

**2018 MULTIFAMILY HOUSING UNDERWRITING APPLICATION**

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## **UNDERWRITING PROGRAM GUIDELINES - INTRODUCTION**

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The Pennsylvania Housing Finance Agency (“Agency”) provides funding resources to increase and preserve affordable multifamily housing rental properties throughout the Commonwealth of Pennsylvania. The Agency is the administrator of the Federal Low Income Housing Tax Credit Program (“Tax Credits”). It also provides loans for construction financing, taxable and tax exempt bond financed primary mortgages, equity bridge loan financing, and soft second financing. Soft second financing is through the PennHOMES Program, which includes resources from the Federal HOME Investment Partnerships Program (“HOME”) through the Pennsylvania Department of Community and Economic Development (“DCED”), Pennsylvania Housing Affordability and Rehabilitation Enhancement Fund (PHARE), and the Agency's unrestricted reserves.

The following Program Guidelines explain the Agency's processing procedures, development requirements, and the various funding programs that may be accessed by completing the Agency's Underwriting Application (“Application”) and other submission requirements as explained in the Instructions.

### **UNDERWRITING APPLICATION PROCESS**

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**The Agency will accept Applications for Tax Credits and Agency Loan funds in one cycle.** The entire Application package, including all Exhibits, must be received by the Agency no later than **3:00 p.m. on Friday, September 8, 2017** (or such other deadline as may be established by the Agency on its website). Applications not received by the closing date of the submission cycle will not be considered.

**The Agency intends to have electronic submission of the Application in 2017. Check the Agency website for instructions and additional information.**

Upon receipt of the Application, the Agency will review the site and market information contained in the Application and will conduct a development site visit if the Agency deems the development to be financially feasible based on the information submitted. The Agency may notify applicants on their review status and in the event the Agency, in its sole discretion, determines that the Application would not be competitive based upon the amount of tax credits available or deems the development to be financially infeasible, the applicant will be advised that the Agency may be discontinuing processing the Application. For 2018 the Agency anticipates that the number of Applications will significantly exceed the amount of Tax Credits availability for allocation, therefore, the Agency may use amount of resources available as a factor in making these determinations.

Additionally, it is suggested that prior to submission of an Application for PHFA program funds, applicants should check the Agency website, [www.phfa.org](http://www.phfa.org) for program updates and amendments.

#### **APPLICATION TYPE**

#### **CYCLE DEADLINE**

Applications for Tax Credits and PennHOMES

Friday, September 8, 2017

Volume Cap for Tax Exempt Bond Financing,  
or Taxable Bond Loans

November 2, 2017  
up to July 1, 2018

In advance of submitting the entire Application package on September 8, 2017, Applicants **are required** to submit an “Intent to Submit a Tax Credit Application – Fact Sheet” and Development Synopsis on or before **July 7, 2017**. **If an Application is received without an “Intent to Submit” form submitted by the deadline, the Application will not be processed.**

Direct all completed Multifamily Housing Applications and/or inquiries to:

Development Division  
Pennsylvania Housing Finance Agency  
717.780.3948 or 717.780.3876

US Postal Deliveries:  
PO Box 8029  
Harrisburg, PA 17105-8029

Hand Deliveries:  
211 N. Front Street  
Harrisburg, PA 17101

All Applicants submitting an Underwriting Application for Tax Credits, PennHOMES or tax-exempt bond volume cap must submit their applications online this year, in addition to submitting one hard copy of the application. Specific instructions for filing electronically can be found on the Agency’s website at <http://www.phfa.org/developers/developer/housingapplication.aspx>. You **MUST** file an “Intent-to-Submit”, or, if you are submitting an application for volume cap, a Bond Term Sheet, prior to obtaining access to upload your application online. When an Intent-to-Submit or Bond Term Sheet is received online, an invoice for the application fee will be automatically generated and sent to the email address the applicant provides. Upon receipt of payment by the Agency, the associated online account will be unlocked to grant access to upload the application.

The hard copy application **must be submitted in a three-ring binder and tabbed numerically** using the Application Checklist. Applications not received in this manner will be returned.

