted units.

RPP Rent Calculation Requirements:

While the same requirements mentioned above apply to projects with RPP funding, applicants using RPP funding must check **Appendix J** to make sure the maximum housing expense as calculated above does not exceed federal HOME Program rents. You will notice that the rents in Appendix J are broken out into several categories. For rent calculation purposes, the Low HOME Rent and High HOME Rent categories are the most pertinent. **If a project has RPP funding, 20% of the units must be at or below the Low HOME Rent and the other 80% of the units must be at or below the High HOME Rent**. Often, the Low and High HOME Rent figures will be the same.

NOTE: All affordable units within an RPP funded project must be at the HOME rents as mentioned above unless the tax credit rents found in Appendix I are lower. If so, then these more restrictive rents would apply.

EXAMPLE 1: Comparing Tax Credit and HOME Rent Limits

Using the same example of the two-bedroom unit in Alamance County (now looking under the Greensboro-Winston-Salem MSA in Appendix J), the federal Program HOME rents are $553 for the Low HOME Rent and $553 for the High HOME Rent. The 50% of median income tax credit maximum housing expense of $516, as calculated above, is less than the federal HOME Program rents. Therefore, this lower rent must be applied to all units.

EXAMPLE 2: Applying the Home Rent Rules

An applicant is proposing a project with 24, three bedroom units, all targeted to occupants that have incomes at or below 60% of the area median income in Raleigh (Wake County). Both tax credit and RPP funds will be used. (NOTE: Because the owner will utilize the HOME funds in the depreciable basis of the buildings, 40% of the **occupants** must be at or below 50% of the area median income). In order to calculate the maximum rents, the applicant follows these steps:

1. Check **Appendix I** for the maximum rents for tax credit units at 60% of median income. Using 2000 figures, the maximum rent for a three-bedroom apartment in Wake County is $875.
2. Check **Appendix J** for the maximum HOME rents. Using 2000 figures, the applicable three-bedroom HOME rents in the Raleigh-Durham-Chapel Hill MSA are: Low HOME Rent $810, High HOME Rent $871.
3. Apply the rules outlined above: a) 20% of the units with RPP funds must be at the Low HOME Rents. Therefore, **5 units must have a rent of $810**. b) All units in a project with RPP funds must be at or below the HOME Rents. The more restrictive of the HOME or tax

credit rents will apply. In this case, the maximum HOME rent of $871 is lower than the 60% tax credit rent of $875.00. Therefore the remaining 19 units will rent for no more than $871.

EXAMPLE 3:

An applicant is proposing a 28 unit development which will have 20 two-bedroom units and 8 three-bedroom units. Both tax credit and RPP funds will be used. The proposed rent structure is as follows:

Proposed Rent Structure

Bedroom Size	# Units	Monthy Rent	Utility Cost	Total Monthly Cost
2	10	$350	$99	$449
2	10	$425	$99	$524
3	4	$475	$106	$581
3	4	$525	$106	$631

The applicant has made the following set-aside selections in Part B of the application:

1. 40% of the units are at 60% of median income. (See VI. C. of the Plan), and
2. 40% of the units are at 50% of median income. (This selection is required for projects with RPP funds), and
3. 50% of the units at 50% of median income.

The following must be done to verify that the rents proposed meet both the tax credit and the HOME fund rent calculation rules.

STEP 1: Check the Tax Credit Rent Limits, Appendix I.
Tax Credit Limits for Stokes County

Bedroom Size	50% Tax Credit Limit	60% Tax Credit Limit
2	$545	$654
2	$630	$756

Remember the rent figures in **Appendix I** include both the “window of affordability” and utility costs.

When the tax credit rents are compared with the proposed rents, it can be seen that all of the 2 bedroom units are below the 50% limit rent of $545 (proposed rents $449 and $524). Additionally, four of the 3 bedroom units (proposed rent $581) are below the 50% limit of $630. The remaining four 3 bedroom units (proposed rent $631) are within the 60% limit of $756.

