

**PENNSYLVANIA HOUSING FINANCE AGENCY**  
**ALLOCATION PLAN FOR PROGRAM YEAR 2024**  
**LOW INCOME HOUSING TAX CREDIT PROGRAM**  
**BOARD APPROVED – SEPTEMBER 14, 2023**

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# 1. Vision, Commitment to Diversity, Good Standing, and Description of the 9% and 4% Low Income Housing Tax Credit Programs

## 1.1 VISION

In order to make the Commonwealth of Pennsylvania a better place to live while fostering community and economic development, the Pennsylvania Housing Finance Agency (the "Agency") provides the capital for decent, safe, and affordable homes and apartments for older adults, persons of modest means, and those with special housing needs. Through its multifamily funding programs, the Agency encourages the new construction and preservation of developments that address housing insecurity for the most vulnerable, support neighborhood revitalization, is responsive to social inequities and disparities, provides opportunities in areas that lack affordable housing options and affirmatively furthers fair housing in the Commonwealth. The Agency is committed to the principles outlined above and to maximizing the production and preservation of quality affordable rental housing for the longest term possible. As a key element of the Agency's commitment to the preservation of affordable rental housing, the Agency is pro-active in encouraging the thoughtful refinancing and recapitalization of properties in its portfolio.

The Agency administers the Federal Low Income Housing Tax Credit Program ("Tax Credit Program") in the Commonwealth. Pursuant to federal law governing the Tax Credit Program, the Agency adopts a plan (the "Allocation Plan") outlining the allocation priorities and procedures to be followed in distributing Federal Low Income Housing Tax Credits ("Tax Credits") based on the housing needs of the Commonwealth. Adoption of the Allocation Plan requires approval by the Governor after a public hearing.

In the event there are changes in federal law subsequent to the adoption of this Allocation Plan or additional regulatory guidance or clarifications regarding the Tax Credit Program become available, the Agency reserves the right to modify, to supplement or to make conforming amendments to this Allocation Plan and all related documents without formal amendment or additional public hearings. In addition to notifying affected Tax Credit Program Applicants, information about such subsequent changes will be posted on the Agency's website at [www.phfa.org](http://www.phfa.org).

The Agency administers other funding resources that support the development of affordable rental housing, such as the Pennsylvania Housing Tax Credit, PHARE, PennHOMES and Housing Trust Fund. These funding resources are often used in conjunction with the Tax Credit Program, but may have different processing and selection criteria which are not included in the Qualified Allocation Plan. Each of those programs have their own guidelines which can be found on the Agency's website at [www.phfa.org](http://www.phfa.org).

This Allocation Plan meets the requirements outlined in Section 1909-G of Article XIX-G of the Pennsylvania Code which establishes the Pennsylvania Housing Tax Credit. Section 1909-G requires the Agency to issue guidelines and procedures for the administration of the Pennsylvania Housing Tax Credit in conjunction with this Allocation Plan and, when possible, to administer the Pennsylvania Housing Tax Credit using the same guidelines, procedures and priorities used to administer the Tax Credit Program. More information regarding the Pennsylvania Housing Tax Credit is available on the Agency's website at [www.phfa.org](http://www.phfa.org).

## **1.2 COMMITMENT TO DIVERSITY**

The Agency is very committed to encouraging and supporting all-inclusive diversity in all of its programs. As part of the scoring process outlined in the Qualified Allocation Plan (QAP) and the Agency's ongoing goal to foster diversity, the Agency will score developments in categories that encourage joint ventures with and material participation by a Small Diverse Business or a Veteran Business Enterprise in the development team, as verified by the Bureau of Diversity Inclusion and Small Business Opportunities of the Pennsylvania Department of General Services. More information concerning scoring is available in Section D.1.f of the Selection Criteria Exhibit.

Additionally, to address the unique financing needs of emerging developers, the Agency has created the Developer Opportunity Fund. Small Diverse Businesses and Veteran Business Enterprises may apply to the Agency for financial assistance from the Developer Opportunity Fund. Examples of assistance may include:

- Predevelopment loans to developers who have a reservation of low-income housing tax credits and need funds to cover predevelopment expenses prior to the construction closing;
- Lines of credit for a project with a LIHTC reservation to cover cost overruns and help attract an equity investor; and
- Technical assistance support through partner agencies.

For inquiries about the Developer Opportunity Fund, please contact Jordan Laird, Director of Finance, at [jlaird@phfa.org](mailto:jlaird@phfa.org).

## **1.3 COMMITMENT TO COMMUNITY AND ECONOMIC DEVELOPMENT**

The preservation and construction of affordable housing units are frequently one component of larger community and economic development strategies. For example, the Choice Neighborhoods Program administered by the U.S. Department of Housing and Urban Development (HUD) leverages public and private funds to support locally driven strategies that address struggling neighborhoods with distressed public or HUD-assisted housing through a comprehensive approach to neighborhood transformation. Municipal leaders, housing authorities, developers, residents, community business owners, and other stakeholders work together to create and implement plans to revitalize housing and address challenges and opportunities in the surrounding neighborhoods.

In addition to the Choice Neighborhoods Program, there are also other locally run economic development initiatives throughout the Commonwealth. These initiatives may include financing from sources such as the Commonwealth's Redevelopment Assistance Capital Program (RACP), funding from local Philanthropy, and/or other local, state, or federal programs. The Agency supports strategies that comprehensively revitalize the Commonwealth's neighborhoods so that job and economic growth occur simultaneously with the development of affordable housing.

Please note; however, that though the Agency supports the concept of community and economic development, all projects that are part of community and economic development strategies, such as HUD's Choice Neighborhoods Program, still need to compete and be scored in accordance with the QAP. Additionally, all applicants of developments that fit the definition of community and economic development must agree to work collaboratively with Agency Staff.

**1.4 GOOD STANDING REQUIREMENTS**

The Agency, in its sole discretion, may choose to reject a tax credit application submitted by owners or a related entity that have failed to abide by Agency policies and procedures on previously awarded or existing properties. Reasons for rejection could include the following:

- Failing to close prior year tax credit deals. Please note that in the 2024 round, due to delays caused by the COVID-19 pandemic, the Agency will not penalize developers that are still working on developments awarded in the 2021 round and the 2022/2023 round
- Receiving repeated delinquent Agency billings that have gone unanswered and/or received numerous concerns from the Agency regarding property management which have gone unaddressed
- Having noncompliance issues on existing PHFA properties AND have not responded to the Agency with an acceptable plan for correction., Losing and/or reducing the number of affordable units that are still in the extended use period

To the extent possible, the Agency will make a good-faith effort to notify applicants within approximately three weeks of the receipt of the Intent to Submit, if the applicant is not in good standing with the Agency and will not be allowed to submit the full application(s). However, please note that if good standing issues come to the Agency’s attention at any point during the application process, the applicant may be asked not to submit and/or to withdraw the application. Additionally, the Agency defines a “related entity” to another entity as the following: The two entities have (i) significant common purposes and substantial common membership; or (ii) directly or indirectly substantial common direction or control; or (iii) have a person or common persons that own a 25 percent or greater interest in the capital or profits of each entity; or (iv) either entity owns (directly or through one or more entities) a 25 percent or greater interest in the capital or profits of the other.

**1.5 9% AND 4% TAX CREDIT PROGRAMS**

The Agency administers two separate and distinct tax credit programs: the 9% program and the 4% program. The following chart describes characteristics of both programs:

	9% LIHTC Program	4% LIHTC Program
Key Characteristics:	Federal Tax Credit; 15-year initial compliance period; an additional 25-year extended use period	Federal Tax Credit; 15-year initial compliance period; an additional 25-year extended use period
Is it paired with an allocation of Tax-Exempt Volume Cap?	No	Yes

<p>Is it competitive?</p>	<p>Yes, the Agency will accept Intent to Submits and full applications once-a-year for competitive funding.</p>	<p>No, the Agency will accept Intent to Submits and full applications. Please note, the Agency reserves the right to reject any or all applications during the Intent to Submit stage, Technical Planning Meeting Stage, AND/OR the application stage based on the project feasibility as determined by the Agency, underwriting requirements, and/or volume cap availability. The RFP for volume cap will further define the requirements for funding.</p>
<p>Can it be used for both New Construction and Preservation?</p>	<p>Yes</p>	<p>Yes</p>
<p>For preservation deals, is there a requirement for how much rehabilitation is required.</p>	<p>Yes, the Agency encourages the Project Needs Assessment to specify that as least two of the following four systems (Electrical, HVAC, Plumbing and Elevator systems) have reached their useful life and needs fully replaced. Additionally, the construction line item must be AT LEAST 40% of the Replacement Value of the Building.</p>	<p>Yes, the Agency encourages the Project Needs Assessment to specify that as least two of the following four systems (Electrical, HVAC, Plumbing and Elevator systems) have reached their useful life and needs fully replaced. Additionally, the construction line item must be AT LEAST 40% of the Replacement Value of the Building.</p>
<p>Does the project need to meet the 50% Bond Test</p>	<p>No</p>	<p>Yes</p>
<p>Does the project need to meet the 10% Test (for expenditures)</p>	<p>Yes</p>	<p>No</p>
<p>Can you apply for a Project if you have one or more prior year projects that have not closed?</p>	<p>Developers are limited to applying to four 9% LIHTC developments in accordance with the QAP. If you have 9% projects awarded prior to the 2022 round that are not closed, that will count towards the application limit of 4 applications.</p>	<p>Developers are limited to applying to two 4% LIHTC developments in accordance with this QAP. If there are outstanding prior year 4% application(s) that are not closed (including 2022 applications), that counts towards the two projects. However, the Agency may accept waiver requests due to</p>



		extraordinary circumstances beyond the developer's control.
What is the application limit per developer?	Four	Two (a waiver request may be accepted for developments that are part of a previously awarded HUD Choice Neighborhood Implementation Grant program; however, no applicant should have more than three applications being reviewed for an allocation of volume cap).
What is the application limit per consultant?	Ten (in total for both 9% and 4% collectively together)	Ten (in total for both 9% and 4% collectively together) Please note, if there are prior year developments not closed, that counts towards the cap. However, the Agency may accept waiver requests due to extraordinary circumstances beyond the developer's and/or consultant's control.

## 2. Application Processing

### 2.1 OVERVIEW AND APPLICATION SUBMISSION DEADLINES

This Allocation Plan shall govern Applications for Tax Credits (each an "Application") for annual awards of Tax Credits in 2024. The Agency awards Competitive 9% Tax Credits to developments through an annual funding round; additionally, the Agency awards 4% Tax Credits for developments which are financed with tax-exempt bonds outside of the annual funding round ("4% Tax Credits with Tax-Exempt Bonds").

For a development to be considered for a reservation of Competitive 9% Tax Credits in 2024, the entire Application package, including all exhibits, must be received by the Agency **no later than 3:00 p.m. on December 15, 2023** (or such other deadline as may be established by the Agency on its website). Deadlines for consideration for a reservation of Competitive 9% Tax Credits in 2024 may be announced by the Agency on its website at [www.phfa.org](http://www.phfa.org) if uncommitted resources are available or become available. Applications (which include receipt of an electronic submission and hard copy) not received by the closing date of the submission cycle will not be considered.

For a development to be considered for a reservation of 4% Tax Credits with Tax-Exempt Bonds in 2024, the entire Application package, including all exhibits, must be received by the Agency **no later than 3:00 p.m. on February 29, 2024** (or other such deadline as may be established by the Agency on its website). The Agency reserves the right to reject any or all applications based on financial feasibility, scoring, other program parameters, and/or available volume cap. The information related to 4% Tax Credits with Tax-Exempt Bonds will be updated on the Agency's website at [www.phfa.org](http://www.phfa.org).

In advance of submitting an Application package for Competitive 9% and for 4% Tax Credits, applicants must submit an "Intent to Submit a Tax Credit Application - Fact Sheet and Development Synopsis" (see the 2024 Multifamily Housing Program Guidelines (the "Agency Guidelines") for form and submission guidance) no later than 60 days prior to application deadline. This submission is a mandatory requirement for the Tax Credit Program.

In advance of submitting an Application package for 4% Tax Credits with Tax-Exempt Bonds, the Applicant should refer to the Agency's 2024 Request for Proposals (RFP) for Volume Cap and to the Agency's website at [www.phfa.org/mhp/developers/loans.aspx](http://www.phfa.org/mhp/developers/loans.aspx) for specific requirements.

The Agency will evaluate the Applications based upon the requirements set forth herein and may request additional information from Applicants at any time during the processing of an Application in its discretion.

To achieve its affordable housing mission and to affirmatively further fair housing in the Commonwealth, the Agency reserves the right to amend, modify or waive specific nonmaterial submission requirements or requisite documentation.

The Agency may issue supplemental policy and guideline announcements affecting this Allocation Plan. Furthermore, the Agency reserves the right to suspend or otherwise alter the submission requirements and timelines in its discretion. Please refer to the Agency's website at [www.phfa.org](http://www.phfa.org).

It is the Applicant's responsibility to be familiar and compliant with all Tax Credit Program requirements, the regulations, and the Internal Revenue Code (the "Code"), in effect both now and in the future, as applicable to any Application in the Tax Credit Program. **Applicants must disclose all relevant information in the Application to provide the Agency with a full understanding of the proposed Project.**

## **2.2 GENERAL PROCESSING INFORMATION AND FEES**

Upon receipt of an Application, the Agency will review all information submitted for compliance with the Threshold Criteria (see Section 3). The Agency may elect to conduct a development site visit. The Agency anticipates that the number of Applications will significantly exceed the amount of Competitive 9% Tax Credits availability for allocation, therefore, the Agency may use the amount of resources available and readiness to proceed and commence construction as factors in making awards.

The Agency will review the Application and assign points based on the Selection Criteria (see Section 4).

The Agency reserves the right, at any time, to require submission of such documentation or additional support as it deems necessary to evidence any of the items set forth herein including, without limitation, additional independent market studies, independent appraisals, evidence of property location and accurate deed and title information, investor data and equity letters, partnership agreements, independent capital needs assessments and opinions of qualified tax counsel or certified public accountants.

All Tax Credit reservations are made based upon the information contained in the Application. Unless specifically directed or approved by the Agency, changes or supplements to an Application during the processing period for ranking are not permitted. Changes in an Application made by the Applicant after a reservation is received affecting any of the Selection Criteria features will result in reconsideration of the ranking and may lead to a rescission of the conditional reservation.

The Agency charges fees for certain activities associated with applications for financing. See the Agency Fee Schedule on the Agency's website at [www.phfa.org](http://www.phfa.org) for additional information.

## **2.3 APPLICATION SUBMISSION REQUIREMENTS**

All information submitted by the Applicant or requested by the Agency in the review of the Application is the sole property of the Agency and may be made public. The Agency's processing procedures, fee schedules and limitations, and current rent and income limits are set forth in the Agency's 2024 Multifamily Housing Application Package (the "2024 Application") and 2024 Multifamily Housing Program Guidelines (the "2024 Guidelines"), which are available on the Agency's website at [www.phfa.org/mhp/developers/housingapplication.aspx](http://www.phfa.org/mhp/developers/housingapplication.aspx).

The entity(ies) identified as an Applicant(s) in the Application must have a general partner or managing member interest in the final ownership entity of the development. The Applicant(s) must be actively involved in both the development and ongoing control and management of the development as evidenced in the partnership agreement governing the ownership entity for the development Applications. Sale, transfer or assignment of an Applicant's interest in the proposed Tax Credit development is prohibited while the Application is pending. After reservation of Tax Credits, any such transfers, sales and assignments prior to placement in service and issuance of an IRS Form 8609 require prior written approval by Agency staff and may require submission of a new Application, additional processing fees and/or may result in recapture of Tax Credits by the Agency.