Any material omission from the Application Checklist, particularly the omission of site control, Market Study/Housing Needs Assessment, or verification of funding sources may result in an immediate rejection of the Application.

Failure to provide information requested by the Agency, failure to meet deadlines or time frames imposed by the Agency, or any misrepresentation or nondisclosure of any information or data submitted to the Agency by the applicant may result in the immediate rejection of the Application for financing and forfeiture of fees.

The Agency will notify the applicant if, for any reason, the Application for financing is rejected by the Agency. If the Application is rejected, the applicant shall pay and/or reimburse the Agency for any and all fees and costs incurred by the Agency in the Application process, including, but not limited to, the Application fee, market study, appraisal costs, etc.

**When a reservation letter and worksheet are issued to the applicant, there is a 15-day appeal period in which to bring Agency errors and discrepancies to the Agency’s attention. Budget changes or new information, however, will not be accepted. If timely, the Agency may adjust for an Agency error or discrepancy, but issues not brought to the Agency’s attention in writing within the 15-day appeal period will not be considered.**

**PENNSYLVANIA HOUSING FINANCE AGENCY  
ALLOCATION PLAN FOR YEAR 2017/2018  
LOW INCOME HOUSING TAX CREDIT PROGRAM**

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**PROCESSING OVERVIEW AND PROCEDURES FOR 2017/2018**

The Pennsylvania Housing Finance Agency (the "Agency") administers the Federal Low Income Housing Tax Credit Program ("Tax Credit Program") in the Commonwealth of Pennsylvania. 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.

The Agency intends to review the Applications for Tax Credits ("Applications") it receives and to select among the Applicants based on the selection ranking criteria, with **priority given to projects which fill an object need or which best demonstrate an ability to move forward**. The Selection Criteria has been amended to reflect specific needs and market conditions which may differ based on type of property, targeted populations and housing needs.

**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).

**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 2017/2018 Multifamily Housing Application Package and 2017/2018 Multifamily Housing Program Guidelines (the "2017/2018 Guidelines"), which will be available on the Agency's website at [www.phfa.org](http://www.phfa.org), and may be amended from time to time. 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 this Program.

For a development to be considered for a reservation of Tax Credits, the entire Application package, including all exhibits, must be received by the Agency no later than **3:00 p.m. on September 8, 2017 (or such other deadline as may be established by the Agency on its website)**. Applications not received by the closing date of the submission cycle will not be considered (except that the Agency may provide supplemental allocations to qualified projects at any time). **In advance of submitting the entire Application package on September 8, 2017, Applicants must submit an Intent to Submit a Tax Credit Application - Fact Sheet (see 2017/2018 Guidelines for form) and Development Synopsis on or before July 7, 2017.** This submission is a mandatory requirement for the 2017/2018 Tax Credit Program. 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.

The entity(ies) identified as an Applicant(s) in the Application must have a general partner 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. The Agency may impose a limit of no more than six (6) total per year per entity serving as a general partner, either solely or as a co-general partner, or four (4) Applications per Pool (as further described herein) Depending on application volume, the Agency may limit the number or size of awards per developer. Additionally, the Agency will not accept a proposal from an Applicant currently holding a reservation of Tax Credits that has not closed on all construction and equity financing on or before August 18, 2017. 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 Application package submitted for review must include all of the information in the order set forth in the Application Checklist. **Any material deficiency in the Application or omission from the mandatory submissions set forth in the Application Checklist may result in immediate rejection or alternatively, negative ranking points.** In addition, the Application must meet program eligibility requirements set forth in the Code. Applications and required exhibits may not be submitted via fax or email to the Agency. Any Application which does not contain sufficient information to be reviewed will be returned. The Agency reserves the right to reject or return any Application at any time during the Application processing period.

**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. Agency staff will review the development's construction costs, fees, sources of funds, operating income and expenses to determine the development's financial feasibility and long term viability. 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.** Applications that meet all threshold requirements, need and marketability and are financially feasible and viable will then be ranked according to the Selection Criteria. Applications that do not meet threshold requirements, are financially infeasible, do not demonstrate long term viability, or which exceed the maximum number of Applications per Applicant may be returned 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. Additionally, the Agency may discontinue processing any Application if the Agency determines in its sole discretion that the development 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.