Therefore, the applicant has met the set-aside requirements selected: 1) All units are at or below 60% of median income; 2) 40% of the units are at 50% of median income; and 3) At least 50% of the units are at 50% of median income. (Note: In this case all but four of the units are below the 50% limit)

STEP 2: Check the HOME Program Rent Limits, Appendix J
Rent Limits for Stokes County (Greensboro/Winston Salem MSA)

	2 Bedroom	3 Bedroom
Low HOME Rent	$553	$663
High HOME Rent	$553	$762

When the HOME Program rents are compared with the proposed rents, it can be seen that the rents for all of the 2 bedroom units are below both the low HOME Program and high HOME Program rent of $553 (proposed: $449 and $524). The 3 bedroom units are also below both the low HOME Program rent of $663 and the high HOME Program rent of $762 (proposed: $581 and $631).

Therefore, the HOME Program rules for projects that use RPP funds have been met in this example: 1) All proposed rents are within the HOME Program rent limits; and 2) At lest 20% of the units have rents that are within the low HOME Program rent limits.

STEP 3: Comparing the Tax Credit Rent Limits and the HOME Program Rent Limits

In this example, it should be noted that the 2 bedroom 50% tax credit rent limit of $545 is lower than the 2 bedroom HOME Program rent limit of $553 but the 2 bedroom 60% tax credit rent limit of $654 is higher than the HOME Program rent limit. For the 3 bedroom units, the 50% tax credit limit of $630 is lower than the low HOME Program rent of $663 and the 60% tax credit limit of $756 is lower than the high HOME rent of $762. As discussed above, the most restrictive rent limits will always apply.

In this example, the proposed 2 bedroom rents are all correctly within the more restrictive HOME Program rent limits. The 3 bedroom units are correctly within the more restrictive tax credit rent limits.

5. Low-income tenants must re-certify their incomes annually in projects with less than 100% low-income occupancy. Projects with 100% low-income occupancy must comply with this regulation unless a waiver of the annual income certification is obtained from the IRS, and a copy of the waiver is forwarded to the Agency.

6. A qualified low-income unit may remain designated as low-income as long as the tenant's income does not exceed 140% of the **current** qualifying low-income limit. If tenant income exceeds 140% of the limit, or a unit becomes vacant, it will continue to qualify, provided no other vacant units of comparable or smaller size are rented to nonqualifying families, the resident remains in that building, and the rent on that unit remains restricted.

7. Special Requirements

   (a) The project must meet all applicable federal, state and local laws and ordinances including Section 42 of the Code.

   (b) All projects are required by law to meet the handicap-accessibility standards outlined in the Fair Housing Laws, including the Federal Fair Housing Amendments Act of 1988 (the "Act"). The law provides that failure to design and construct certain multifamily dwellings to include features of accessible design will be regarded as unlawful discrimination. In general, these requirements apply to all ground floor units. The requirements of this Act are outlined further in **Appendix B**.

D. BASIS OF TAX CREDITS

1. Tax Credit Calculations

   The Committee will reserve credits based on a project feasibility analysis and will award tax credits not to exceed the amount necessary to ensure project feasibility and viability throughout the project period. This will be the maximum credit amount that will be allocated. Annual credit allocations are equal to (a), (b) or (c) as follows:

   (a) Nine percent of the qualified basis of low-income units for newly constructed or substantially renovated projects or the "Applicable Percentage" that is computed under Code Section 42 (b) (z) (b) (i) based on the average annual applicable federal rate (the AFR; see **Appendix M**), whichever is less. The qualified basis of the proposed project may not include costs funded by federal subsidies or tax-exempt bond financing.

(b) Four percent of the qualified basis of low-income units for newly constructed or substantially rehabilitated projects that are federally subsidized or financed with tax-exempt bonds, or for the acquisition cost of rehabilitated projects or the AFR computed under Code section 42 (b)(2)(B)(ii) (see **Appendix M**), whichever is less.