The Agency will impose a limit of no more than four (4) 9% applications per year per entity serving as a general partner or managing member, either solely or as a co-general partner or co-managing member. The Agency will impose a limit of no more than two (2) 4% LIHTC applications per year per entity serving as a general partner or managing member, either solely or as a co-general partner or co-managing member. For both the 9% and 4% applications, if a developer is part of a joint venture with a Small Diverse Business or a Veteran Business Enterprise which meets eligibility criteria of the Small Diverse Business Program operated by the Department of General Services, or a qualified small business, then the developer may apply for a waiver to

exceed the cap regarding the number of applications. Additionally, the Agency will impose a limit of no more than ten 9% and 4% LIHTC applications collectively in sum per year per consultant. Depending on application volume and availability of resources, the Agency may limit the number or size of awards per developer or consultant. For both 9% and 4% applications, the Agency may not accept an Application from developers awarded Tax Credits prior to the last two tax credit rounds that have not closed on their financing and commenced construction. Additionally, unclosed 4% applications count towards the developer's and/or consultant's cap unless a waiver request describing circumstances beyond the developer's control is reviewed and approved.

The Application package submitted for review must include all the information in the order set forth in the 2024 Application. **Any material deficiency in the Application or omission from the mandatory submissions set forth in the 2024 Application may result in immediate rejection or alternatively, negative ranking points.** All Applications must meet program eligibility requirements set forth in the Code. **Any Application, once received by the Agency, may not be altered, amended or modified except as approved by staff during underwriting and program review or except for developments participating in an Agency financing program, which may undergo subsequent substitute processing and ranking by the Agency.** Applications will be ranked based only upon the information contained in the Application package.

Applications that meet all Threshold Criteria (see Section 3) and that are financially feasible and viable will then be ranked according to the Selection Criteria (see Section 4). Applications that do not meet Threshold Criteria, are financially infeasible, do not demonstrate long term viability, or which exceed the maximum number of Applications per Applicant may be rejected by the Agency at any time.

The Agency also reserves the right, in its sole discretion, to reject any Application in the event that the costs or fees associated with the proposed development are deemed to be excessive or unreasonable (i.e., exceeds PHFA's cost guidelines). Additionally, the Agency may discontinue processing any Application for Competitive 9% Tax Credits if the Agency determines in its sole discretion that the development is infeasible as proposed, will not be able to receive a reservation of Tax Credits due to the oversubscription of Tax Credits in any Set-Aside, Pool or Preference, or if the Agency determines that there are insufficient Tax Credits available for allocation to meet overall demand.

Upon review of the Application, Agency staff may advise the Applicant of incongruities, discrepancies or incomplete items and may allow the Applicant to clarify or supplement the original submission. Such requests will be made in writing to the Applicant and response will be required within the timeframe set forth therein, **which will generally be no later than five business days from notification by staff.** See the 2024 Guidelines for additional guidance and information about processing Applications.

Agency staff may take any actions deemed necessary by the Agency to process Applications and administer this program, which may include modifying and adjusting any allocation as it deems necessary to promote housing goals including its goal of creating and enhancing housing choices in areas of opportunity (maximizing leveraging of available program resources, and encouraging geographic distribution), and to respond to specific market needs and/or program objectives.

Agency staff is specifically instructed and authorized to make *de minimis* adjustment to any Application in processing, at any time as deemed appropriate and necessary, to carry out the housing goals of the Agency. (For these purposes, *de minimis* means an adjustment of approximately 5% of the conditional reservation or allocation.)

## **2.4 MAXIMUM COMPETITIVE 9% TAX CREDIT AWARD**

The Agency imposes the following per project maximums on Competitive (9%) Tax Credit awards:

- 1) \$1,537,000 for projects with 60 or more affordable units if the development demonstrates a mix of unit sizes with at least 51% of units two bedroom or larger; or
- 2) \$1,590,000 for projects which promote supportive housing opportunities to targeted populations including persons who are homeless; non-homeless households requiring supportive services including those with mental, physical, sensory, or developmental disabilities; persons with substance abuse disorders; persons diagnosed with HIV/AIDs and related diseases; persons being released from incarceration, and other special populations approved by the Agency on a case-by-case basis (which may include consideration for the specialized needs associated with affordable housing for veteran households). A minimum of twenty five percent (25%) of the units must be set aside to qualify for this preference. Designated units must be rented only to the target population (subject to fair housing laws). Developments must provide evidence that residents meeting the supportive housing preference pay no more than thirty percent (30%) of their income to their total housing expenses; or
- 3) \$1,431,000 for projects which do not meet the criteria outlined in (1) and (2), above.

The Agency reserves the right to reduce the project maximums listed above based upon market conditions. Based upon the demand for Competitive 9% Tax Credits and development rankings, the amount of Competitive 9% Tax Credits reserved for any one Applicant (or related entity or material participant including consultants) or development in any specific jurisdiction or within a particular Set-Aside, Preference and Pool may be limited at the discretion of the Agency. Similarly, based on the availability of Competitive 9% Tax Credits to the Agency, the amount of Competitive 9% Tax Credits reserved for any one Applicant or development may be adjusted.

## **2.5 NONPROFIT SET-ASIDE OF COMPETITIVE (9%) TAX CREDITS**

**The Code requires that a minimum of 10% of Competitive 9% Tax Credits be allocated to qualified nonprofit organizations.** The Agency will continue to encourage development by nonprofits which have demonstrated commitment to improving the living environment, public health, or safety of local populations in Tax Credit developments and will target a minimum of twenty-five percent (25%) of the Competitive 9% Tax Credit towards developments involving qualified nonprofit organizations (the “Nonprofit Set Aside”) as described below. In meeting the Nonprofit Set Aside, the Agency will provide a preference of up to five percent (5%) of the Competitive 9% Tax Credit for Community Housing Development Organizations (“CHDOs”) that are certified in Pennsylvania. To be eligible, all nonprofits and CHDOs must meet the following requirements:

A nonprofit organization or CHDO will qualify for consideration under the Nonprofit Set-Aside if it is described in paragraphs (3) or (4) of Section 501(c) of the Code, is exempt from tax under Section 501(a) and will materially participate in the Tax Credit development throughout the compliance period. In addition, the nonprofit organization must have the fostering of low-income housing as one of its exempt purposes. The nonprofit organization must be the managing general partner or managing member and own (directly or

through a partnership) at least a 51% interest in the managing general partner of the partnership entity in accordance with current laws and IRS regulations throughout the development's compliance period.

The nonprofit organization or CHDO may neither be an affiliate of, nor controlled by, a for profit organization. An opinion of counsel addressing the status of the nonprofit organization and qualification for the Nonprofit Set-Aside may be required.

Priority may be given to nonprofits or CHDOs which have a substantial base of operations within the county or municipality of the proposed development. To show a substantial base of operations, the nonprofit must demonstrate that it has provided quality charitable services to persons in the county or municipality without substantial interruption for at least the last two years, or performed other such activities which demonstrate, to the satisfaction of the Agency, that the organization will further the living environment, public health, or safety of persons in the proposed development. The Agency may require certification of IRS Form 990 filings and evidence of good standing with all nonprofit IRS filing requirements.

## **2.6 QUALIFIED CENSUS TRACTS, DIFFICULT DEVELOPMENT AREAS AND STATE DESIGNATED BASIS BOOST**

All Tax Credit developments located in a "qualified census tract" or "difficult development area", as established by HUD, may qualify for Tax Credits based on 130 percent (130%) of the eligible rehabilitation/new construction basis.

Developments requesting Competitive 9% Tax Credits must request a Waiver (see Section 5) to receive a 130% State Designated Basis Boost. The application must demonstrate that without the basis boost, a significant funding gap will remain for the proposed development. Developments requesting 4% Tax Credits with Tax-Exempt Bonds are not eligible for the 130% State Designated Basis Boost.

## **2.7 DEVELOPMENTS REQUESTING 4% TAX CREDITS WITH TAX-EXEMPT BONDS**

All developments utilizing 4% Tax Credits with Tax-Exempt Bonds in their financing plan must submit a Tax Credit Application pursuant to the 2024 Request for Proposals for Tax Exempt Volume Cap and must be evaluated in accordance with the Allocation Plan and the Agency Guidelines. Developments which qualify for 4% Tax Credits with Tax-Exempt Bonds are not required to receive an allocation of Competitive (9%) Tax Credits through competitive allocation from the Agency.

To qualify for 4% Tax Credits with Tax-Exempt Bonds, the Agency requires that the Application meet the Threshold Criteria for both the 9% and the 4% Tax Credit Programs (see Section 3) and score at least 120 points under the Selection Criteria (see Section 4) for new construction and/or rehab developments and 110 points for preservation developments. Applications will only be scored once. Additionally, to qualify for 4% Tax Credits with Tax Exempt Bonds, the construction and/or rehabilitation costs must exceed 40% of the Replacement Value.

The Agency may require certain applicants to pursue 4% Tax Credits with Tax-Exempt Bonds as an alternative to seeking Competitive 9% Tax Credits. Specifically, developments which have access to federal resources may be required to provide information regarding the financial feasibility with 4% Tax Credits with Tax-Exempt Bonds.

For developments seeking 4% Tax Credits with Tax-Exempt Bonds, the Agency may waive such timelines, processing and program requirements, in its discretion, to encourage and facilitate such financings. However, it is expected that 4% Tax Credits with Tax-Exempt Bonds be in a position to close within seven months of application. If in the review of the application or at any point in the process, the Agency determines that this timeline is not possible, the application may be rejected or asked to resubmit in a later round. Additionally, if at any point during the review and underwriting the request for Volume Cap increases by more than 10% from the initial application, the developer will be expected to withdraw the application and resubmit at a later date.

## **2.8 PLACED-IN-SERVICE/CARRYOVER ALLOCATION - COMPETITIVE 9% TAX CREDITS**

All developments receiving a conditional reservation of Competitive 9% Tax Credits in program year 2024 must either be placed in service by the date set forth in the Reservation Letter or be eligible for a carryover allocation of Tax Credits pursuant to the Code. All processing deadlines for Carryover Allocations must be met. The Agency reserves the right to update or amend the Carryover Allocation deadlines and processing timeframes and will publish any and all modifications on its website.

To qualify for a Carryover Allocation, an owner must, by the required date set forth in the Reservation Letter, have evidence of ownership of the land or the depreciable real property that is part of the proposed development. The Agency may, in its sole discretion, accept either an Attorney's Opinion Letter or a Certified Public Accountant Letter that certifies that the owner has carryover allocation basis for the development pursuant to the Code; or an owner's certification which includes sufficient identification of the property (i.e. legal descriptions, surveys, title insurance) to assign building identification numbers. In making this certification, the owner accepts full responsibility for all discrepancies, errors or omissions of properties and acknowledges that subsequent adjustments may require Internal Revenue Service approval. Additionally, no later than the date set forth in the Reservation Letter, owner must incur more than 10 percent (10%) of the "reasonably expected basis" in the property, including land. The "reasonably expected basis" is that basis which is expected to be incurred as of the close of the second calendar year following the calendar year of the Carryover Allocation.

## **2.9 REALLOCATIONS - COMPETITIVE 9% TAX CREDIT**

The Agency reserves the right, in its sole discretion, to provide an allocation of Competitive 9% Tax Credits from a future year to a development, without requiring re-ranking under the Year 2024 Allocation Plan. The development must be currently holding a valid allocation of Competitive 9% Tax Credits and due to extraordinary or compelling circumstances beyond its control, be unable to meet Tax Credit program placed in service deadlines. Reallocation requests will only be considered on the entire development award (which may include multiple year Competitive 9% Tax Credit allocations). The Agency will not consider requests for partial reallocation of Tax Credits.

The Competitive 9% Tax Credits will be allocated upon release and return of the prior allocation. The Agency will issue a Reallocation only if circumstances warrant such action. Such circumstances may include delays caused by local government's opposition and/or community opposition to affordable housing; delays due to the failure of the federal government to release funding program guidelines or regulations in a timely manner or due to temporary freezes in federal government budget authority for program activity; or similar

extraordinary and compelling circumstances (and but for such circumstance, Agency program deadlines and requirements would have been met). The Agency, in its sole discretion, may assess negative ranking points on subsequent Applications from the Applicant (or related entity). If a project is delayed due to local government and/or community opposition, the Agency may in its sole discretion help to facilitate potential solutions and/or paths forward to assist with the development of affordable housing in the community.

## **2.10 COST CERTIFICATION REVIEW AND ISSUANCE OF IRS FORM(S) 8609**

The Agency's procedures for Cost Certification review and issuance of IRS Form(s) 8609 include the submission of documentation necessary for the Multifamily Development group to complete a final review of project costs and issue IRS Form(s) 8609 to allocate Tax Credits. This documentation is referred to as the Placed-in-Service package. The Agency requires the submission of the Placed-in-Service Package no later than 90 days after the last residential building receiving Tax Credits in the development is considered placed-in-service. Please note for rehabilitation buildings, the placed-in-service date for the rehab work is the close of the 24-month period when the rehabilitation is substantially complete.

The most critical item to be submitted at this stage is the Cost Certification. It is the responsibility of the owner and the LIHTC investor to review the Cost Certification prior to its submission to the Agency to ensure that all costs and sources of funds are properly included and categorized. The Cost Certification and Independent Auditor's Report must be completed by an independent, third party Certified Public Accountant who is familiar with the Code.

Only that amount of Tax Credits that is necessary to ensure feasibility and long-term viability will be issued on the IRS Form 8609. See the applicable Agency Guidelines for the appropriate documentation to be submitted and the applicable timeframes.

More information regarding the Close Out procedures for Tax Credits is available on the Agency's website at [www.phfa.org](http://www.phfa.org).

## **2.11 RESTRICTIVE COVENANT AGREEMENT**

Each owner of a Tax Credit development must execute an agreement setting forth allowable occupancy and use restrictions, owner responsibilities and continuing qualified development characteristics (the "Restrictive Covenant Agreement"). No Tax Credits may be claimed unless the Restrictive Covenant Agreement is in effect and is appropriately recorded against the property in the county land records. The Agency requires the Restrictive Covenant Agreement to run for a period of at least forty (40) years. The Restrictive Covenant Agreement must include a provision to waive any rights to pursue a Qualified Contract under the terms of the Code.

Certain Selection Criteria will be incorporated into the Restrictive Covenant Agreement and monitored during the compliance period. Changes in any of the Selection Criteria subsequent to issuance of an IRS Form 8609 may result in noncompliance, may lead to specific enforcement action against the development and may result in the loss of Tax Credits to the development and its investors, and disqualification for program participation in the future.



The Restrictive Covenant Agreement includes provisions that provide the Agency with the right to approve or disapprove of the transfer of any interest in a general partner or member or limited partner or investor member in the ownership entity at any time during its term. These provisions also include the Agency's rights to enforce Right of First Refusal purchase options granted to nonprofit organizations under the terms of the Code.

## **2.12 COMPLIANCE**

Owners are responsible for ongoing compliance with all requirements of the Code and the Agency's Compliance Program Manual, including such rules, regulations, administrative revenue proclamations and revenue rulings as may be issued from time to time.