Upon review of the Application, Agency staff may, but is under no obligation to, 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. Applicants are urged to review their original Applications carefully prior to submission to the Agency. Corrections allowed during the staff review process will neither include replacement, substitution or amendment of material items used by staff in the ranking of an Application nor remedy the scoring of an Application as an incomplete submission. See the 2017/2018 Guidelines for additional guidance and information about processing Applications.

Notwithstanding the above, 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.

Furthermore, 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.)

### **APPLICATION ELIGIBILITY CRITERIA**

In order to be considered for a conditional reservation of Tax Credits, all Applicants must submit an Application. The Agency will not accept or process requests for Tax Credits without the submission of an Application, and will only process Applications meeting all of the following eligibility criteria. Failure to meet any of these eligibility criteria may result in rejection of the Application.

1. 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.
2. If the Applicant (or any related entity or material participant) is involved or has been involved in an Agency funded development that is delinquent in payments to the Agency or has materially defaulted on any of its obligations to the Agency or has misrepresented any material information on a previous application, the Agency may reject the Application.
3. Applications may be returned 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 or potential loss of other financial assistance or funding resources.
4. 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.
5. Developments that have resulted from or will result in the permanent displacement of low income residents will be ineligible for Tax Credit Program participation 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.
6. Applications for Acquisition Tax Credits will not be accepted for any existing occupied Tax Credit development during its initial compliance period unless the initial compliance period will have expired prior to the end of 2018 and the property meets all other Acquisition Tax Credit rules.



7. Applicant 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. Additionally, the Agency reserves the right to review supporting documentation, including annual audited financial statements, to evaluate the Applicant's financial capacity.
8. Applications for 2017/2018 Tax Credits must demonstrate a commitment to serve low income residents for a period of not less than 35 years or, in the alternative, offer homeownership opportunities to qualified residents after the initial 15 year compliance period. For the commitment to serve low income residents for a period of not less than 35 years, Applicant will certify this commitment in the Application and the Restrictive Covenant Agreement will contain a provision waiving any right to petition the Agency to terminate the extended use term (as described in the Code). If the alternative of homeownership opportunities is selected, 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 \$1,000 per unit) set aside by the developer to assist the residents with the purchase. This amount may not be included in the project budget. 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 (or otherwise appropriate for homeownership by tenants as determined by the Agency) will be required as part of the Application.
9. 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. As appropriate, the experience of a housing consultant (including their ability to secure equity investment and provide services through initial occupancy) or a housing management consultant may be considered in lieu of the Applicant or management agent, respectively.

**In addition to the above threshold eligibility criteria, the Agency reserves the right to take any action it deems appropriate if the Applicant (or any related entity), proposed management agent, or other material participant has been found to be in violation of fair housing, housing accessibility or nondiscrimination laws or has been found to discriminate against Section 8 voucher and certificate holders or recipients of any state or local tenant or project based rental assistance, and such violation or discriminatory actions have not been remedied to the satisfaction of the governmental agency or entity with jurisdiction.** 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. 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) 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.

“Material participant” for purpose of this section includes 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.

10. 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.
11. 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.

### **SET-ASIDES, POOLS AND PREFERENCES**

The Agency will provide Tax Credits through several Set-Asides, Pools and Preferences. Should additional Tax Credits become available for whatever reason at any time in 2017, the Agency will not issue an amendment to this Allocation Plan but will instead make allocations of such additional Tax Credits based upon priorities and preferences set forth in this Allocation Plan as it deems appropriate and as further set forth herein. The amounts available in each Set-Aside may be adjusted by the Agency to ensure adequate and appropriate funding of the Applicants meeting the Program criteria.

#### **Set-Aside Percentages**

<b><u>Set-Asides</u></b>	<b><u>Percentage of Tax Credits to be Allocated</u></b>
Geographic Set-Aside	
Urban Pool*	50.00%
Suburban/Rural Pool	50.00%
 Total	 100.00%

\* See “Exhibit Urban Areas” for complete list of the applicable municipalities. Fifty percent (50%) of this amount will initially be set aside to fund developments located in municipalities other than Philadelphia.