(c) The percentage of the qualified project basis necessary to ensure project feasibility and viability throughout the credit period. If the amount of credits calculated in paragraphs (a) and/or (b) above is more than the amount of credits basis necessary to ensure project feasibility and viability throughout the credit period, in the Agency's determination, only the amount of credits needed to ensure project feasibility and viability throughout the credit period will be reserved for the project. The Agency's determination of the financial feasibility and viability of a project throughout the credit period will be determined in a manner consistent with Treasury Regulation Section 1.42-17.

2. Lock In Options for the AFR and Final Credit Calculation

(a) Applicants who receive an allocation of tax credits will have the option of locking in the Applicable Federal Rate (AFR) for 4 or 9 percent tax credits at the time a reservation is made or at the time of the carryover allocation. This election is irrevocable. If the applicant does not choose to lock in, the rate will be locked in using the AFR as of the month the first low-income building is placed in service in accordance with Section 42 of the Code.

(b) Applicant are advised that the actual allocation of tax credits or the RPP loan amount may be less than requested, as a result of the review of certified project costs at project completion. Specifically, if the final cost certification does not demonstrate enough eligible basis in the project for the tax credits reserved or allocated in a carryover agreement, the credits allocated on IRS Form(s) 8609 will be adjusted downward to reflect this amount. In no event will additional tax credits be allocated for projects which incur additional unforeseen costs. For projects with RPP loans, the loan amount may be decreased if there is not adequate justification for costs that vary from the initial application.

(c) Applicants are encouraged to project a conservative applicable federal rate (AFR) in the application which realistically reflects the market. (A history of maximum applicable rates is located in **Appendix M**) This will guard against projecting more equity than can realistically be raised if the AFR falls.

3. Qualified Census Tracts (QCTs) and Difficult To Develop Areas (DDAs)

The qualified basis for tax credits may be increased by up to 30% in high-cost or hard-to-develop areas as designated by the Department of Housing and Urban Development. The Agency generally does not support using RPP funds for projects in qualified census tracts. If RPP funds are used in such areas, they must be loaned with an interest rate equal to at least the applicable federal rate defined in the Code in order to qualify for the 30% basis increase. There are other restrictions as well. See **Appendix L** for list of Qualified Census Tracts and Difficult to Develop Areas.

4. Carryover Provision

The Code requires more than 10% of the project's reasonably anticipated basis be incurred by December 31st of the year the tax credits are allocated. Forty-five days prior to this date, a Carryover Agreement issued by the Agency must be signed by the owner and returned to the Agency permitting the carryover of tax credits. Owners must have title to the property by execution of the Carryover Agreement. The 10% that must be incurred is 10% of anticipated total costs of land and depreciable real or personal property, excluding the basis of any building(s) that will not be part of the completed project. Expenditure of, and cost certification of, the 10% costs described above must be submitted to the Agency no later than November 15th (**Appendix X**). The buildings must be placed in service within 24 months after the end of the carryover allocation calendar year. For new construction and existing buildings, placed in service usually means the date the building receives a Certificate of Occupancy (C.O.) issued by the local governing body. For projects involving substantial rehabilitation, placed in service means the last day of the 24 month period (or shorter period, if elected by the owner) for aggregating rehabilitation costs, as long as the 10% of cost requirements have been satisfied. Please note, owners that are awarded partial tax credits must meet this requirement.

5. Rent Floor Selection

Applicants are permitted to use the initial maximum rents to serve as a floor preventing subsequent reductions in maximum rents for a tax credit building. Owners must execute this form prior to the placed in service date, or the applicable rents at the time of initial allocation of credits will apply.