Each owner of a Tax Credit development must execute an agreement setting forth allowable occupancy and use restrictions, owner responsibilities and continuing Section 42 qualified development characteristics. This agreement, the "Restrictive Covenant Agreement," must be recorded for the maximum period required by the Code and no Tax Credits may be claimed by a property owner in any taxable year unless the Restrictive Covenant Agreement is in effect and is appropriately recorded on the property in the county land records. The Restrictive Covenant will run for forty (40) years.

The Agency will monitor each Tax Credit development for compliance with the Code. Such requirements may change from time to time and the protocol for compliance monitoring may be adjusted as deemed necessary or appropriate by the Agency which includes compliance with Treasury Regulation Section 1.42-5. In addition to monitoring for all federal requirements, developments will be monitored for compliance with the occupancy standards, Selection Criteria and other covenants set forth in the Restrictive Covenant Agreement. A form authorizing the release of compliance information is on the Agency's website, [www.phfa.org](http://www.phfa.org). However, the Agency may release related information even if no release form is submitted.

The Agency has established an interactive database ("PA Housing Search") for all affordable housing units in developments participating in any of the Agency's multifamily housing programs, to provide a resource for households seeking affordable housing throughout the Commonwealth and to provide a marketing tool to owners. All developments receiving Tax Credits must participate in this data collection effort, which may also include submission of a resident survey, and will be expected to provide information including, but not limited to unit amenities, household size, household income and move-in information and any ongoing unit vacancies in a secure and timely manner. Owners are reminded that they must comply with the Agency's Accessible Unit Policy (see 2021 Guidelines). Additionally, owners must participate in the Agency's energy benchmarking program.

All owners must keep the following records for each qualified low income building in the development for each year of the compliance period: the number of residential units in the building, the number of low income units in building, the number of occupants in each low income unit, the number of bedrooms in each unit, the

square footage of each unit, the rent charged on each unit including the utility allowance, the low income unit vacancies in the building and the rentals of the next available unit for each building in the development including when and to whom it was rented. The owner must also keep documentation of the eligible basis and the qualified basis of the building as of the end of the first year of the Tax Credit period. Owners must also keep a record of the annual income certification of low-income residents along with documentation to support the certification. For any owner approved to use Average Income, additional documentation and verification will be required. (Effective January 1, 2009, Owners with 100% of the units qualified as Tax Credit units do not have to provide annual income certifications but must provide updates on household composition, student status and rent on the Agency's on-line compliance reporting system. In addition, subsequent data collection efforts may be applicable to the Development and each owner must agree in advance to participate in these data collection initiatives which may include availability and occupancy of accessible units and submission of tenant and project paid utility documentation for the entire development.) Owners renting to holders of Section 8 certificates or vouchers may ask the public housing authority issuing the certificates or vouchers to provide a statement declaring that the resident's income does not exceed the applicable income limit under the Code. Any nonresidential portion of a building included in the eligible basis of the building must demonstrate its availability to all residents in the building at no additional cost to the residents.

Records for the first year of the Tax Credit period must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building. In all subsequent years of the Tax Credit period, records must be kept by property owners for a minimum of 6 years after the due date (with extensions) for filing the federal income tax return for the year.

The Agency will also review and monitor developments for compliance with required certification submissions. Owners must provide certification at least annually to the Agency, under penalty of perjury, through the Agency's on-line compliance reporting system, as to the following: the development meets the requirements of the elected minimum set-aside test; the applicable fraction, as defined in Section 42(c)(1)(B) of the Code, of each building in the development has not changed, or, if there was a change, a description of the change; owner has received the annual income certification from each low income resident along with supporting documentation; the low income unit is rent restricted under Section 42(g)(2) of the Code; all units are available to the general public and used on a non-transient basis and no finding of discrimination under the Fair Housing Act has occurred for the development; each building is suitable for occupancy pursuant to local health, safety and building codes and meets all habitability standards for the Tax Credit Program; the building's eligible basis pursuant to Section 42(d) of the Code has remained the same (or if there was a change, the nature of the change); any resident facility in the building is available to all residents in the building on a comparable basis without a separate fee charged to the resident and the resident screening policy does not violate the Fair Housing Act, including reasonable and non-discriminatory policies around criminal background checks. Furthermore, owners must certify that no low-income resident of a Tax Credit property will be or has been evicted or otherwise had their lease terminated other than for good cause and owner must confirm that all leases state this affirmatively. **The Agency requires a copy of the form of lease that will be utilized by the property with Agency's Lease Addendum to be submitted.** Experience as a victim of domestic violence alone may not constitute good cause for eviction under the terms of the lease (if other occupancy rules are met) and all applicable Violence Against Women Act provisions must be met. Owner must also certify that if a low-

income unit becomes vacant, reasonable attempts will be made to rent that unit to a qualified low-income resident, and while that unit is vacant no units of comparable or smaller size may be rented to a non-qualified low-income resident. Additional requirements for developments using Average Income may be imposed. If a low-income resident's income rises above the limit established in Section 42(g)(2)(D)(ii) of the Code, all available units of comparable or smaller size in that building must be rented to an income qualified resident. Owner must also certify that an extended low-income housing commitment, as described in Section 42(h)(6) of the Code, was in effect for all qualified low-income buildings in the development. Owner must also certify that a unit lease has not been refused to a Section 8 applicant because the applicant holds a Section 8 voucher or certificate. Owner's certifications of these items must be submitted at least annually or with such greater frequency as may be required by the Agency. The Agency may adjust any and all of its compliance protocols as it deems appropriate throughout the compliance period (including the extended use term covered by the Restrictive Covenant Agreement).

The Agency may review the information set forth on the certifications at any time for compliance with the Code. On-site inspections of all Tax Credit developments will be held from time to time, at the sole discretion of the Agency, for compliance with the certification requirements, habitability standards, rent records, lease provisions, supporting documentation and all record keeping requirements in the low-income units. Physical inspections of all buildings and at least 20% of all low-income units are performed at least once every three years. The Agency will determine which developments and which records it will inspect and how often such inspections will be conducted in its discretion. The Agency retains the right to perform on-site inspections at any time during the compliance period for any Tax Credit development or to conduct more frequent or more detailed site visits if the Agency deems it appropriate. As referenced above, the Agency may also require submission of ongoing data from each property regarding move-ins and vacant units.

Audited financial statements must be submitted annually to the Agency's Compliance Monitoring Department for all properties. If audited financial statements are not available, a compilation must be prepared and submitted to the Agency's Compliance Monitoring Department. (Applications for Tax Credits in any year may be rejected from organizations or individuals who have not submitted to the Agency the audited financial statements for a Tax Credit development for the preceding tax year.)

As required by the IRS, in the event the owner or the development does not comply with any of the provisions of the Code, the Agency will provide written notice to the owner that specifies a correction period that may not exceed 90 days, unless extended by the Agency in writing. Upon the expiration of the correction period set forth in the written notice to the owner, the Agency must file IRS Form 8823 "Low Income Housing Credit Agency Report of Noncompliance" ("IRS Form 8823") with the IRS to advise the IRS of the existence of an event of noncompliance with an explanation of the nature of the event and whether the owner has corrected the noncompliance. Any change in either the applicable fraction or eligible basis resulting in a decrease in the qualified basis will be treated as an event of noncompliance. In addition, any failure to provide required information to the Agency on a timely basis in accordance with its written request or the procedures established in Agency directives or set forth in its Compliance Program Manual may be treated as an event of noncompliance and may result in the filing of IRS Form 8823. Failure to continually meet the requirements of the use, occupancy and other conditions relevant to the operation of the development, as set forth in the

Restrictive Covenant Agreement, may be treated as an event of noncompliance and may result in the filing of IRS Form 8823. After the initial fifteen (15) year compliance period, Owners must continue to comply with all terms and conditions of the Restrictive Covenant Agreement and provide supplemental data and information upon request. Failure will result in disqualification from future program participation.

The Agency will assess owners an upfront compliance fee designed to cover administrative expenses associated with the performance of compliance monitoring. Additional fees may be charged, as necessary and appropriate, and will be charged for properties employing Income Averaging.

The Housing and Economic Recovery Act (HERA) of 2008 requires each state Credit allocating agency to provide HUD with information on the race, ethnicity, family composition, age, income, use of federal rental assistance, disability status, and monthly rental payments of households residing in each property receiving Housing Credits. All developments receiving Tax Credits must participate in this data collection effort and will be expected to provide the required information in the form, manner and timeframe required by the Agency.

### **2.13 FEDERAL SUBSIDY LAYERING REVIEWS**

Pursuant to Section 911 of the Housing Community Development Act of 1992, the U.S. Department of Housing and Urban Development (HUD) has published administrative guidelines concerning Federal subsidy layering review of Tax Credit developments receiving assistance from the HUD's Office of Housing. The guidelines provide for the delegation of Federal subsidy layering reviews for certain programs to Tax Credit allocating agencies. The Agency has requested and has been delegated this Federal subsidy layering review responsibility. Section 911 guidelines provide the Tax Credit allocating agencies with standards for evaluating builder's profit, developer's fee, syndicator expenses, and net syndicator proceeds. The guidelines include both a safe harbor standard and ceiling standard for each category. The Tax Credit allocating agency may simply use the safe harbor standards or through the Allocation Plan may raise the safe harbor standards to the published maximum ceiling standards. The Agency has elected to raise the safe harbor guidelines to the maximum ceiling standards established for the Section 911 Federal subsidy layering review since the ceiling standards are within the fee and cost limitations already established for the Tax Credit Program.

The Agency has also been approved to conduct Federal subsidy layering reviews for Applications with proposed Section 8 Project-Based Voucher Housing Assistance Payments Contracts, and will conduct these reviews in accordance with the Administrative Guidelines published in the July 9, 2010, Federal Register (or as subsequently amended or supplemented).

Beginning in 2012, the Agency entered into a tri-party Memorandum of Understanding with HUD and the U.S. Department of Agriculture (USDA) – Rural Development wherein the Agency conducts Federal subsidy layering reviews for Applications with USDA Section 515 program assistance or other federal assistance subject to federal subsidy layering review requirements. The Agency may charge fees to process these reviews as set forth in the Guidelines.

**2.14 AVERAGE INCOME**

Applicants seeking utilization of average income pursuant to Section 42(g)(1)(c) (“average income”) may not contain unrestricted or market rate units. One hundred percent (100%) of the units in a development must be affordable to persons at or below eighty percent (80%) of the area median income (“AMI”) or less as long as the average development income and rent limit is 60% AMI. In order to be considered eligible for average income, Applications must provide a market study evidencing demand for proposed targeted incomes and equity and debt commitment letters confirming utilization and approval of Income Averaging. Applications must not contain more than four (4) income targets and shall reasonably distribute units of similar size and income targeting through the property regardless of assigned income restrictions. Preservation developments still in their extended low-income commitment period as set forth in the Restrictive Covenant Period are not eligible to use average income.

**2.15 OTHER AGENCY FINANCING AND REQUESTS FOR ADDITIONAL COMPETITIVE 9% TAX CREDITS**

The Agency has an interest in ensuring that all Developments make the most effective use of resources to achieve financial feasibility and other requirements and priorities of the Allocation Plan. Other Agency resources include Tax-Exempt bonds, Agency first mortgage financing (and associated programs such as HUD Risk Share lending and FFB), PennHOMES, PHARE, HTF, the Pennsylvania Housing Tax Credit and other programs and resources that may become available. The Agency reserves the right to award the optimal mix of funding to each Development that receives an award of Tax Credits under the Allocation Plan. This includes the Agency’s right to require the use of PHFA’s first mortgage financing and Tax-Exempt Bonds.

In its discretion, the Agency may allocate additional Competitive 9% Tax Credits in an amount not to exceed 10% of the initial Tax Credit reservation amount. Additional Competitive 9% Tax Credits are only available for developments to support financial feasibility. Applicants must demonstrate the capacity to close on all financing, including securing additional equity investments. Applicants must demonstrate they have not changed any Selection Criteria nor made any significant modifications, as determined by the Agency. Applications. Applicants requesting additional Competitive 9% Tax Credits may be required to demonstrate a reinvestment of developer’s fee and meet other requirements as established by the Agency.

Developments seeking additional Competitive 9% Tax Credits must submit their request in accordance with the requirements on the Agency’s website at [www.phfa.org](http://www.phfa.org).

### **3. Threshold Criteria**

#### **3.1 OVERVIEW**

The Agency has determined that all applications must meet both the General Threshold Criteria detailed in Section 3.2 and the Development Design Threshold Criteria detailed in Section 3.3. Additionally, applications must comply with Threshold Criteria regarding Maximum Per Unit Basis (Section 3.4), Developer's Fee (Section 3.5) and Developments with Multiple Buildings (Section 3.6) as applicable.

#### **3.2 GENERAL THRESHOLD CRITERIA**

In order to be considered for a conditional reservation of Tax Credits, all Applications must meet the following General Threshold Criteria. Failure to meet any of these Threshold Criteria may result in rejection of the Application.

##### **3.2.1 Compliance History**

Agency staff will review the Tax Credit Program compliance history and performance of the Applicant (or any related entity or material participant) and the management agent of the proposed development. The Applicant must certify that it is in compliance with all Tax Credit Program requirements for each Tax Credit development in which it has a material ownership interest. If the Applicant (or any related entity) or management agent of the proposed development is currently involved in a Tax Credit development that has been reported to the Internal Revenue Service ("IRS") as being out of compliance with any Agency program requirement (or has an outstanding Restrictive Covenant Agreement violation) and such noncompliance has not been brought back into compliance prior to the submission of the Application, the Application may be rejected at any time prior to reservation of Tax Credits. In the alternative (or in addition, as determined by the Agency), attendance and satisfactory completion of an Agency-approved course in the compliance requirements of the Tax Credit Program may be required. The Agency will determine whether a compliance issue is of a material or nonmaterial nature and whether it is of a recurring nature based on the facts and circumstances. Note that while any material compliance issue may result in rejection of an Application, nonmaterial noncompliance issues may result in the adjustment of points during the ranking process. The Agency may reject any Application from an Applicant who fails to submit and maintain timely unit and project information on the Agency's interactive database ("PA Housing Search"), participate in the Agency's energy benchmarking program or provide supplemental data upon request.

##### **3.2.2 Delinquency History**

If the Applicant (or any related entity or material participant) is involved or has been involved in an Agency funded development (including Tax Credit properties) that is: delinquent in payments to the Agency, has materially defaulted on any of its obligations including, meeting required submissions and deadlines, or has misrepresented any material information on a previous application, the Agency may reject the Application. Upon receipt of an Intent to Submit (or at any point during the pendency of an application), the Agency will notify Applicants of any delinquency default or noncompliance. Failure to cure delinquencies, defaults or similar actions within thirty (30) days of such notice will result in the rejection of future Applications.

**3.2.3 Failure to Meet Deadlines**

Applications may be rejected if the Applicant (or any related entity or material participant) has failed to meet any established program deadline date which resulted in loss or recapture of Tax Credits, potential loss of other financial assistance or funding resources, or has failed to meet a preference, selection criteria or a condition of a previous Tax Credit award.

**3.2.4 Unpaid Fees**

Applicants (or any related entities or material participants) who have unpaid fees due to the Agency or with outstanding state tax liability may be ineligible to participate in the Tax Credit Program.

**3.2.5 Displacement of Tenants**

Applications that have resulted from or will result in the permanent displacement of low income residents will be rejected unless the Applicant provides evidence satisfactory to the Agency that an appropriate relocation plan has been developed. Furthermore, to the greatest extent feasible, all existing low income residents must be offered their choice to either be temporarily relocated until such time, upon completion of the development, as they are able to return to an appropriately sized affordable unit in the development, or receive relocation benefits. Applicants are required to document the efficacy of notice given to residents to the satisfaction of the Agency.