The Agency has established preferences 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, developments providing employment opportunities for property or community residents, developments or Applicants evidencing meaningful participation in Section 811 program or meeting specific market needs or Agency housing goals.**

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 limited amount of 2017/2018 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.

1. General Occupancy - The Agency will reserve Tax Credits to, at a minimum, three (3) general occupancy properties in each Pool.
2. Senior Occupancy 62+ with Services - The Agency will reserve 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.
3. Preservation Developments – The Agency will reserve Tax Credits to, at a minimum, three (3) preservation properties in each Pool. 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.
4. Supportive Housing – The Agency will reserve 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; 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). Designated units must be rented only to the target population (subject to fair housing laws). The Agency may determine to fund only one Supportive Housing development from this preference each pool if the Application has a very high score and the amount of tax credits requested exceeds \$1,200,000. Eligible Applicants may include those eligible and willing to participate in the HUD Section 811 Demonstration Program.
5. Innovation in Design - The Agency will hold a juried competition encouraging demonstrated innovation in housing which may be illustrated through excellence in design, implementation of current and future energy efficient technologies and materials and leveraging community and capital resources and will reserve Tax Credits to the winning development(s). See Checklist in 2017/2018 Guidelines for materials needed to participate in the competition. The selected Applicant will work with the Agency to establish, document and employ the best practices for future housing policies and standards.
6. Strategic Investment – The Agency will reserve Tax Credits to, at a minimum, three (3) Applicants in each Pool 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 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.

7. **Community Revitalization/Mixed Income (Urban Pool only)** –The Agency will reserve Tax Credits to, at a minimum, three (3) developments 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.
8. **Areas of Opportunity (Suburban/Rural Pool only)** - The Agency will reserve Tax Credits to, at a minimum, three (3) developments 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.

### **Nonprofit Set-Aside**

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 state per capita allocation amount towards developments involving qualified nonprofit organizations (the "Nonprofit Set-Aside"). To be eligible, all nonprofits must meet the following requirements:

A nonprofit organization 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 own (directly or through a partnership) at least a 51% interest in the general partner of the partnership entity in accordance with current laws and IRS regulations throughout the development's compliance period. The nonprofit organization 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 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.

### **Requests for Additional Tax Credits**

In its discretion, the Agency may allocate such Additional Tax Credits to developments holding a reservation of Tax Credits to support its financial feasibility. Additional Tax Credits are only available for developments that have closed on their equity investment or can demonstrate the capacity to secure an equity investment, satisfactory to the Agency. Qualified Applicants must neither have changed any selection criteria nor made any significant modifications, as determined by the Agency, from the initial Application.

### **SELECTION OF APPLICATIONS**

The Agency will strive to reserve Tax Credits in a manner which results in a geographic distribution statewide. Applications for Tax Credits will be evaluated and ranked based on the Selection Criteria. It is the Agency's intent to follow the preferences established for targeting resources and will award Tax Credits to the highest scoring Applications meeting the stated preferences. Provided Tax Credits are available after the Agency determines that the preferences have been met, the Agency will award 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 and dominion 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). The Agency recognizes that lower ranking Applications may be awarded Tax Credits in order to meet the stated preferences, however, the Agency has determined that in order to receive an award of Tax Credits, an Application must meet a minimum point threshold of eighty-five (85) points.

### **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 Tax Credits or additional resources become available for whatever reason at any time in 2017/2018, 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 Tax Credits or resources based upon priorities and preferences set forth in this Allocation Plan as it deems appropriate.

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 amounts available in Set Aside or Pool may be adjusted by the Agency at any time to ensure adequate and appropriate funding of the Applications meeting the Program criteria. Further, the Agency may allocate more than the available Tax Credits in each Set-Aside 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 or Pool cannot fund the full credit amount needed for feasibility. For developments returning Tax Credits from a previous or current year's allocation, the Tax Credits may be redistributed at the Agency's discretion.