6. Ten Year Credit Period

Tax credits may be used upon occupancy of the qualified unit, prorated for the 1st year, for each year for nine years thereafter with the unused amount from the first year's proration available in the 11th year. Compliance with income and rent restrictions will last a minimum of 15 years from the time the project is placed in service. This will be extended through the "Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits" (also referred to as the Extended Use Agreement).

7. Liability

Neither the Committee nor the Agency assumes any responsibility or accepts any liability for the interpretation of Section 42 of the Code, or whether any individual, partnership, corporation or entity that applies for and receives an allocation of tax credits qualifies for or can utilize tax credits allocated. Owners and their agents are encouraged to consult their own legal and tax advisors on these issues.

8. Tax Credit Regulations

The IRS has not issued final regulations for many issues that involve the use of tax credits. Additional rules and regulations are expected to be published at later dates. Any tax credit reservation or allocation made by the Committee prior to such issuance will be subject to the rules and regulations when issued.

9. Building Allocations

The tax credits are to be reserved and allocated on a per building basis or on a project basis. Costs of common facilities within the project may be prorated among the buildings or to the low-income units in each building.

E. APPLICATION PROCEDURE

The owner must complete the application in the Site and Market Analysis Application and submit it in a 3", 3-ring binder, with tabs separating each exhibit, by **January 19, 2001**. Projects with appropriate sites and markets will be allowed to submit a full application with required attachments (3-hole punched with tabs) and an application fee by **April 27, 2001**.

Deliver to:
North Carolina Housing Finance Agency
Rental Investment Group
3508 Bush Street
Raleigh, NC 27609

Mail to:
North Carolina Housing Finance Agency
Rental Investment Group
P.O. Box 28066
Raleigh, NC 27611-8066

. Application Process

(a) The Agency will evaluate all projects for appropriate sites and adequate market demand through a preliminary application process. The appropriate unit of government will be notified about the project at the time the preliminary site and market application is submitted to the Agency. The Agency will evaluate the response from the local government in approving or denying the application. The Agency reserves the right to reject applications that are opposed in writing by the chief elected official of the unit of local government (supported by their council or board), but is not obligated to do so. Reasons for opposition may include inconsistency with the local Consolidated Plan or an adopted local policy.

(b) Detailed analysis of sites and market studies will be performed to score preliminary applications. Projects that do not meet the Agency's minimum threshold requirements described in this document will not be allowed to submit a full application. Applicants should carefully review the criteria the Agency uses to evaluate both the site and market study. Scoring criteria are found in the Plan (Part V) and market study requirements are in **Appendix A**. Applicants will receive the results of this preliminary ranking prior to submission of the full application.

(c) Upon receipt of a full application, the Agency will log in and review each application and verify the application is complete.

(d) The Agency will rank applications according to the criteria in the Plan for a reservation of tax credits according to the appropriate set-aside in the Plan.

(e) The Agency will use the revenue and expense information submitted to analyze the project's financial feasibility. Project rents will be required to meet all requirements of the Plan. The Agency will use a national average price for tax credit pricing (currently 78 cents) in underwriting the project unless the owner proposes a higher amount. This minimum is subject to change depending on the syndication market for tax credits.

(f) The Agency will make its recommendation to the Committee. The applicant will then be notified in writing of the decision. If approved, the Agency will notify the applicant of the amount and conditions of the tax credit reservation. If denied, the Agency will notify the applicant of the reasons for denial.

(g) Once approved, the applicant will proceed to acquire, construct or rehabilitate the project. The applicant is required to update the Agency on the progress of development by submitting a Project Status Report (**Appendix W**). Sixty days prior to occupancy, the Agency must be notified in writing of the targeted project completion date. Upon completion for occupancy, the applicant must notify the Agency and furnish the Final Cost Certification form in **Appendix Y**. The cost certification must include all project costs along with a certification for any subsidies the project will receive. Final IRS Section 1.42-17 Regulations effective January 1, 2001 require that the taxpayer of all projects in excess of ten units, which are placed in service after January 1, 2001, regardless of the year of credit allocation, submit a schedule of project costs accompanied by a Certified Public Accountant's (CPA) audit report that details the project's total costs as well as those that may qualify for inclusion in eligible basis under Section 42(d). A third party CPA verification is required for cost certification on two or more units. This certification shall be in the form of **Appendix Y**. The Agency may require an independent cost analysis for projects that have an identity of interest between the applicant and the builder/general contractor.