**3.2.6 Existing Tax Credit Developments**

Applications for Tax Credits will not be accepted for any existing occupied Tax Credit development during its initial 15-year compliance period unless the initial 15-year compliance period will have expired prior to the end of 2023, as applicable, and the property meets all other Tax Credit rules.

**3.2.7 Financial and Organizational Capacity**

Applicants must provide evidence satisfactory to the Agency of its financial and organizational capacity to ensure the completion of the development in accordance with the requirements of the Code. The Agency will consider the total cost and number of projects owned or managed by the Applicant in making this determination. The Agency reserves the right to review supporting documentation, including the annual audited financial statements, to evaluate the Applicant's financial capacity. If an applicant does not have audited financial statements, the Agency will accept unaudited financial statements produced under acceptable accounting principles; however, if awarded a reservation of LIHTCs, the applicant must submit audited financial statements for review prior to closing.

**3.2.8 Commitment to Extended Affordability Period or Homeownership Conversion**

Applications for Tax Credits must demonstrate a commitment to serve low-income residents for a period of not less than 40 years or, in the alternative, offer homeownership opportunities for 100% of the units to qualified residents after the initial 15-year compliance period. Homeownership conversion proposals must present a financially viable homeownership program for residents who inhabit the units during the compliance period. The program must incorporate an exit strategy, homeownership counseling and a minimum amount of funds (not less than \$3,000 per unit) set aside by the developer to assist the residents with the purchase. The only types of units eligible for consideration are townhouse and single family attached

and detached structures. The Agency may approve other unit types conducive for these purposes if structured as cooperative or condominium ownership. The Applicant will certify this commitment in the Application and the Restrictive Covenant Agreement will contain provisions ensuring enforcement of the related covenants by affected qualified residents. Should the units not be converted to homeownership, the Restrictive Covenant Agreement will contain a provision waiving any right to petition the Agency to terminate the extended use term for all units remaining as rental units. A certification from the design architect verifying the units are townhouse or single family attached or detached structures will be required as part of the Application.

### **3.2.9 Development Team Experience**

The development team must have sufficient experience, as determined in the sole discretion of the Agency, to effectively own, design, construct, manage and operate a Tax Credit development. The development team members include the Applicant, architect, general contractor, attorney, and the management agent. Additionally, as outlined in this QAP, points will only be given for the experience of a housing consultant (including their ability to secure equity investment and provide services through initial occupancy) only if a contract is included which in the Agency's discretion clearly describes the tasks to be performed by the housing consultant AND the housing consultant will work on the project from application through placed-in-service and cost certification. In a similar manner, based on review of the contract, a housing management consultant may be considered in lieu of the Applicant or management agent, respectively.

### **3.2.10 Property Manager Experience**

Applicant must provide evidence satisfactory to the Agency that the Applicant (or any related entity), proposed management agent, or other material participant is not in violation of fair housing, housing accessibility or nondiscrimination laws or has not discriminated against Section 8 voucher and certificate holders or recipients of any state or local tenant or project based rental assistance. The Agency specifically reserves the right to take any appropriate action and to deny any future Tax Credit Application from any Applicant (or related entity) who evicts or terminates the tenancy of low income residents, except for good cause, throughout the entire project compliance period (including the extended use period) applicable to any existing Tax Credit development or is found to be in violation of any applicable COVID-19 or similar eviction moratorium.

### **3.2.11 Commitment to Upholding Right of First Refusal Agreements**

The Agency may reject an Application from any Applicant (or related entity) who participates in a transaction or program to achieve early termination of a Restrictive Covenant Agreement (or other document(s) evidencing long term restrictions applicable to the Tax Credit Program) or has actively sought to interfere with or defeat a right of first refusal set forth in Section 42(i)(7) of the Code, as determined by the Agency in its sole discretion. Such action may include rejection of the Application, termination of processing, recapture of Tax Credits (if an IRS Form 8609 has not been issued) or, if applicable, issuance of an IRS Form 8823 or notification to the appropriate governmental authorities. As evidence of such finding of violation, the Agency may rely upon its own investigations or may rely upon any order of a court with jurisdiction or upon notice of such a finding from any federal or state agency with investigative or regulatory jurisdiction regarding the subject matter, such as the Internal Revenue Service, U.S. Department of Justice, U.S. Department of Treasury, U.S. Department of Housing and Urban Development, Pennsylvania Human Relations Commission or Pennsylvania Office of Attorney General or may make a determination based upon the failure to report or affirmatively disclose information to the Agency.



Provisions of this section apply to any entity who by written agreement may significantly affect, in the opinion of the Agency, the development or operation of the property. Such written agreement may include ground leases, operating subsidies, partnership agreements, management contracts or operating regulatory agreements.

Additionally, the authority has an interest in preserving the right of first refusal by a qualified nonprofit organization at the close of the compliance period. The authority has the right to request the following:

1. A designated form of right of first refusal documents
2. Terms in the extended use agreement requiring notice and approval of the Agency of transfers of partnership or member interests
3. Banning from the LIHTC program (under this QAP) of principals having demonstrated a history of conduct detrimental to long-term compliance with extended use agreements in Pennsylvania or another state.

Any application submitted by an applicant containing a principal that was a principal in an owner that has, in the authority's determination, previously participated in a foreclosure in Pennsylvania (or instrument in lieu of foreclosure) that was part of an arrangement that purpose of which was to terminate an extended low-income housing community shall be rejected from further considering for low-income housing tax credits and shall not be eligible for any reservation or allocation of credits under this QAP.

### **3.2.12 Affordability of Units**

Developments must provide a financing plan which evidences that at least ten percent (10%) of the low-income units in Urban Areas and five percent (5%) of the low income units in Suburban/Rural Areas are affordable to persons at or below twenty percent (20%) of the AMI, adjusted for family size. For developments consisting of all low-income units, at least half of the minimum required 20% AMI units must be accessible. For mixed income developments containing market rate units, 5% of the units must be accessible. (Existing affordable developments with a demonstrated average occupancy rate of 90 percent or above over the last 5 years may be exempt from having to meet the twenty percent (20%) AMI requirement for these units.) The development must evidence a viable plan to charge rents at levels affordable to persons at or below twenty percent (20%) of AMI for these units throughout the compliance period. In the event the plan includes utilization of Project Based Section 8 and appropriation for such assistance is not renewed (provided that non-renewal is not due to the development's default on program obligations), the twenty percent (20%) AMI requirement may be waived with the consent of the Agency for reasons beyond the development's control. An agreement shall be in place with appropriate referring entities (including those supported through programs of the Department of Human Services) to assure that sufficient referrals for tenancy are received from households who are income-eligible and/or in need of the accessibility features. Additionally, the Agency may require additional applicable program restrictions to comply with its award of project-based subsidy from HUD's Section 811 Demonstration Program (administered by the Agency) funds or similar program opportunities. The Restrictive Covenant Agreement will require that the extremely low rents are maintained and that a corresponding number of units are marketed to and set aside for such extremely low-income households throughout the compliance period.

### **3.2.13 Public Housing Waiting List**

Applications must demonstrate that the housing needs of local public housing waiting lists have been met. Applicants may meet this requirement by providing either: (1) a current letter from the local public housing authority stating how the development is specifically meeting the housing needs of residents on the public

housing waiting list; (2) a copy of the comprehensive plan outlining the current local public housing authority waiting list and evidence that the development will meet such resident needs; or (3) evidence of receipt of mailing to the local public housing authority prior to the date of the Tax Credit Application a letter which evidences the commitment of the developer to work cooperatively to meet the needs of persons on the local public housing waiting list.

### **3.2.14 Tax Credit Equity Investor**

Applications must include evidence, satisfactory to the Agency, that an equity investor has been secured for the development at a market pay-in value and the terms and conditions related to the investment are reasonable. If the Agency determines the proposed equity investor has participated in a transaction or program to achieve early termination of a Restrictive Covenant Agreement under a Qualified Contract (as more fully described above in Section 2.12) or has actively sought to interfere with or defeat a right of first refusal (as more fully described above in Section 3.2.11), the Agency reserves the right to require a substitute equity investor.

### **3.2.15 Excessive Costs**

Applications with costs that the Agency deems to be excessive based on the facts and circumstances may be rejected or suspended from processing.

### **3.2.16 Supportive Services**

All developments must confirm that a minimum level of supportive services appropriate to the proposed resident population is available at the property. Applications must provide evidence, satisfactory to the Agency, that funds are dedicated to cover service delivery. Developments that provide delivery of specific services may qualify for ranking consideration under the Selection Criteria. See Exhibit SC2024 for specific criteria.

### **3.2.17 Cybersecurity**

Applicants must demonstrate the use of affirmative cyber security measures as a central element in their regular business procedures and practices. All applicants must certify to the Agency the presence of ongoing cybersecurity practices which include, at a minimum, describing the following security safeguards that your company uses to protect communications and data: 1) multifactor authentication procedures; 2) password policies; 3) the use of system security software; and 4) staff cyber security education. Specifically, all applicants will be asked to attest to the following:

- The applicant(s) protect **remote** access to email and data with Multifactor Authentication
- The applicant(s) protect **local/in-office** access to email and data with Multifactor Authentication
- The applicant requires security awareness training for all employees and contractors
- The applicant utilizes effective and efficient security software when banking electronically

Security Training completion certificates for the Principals of all applicant(s) and the accounting teams (people involved with incoming and outgoing funds) of all applicant(s), including co-applicants, must be included in the application.

### **3.2.18 Description of Development Structure**

Applicants must disclose to the Agency all transfers of property interests from a development site to third parties that occurred prior to submission of the Application. Applicants must also disclose all related development at the development site including proposed condominiums for commercial, retail and market rate development as well as all potential additional development at the development site. The Agency reserves the right to request additional supporting documentation to clarify development relationships or stages.

### **3.2.19 Disclosure of Business or Financial Relationships or Affiliations**

Applicants must disclose to the Agency all financial relationships, ownership interests, and contracts between Applicant and related parties relating to the development. Disclosure includes amounts paid for fees, contracts, acquisitions of materials or real estate related to the Development whether incurred or paid prior to submission or if paid or incurred subsequent to submission within 30 days of obligation. For purposes of this disclosure obligation, related parties include immediate family members of Applicant's employees, officers, and owners; corporate entities where Applicant's employees, officers, and owners have an ownership interest; or any corporate affiliates of Applicant. Additionally, the Agency reserves the right to request additional supporting documentation if it determines or believes that an affiliation or relationship was not disclosed.

## **3.3 DEVELOPMENT DESIGN THRESHOLD CRITERIA**

The Agency has determined that the following minimum development characteristics will be considered Development Design Threshold Criteria for all developments seeking Tax Credits. The Agency may waive the requirement of a specific amenity if compelling circumstances exist, or if the inclusion of such amenity adversely affects the financial feasibility of the development or if, due to the nature of the rehabilitation of the development, the inclusion of such amenity is cost prohibitive. The Agency will review the architectural documents submitted with the proposal to confirm the existence of the proposed amenities. A certification from the design architect verifying the inclusion of the amenities in the development must be submitted with the Application. Confirmation from the construction contract administration architect is required with the submission of the cost certification documents. For Applications not requiring the services of an architect, the certifications may be provided by the general contractor. Amenities should be appropriate for the proposed resident population. Verification of the availability of all amenities may be required by the Agency at any time and throughout the development's compliance period.

### **3.3.1 Development Amenities**

The following Development Amenities must be included in the proposed development. (Please note that the Applicant should seek independent tax advice as all of the costs of the following amenities may not be includable in eligible basis.)

- On-site Community Room. The community room must be one room and should be of sufficient size to accommodate the residents and services to be provided. The community room in senior housing developments should include a kitchen or kitchenette (complete with a full-sized range and full-sized refrigerator) that will be available to all residents.

- Applications which are a continuation of a phased development (or are adjacent to an existing affordable housing property serving the same targeted population group) will be required to provide space sufficient to meet the size requirements below based on the aggregate of the number of units in all phases. (For the cost of a community room or building that is shared with the tenants of multiple phases to be included in Tax Credit eligible basis, it must qualify as a community service facility. Please consult with an accountant or attorney experienced in Section 42 issues for additional information regarding this issue and be prepared to provide supporting documentation to the Agency.) The Agency may consider a long-term agreement with an existing community facility within walking distance from the development as evidence of meeting this requirement.
- The community room should contain at least 15 net square feet per unit for properties 50 units or less. Community rooms in developments with more than 50 units should be at least 750 square feet in size. The square footage required shall be in addition to the kitchen or kitchenette, where provided.
- Laundry Facilities. Common laundry facilities or the provision of individual washers and dryers in each unit are required. If a common laundry is provided in a development that will be converted to homeownership, hook-ups for a washer and dryer must be provided in each unit. If the development contains a common laundry facility, the following requirements must be met:
  - For general occupancy developments: one washer and dryer per 12 units, with a minimum of two washers and two dryers required at each laundry facility.
  - For elderly developments: one washer and dryer per 20 units, with a minimum of two washers and two dryers required at each laundry facility.
  - A minimum of one front load washer and dryer is required for each laundry facility and will be required in accessible units containing a washer and dryer in the unit.
  - All washing machines, whether development owned or vendor owned, must be Energy Star® labeled.
- On-site Management Office. An accessible on-site management office will be required for all developments except those containing scattered site properties. Applications which are a continuation of a phased development that do not include a management office in the current Application will be required to provide evidence of a management office in one of the prior phases.
- Air Conditioning. For new construction, substantial rehabilitation and preservation developments, all common spaces (except stair towers, mechanical rooms and storage rooms) must be air conditioned.

**3.3.2 Unit Amenities**

The following Unit Amenities must be included in the proposed development.

- The net area of all dwelling units must fall within the limits listed below. (Net area is measured from the interior finish surface of the unit perimeter walls, and shall include all rooms, corridors, interior walls, storage areas, and mechanical spaces.) Rehabilitation developments may vary from the maximums and minimums by 10 percent. Preservation developments shall strive, but are not required, to meet this requirement. Accessible units may vary from the maximums as required to provide an accessible route and accessible clearances.

	<b>Flats</b>	<b>Multi-Floor Units</b>
SRO	90 to 200 sq.ft.	
EFF	400 to 600 sq.ft.	
1 BR	550 to 850 sq.ft.	650 to 950 sq.ft.
2 BR	700 to 1,100 sq.ft.	850 to 1,300 sq.ft.
3 BR	950 to 1,350 sq.ft.	1,000 to 1,550 sq.ft.
4 BR	1,100 to 1,550 sq.ft.	1,200 to 1,750 sq.ft.
5 BR	1,300 to 1,750 sq.ft.	1,400 to 2,000 sq.ft.

- Air conditioning shall be supplied to living areas and all bedrooms of each unit. Individual window units will not be considered as meeting this criterion, except in preservation developments.
- Refrigerators, ranges and ovens will be required in all units except for developments containing SRO units (provided that such properties have common cooking facilities containing these appliances).
- Window treatments in all residential units are required. Window treatments include horizontal blinds, vertical blinds, or other opaque blinds. Commercial grade roller shades will be permitted on large window expanses.