After the Agency reserves Tax Credits for 2017/2018 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 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. ensure that it will be able to completely allocate year 2017/2018 Tax Credits prior to the end of the year. 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.** In addition, the Agency may impose a \$1,200,000 per developer per cycle maximum on the Tax Credits or otherwise restrict the amount of Tax Credits to any particular developer or project. Based upon the demand for Tax Credits and development rankings, the Tax Credits reserved for any one Applicant (or related entity or material participant) or development in any specific jurisdiction or within a particular Set-Aside may be limited at the discretion of the Agency. Furthermore, Applications with costs that the Agency deems to be excessive based on the facts and circumstances may be rejected or suspended from processing. Moreover, the Agency reserves the right to amend, modify or waive specific nonmaterial submission requirements or requisite documentation to achieve affordable housing programs or affirmatively further fair housing in the Commonwealth.

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

The Agency has established a maximum basis per unit limit of \$250,000 ("Maximum Basis"). The Agency may consider a waiver of this limit for developments with a significant number of larger bedroom counts. 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 nonqualified financing and costs normally not included in eligible basis.

If the Maximum Basis per unit, as previously described, exceeds the established limits, Agency staff may waive the Maximum Basis per unit for some developments. An Agency waiver of the established limits will be based upon the demonstration of compelling circumstances and justification for the additional basis eligible costs. Compelling circumstances are limited to costs predominately related to the preservation of a designated historic building or necessitated by building in or adjacent to a designated historical district; 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; costs due to structurally unsuitable subsoil conditions; costs associated with environmental remediation of an existing building that will remain in the development; up-front capital expenditures related to energy efficiency systems that exceed threshold requirement and will result in demonstrable savings in utility costs to the development, including solar, geothermal, or other innovative energy savings techniques and 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). For those properties seeking to exceed limits based on costs due to historic considerations, unsuitable subsoil conditions, costs associated with environmental remediation, or up-front capital expenditures related to energy efficiency systems that will result in demonstrable savings in utility costs, 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 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. A waiver of the Maximum Basis limitation is solely determined by the Agency.

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.

Tax Credits in an amount up to 130 percent (130%) of the eligible rehabilitation/new construction basis may also be considered where appropriate by the Agency for Applicants which demonstrate that they have excess development expenses and costs related to:

- Their location in areas of the Commonwealth with limited federal, state, local or financial resources; or
- Their 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
- Their provision of supportive housing opportunities; or
- Community impact developments with mixed income (of at least 15 percent market rate units) or mixed use components (commercial space of at least 15 percent of the square footage of the development).

Applications for tax-exempt bond volume cap and the associated 4% Tax Credits are ineligible for the discretionary 30% boost of the eligible rehabilitation/new construction basis.

### **APPLICATION THRESHOLD CRITERIA**

The Agency has determined that the following minimum development characteristics will be considered 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.

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 includible 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 that will be available to all residents.
  - An on-site community room will not be required for developments with 11 units or less or scattered site properties. 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.) 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 between 12 and 50 units. 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.
- Air Conditioning. For new construction or substantial rehabilitation developments, all common spaces (except stair towers, mechanical rooms and storage rooms) must be air conditioned.
  - Preservation or moderate rehabilitation properties may be required to include air conditioning as part of the proposal if financially feasible and deemed reasonable by the Agency.
- On-site Management Office. An accessible on-site management office will be required for all developments except those containing 11 units or less or scattered site properties. Applications which are a continuation of a phased development with a total of more than 11 units 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.



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.

	FLATS	MULTI-FLOOR UNITS
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 venetian blinds, vertical blinds, or other opaque blinds. Roller shades will not be considered in this category.

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 25% 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.)

4. Fair Housing Act - All new construction developments shall be designed in conformance with the Fair Housing Act Design Guide standards, as applicable. Substantial rehabilitation developments shall also be designed in accordance with the Fair Housing Act Design Guide, 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 A117.1-2009.