Under the Code, the allocating agency is required to underwrite the project upon completion and adjust the amount of tax credits necessary to make the project feasible. Applicants must understand that the actual tax credits allocated will be the lesser of the tax credits reserved, the amount of tax credits in any carryover allocation, or the tax credits determined necessary after cost certification.

(h) If the Agency determines that an applicant that has received a reservation of tax credits in a calendar year will not receive an allocation in that calendar year, either because the applicant will not meet the carryover requirements, will not place the project building(s) in service in that calendar year, or fails to meet any other conditions of its reservation in the Plan or under the Code, the reservation will be revoked, and those credits will be reallocated to the next highest ranked project(s) without a full reservation in that region and in that calendar year, pursuant to the terms of the Plan or, in the Agency's discretion, when appropriate and possible, carried over for allocation in the next calendar year. Allocated credits may also be returned to the Agency under the following conditions as further described in Treasury Regulation Section 1.42-14: (1) credits have been allocated to a project building that is not a qualified building within the time period required by Section 42, for example, because it is not placed in service within the period required under Section 42, (2) credits have been allocated to a building that does not comply with the terms of its allocation agreement, (3) credits have been allocated to a project that are not necessary for the financial feasibility of the project, or (4) by mutual written agreement between the allocation recipient and the Agency. Credits that are returned before October 1 in any calendar year are treated as credits returned in that calendar year, and all or a portion of such credits will be reallocated to the next highest ranked project(s) without a full reservation in that region and in that calendar year, pursuant to the terms of the Plan or, in the Agency's discretion, when appropriate and possible, carried over for allocation in the next calendar year. With respect to credits that are returned after September 30 in any calendar year, all or a portion of such credits may also be reallocated to the next ranked project(s) without a full reservation in that calendar year pursuant to the terms of the Plan, or all or a portion of such credits may be treated by the Agency, in its discretion, where appropriate and possible, as credits that are returned on January 1 of the succeeding calendar year to be allocated in that year.

Carryover agreements must be executed in the name of the legally formed ownership entity. Therefore, at the time of execution, the ownership entity must have been legally formed, title transferred to the ownership entity, and qualifying expenditures incurred in the ownership entity's name.

(i) The Agency may conduct construction inspections for adherence to approved final plans and specifications.

(j) The Agency will review the Final Cost Certification for compliance with the Code in addition to application and reservation requirements.

(k) The owner must sign and record a "Declaration of Land Use Restrictive Covenants for Low Income Housing Tax Credits" (Extended Use Agreement) in the county in which the project is located by December 31 of the year the project is placed in service and a copy forwarded to the Agency.

(l) Tax credits will be allocated, based on applicable regulations, to those projects that have complied with the Code in addition to the application and reservation requirements.

(m) The Agency may revoke credits after the project has been placed in service in accordance with Section 42 if the Agency determines that the owner has failed to implement all representations in the application to the Agency's satisfaction.

F. ACCESS AND MONITORING

1. In making application for tax credits, the applicant agrees that the Committee, the Agency, and their designees will have access to any information pertaining to the project. This includes having physical access to the project, all financial records and tenant information for any monitoring that may be deemed necessary to determine compliance with the Code. Applicants are advised that the Agency, on behalf of the Committee, is required to do compliance monitoring and to notify the IRS and the owner of any discovered noncompliance with tax credit laws and regulations, whether corrected or uncorrected. The Agency intends to conduct desk audits and monitoring visits of projects for the purpose of evaluating continuing compliance with tax credit regulations, selection

criteria used to award bonus points, ensuring that the project continues to provide decent, safe and sanitary housing. The Agency will periodically modify monitoring procedures to ensure compliance with the requirements set forth in Section 42 and from time to time amended.