**3.3.3 VisitAbility**

The following dwelling unit types shall meet the VisitAbility requirements: 100% of newly constructed single family homes, townhouses, and units in elevator buildings; all ground floor units in walk-up apartment buildings. Rehabilitation developments should strive for 100% compliance, but at least 33% shall meet the VisitAbility requirements. Properties unable to comply with this requirement due to physical constraints or building type may apply for a waiver from this threshold requirement. To meet VisitAbility design features, the building and units must have at least one zero-step entrance with a 36-inch wide door; all doorways and passages on the entry level floor should have a width of 36 inches; there should be a clear pathway to a

bathroom or powder room; such bathroom or powder room should include a minimum 24-inch grab bar beside the toilet on a reinforced wall, which can also serve as a towel bar; and there should be a clear pathway to the living room and dining area of the unit. The VisitAble powder room or bathroom must provide maneuverability clearances in accordance with the Fair Housing Act Design Manual. (Preservation developments are exempt from this requirement but are encouraged to provide VisitAble units where feasible.)

### **3.3.4 Fair Housing Act Design Manual**

All new construction developments shall be designed in conformance with HUD's Fair Housing Act Design Manual standards, as applicable. Substantial rehabilitation developments shall also be designed in accordance with HUD's Fair Housing Act Design Manual, as applicable, but may seek a waiver from the Agency where existing conditions prohibit 100% compliance. Blocking for future grab bars shall be continuous behind the bar location and sized to accommodate the grab bars required by ANSI A117.1, current adopted edition.

### **3.3.5 Environmental Site Assessment**

A Phase I Environmental Site Assessment prepared in accordance with ASTM E 1527-21 and the Agency requirements found in the Submission Guide for Architects is required for all developments. The report cannot be more than 24 months old at the time the Application is submitted. An updated report provided by the original report's environmental consultant may be provided when the original report is between 24 and 36 months old at the time the Application is submitted. Only the executive summary of the Phase I report shall be submitted in the Application. The summary shall be accompanied by a certification from the Applicant stating that any issues raised in the environmental review have been reviewed and budgeted for accordingly in the development budget. For existing buildings scheduled for rehabilitation or preservation developments, the Phase I report must also include the results from the following tests: lead in water, lead-based paint, asbestos and radon. Cost estimates for any remediation work shall be provided and included with the Phase I executive summary.

### **3.3.6. Development Sustainability and Energy Conservation Measures**

- All newly constructed multifamily buildings shall comply with the requirements of the 2020 Enterprise Green Communities program Criteria 5.1a. All substantially rehabilitated multifamily buildings shall comply with the requirements of the 2020 Enterprise Green Communities program Criteria 5.1b. Preservation developments shall meet the mandatory measures found in the "Design Architect's/Applicant's Certification of Threshold Criteria" in the Guidelines. (Not required if Applicant commits to achieving certification under one of the Green Building Standards listed in the Selection Criteria.)
- Additionally, for new construction and rehabilitation developments, the overall U-value of the exterior building envelope must exceed the requirements of the International Energy Conservation Code, current adopted edition, Chapter 4 by 10% for buildings three stories or less in height as verified by a REScheck certificate. Buildings four or more stories in height must exceed the requirements of the current adopted edition of the International Energy Conservation Code Chapter 5 by 7%, as verified by a COMcheck certificate. Air sealing of the exterior building envelope and attic plane shall be included. Trade-offs available in the REScheck or COMcheck software for mechanical equipment will not be allowed. (Not applicable to preservation developments.)

- In new construction and rehabilitation developments, all appliances, HVAC equipment with a capacity less than 60,000 btuh, gas fired water heaters, windows, ceiling fans, exhaust fans, range hoods and exit signs shall be Energy Star® labeled when such equipment and appliances exist. (Exceptions: programmable thermostats do not need to be provided, and windows in buildings over three stories in height may comply instead with ASHRAE Standard 189.1-2009.) (Packaged terminal air conditioners (PTACs) and packaged terminal heat pumps (PTHPs) (including vertical type configurations) may only be used if it can be proven that they comply with the prescriptive requirements of Energy Star (current version) for air-source equipment, as tested and certified by Air Conditioning, Heating & Refrigeration Institute (AHRI) only). In addition, 100% of the permanent room light fixtures in the dwelling units shall be equipped with LED bulbs, or high efficiency fluorescent with electronic ballasts; and 100% of the community room and common area corridor and stair lighting shall be fluorescent with electronic ballasts or shall utilize LED bulbs.
- All developments utilizing central system refrigerant flow type equipment shall meet or exceed Energy Star criteria specification for light commercial HVAC or have the Energy Star label.
- In preservation developments, existing refrigerators more than 15 years old shall be replaced with Energy Star® labeled type. Existing heat pumps, air conditioning condensing units, and through-wall air conditioners more than 20 years old shall be replaced with Energy Star® labeled type, when such equipment exists. Existing furnaces and boilers more than 25 years old shall be replaced with Energy Star® labeled type, when such equipment exists. (Programmable thermostats do not need to be provided.) In addition, existing community room, common area corridor and stair lighting more than 15 years old shall be replaced with fluorescent fixtures with electronic ballasts or fixtures that utilize LED bulbs. Where windows are scheduled for replacement, replacement should be made with Energy Star® qualified products, except in buildings over three stories in height, where window replacement may comply instead with ASHRAE Standard 189.1-2009.

All developers must certify that when existing equipment, appliances and products are replaced, they will be replaced with Energy Star® labeled equipment, when such equipment exists.

- All developments must meet the Additional Threshold Green Building Criteria set forth in the 2024 Guidelines and the “Design Architect’s / Applicant’s Certification of Threshold Criteria” that must be submitted as part of the Application.
- Please review the Multifamily Housing Application and Guidelines for specific sustainability and energy conservation requirements.

### **3.3.7 Broadband Infrastructure**

The installation of broadband infrastructure is required in all projects, in compliance with Federal Register 81 FR 31181 “Narrowing the Digital Divide through Installation of Broadband Infrastructure.” Infrastructure must be provided in each dwelling unit meeting the Federal Communications Commissions (FCC’s) definitions in effect at the time the pre-construction estimates are generated. Currently the FCC defines broadband speeds as 25 Mbps download and 3 Mbps upload.

### **3.3.8 Smoke-Free Policy**

The Applicant shall certify that, at construction completion, the Applicant will design and implement a policy prohibiting the use of prohibited tobacco products in all living units and interior areas including but not limited to hallways, rental and administrative offices, laundry and common areas as well as outdoor areas within 25 feet of all the buildings in the development, outdoor gathering spaces and tot lots.

### **3.4 MAXIMUM PER UNIT BASIS LIMITATIONS**

The Agency has established a maximum basis per unit limit of \$300,000 for developments with Competitive 9% Tax Credits and \$360,000 per unit for developments with 4% Tax Credits and Tax-Exempt bonds ("Maximum Basis"). Maximum Basis includes all depreciable costs normally included in the eligible basis determination for rehabilitation or new construction (not including the developer's fee or cost of acquisition). Maximum Basis for the purposes of this calculation may be determined after the deduction for commercial space costs but prior to the pro rata reduction for historic tax credits and other non-qualified financing and costs normally not included in eligible basis.

Requests for waivers of the limits on Maximum Basis must be submitted in accordance with Section 5: Waivers.

### **3.5 DEVELOPER'S FEE**

The developer's fee, which is meant to compensate the developer for staff time, effort and work involved in the development of the property, includes developer's expenses, overhead, profit and consulting fees or other fees and costs that are above the maximums allowed by the Agency. Development consultant's fees and organizational costs are required to be paid from the developer's fee. These fees may not be listed and shall not be recognized as separate line items on the Application.

The maximum "base" developer fee allowable (except as limited below) is calculated on the lesser of the development's replacement cost (less all costs of acquisition) or the Agency's Maximum Basis. The developer's fee is limited to 15 percent of the first \$10 million of replacement cost of the development less all costs of acquisition and 10 percent on every \$1 of replacement cost thereafter.

In determining the maximum base developer fee the following criteria must also be considered:

- The developer's fee to be earned on Applications from existing Tax Credit properties with the same or a related party or affiliated entity as the general partner on the original Application may not exceed twelve percent (12%) of replacement cost less all costs of acquisition.
- For rehabilitation and preservation developments that qualify for Acquisition Tax Credits, a developer's fee will be allowed on a portion of the acquisition cost that is basis eligible. The fee may not exceed 10 percent of the purchase price of the property less the cost of the land. The maximum acquisition cost that will be recognized in determining the developer's fee will be the lesser of the actual amount paid for the building in an arms-length transaction or the MAI appraised value. The Agency may limit the acquisition developer's fee to 5 percent if the seller and buyer are related parties.



- Additional developer's fee will not be available for Applications requesting Additional Tax Credits.
- Requests for an increase in the amount of the maximum base developer fee after the initial award of Tax Credits will not be accepted.
- For Applications of subsequent phases of a project previously awarded tax credits, the development fee may be reduced if the Agency determines that the project phasing strategy warrants a lower fee.

Using the calculation methodology detailed above, the Agency has established the following per project maximums on developer's fee for projects that request Competitive 9% Tax Credits.

- 1) \$2,000,000 for projects with 60 or more affordable units if the development demonstrates a mix of unit sizes with at least 51% of units two bedroom or larger; or
- 2) \$2,000,000 for projects which promote supportive housing opportunities as defined above in Section 2.4; or
- 3) \$1,750,000 for projects which do not meet the criteria outlined in (1) and (2), above.

Waivers of the developer's fee cap for projects that request Competitive 9% Tax Credits (or the calculation methodology detailed above) will not be granted by the Agency.

Using the calculation methodology detailed above, the Agency has established a developer's paid fee cap of \$2,550,000 for projects that request 4% Tax Credits and Tax-Exempt bonds. The Agency may review waivers to exceed the \$2,550,000 cap if the excess is reinvested as a deferred fee and/or capital contribution. The waiver process is further explained in Section 5: Waivers.

In addition to the maximum base developer fee, Applicants may request an additional five percent (5%) developer fee to fund a supportive services escrow for the provision of social supportive services for the benefit of the residents (provided the plan for services is satisfactory to the Agency). Consideration for the additional developer fee is available to 9% Tax Credit Applications only. The Applicant must commit to provide to the development the entire amount of the equity raised for the additional developer's fee to fund the escrow and the equity raised cannot be structured as a loan. The five percent (5%) is determined exclusive of acquisition costs. The Agency reserves the right to determine the exact mechanism necessary and appropriate to ensure funding of the supportive service escrow based on specific tax issues and ownership structure. Additionally, during the initial fifteen (15) year compliance period, the Agency may review, approve and monitor utilization of the supportive service escrow funds. For developments not receiving Agency financing, Agency staff will only approve an increased developer's fee if the Applicant provides adequate assurances and documentation (including evidence of a third-party escrow arrangement) that an amount of funds equal to the increased equity raised from the additional developer's fee is necessary to support financial operations and will be committed to the Project for at least the initial fifteen (15) year occupancy period. The use will be monitored during the compliance period and at the end of the compliance period, any funds remaining must be used to pay outstanding debt or project capital improvements. Whenever an increased developer's fee is allowed, the partnership or operating agreement must provide that the approved developer's fee will, in fact, be paid to the developer from available funds (which may include development sources, operating revenue and additional capital contributions). Additionally, provision of funds for supportive services will be incorporated in the Restrictive Covenant Agreement.

### **3.6 DEVELOPMENTS WITH MULTIPLE BUILDINGS**

A development may include multiple buildings if it has similarly constructed units, is located on the same or contiguous tracts of land, is owned by the same federal taxpayer and is financed pursuant to a common plan of financing. A development with multiple buildings that is proposing a mixed income structure must have low-income units in each building of the development. Scattered site buildings on noncontiguous tracts of land may also qualify if the development meets all of the other requirements described above and the development is 100 percent rent and income restricted, however, costs associated with the development of a separate community building may not be eligible for Tax Credits unless the building contains a residential rental unit.

## 4. Selection Criteria and Process

### 4.1 OVERVIEW

The Agency intends to review the Applications it receives and to select among the Applicants based on the Selection Criteria, with **priority given to projects which fill an abject need or which best demonstrate an ability to move forward**. The Selection Criteria reflect specific needs and market conditions which may differ based on type of property, targeted populations and housing needs.

The Agency may review local and/or state analysis of impediments to fair housing prepared in connection with federal funding programs and may prioritize Applications which evidence opportunities to affirmatively further fair housing.

The Selection Criteria are set forth in Exhibit SC2024, below.

### 4.2 SET-ASIDES, POOLS AND PREFERENCES -- COMPETITIVE 9% TAX CREDITS

The Agency will provide Competitive 9% Tax Credits through several Set-Asides, Pools and Preferences. The amounts available in each Set-Aside, Pools and Preferences may be adjusted by the Agency to ensure adequate and appropriate funding of the Applicants meeting the Program criteria.

#### 4.2.1 Set-Asides and Pools

The Agency has established Set-Asides and Pools for awarding Competitive 9% Tax Credits as detailed in the table below.

Set-Aside Percentages	
<u>Set Asides</u>	<u>Percentage of Tax Credits to be Allocated</u>
Urban Pool*	50%
Suburban/Rural Pool	50%
Total	100%

Note: A complete list of the applicable county designation is attached as Exhibit A. At least twenty-five percent (25%) of the Urban Pool will initially be set aside to fund developments located in municipalities other than Philadelphia.

#### **4.2.2 Preferences**

The Agency has established Preferences in awarding Competitive 9% Tax Credits for certain types of developments in each Pool which include general occupancy, senior occupancy (ages 62 and over), properties furthering the preservation of affordable housing, applications for supportive housing, community revitalization developments, areas of opportunity and Strategic Investment developments (as more fully described herein). The Agency may also provide a preference to developments using Commonwealth-sponsored pilot programs, including developments promoting supportive housing for persons being released from incarceration, developments providing employment opportunities for property or community residents, developments or Applicants evidencing meaningful participation in Section 811 program, Applications submitted with a Community Housing Development Organizations (“CHDOs”) being a material participant as either owner, developer or sponsor, developments located in Commonwealth designated Opportunity Zones, developments meeting specific market need, Agency housing goals or responding to housing needs resulting from the impact of COVID-19 or other similar emergency needs.

Preferences for certain types of housing have been established as minimum goals by the Agency in meeting certain housing needs of the Commonwealth. Applicants may be considered in more than one category and will have been deemed to have met both for purposes of meeting the stated housing goals. Due to the amount of Tax Credits which may be available, these minimum goals may be adjusted or modified accordingly. Applicants meeting more than one of these categories may be advantaged during the ranking/scoring process. Preferences are as follows:

##### **4.2.2.1 General Occupancy**

The Agency will reserve Competitive 9% Tax Credits to, at a minimum, three (3) general occupancy properties in each Pool.

##### **4.2.2.2 Senior Occupancy 62+ with Services**

The Agency will reserve Competitive 9% Tax Credits to, at a minimum, two (2) senior occupancy developments targeting persons 62 years of age and above in each Pool. Eligibility for this preference will require demonstration that services will be provided to residents to enable them to continue to live independently.

##### **4.2.2.3 Preservation Developments**

The Agency will reserve Competitive 9% Tax Credits to, at a minimum, four (4) preservation properties in the aggregate between the two Pools. To be considered eligible for this preference, existing affordable properties should demonstrate that Tax Credits are necessary to extend the long-term affordability and habitability of the development or that there is a likelihood of conversion to market rate housing (which must be supported by a current market study in a form and substance acceptable to the Agency). The Agency will conduct a comprehensive site visit on all preservation properties and will review the capital needs assessment, occupancy and financial reports and supplemental information to identify those properties which demonstrate the greatest need of preservation. Applications from existing Tax Credit developments must continue to maintain the initial program restrictions set forth in the Indenture of Restrictive Covenants throughout the original extended use period.