5. Phase I Reports – A Phase I Environmental Site Assessment prepared in accordance with ASTM E 1527-13 and the Agency requirements found in the Submission Guide for Architects is required for all developments. The report cannot be more than 12 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 12 and 24 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 sponsor 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.

#### 6. Development Sustainability and Energy Conservation Measures –

- All new construction and rehabilitation developments must meet the mandatory measures outlined in the 2015 Enterprise Green Communities Criteria (see [www.enterprisecommunity.com/criteria](http://www.enterprisecommunity.com/criteria)) which set forth minimum standards for design, location, site improvements, water conservation, energy efficiency, materials beneficial to the environment, healthy living, and operations and maintenance of the development. 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 2009 International Energy Conservation Code 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 2009 International Energy Conservation Code Chapter 5 by 3%, 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) may only be used if it can be proven that they comply with the prescriptive requirements of Energy Star® Version 3.0 for air-source equipment.) 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.
- 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 2017/2018 Guidelines.

Please review the Multifamily Housing Application and Guidelines for specific sustainability and energy conservation requirements.

7. **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 area median income, adjusted for family size. For developments consisting of all low income units, at least half of these 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 last 5 years may be exempt from having to meet the twenty percent (20%) area median income 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 area median income 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%) area median income 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 of Section 811 Demonstration Program 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.
8. **Broadband Infrastructure** – The installation of broadband infrastructure is required in all new construction and substantial rehabilitation developments, in compliance with Federal Register 81 FR 31181 “Narrowing the Digital Divide through Installation of Broadband Infrastructure.” Installation of broadband infrastructure is encourage, but not required, in preservation developments.
9. **Smoke-Free Developments** – 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 units, common areas and outdoor buildings within 25 feet from all of the buildings in the development.

## **APPLICATION SELECTION CRITERIA**

### **General Processing Information**

Upon receipt of the Application, the Agency will review the site and market information contained in the Application and will conduct a development site visit if the Agency deems the development to be financially feasible based on the information submitted in the Application. The Agency anticipates that the number of Applications will significantly exceed the amount of Tax Credits availability for allocation, therefore, the Agency may use amount of resources available and readiness to proceed and commence construction as factors in making these determinations.

The Agency will review the Application and assign points based on the Selection Criteria. Applications will be underwritten by the Agency at the adjusted gross pay-in provided in the Application but the Agency may adjust the pay-in during underwriting based upon market conditions, the targeted resident population or investor information (including adjustors, conditions and contingencies). A development must address a

substantial number in each of the six categories of Selection Criteria in order to qualify for a reservation of Tax Credits. The Agency has established a minimum point threshold of eighty-five (85) points for Applications during the Year 2017/2018 Tax Credit Program. 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 and will impose additional documentation or clarifying information as further set forth herein and in the 2017-2018 Guidelines.

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

The Selection Criteria are set forth in Exhibit SC2017-2018.

### **RANKING OF DEVELOPMENTS**

Applications will be evaluated to determine the amount of Tax Credits required to make the Application economically feasible and to ensure the Application's long term viability. If two or more developments have the same ranking within a Set-Aside, Pool or Preference and only one Application can be awarded Tax Credits, the Agency will select the Application that has a higher percentage of units available to residents whose incomes are at or below 50 percent 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 50 percent 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.

The Agency's determination as to the amount of Tax Credits reserved for or allocated to an Application shall not be construed by the developer, lender, or any other interested party to be a warranty of the Application's feasibility and viability, nor shall such determination constitute a representation of compliance with any requirements of the Code.

### **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. For developments that have 25 or more units, 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. For developments of 24 units or less, the developer's fee is limited to 20 percent of the replacement cost of the development less all costs of acquisition.

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.
- The developer's fee to be earned on Applications from subsequent phases of a project previously awarded tax credits may not exceed twelve percent (12%) of replacement costs 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 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.
- The Agency may impose a developer's fee cap of \$1,500,000 per development on the total developer's fee allowable for costs associated with both the rehabilitation and acquisition of the development.
- 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.