2. Applicants are advised that some portion or all of a project's application may be subject to disclosure to the public under the North Carolina Public Records Act.

A monitoring fee must accompany the Final Cost Certification (**Appendix Y**) for a project to receive an allocation of tax credits. The monitoring fee will be published each year by the Agency. Refer to the Plan, Rental Production Program Information (**Appendix R**), and tax-exempt financing guidelines **(Appendices U and V**) for further information on Agency monitoring requirements.

G. PROJECT ANALYSIS PROCEDURE

A. The Agency will first conduct an analysis of the preliminary application to evaluate the site appropriateness and market feasibility of each project. See Site and Market Evaluation in Section V. A. of the Plan for scoring criteria. Projects must, **at a minimum, meet all Agency threshold requirements** to be allowed to submit a full application.

B. Upon submission of a full application, the Agency will use a computer spreadsheet program to perform a standard financial analysis of each project and to determine the appropriate tax credit amount. No project will receive an applicable percentage exceeding 9% for new construction and substantial rehabilitation costs and 4% for acquisition costs and certain new construction and substantial rehabilitation projects that are federally subsidized. The Agency will decrease the percentage where the tax credit amount is deemed to be excessive. Projects in qualified census tracts or difficult to develop areas are eligible for up to a 30% increase in the calculation of the project's qualified basis. Such increases will only be permitted when shown to be critical to the feasibility of the project. QCT's and DDA's are found in **Appendix L**.

C. The analysis of projects will generally use a three-step procedure to define the appropriate tax credit amount.

1. The first step will establish and evaluate total development cost (i.e., land, construction and soft costs), eligible basis and rents that will be charged to tenants based on the application submitted.

2. The second step will establish and evaluate the project's operating expenses and debt service costs based on projected commitments for financing.

3. The third step will establish and use a pro forma financial analysis of the project's total costs, net operating income and projected total sources and uses of funding (See **Appendix G**). All projects must meet the underwriting requirements and the affordability windows described in C.4. Agency Targeting General Requirements. The maximum tax credit award will be determined using the total anticipated qualified basis amount multiplied by an AFR halfway between the April 2001 AFR and the maximum of 4% or 9%, or the annual credit amount necessary to ensure project financial feasibility and viability throughout the credit compliance period. This is the maximum amount of tax credits which will be reserved for a project (if it is approved for credits) to allow the Agency flexibility in allocating credits if the applicable percentage (based on the AFR) changes.

D. Ownership entities will be required to furnish cost certifications on completion of the project. These actual costs will be used in the same three-step process to determine if the tax credit amount provided at the reservation stage should be modified. Any material changes from the approved application not approved in writing by the Agency may result in cancellation by the Committee of the tax credit reservation or reduction of the tax credit amount.

Federal form 8609 will not be issued until the owner and/or management company produces evidence of attending a low-income housing tax credit compliance seminar sponsored either by the Agency or a sponsor acceptable to the Agency <u>within the last 12 months</u>. In addition, 8609s will not be issued until the Agency confirms that project has adhered to the design elements represented in the application and that landscaping and other amenities (play equipment, etc.) have been installed as per the applicant's site/landscaping plan. The Agency will exercise reasonable judgement in withholding the issuance of the 8609 considering the imposition of factors outside the developer's control, such as adverse seasonal and/or climatic conditions. Evidence of escrowed funds to complete landscaping may be required.

H. COMPLIANCE MONITORING

The Code requires the Committee to develop and implement a compliance monitoring program for completed projects that have received an allocation of low-income housing tax credits. A procedural manual has been developed and it will be distributed to applicants. Compliance monitoring is required for a minimum of 15 years after receipt of an allocation.