#### **4.2.2.4 Supportive Housing (for specific designated population)**

Supportive Housing is defined as follows:

- (1) Housing that is made available to members of a targeted population; and
- (2) Housing that has services targeted specifically to members of that population.

The Agency will reserve Competitive 9% Tax Credits to, at a minimum, two (2) developments in each Pool which promote supportive housing opportunities to targeted populations including persons who are homeless; non-homeless households requiring supportive services including those with mental, physical, sensory, or developmental disabilities; persons with substance abuse disorders; persons diagnosed with HIV/AIDs and related diseases; persons being released from incarceration, persons aging out of the foster care system, and other special populations approved by the Agency on a case-by-case basis (which may include consideration for the specialized needs associated with affordable housing for veteran households). A minimum of twenty-five (25%) of the units must be set aside to qualify for this preference. In order to compete in this set-aside, principals or a senior manager/officer of the developers and their supportive service partners must attend a pre-application meeting so that they are aware of all the requirements of the Agency's Supportive Housing Program. Designated units must be rented only to the target population (subject to fair housing laws). Developments must provide evidence that residents meeting the supportive housing preference pay no more than thirty percent (30%) of their income to their total housing expenses. Federal operating contracts such as Housing Assistance Contracts and/or internal rental subsidies (funded by equity or another existing source), and/or an acknowledged commitment that will be documented in the Indenture of Restrictive Covenants (if awarded credits), that the developer will be responsible for maintaining the supportive housing and that the tenants will be pay no more than 30% of their income.

#### **4.2.2.5 Innovation in Construction Technology**

The Agency will reserve Tax Credits to, at a minimum, one (1) development in the aggregate between the two Pools which encourages demonstrated innovation in construction technology which may be illustrated through implementation of current and future energy efficient technologies and materials and/or piloting new building methods. Examples of potential innovation include but are not limited to the construction of tiny homes, using modular "building blocks", using new energy efficient technology, and/or using cutting edge construction technology. See Tab 41 in the 2024 Guidelines additional information needed to request consideration in this category. The selected Applicant will work with the Agency to establish, document and employ the best practices for future housing policies and standards.

#### **4.2.2.6 Strategic Investment**

The Agency will reserve Tax Credits to, at a minimum, three (3) developments and a maximum of eight (8) developments, in the aggregate between the two Pools, which the Agency determines support specific housing economic opportunities (such as areas of housing shortage due to Marcellus Shale, urgent community needs or other unusual economic development pressures) or the overall housing goals of the Commonwealth, as determined by the Agency.

The Agency, in its discretion, may also consider any Application for Strategic Investment. The Agency may consider regional distribution, scale of community impact, extraordinary market and population needs, unique funding and leveraging opportunities, (such as HUD's Choice Neighborhoods Initiative), disaster recovery response and competitive rankings of Applications, in making Strategic Investment awards including how the development maximizes the inclusion of affordable accessible units in its design.

#### **4.2.2.7 Community Revitalization/Mixed Income (Urban Pool only)**

The Agency will reserve Tax Credits to, at a minimum, three (3) developments in the Urban Pool which support a broader community revitalization program which has the capability of changing fundamentally the character of a neighborhood, enhancing the lives and amenities available to residents of the community, is focused on implementing a "mixed income" strategy, and/or which seeks to counteract the pattern through which some metropolitan areas are being segregated by income or race.

The Agency will look at how, in measurable terms, the following aspects are associated with the comprehensive revitalization program of which the development is a part:

- Supports the construction and rehabilitation of housing to meet the needs of households of all income types, including the very low-income
- If the development proposes to offer rents at or close to the Tax Credit program maximum (i) the availability of housing choice vouchers to make some of its units affordable to the area's lowest income households and/or (ii) the projected existence elsewhere in the neighborhood of development(s) that can be expected to provide such affordability
- Access to public transportation
- Access to public parks and open space
- Access to community serving enterprises
- Encourages the reuse and rehabilitation of existing infrastructures
- Coordination of proposed site amenities that enhance the overall neighborhood · Coordination with an overall community revitalization effort
- Of sufficient size and scope to have a significant and lasting positive impact on the community (including increasing or stabilizing tax base and economic diversity)
- Expands quality of life and fulfills a need for health care choices and other crucial service opportunities for residents of the community
- Municipal support articulated in a publicly approved community plan or in the form of significant funding commitments
- Presence of supporting local neighborhood initiatives
- Consistent with the local community's plan to affirmatively further fair housing

The Agency will further prioritize projects which, to the greatest extent feasible, involve residents and the surrounding community in the following activities:

- design of the proposed development,
- drafting of the tenant selection plan,
- implementation of the tenant selection plan,
- management of the proposed development,
- contracting opportunities, and
- ownership of the development.

#### **4.2.2.8 Areas of Opportunity (Suburban/Rural Pool only)**

The Agency will reserve Tax Credits to, at a minimum, three (3) developments in the Suburban/Rural Pool which expand housing opportunities and design choices in areas suitable for long-term economic growth with an existing or planned infrastructure to support future growth in the area, in order to promote mixed-use and/or mixed-income development within a community setting. These developments will be located in areas of strong schools and employment opportunities and in communities which may have not received representative resources in the past.

#### **4.2.2.9 Engaging and Serving Re-Entry Populations**

The Agency will reserve Tax Credits to, at a minimum, one (1) development in the aggregate between the two Pools which demonstrates an innovative approach to engaging and serving populations which are re-entering society from correctional settings.

#### **4.2.2.10 Health for Housing Investments**

The Agency will reserve tax credits to, at a minimum, one (1) development in the aggregate between the two Pools (Urban & Suburban/Rural) which includes a Capital investment from a health care entity. The health care entity may include health care payers such as Medicaid managed care organizations and other insurers, health providers such as hospital systems, and health conversion foundations. The projects must include funding contributions from the participating healthcare entity towards the capital financing of the project, in the form of a grant, loan, debt, or the contributions of land and/or existing structure(s).

- To the extent funding is available, the Agency may match the amount of the capital contribution made by the health care entity up to a maximum of \$2,000,000 for 9% LIHTC developments and \$1,500,000 for 4% developments.
- A minimum capital contribution from the healthcare entity must be made in the amount of no less than \$100,000 (including applications seeking match for donation of land).
- The Agency may match Land Donation of an amount up to 50% of the “as-is” appraised value.

(Applications seeking match funds for donated land must also have a minimum capital contribution of \$100,000 from the Health Care entity).

#### **4.3 SELECTION OF APPLICATIONS - COMPETITIVE 9% TAX CREDITS**

The Agency will strive to reserve Competitive 9% Tax Credits in a manner which results in a geographic distribution statewide. Applications for Competitive 9% Tax Credits will be evaluated and ranked based on the Selection Criteria detailed below. It is the Agency's intent to follow the Set-Asides, Pools and Preferences detailed above for targeting resources and will award Competitive (9%) Tax Credits to the highest scoring Applications meeting the stated Set-Asides, Pools and Preferences.

In reserving Competitive 9% Tax Credits in the 2024 cycle, the Agency has established a minimum point threshold of one hundred and twenty (120) points for all developments except for those qualifying for the Preservation Preference, which shall be one hundred ten (110) points.

Provided that Competitive 9% Tax Credits are available after the Agency determines that the Set-Asides, Pools and Preferences have been met, the Agency will award Competitive 9% Tax Credits to the next highest ranking Application. In the event the Agency determines that an Application has been delayed or faces substantial cost burdens due to some good cause beyond the control of the Applicant, especially in the event there is a NIMBY or legal challenge to siting of an otherwise viable project, the Agency may provide a preference to fund the Applicant for an alternative viable project which meets similar goals and housing targets in an alternative location (which meets at least a minimum score under the Allocation Plan). Lower ranking Applications may be awarded Competitive 9% Tax Credits in order to meet the stated Set-Asides, Pools and Preferences.

#### **4.4 ADDITIONAL RESOURCES, SUBSEQUENT EVENTS AND SUPPLEMENTAL INFORMATION**

The amounts available in each Set-Aside, Pool or Preference may be adjusted by the Agency at any time to ensure adequate and appropriate funding of the Applications meeting the Agency's goals and Program criteria. Should additional Competitive 9% Tax Credits or other resources become available for whatever reason, especially federal or State funding program opportunities for a specific population such as veterans, emergency response, persons with special needs or persons with disabilities or unique land bank financing opportunities, the Agency will not issue an amendment to this Allocation Plan but will instead make allocations of such additional Competitive 9% Tax Credits or resources in accordance with this Allocation Plan as it deems appropriate.

The Agency may allocate more than the available Competitive 9% Tax Credits in each Set-Aside, Preference or Pool in order to fully fund a project reservation which has scored sufficient points to warrant funding but for which funds remaining in the Set-Aside, Preference or Pool cannot fund the full credit amount needed for feasibility. For developments returning Competitive 9% Tax Credits from a previous or current year's allocation, the Competitive 9% Tax Credits may be redistributed at the Agency's discretion.

After the Agency reserves Competitive 9% Tax Credits for Applications, the Agency may allocate such Tax Credits as may be available to any Application which either did not receive a reservation or which needs additional credits to fully support its financial feasibility. In addition, the Agency may make binding



commitments to allocate Competitive 9% Tax Credits through a forward allocation process based on geographic distribution, specific project needs, housing goals or program considerations in the sole discretion of the Agency. Applicants may not apply for or request a forward allocation.

**Tax Credits are not guaranteed to any party, regardless of the ranking or points achieved through the evaluation process. The Agency will review the geographic location, developers and types of projects to attempt to achieve distribution throughout the Commonwealth.**

**The scoring and ranking of an Application does not guarantee funding by the Agency. In the event the Agency departs significantly or materially from the Selection Criteria and Process, it shall document such departure if required by the Code. De minimus adjustments, as determined by the Agency, are authorized.**

#### **4.5 RANKING OF DEVELOPMENTS - COMPETITIVE (9%) TAX CREDITS**

To qualify for consideration of 9% Low Income Housing Tax Credits, the Agency requires that the Application meet the Threshold Criteria for both the 9% and the 4% Tax Credit Programs (see Section 3) and score at least 120 points under the Selection Criteria (see Section 4) for new construction and/or rehab developments and 110 points for preservation developments. Applications will only be scored once. If two or more developments requesting Competitive 9% Tax Credits have the same ranking within a Set-Aside, Pool or Preference and only one Application can be awarded Competitive 9% Tax Credits, the Agency will select the Application that has a higher percentage of units available to residents whose incomes are at or below fifty percent (50%) of area median gross income as compared to total number of Tax Credit eligible units. If the Applications have the same percentage of units serving residents at or below fifty percent (50%) of area median income, the Agency may select the Application that it determines best fits the Agency's affordable housing priorities and achieves geographic distribution. In any instance, the Agency may favor selection of an Application which best evidences an ability to proceed.

<b>Exhibit SC2024 – Selection Criteria Scoring Summary Table</b>		<b>Maximum Possible Points</b>
<b>A. Community and Economic Impact</b>		<b>37 Points</b>
	A.1 Underserved Areas	15 Points
	A.2 Community Revitalization Plan	New Const./Rehab – 16 Points Preservation -17 Points
	A.3 Social Inequities and Community Disparities	5 points
<b>B. Resident Population &amp; Services</b>		<b>57 Points</b>
	B.1 Income & Rent Targeting	20 Points
	B.2 Designated Population & Supportive Services	12 Points
	B.3 Accessible Units	10 Points
	B.4 Affordable Units for Large Families	10 Points
	B.5 Broadband Internet Access	5 Points
<b>C. Development Characteristics</b>		<b>30 Points</b>
	C.1 Smart Site Selection	10 Points
	C.2 Green Certification	10 Points
	C.3 Energy Efficiency	10 Points
<b>D. Development Team and Process</b>		<b>93 Points</b>
	D.1 Development Team Experience	41 Points
	D.2 Material Participation of MBE and WBE	15 Points
	D.3 Zoning	10 Points
	D.4 Commitment of Funds	27 Points
	D.5 Noncompliance	Negative 10 Points
<b>E. Development Cost Savings – NOTE: Suspended for 2024</b>		<del>10 Points</del>
<b>F. Complete Application Package</b>		<b>5 Points</b>
<b>Total:</b>		<b>222 Points</b>

**A. Community and Economic Impact**

**37 Maximum Points**

It is the goal of the Agency to encourage affordable housing in areas with job opportunities; in areas near strong and stable communities, in areas which demonstrate the capacity for community revitalization opportunities, and in developments which promote community and economic development and address social inequities. The Market Study /Needs Assessment must identify the criteria set forth in the Community and Economic Impact Selection Criteria for ranking consideration in this category. To that end, up to 37 points may be awarded to developments located in areas that demonstrate the following relative to the immediate market area:

**A.1. Underserved Areas – up to fifteen (15) points**

A.1.a. General Occupancy Developments - Areas of Opportunity – up to thirteen (13) points

- Low poverty rates
- Limited affordable housing options, both subsidized and non-subsidized
- Limited affordable housing production in past twenty (20) years
- Close proximity to employment
- Strong housing markets
- High owner-occupied markets

A.1.b. General Occupancy Developments – School Performance Standards – up to two (2) points

- The Agency may award up to two (2) points to those developments located in a public school district whose senior high school combined average in English, Mathematics and Science proficiency on the Pennsylvania System of School Assessments (PSSA)\* is the following:

<u>Average Percentages</u>	<u>Points</u>
≥70%-80%	1
>80%	2

OR

A.1.c. Senior Occupancy Developments – up to fifteen (15) points

- Large number of seniors eligible for affordable housing
- Limited affordable housing options, both subsidized and non-subsidized
- Limited affordable housing production in past twenty (20) years
- Close proximity to amenities for the senior population, including health and retail establishments, home health agencies, and hospitals.

**A.2. Community Revitalization – New Construction/Rehabilitation – up to 16 points and Preservation - up to seventeen (17) points**

**A.2.a. For New Construction and Substantial Rehabilitation Properties - up to sixteen (16) points**

Community Revitalization Plans, Evidence of Municipal and Local Support, Access to Transportation and Existing Infrastructure and Community Resources and Suitability of Site – A critical circumstance is the development's forming an important part of a broader or comprehensive program of neighborhood improvement which has the capability of changing fundamentally the character of that neighborhood or enhancing the lives and amenities available to residents of the community. Such improvement should include the provision of mixed income housing. A program of neighborhood improvement includes municipal support articulated in a publicly approved community plan or in the form of significant funding commitments, or evidence of substantial major investment in the area that is consistent with a comprehensive plan for neighborhood improvement which may include contributing to a transit-oriented design initiative. Such funding commitments or major investments cannot be derived solely from the development of Tax Credit properties and may include proposals participating in: Main Street, Elm Street, Neighborhood Partnership or other programs of the Commonwealth, the Agency's Homeownership Choice and PHARE Programs; New Markets Tax Credits, the Healthy Village Initiative of the Local Initiatives Support Corporation; the Blueprint Communities Initiative of the Federal Home Loan Bank, Opportunity Zones or similar community support programs. Additionally, the plan should generally include municipal support, private investment and/or private sector commitments to the area or evidence infrastructure in place to support the development. The Agency will consider in its evaluation of community impact the use of existing housing or buildings if the development is not located in a qualified census tract. Up to sixteen (16) points may be awarded in this category as follows:

- Community Revitalization Plan – The Agency may award five (5) points for developments contributing to an existing community revitalization plan. To qualify for points in this category, the applicant must submit a letter from an official of the local government explaining how the development will contribute to the community revitalization plan. The letter should be specific to the proposal and must identify the official title of the community revitalization plan along with the year in which it was adopted. The Agency may accept a copy of the community revitalization plan in lieu of a letter from the local government in the event the developer is unable to obtain such a letter. A county or municipal zoning or land use plan does not qualify as a community revitalization plan.
- Significant Funding Commitments and Coordination with Other Housing and Community and Economic Development Programs – The Agency may award five (5) points to proposals that demonstrate further coordination between other housing and community and economic development programs stated above and evidence of significant funding commitments as part of the major investment in the area. This does not include funding requests for current Applications.
- Mixed-Income Housing – The Agency may award two (2) points for developments which incorporate market rate units as part of the unit mix with a demonstrated financial benefit to the development. In order to qualify for points, at a minimum

fifteen percent (15%) of the units but no more than fifty percent (50%) of the units shall be targeted as market rate units.