In addition to the maximum base developer fee, Applicants may request an additional five percent (5%) developer fee. The five percent (5%) is determined exclusive of acquisition costs. The Applicant must commit to provide to the development the entire amount of the equity raised for the additional developer's fee to fund an internal rent subsidy for all threshold required units set aside for persons at or below twenty percent (20%) of area median income for the initial fifteen (15) year compliance period and/or to subsidize rents to persons with income at or below forty percent (40%) of the area median income for the initial 15 year compliance period; or 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). Funds deposited in an internal rent subsidy will be limited to the difference between the twenty percent (20%) /forty percent (40%) rent and the rent at fifty percent (50%) of area median income, as applicable. The Agency reserves the right to determine the exact mechanism necessary and appropriate to ensure funding of the internal rent subsidy or 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 internal rent subsidy or 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. 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 or to fund various internal rent subsidies will be incorporated in the Restrictive Covenant Agreement.

### **TAX EXEMPT FINANCED DEVELOPMENTS**

All tax exempt financed developments utilizing Tax Credits in their financing plan must submit a Tax Credit Application. Applications received on or before July 1, 2017 will be evaluated in accordance with the 2016 Tax Credit Allocation Plan and the 2016 Guidelines. In the event the Agency accepts an Application after

July 1, 2017, such Applications will be evaluated using the 2017/2018 Allocation Plan and Guidelines. Developments receiving tax exempt financing for at least 50 percent (50%) of the aggregate basis of the property including land are not required to receive an allocation of Tax Credits through competitive allocation from the Agency. The eligible basis of the development would qualify for the Tax Credits without competing through the regular allocation process; however, the Agency requires that the Application meet the threshold criteria and minimum threshold points under the Selection Criteria. Developments receiving tax exempt financing on less than 50 percent (50%) of the aggregate basis will be eligible for Tax Credits on only that portion of the eligible basis financed by the tax exempt bonds. For the remaining portion, the owner must apply and compete for an allocation of Tax Credits from the Agency in the established allocation process, but the Agency may adjust the threshold for qualified applicants.

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.

Because of the competitive nature of Tax Credits, the Agency may require certain applicants to pursue Tax Exempt financing as an alternative to seeking 9% Tax Credits. Specifically, developments which have access to federal resources may be required to provide information regarding the financial feasibility with Tax Exempt financing. Additionally, for developments seeking Tax Exempt financing, the Agency may waive such timelines, processing and program requirements, in its discretion, to encourage and facilitate such financings. The Agency may also allow costs per unit above Maximum Basis limits and may allow higher developer's fees for developments using this funding source.

### **SUBSIDY LAYERING REVIEWS**

Pursuant to Section 911 of the Housing Community Development Act of 1992, HUD published administrative guidelines concerning subsidy layering review of Tax Credit developments receiving assistance from the HUD's Office of Housing. The guidelines provide for the delegation of subsidy layering reviews for certain programs to Tax Credit allocating agencies. Pennsylvania requested and has been delegated this 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 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 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 USDA – Rural Development wherein the Agency conducts subsidy layering reviews for Applications with 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.

### **PLACED-IN-SERVICE/CARRYOVER ALLOCATION**

All developments receiving a conditional reservation of Year 2017/2018 Tax Credits must either be placed in service by December 31, 2017 or, by the date set forth in the Reservation Letter, be eligible for a carryover allocation of Tax Credits pursuant to Section 42 (h)(1)(E) of 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 or such 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. See the 2017/2018 Guidelines for further details and additional processing deadlines which will be posted to the Agency's website, [www.phfa.org](http://www.phfa.org).

### **PROCESSING PROCEDURES**

Developments receiving a conditional reservation of Tax Credits are subject to the 2017/2018 Guidelines and in the event the initial reservation is modified or amended, the 2017/2018 Guidelines shall remain in force and effect for the property. However, the Agency may amend the 2017/2018 Guidelines from time to time to further comply with Tax Credit Program requirements or to enable Agency staff to better fulfill its administrative duties and such changes would be applicable to the development.