Applicants will be required to submit a quarterly report to the Agency for the first four full quarters after placement in service for any project. At that time, if the project is determined to be in compliance with the Code, reports may be required only on an annual basis. Applicants will also be required to submit to the Agency a copy of the IRS form 8609 and Schedule A filed with the IRS for the first year credits are claimed.

The Agency will annually conduct on-site inspections and desk audits of at least 33% of the projects under the Committee's jurisdiction. If projects are determined to be in noncompliance, monitoring may occur more often. The desk audit and inspection will include a project review of 20% of the units for the following:

- Low-income certifications
- Supporting income documentation
- Leases
- Rent record (including utility documentation)
- Compliance with supportive services commitments
- Compliance with other commitments made in the application
- Inspection for compliance with HUD Uniform Physical Condition Standards

All projects, at a minimum, are expected to meet HUD's Section 8 Uniform Physical Condition Standards and comply with local and state health and building codes throughout the compliance period. A Memorandum of Understanding (MOU) has been executed with Rural Development (RD) to accept their physical inspections in lieu of performing the inspection. The Agency will use discretion in determining when to utilize the MOU. In any event, the Agency will continue to monitor compliance documentation.

The Agency will be monitoring rent levels relative to current median income levels. The Agency requires a window of affordability in calculating rents such that rents cannot exceed 90 percent of the Maximum Housing Expense for high-income counties and 95 percent of the Maximum Housing Expense for low-income counties.

The county designation will be reviewed on an annual basis and published each year in the QAP. Tenant rents can not exceed the initial "window of affordability" from the original underwriting for the property without written permission of the Agency. In the event the county designation changes from low to high or high to low, requiring a change in the window of affordability, changes to the rent level will be handled as follows:

> The Agency will not require a reduction in the existing rent structure because of a change in county designation. However, rent increases can only be implemented to the extent that they comply with the current required calculation, using the window of affordability that currently applies to the project. The Agency may waive this restriction if the ownership entity submits a written request and documentation demonstrating that the property will be financially jeopardized, and that it is unable to pay its operating expenses and debt service requirements while maintaining at least a 1.15 debt coverage ratio.

In mixed-use properties, 100% of the units may be monitored in any building receiving an allocation of tax credits.

The Agency will be monitoring projects to ensure the required monthly deposits to reserve for replacement accounts are made in accordance with the General Requirements.

During the compliance period the Committee and Agency reserve the right, under the provisions of Section 42 of the Code, to perform an audit of any project that has received an allocation of tax credits. This audit may include an inspection of all buildings, and a review of all tenant records and certifications, and documents supporting items for which the owner received points (or avoided point deductions) in the application for an allocation of credits.

Each applicant has chosen to utilize low-income housing tax credits to take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met so that the project will benefit low-income tenants.

Under the provisions of the tax credits, the ownership entity of a low-income housing project will be required to keep records (as defined below) for each building within a particular development. These records must be retained by the owner for a minimum of six (6) years beyond the owner's income tax filing date (plus any extensions) for that year. However, first year project records must be maintained for six (6) years beyond the tax filing date of the final year of the project's compliance period, or for 21 years because those records are needed to prove the project's eligibility for tax credits. The ownership entity must annually report to the Agency and maintain records for each qualified low-income building in the project showing:

- Total number of residential rental units in the building; (including the number of bedrooms and the size in square feet of each such unit)
- Percentage of residential rental units in the building that are low-income units
- Rent charged on each residential rental unit in the building (including utility allowances)
- The size of each low-income household
- Low-income unit vacancies in the building and documentation of when and to whom, the next available units were rented
- Income certification and student status of each low-income tenant
- Documentation to support each low-income tenant's income certification
- Character and use of the nonresidential portion of each building included in the building's eligible basis (this includes separate facilities such as clubhouses or swimming pools whose eligible basis is allocated to each building)

Failure to report annually to the Agency is deemed as noncompliance and is reportable to the IRS.