- Transit-Oriented Design – The Agency may award two (2) points to developments located within one-half mile of a completed or planned public transportation fixed route stop or located in an area with an alternate **accessible no-cost** transportation option.
- Walkability – The Agency may award up to two (2) points for developments which have the following walk scores according to [www.walkscore.com](http://www.walkscore.com) (for scattered site projects, a walk score will be obtained for each site and a weighted average based upon number of units at each site will be calculated):

<u>Urban</u>		<u>Suburban/Rural</u>	
<u>Percentage</u>	<u>Points</u>	<u>Percentage</u>	<u>Points</u>
≥80	2	≥70	2
≥70-79	1	≥50-69	1

OR

A.2.b. For Preservation Properties - up to seventeen (17) points

Developments seeking consideration for the Preservation Preference must demonstrate the need for Tax Credits to extend the affordability period of the existing property to ensure the continued availability of long-term subsidy or to address immediate health and safety concerns of the development. Points will be awarded based upon the following factors: ability to convert to market, loss of long-term subsidy, need for immediate health and safety improvements, good faith compliance with original extended use commitments, financial impact of proposed improvements (including energy efficiency upgrades) and economic impact on the existing community. Additional consideration will be given for those developments which include municipal support articulated in a publicly approved community plan or in the form of significant funding commitments, or evidence of substantial major investment in the area that is consistent with a comprehensive plan for neighborhood improvement which may include contributing to a transit-oriented design initiative. Up to seventeen (17) points may be awarded in this category as follows:

- Significant Funding Commitments and Coordination with Other Housing and Community and Economic Development Programs – The Agency may award three (3) points to proposals that demonstrate further coordination between other housing and community and economic development programs stated above and evidence of significant funding commitments as part of the major investment in the area. This does not include funding requests for current Applications.
- Risk of Loss Due to Market Conversion or Sale – The Agency may award four (4) points to developments which are at risk of conversion to market rate housing. To be eligible for consideration, applications must include evidence that Section 8 project based or similar affordability restrictions expire within twelve (12) months from the date of application. Additionally, evidence of sustained occupancy greater than ninety percent (90%) over the last five (5) years must be provided.
- Risk of Loss Due to Critical Physical Needs – The Agency may award four (4) points to developments which are beyond fifteen (15) years of initial loan closing and tax credit placed-in-service date and at least one major physical plant component must be replaced or repaired or there is evidence of the need for an immediate health or safety improvement. Applicants must demonstrate that there has been a good faith effort to keep the property up to Uniform Physical Condition Standards.
- Mixed-Income Housing – The Agency may award two (2) points for developments which incorporate market rate units as part of the unit mix with a demonstrated financial benefit to the development. In order to qualify for points, at a minimum fifteen percentage (15%) of the units but no more than fifty (50%) shall be targeted as market rate units.
- Transit-Oriented Design – The Agency may award two (2) points to developments located within one-half mile of a completed or planned public transportation fixed route stop or located in an area with an alternate **accessible no-cost** transportation option.
- Walkability – The Agency may award up to two (2) points for developments which have the following walk scores according to “[www.walkscore.com](http://www.walkscore.com)” (for scattered site projects, a walk score will be obtained for each site and a weighted average based upon number of units at each site will be calculated):

<u>Urban</u>		<u>Suburban/Rural</u>	
<u>Percentage</u>	<u>Points</u>	<u>Percentage</u>	<u>Points</u>
≥80	2	≥70	2
≥70-79	1	≥50-69	1

**A.3. Developments that Address Social Inequities and Local Disparities – up to five (5) points**

The Agency may award five (5) points for developments that specifically promote community and economic development and address social inequities. To qualify for points in this category, applicants must complete the “Social Inequities and Local Disparities Certification” included in the Application.

**B. Resident Population and Services**

***57 Maximum Points***

**B.1. Income and Rent Targeting – up to twenty (20) Points**

Applicants may be awarded up to twenty (20) points for developments that the following percentages of units are designed to be substantially occupied by and affordable to residents with incomes that are at or below fifty percent (50%) of the area median income:

<u>Percentage</u>	<u>Points</u>
>10-20%	4
>20-30%	8
>30-40%	12
>40-50%	16
>50%	20

**B.2. Designated Populations & Supportive Services – up to twelve (12) points**

To receive the maximum twelve (12) points in this category, the development will provide evidence that appropriate services will be provided for the entire resident population for the duration of the compliance period. Evidence consists of a supportive services plan that:

- Is specific to the development and effectively addresses the anticipated service needs of the target resident population.

General occupancy developments should deliver or coordinate services that: improve building and unit maintenance; stabilize occupancy by improving residents’ ability to uphold their lease obligations; and enhance quality of life through increased self-sufficiency and programs that improve life skills, employment, education, income/asset building, child and youth development, community building, and access to services.

Senior occupancy developments should deliver or coordinate services that: stabilize occupancy by improving residents’ ability to uphold their lease obligations throughout the aging process and enhance quality of life through improved access to services and benefits, health promotion, community building, and socialization.

Developments for populations with special needs should deliver or coordinate services that stabilize occupancy by improving residents' ability to uphold their lease obligations and enhance quality of life through improved access to services that support the needs of the targeted population.

- Includes sufficient funds to implement the described plan of services. It is recommended that this funding be set aside in a supportive services escrow account. If a supportive services escrow account is being used for funding, it is required that the Agency hold the escrow. However, funding through the development's annual operating budget, collaboration with a community-based service provider (include letter of intent or Memorandum of Understanding) or funds from other identified sources may be used. If currently committed funds fall short of the cost of services for at least the first fifteen-year period, identify how services will be funded for the remainder of the compliance period.
- Utilizes a service provider/coordinator with the capacity to implement described plan of services. The recommended minimum is one hour of on-site dedicated staffing per week for every five units. Services staff should have access to a computer with Internet and email capabilities. There should be sufficient space to carry out the described services, including adequate office and community space.
- Must include a statement of commitment to continued professional development in core areas related to supportive services for all supportive services staff.

Satisfactory completion of the above four factors are the minimum requirements for seven (7) points.

Demonstrated commitment of sufficient funds for at least 15 years and meeting the required minimum on-site staffing may result in an additional five (5) points.

Confirmation from the service provider regarding the availability of applicable services at initial occupancy of the development will be required prior to issuing the IRS Form 8609. To ensure the continued provision of supportive services, the Restrictive Covenant Agreement will reflect such commitment.

### **B.3. Accessible Units – up to ten (10) points**

#### *New Construction*

Ten (10) points may be awarded to developments where the developer agrees to provide three times (always round up) as many fully accessible units as are otherwise required (under local, state, or federal mandate, whichever is greater) in the development. Five (5) points may be awarded to developments where the developer agrees to provide two times (always round up) as many fully accessible units as are otherwise required (under local, state, or federal mandate, whichever is greater) in the development. All employee units and market rate units must be included in the total unit count when calculating the required number of accessible units. The developer must certify that these units are accessible and that, during initial lease up, the developer will exclusively reserve the units for occupancy by persons needing the accessible units for the first thirty days. Thereafter, the developer will include certain provisions in the lease to allow the units to be occupied by persons



who need the accessible features of the units, to the greatest extent feasible. Evidence of enforcement of the lease provisions will be required and implementation and adherence to additional outreach programs to identify and match qualified residents who need the accessible features within the development may be required throughout the compliance period which may include contacting the Agency prior to renting the unit to persons who do not require the accessible features in accordance with the Agency's Accessible Unit Policy.

Terms addressing the accessible units and the subsequent rental of these units will be incorporated in the Restrictive Covenant Agreement. In addition, a certification from the design architect verifying the inclusion of the accessible units in the development will be required at the time of application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents.

*Preservation*

For preservation developments, consideration will be given for five (5) points under this category if the development increases the number of fully accessible units which meet current standards in the development by at least five (5) percent of the total units available, and ten (10) points for an increase of at least ten (10) percent of the total units available. If an existing development already has twice the federal minimum number of accessible units that meet current accessibility standards, they will be eligible to receive points in this category. (All other requirements applicable to rental and long-term occupancy of these units are the same.)

**B.4. Affordable Units for Large Families – up to ten (10) points**

Up to ten (10) points may be awarded for those developments providing affordable units with three or more bedrooms for large families. High rise developments (7 stories or greater) and senior housing cannot qualify for this category. Points will be considered for developments that include the following percentages of affordable units with three or more bedrooms out of the total number of rental units:

<u>Urban</u>		<u>Suburban/Rural</u>	
<u>Percentage</u>	<u>Points</u>	<u>Percentage</u>	<u>Points</u>
>15-20%	6	>10-15%	6
>20-25%	8	>15-20%	8
>25%	10	>20%	10

A certification from the design architect verifying the number of large family units in the development will be required at the time of application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents. For developments not requiring the services of an architect, the certifications may be provided by the general contractor.

**B.5. Broadband and Internet Access - up to five (5) points**

The Agency may award up to five (5) points for Applications which commits to the following:

- a device sharing program for residents to provide access to internet resources; AND
- providing free broadband/WIFI hotspots to enable internet access for residents and visitors in public areas of the Development; AND one of the following
  - providing free internet/WIFI access to residents in all residential units OR
  - providing an internet utility allowance equivalent to the cost of local data provider services for low-income tenants

To the extent that internet service is not available to the Development, an Applicant may qualify for the points in this category by committing to make the articulated services available at such time that service is extended and made available to the Development.

Note: The scoring criteria outlined above are in addition to the Threshold requirements regarding the installation of Broadband Infrastructure outlined in Section 3.3.7 that must be met by all projects.

**C. Development Characteristics*****30 Maximum Points***

The Agency may award up to thirty (30) points for the provision of the following development amenities.

**C.1. Smart Site Selection – up to ten (10) points**

Points may be awarded to the following types of properties:

- up to five (5) points may be awarded to those developments located on a brownfield;
- up to seven (7) points may be awarded to those developments considered blight remediation or residential infill; and
- up to ten (10) points may be awarded to those developments consisting of an adaptive reuse of an existing building.

**C.2. Certification under a National Green Building Program - up to ten (10) points**

Ten (10) points may be awarded to **new construction and substantial rehabilitation** developments achieving certification under one of the following green building standards:

- Enterprise Green Communities – 2020
- LEED v4 BD+C Homes & Multifamily Low rise (1-3 stories) – Silver
- LEED v4 BD+C Multifamily Midrise – Silver or LEED v4 BD+C New Construction and Major Renovation– Silver (4 stories or more)
- ICC 700-2020 National Green Building Standard - Silver

OR

Ten (10) points may be awarded to **preservation developments** achieving certification under one of the following green building standards:

- Enterprise Green Communities – 2020 – Moderate Rehab
- LEED v4 O+M – Multifamily - Certified
- ICC 700-2020 National Green Building Standard
  - Under Section 305.2 – Whole Building Rating – Bronze
- ICC 700-2015 National Green Building Standard
  - Under Section 305.4 – Functional Areas Rating – Compliant with Chapter 12 (must include kitchens and bathrooms)

**C.3. Energy Efficiency Goals - up to ten (10) points**

Only one of the following may be selected:

- Reduced HERS Index – five (5) points may be awarded to those developments that exceed the requirements of Energy Star® (the version currently published and enforced by the Pennsylvania Environmental Protection Agency) by achieving a lower HERS Index as specified in the Guidelines

OR

- Zero Energy Ready Home – eight (8) points may be awarded to those developments that achieve certification under the U.S. Department of Energy’s Zero Energy Ready Program

OR

- Zero Energy Ready HOME – three (3) points may be awarded to those developments that self-certify to the U.S. Department of Energy’s Zero Energy Ready Program

OR

- Passive House – ten (10) points may be awarded to those developments which meet Passive House Requirements (nationally or internationally) for energy efficiency. (See Multifamily Housing Application and Guidelines and “[www.passivehouse.us](http://www.passivehouse.us)” or “[www.passivehouseacademy.com](http://www.passivehouseacademy.com)” for additional guidance.) Passive House Certification is required

Please review the Agency Guidelines for specific requirements for the above criteria.

The Agency will review the architectural documents submitted with the proposal to confirm the existence of the proposed amenities. A certification from the design architect verifying the inclusion of the amenities in the development must be submitted with the Application. Confirmation from the construction contract administration architect is required with the submission of the cost certification documents. Amenities should be appropriate for the proposed resident population. The

appropriateness and adequacy of the proposed amenities for ranking purposes will be determined at the sole discretion of the Agency. Verification of the availability of all amenities may be required by the Agency at any time and throughout the development's compliance period.

**D. Development Team and Process**

**93 Maximum Points**

**D.1. Development Team Experience – up to forty-one (41) points**

The Agency may award up to forty-one (41) points for the experience of the development team in creating the type and size of the property. The development team members include the applicant, architect, general contractor, attorney, and management agent. Please note that the Agency will be reviewing the Cohesiveness of the Development Team. A cohesive team is defined as a “team or working group that demonstrates consistent integrated communications and operations related to a particular development.”

**D.1.a. Experience of Applicant (or any related entity) - up to nine (9) points**

This category measures the experience of the applicant in the production of Tax Credit developments. The Agency will consider for points in this category the number of Tax Credit developments (of at least 10 units) which have been placed in service and submitted a complete placed in-service package. If an applicant has experience in developing 3 or more developments of under 10 units, up to 3 points may be awarded for experience.

Note: If there are two or more applicants, the experience of applicants will be considered and prorated based upon the percent of ownership.

<b><u>Number of Developments</u></b>	<b><u>Points</u></b>
1-4	3
5-10	6
≥11	9

OR

Experienced housing consultant (consulted in 3 or more developments that received a reservation of Tax Credits and have submitted a complete placed in-service package) in lieu of an experienced general partner – 3 points

In order to receive points for the housing consultant, a scope of work and a copy of the contract between the applicant and the consultant must be submitted to the Agency. The consultant must be providing services from the start (application stage) through the construction closing, construction management, and the 8609 cost certification stage. If the consultant is not fully involved in all stages of the project, points will not be given in this category. Additionally, the scope of work / contract must describe how the consultant plans to train the developer so that the developer learns the LIHTC process and skills needed to be independently successful in future applications.

D.1.b. Experience of Management Agent with Tax Credit developments – up to nine (9) points

In order to be considered in this category, a management agent must currently manage at least three Tax Credit developments. Management of developments with project based or public housing rental assistance may qualify as experience, provided that the management agent has experience with at least one Tax Credit development.