It is the responsibility of the ownership entity to certify annually to the Agency that the project meets the requirements of whichever set-aside of Section 42 is applicable to the project. Failure to certify is deemed as noncompliance and reportable to the IRS. This annual certification requires that the ownership entity certify that:

- The project meets the minimum requirements of the 20/50% or 40/60% test under Section 42 of the code

- There has been no change in the applicable fraction as defined in Section 42 for any building in the project

- The applicant has received an annual Tenant Income Certification from each low income resident and documentation to support that certification; or in the case of a tenant receiving Section 8 housing assistance payments, a statement from the PHA certifying the household’s size and amount of gross income; or the owner has a recertification waiver letter from the IRS in good standing that waives the requirement to obtain 3rd party verifications at recertification and has received an annual Tenant Income Certification from each low income household, and documentation to support the certification at their initial occupancy

- Each low-income unit was rent restricted in accordance with Section 42 of the Code.

- 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)

- No finding of discrimination under the Fair Housing Act, 42 USC 3601-3619, has occurred for this Project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgement from a federal court.

- Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes, 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

- 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

- All tenant facilities included in the eligible basis 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

- 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 to tenants not having a qualifying income

- If the income of tenants of a low-income unit in the project increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size was or will be rented to residents having a qualifying income

- An extended low-income housing commitment was in effect, including the requirement that an ownership entity 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. Neither the ownership entity nor the management agent 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 allocated credits from years 1987-1989)

- If the applicant received its credit allocation from the portion of the state ceiling set-aside for a project involving “qualified nonprofit organizations” under Section 42(h)(5) of the Code and its nonprofit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code

- There has been no change in the ownership or management of the project

The ownership entity of any exempted project must certify to the Agency on an annual basis that the project is in compliance with the requirements for RD assistance or the tax-exempt bond financing guidelines, as applicable, and that all requirements of Section 42 of the Code are also being met. The ownership entity must inform the Agency of any noncompliance or if the owner is unable to make one or more or the required certifications.

The Agency may elect to subcontract the monitoring procedure to other agents. In doing so, the Agency would designate the subcontractor as the compliance monitoring agent who would perform the Committee's function.

In the event that any noncompliance with Section 42 of the Code is identified, a discrepancy letter detailing the noncompliance will be forwarded to the ownership entity and management company of the project.

The ownership entity must then respond in writing to the Agency within thirty (30) days after receipt of the discrepancy letter when noncompliance has been determined. The response must address all discrepancies individually and must indicate the manner in which corrections will be made. The owner will then have a cure period of sixty (60) days from the date of the discrepancy letter to correct the noncompliance detected and to provide the Agency with any documentation or certification found to be missing during the annual management review. The cure period may be extended for periods of up to six (6) months. Extensions will be based on a determination by the Agency that there is good cause for granting the extension.

The Agency will notify the Internal Revenue Service within forty-five (45) days after the expiration of the cure period of any noncompliance that has been detected. All corrections made by the ownership entity within the cure period will be acknowledged within this notice. A copy of the applicant’s response to the noncompliance will accompany the notice to the IRS.

If a potential noncompliance is discovered during a compliance monitoring review, the ownership entity will be required to have its managing agent attend a compliance training session within two months following the compliance monitoring review.

Monitoring Fees

In order to reimburse the Agency for the 15-year cost of the compliance monitoring program, the following fee must be paid prior to the issuance of federal form 8609:

For tax credit projects without an Agency loan (RPP funding), including projects using tax-exempt bond financing and 4% credits	$425 per all units in each low-income building
For projects financed under the Section 515 Program of Rural Development without RPP funding	$250 per unit
For all projects receiving an Agency RPP loan, regardless of RD participation.	$500 per all units in each low-income building.

This fee is applied to all units in a project, including units reserved for managers or other personnel.