<u>Number of Units</u>	<u>Points</u>
25-150	3
151-300	6
≥301	9

OR

Experienced housing management consultant (involved in 3 or more developments that received a reservation of Tax Credits) in lieu of an experienced management agent – three (3) points

D.1.c. Experience of attorney in the Tax Credit program – two (2) points

D.1.d. Experience of general contractor in type and size of development to be developed – two (2) points

D.1.e. Experience of architect in type and size of development to be developed – two (2) points as follows: one (1) point for design architect and one (1) point for construction contract administration architect.

D.1.f. Joint venture with a Small Diverse Business or a Veteran Business Enterprise in the development team, as verified by the Bureau of Diversity Inclusion and Small Business Opportunities of the Pennsylvania Department of General Services, , or a qualified small business. A qualified small business is a real estate development company which meets the following criteria: 1) actively engaged in development activity for at least 3 years; 2) has participated in at least three (3) development projects in some capacity; and 3) has been involved in the development of no more than 500 units of housing. A non-profit entity is eligible to receive points as an Owner/Developer and/or Management Agent if a minimum of fifty-one percent (51%) of the members of their board are minorities, women or veterans as evidenced as a requirement in the non-profit’s By Laws. Furthermore, the Agency encourages business opportunities for new or underutilized small diverse businesses in the development team.

To receive points in this section, the Joint-Venture must fit the following definition; “A joint venture is a combination of two or more parties that collectively together will develop the project, sharing the workload, the risks, the ownership, and the profits / developer fee associates with the development. Only one entity will be considered and scored as an Owner/Developer in accordance with the table below, with a maximum of seventeen (17) points awarded:

<u>Firm/Entity</u>	<u>MBE/WBE/Veteran’s Business Points for Participation</u>	<u>Qualified Small Business Points for Participation</u>
Owner/Developer	17 points	10 points
Owner/Developer Joint Venture with at least 51% ownership, at least 51% workload responsibilities, and at least 51% split of the developer fee	13 points	8 points
Owner/Developer Joint Venture with at least 30% ownership, at least 30% workload responsibilities, and at least 30% split of the developer fee	8 points	5 points
Management Agent (minimum 2 year contract)	6 points	3 points

**D.2. Development Team – Material Participation of Minority, Women’s and Veteran’s Businesses – up to fifteen (15) points**

The Agency may award up to fifteen (15) points for material participation in the development team by a Small Diverse Business or a Veteran Business Enterprise which meets eligibility criteria of the all-inclusive Small Diverse Business Program (“SBD”) operated by the Department of General Services, or a qualified small business that meets the definition above in Section D.1.f To be verified as a SBD by the Department of General Services, the SBD must:

- (1) already hold and/or obtain a diverse business certificate (for one of the populations listed on the Department of General Services website) from one or more third-party certifiers recognized by the Commonwealth of PA and upload the certificate into the Commonwealth’s portal. A certification /verification checklist and a list of third-party certifies can be located at the following link: [Small Business Certification and Small Diverse Business and Veteran Business Enterprise Verification Checklist \(pa.gov\)](#).
- (2) Once the diverse certificate is obtained, the SBD can then apply to the Department of General Services to obtain the “Small” Diverse Business Certificate.

Multiple entities will be considered and scored in accordance with the table below, with a maximum of 15 points awarded.

<u>Firm/Entity</u>	<u>1%-4.99% of Total Development Cost</u>	<u>≥5% of Total Development Cost</u>
Professional Services	1 point	2 points
General Contractor	1 point	2 points
Sub-Contractors/Vendors	1 point	2 points

**D.3. Zoning - up to ten (10) points**

Ten (10) points will be awarded for developments which demonstrate that all zoning approvals have been secured for all sites included in the Application, to the satisfaction of the Agency, including all variances and special exceptions.

OR

Five (5) points will be awarded for developments which do not possess full zoning approval but which provide a letter from a qualified attorney or local zoning official which articulates and identifies a realistic and timely path forward to secure final zoning approval.

**D.4. Commitment of Funds – up to twenty-seven (27) points**

The developer must provide evidence, satisfactory to the Agency, that all funding commitments from public and private lenders have been secured. A minimum level of funding as determined by the Agency based upon availability in both Participating Jurisdictions and Non-Participating Jurisdictions will be required for consideration in this category. Evidence of said commitments shall include a firm commitment of funding and shall set forth the terms and conditions of said funding. Points will be awarded as follows:

D.4.a. Evidence of Fully Funded Development – The Agency may award five (5) points to developments that demonstrate that all funding commitments are in place, excluding requests for Agency First Mortgage Financing, PennHOMES or HTF. Projects with financing gaps of less than 25% of the developer fee shown in the capital budget are able to qualify for these points. No points will be awarded in this category if a Development requires greater than a 25% reinvested developer fee. Unless otherwise approved by the Agency, developments requesting consideration in this category will not be considered for additional awards of Agency funding (Tax Credit or loan) at any time during processing through placement in service.



D.4.b. Inclusion of Private Capital and Soft Debt Funds – The Agency may award up to eight (8) points for the inclusion of permanent amortizing debt and/or soft financing private sources, state or local programs, nonprofit organizations, foundations and/or federal programs such as the HUD Section 202 program. This category includes equity from historic tax credits and land and/or building donation (subject to verification by a current appraisal). This category does not include a PennHOMES or PHARE Program request that has not been approved. Applications with a donation or a reduction in development-related fees (i.e., tap-in, impact, recreational and/or other development rights by the local government unit/municipality) may also be included. The reduction must be measurable and based upon an existing fee schedule that applies to all developments.

Comparison will be made between total qualifying financing and total development costs, with possible points granted as follows:

<u>Participating Jurisdiction Percentage</u>	<u>Nonparticipating Jurisdiction Percentage</u>	<u>Points</u>
5-10%	2-5%	2
>10-20%	>5-10%	4
>20-30%	>10-20%	6
>30%	>20%	8

D.4.c. Inclusion of Assumed Debt on Preservation or Related Party Financing – The Agency may award up to two (2) points for the existing debt on preservation projects or substantial rehabilitation projects as follows:

<u>Percentage</u>	<u>Points</u>
≥10-30%	1
>30%	2

D.4.d. Inclusion of Funding Applied For and To Be Applied For – The Agency may award up to two (2) points for identified funding listed as applied for or to be applied for. In accordance with the Code, all applications must identify all sources of funding (including those to which the Applicant expects to apply). Consideration for soft financing will be given for those sources with an interest rate at or below the long term applicable federal rate in effect at the month of closing (which shall be evidenced by an executed note at closing). To be considered for points in this category, the amount may not exceed twenty-five percent (25%) of developer fee and Applicant must provide evidence of the commitment to reinvest developer fee in an amount equal to the amount of the identified funding. The Agency will use this funding as a source in determining the Tax Credit award.

<u>Percentage</u>	<u>Points</u>
≥15%	1
≥ 15.01 to 25%	2

D.4.e. Inclusion of Applied for PennHOMES Funding – The Agency may award two (2) points for Applications seeking PennHOMES funds as part of its financing plan. Applicants must demonstrate the ability to meet all PennHOMES program requirements. A minimum of \$500,000 in PennHOMES funding is required for consideration in this category.

D.4.f. Inclusion of Applied for Agency First Mortgage Financing – The Agency may award five (5) points for Applications which request Agency First Mortgage Financing as part of its financing plan. Applicants must meet Agency underwriting requirements, as more further described in the 2024 Guidelines, in order to qualify for points in this category.

D.4.g. Inclusion of Project Based Unit Subsidy – The Agency may award two (2) points for the inclusion of Project Based Section 8 assistance or ACC subsidy for at least fifty percent (50%) of the units in the development.

D.4.h. Evidence of Tax Abatement – The Agency may award one (1) point for developments that provide evidence of receipt of a real estate tax abatement from the municipal taxing authority.

**D.5 Noncompliance – up to negative ten (10) points**

The Agency may deduct up to ten (10) points from the score for proposals involving either an Applicant (or any member of the development team) that participates in a Pennsylvania Tax Credit development or the management of a Tax Credit development located in the State of Pennsylvania that is delinquent in payments or has materially defaulted on obligations to the Agency, has not met required submissions and program deadlines, has unresolved IRS Form 8823 noncompliance issues, has not met the requirements of the Restrictive Covenant Agreement, has failed to submit a timely Placed-in-Service/Cost Certification package which resulted in a loss of Tax Credits to the Agency, has engaged in an early termination of a Tax Credit project, or has made changes in a selection criteria or failed to meet the selection criteria for which an allocation of Tax Credits was previously made.

NOTE: Development Cost Savings Selection Criteria is suspended for 2024 due to current market conditions

**E. Development Cost Savings 10 Maximum Points**

The Agency may award up to ten (10) points to Applications which demonstrate costs less than the median total development costs of the total Applications submitted. The Agency will determine the median total development cost per square foot (less the cost of acquisition, reserves and commercial space) and will award points based on certain ranges as stated below. Preservation Applications and those located in Philadelphia will not be included when determining the median costs in a cycle. The Agency will award points to Preservation and Philadelphia applications as they compare against each other. For all other developments, the Agency will award points based upon the construction type: single family/townhouse, multi-story multifamily buildings, and adaptive re-use buildings as they compare against each other. In addition to submission of certifications that the building as designed and as constructed will meet/meets all labor and material standards set forth in applicable local or statewide codes (without sacrificing unit size and other building amenities), the Agency reserves the right to require additional certifications from local officials or building design professionals prior to the issuance of an IRS Form 8609 for the building or to conduct its own site visits during construction to ensure that the quality of construction is not compromised by cost savings.

<u>Percentage Below Median Total Development Cost</u>	<u>Points</u>
At least 10%	5
≥15%	10

**F. Complete Application Package 5 Maximum Points**

The Agency may award 5 bonus points for Applications that are submitted with all required Application exhibits and information as delineated in the Application Checklist and the Application Guidelines.

**Total Points Available 222 Points**

**EXHIBIT URBAN**

The following urban areas qualify for Application submission in the Urban Pool of the 2022 Program Years.

**Allegheny County**

City of Pittsburgh

**Berks County**

City of Reading

**Blair County**

City of Altoona

**Cambria County**

City of Johnstown

**Dauphin County**

City of Harrisburg

**Delaware County**

City of Chester

**Erie County**

City of Erie

**Lackawanna County**

City of Scranton

**Lancaster County**

City of Lancaster

**Lawrence County**

City of New Castle

**Lebanon County**

City of Lebanon

**Lehigh County**

City of Allentown

City of Bethlehem

**Luzerne County**

City of Hazelton

City of Wilkes-Barre

**Lycoming County**

City of Williamsport

**Northampton County**

City of Bethlehem

City of Easton

**Philadelphia County**

City of Philadelphia

**York County**

City of York

## 5. Waivers

### **5.1 APPLICATION WAIVER REQUESTS**

Requests for waivers of application processing and threshold requirements must be submitted to the Agency for review as part of the Application. Review of waiver requests prior to the submission of an Application will be considered by the Agency based on the nature of the request. The Agency will promptly review requests for waivers.

Detailed below is guidance regarding common Waiver requests.

### **5.2 MAXIMUM BASIS PER UNIT**

The Agency may consider a waiver of the Maximum Basis per Unit limitations (outlined above in Section 3.4) for Developments with a minimum of fifty-one percent 51% of the units in the development having three (3) or more bedroom units.

For all other Developments, the Agency may consider a waiver of the established limits based upon the demonstration of compelling circumstances and justification for the additional basis eligible costs. Compelling circumstances include:

1. preservation of a designated historic building or necessitated by building in or adjacent to a designated historical district;
2. construction costs attendant to providing supportive services to the resident population that are over and above that typically associated with such housing, including reasonable costs related to the construction of community service facilities;
3. costs due to structurally unsuitable subsoil conditions; costs associated with environmental remediation of an existing building that will remain in the development;
4. costs resulting from local conditions or attempts to exclude affordable housing (this may include excessive impact fees, building code requirements, restrictive zoning, extraordinary litigation costs incurred because of neighborhood opposition and planning requirements); and
5. other specific, clear and demonstrable cases that the extraordinary costs are justified.

For those Developments seeking to exceed limits based on items 1 through 4 in the list above, costs due to historic considerations, unsuitable subsoil conditions or costs associated with environmental remediation, evidence must be provided that such costs are in excess of expenditures required for eligibility for Tax Credits. In addition, a detailed cost breakdown must be provided indicating the difference between the costs for these items and those of typically constructed developments. Applicants must provide full explanation of all alternative site considerations and provide adequate justification of the need for the development at the identified location or a full explanation and adequate evidence of cost savings.

For those Developments seeking to exceed limits based on item 5 in the list above, the Agency will only approve waivers based on unique circumstances such as the development of scattered site housing or material increases in costs resulting from the Covid-19 pandemic.

For Applications affected by local attempts to exclude affordable housing, Agency staff will not approve Tax Credits above 30 percent of the Maximum Basis limitation. For all other circumstances, Agency staff will not approve Tax Credits above 15 percent of the Maximum Basis limitation.

All requests for waivers of the Maximum Basis per Unit limitations will be subject to a rigorous evaluation by Agency staff. The Agency reserves the right to make final decisions regarding waiver requests. A waiver of the Maximum Basis limitation is solely determined by the Agency.

### **5.3 STATE DESIGNATED 130% BASIS BOOST**

As detailed above in Section 2.6, Applicants for Competitive 9% Tax Credits may request a State Designated Basis Boost in an amount up to 130 percent (130%) of the eligible rehabilitation/new construction basis. The waiver request must include evidence satisfactory to the Agency that the Development will have excess development expenses and costs related to one of the following reasons:

1. location in areas of the Commonwealth with limited federal, state, local or financial resources; or
2. provision of general occupancy units in “areas of opportunity”, as defined by the Agency or their siting in order to affirmatively further fair housing or in areas that have not received representative resources in the past; or
3. provision of supportive housing opportunities; or
4. community impact developments; or
5. other specific, clear and demonstrable cases that a basis boost is justified.

Projects located in a Qualified Census Tract (QCT) or Difficult Development Area (DDA) as designated by HUD are automatically qualified for a 30% basis boost and are therefore not also eligible to receive the State Designated Basis Boost.

In accordance with Federal rules, applications for 4% Tax Credits and Tax-Exempt bonds are ineligible for a State Designated Basis Boost.

### **5.4 DEVELOPER’S FEE**

Waivers of the caps on Developer’s Fee detailed above in Section 3.5 must provide detail regarding the justification for the fee. To the extent that the Development Budget anticipates a reinvestment/deferral of a portion of the Developer’s Fee, the operating projections must indicate an expectation that the entire reinvested/deferred amount will be repaid from operating cash flow in the first 10 years of operations.

In no case will the Agency provide a waiver of the methodology used to calculate the Developer’s Fee.

As noted in Section 3.5, waiver requests of the cap on Developer’s Fee for developments requesting Competitive 9% Tax Credits will not be granted by the Agency.

**5.5 DEVELOPMENT DESIGN THRESHOLD CRITERIA**

Applicants requesting a waiver of any of the Design Threshold Criteria listed above in Section 3 shall provide a written request identifying the criteria for which the waiver is sought, and a detailed explanation of the compelling circumstances preventing compliance with the requirements. Drawings, specification, photos, contractor’s cost estimates, or any other documentation supporting the justification for a waiver should be included

Note: For Preservation developments, waivers regarding existing dwelling unit size, room size, corridor/stair width, closet door width and minimum number of baths will not be required unless interior spaces will be reconfigured.