The Agency reserves the right, in its sole discretion upon review and approval of a committee of the Board, to provide an allocation of Year 2017 or 2018 Tax Credits to a development, without requiring re-ranking under the Year 2017/2018 Allocation Plan. The development must be currently holding a valid allocation of Tax Credits and, due to circumstances beyond its control, be unable to meet Tax Credit program placed in service deadlines. The Tax Credits will be allocated upon release and return of the prior allocation. Such circumstances may include delays caused by local government's 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 basis (and but for such circumstance, Agency program deadlines and requirements would have been met). Notwithstanding the above, developments which need additional Tax Credits to be viable for their equity closing must submit a new Application for funding with the Agency. Such developments will not be considered for substitution of Tax Credits if their Application has substantially changed. Further, the Agency will generally not consider any other Applications for Tax Credits for a new development submitted by the same applicant (or related entity or material participant) during the same or subsequent funding round for Tax Credits if it provides this extraordinary relief due to the developer's inability to meet placed in service deadlines.

### **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.

## 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 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. 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 2017/2018 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. (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 or on PA Housing Search. 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); and 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. 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 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. 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 and 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 with twenty (20) or more units. 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.

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, for any property.

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.

***EXHIBIT URBAN***

The following urban areas qualify for Application submission in the Urban Pool of the 2017/2018 Program Year.

**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

**Exhibit SC2017/2018  
Selection Criteria**

**A. Community and Economic Impact**

*30 points*

It is the goal of the Agency to encourage affordable housing in areas with job opportunities; in areas near strong and stable communities and in areas which demonstrate the capacity for community revitalization opportunities. 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 30 points may be awarded to developments located in areas that demonstrate the following relative to the immediate market area:

1. Underserved Areas – up to twenty (20) points

a. General Occupancy - Areas of Opportunity – up to eighteen (18) 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

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

The Agency may award up to two (2) points to those developments located in a school district whose senior high school scores the following Building Level Academic Score set forth in the Pennsylvania State Performance Profile listed at [www.paschoolperformance.org](http://www.paschoolperformance.org):

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

c. Senior Occupancy Developments –

- 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.

AND/OR

2. Community Revitalization

a. For New Construction and Substantial Rehabilitation Properties:

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 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 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 twenty (20) 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 up to 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.
- Mixed-Income Housing – The Agency may award up to two (2) points for developments which incorporate market rate units as part of the unit mix. In order to qualify for points, at a minimum fifteen percent (15%) of the units shall be targeted as market rate units.
- Transit-Oriented Design – The Agency may award up to two (2) points to developments located within one-half mile of a completed or planned public transportation fixed route stop.
- 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

- Site – The Agency may award up to four (4) points to developments based upon site suitability for the proposed use. Site suitability will be based on the following features: unit size mix, including number of efficiency units; neighborhood amenities; access to site; appropriateness of site for targeted tenant population; availability of sufficient parking; location relative to flood plain; neighborhood nuisances; condition of neighborhood; building on agricultural land; if scattered site, overall impact on the neighborhood; completed project’s improvement to or impact on the neighborhood including, but not limited to, crime reduction.

b. For Preservation Properties:

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 20 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 up to 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.
- Risk of Loss Due to Market Conversion or Sale – The Agency may award up to 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 up to 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 up to two (2) points for developments which incorporate market rate units as part of the unit mix. In order to qualify for points, at a minimum fifteen percentage (15%) of the units shall be targeted as market rate units.
- Transit-Oriented Design – The Agency may award up to two (2) points to developments located within one-half mile of a completed or planned public transportation fixed route stop.
- 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

- Site – The Agency may award up to three (3) points to developments based upon site suitability for the proposed use. Site suitability will be based on the following features: unit size mix, including number of efficiency units; neighborhood amenities; access to site; appropriateness of site for targeted tenant population; availability of sufficient parking; location relative to flood plain; neighborhood nuisances; condition of neighborhood; building on agricultural land; if scattered site, overall impact on the neighborhood; completed project’s improvement to or impact on the neighborhood.

**B. Development Characteristics**

*25 points*

The Agency may award up to twenty-five (25) points for the provision the following development amenities.

- Smart Site Selection – 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 residential infill; and
  - up to ten (10) points may be awarded to those developments consisting of an adaptive reuse of an existing building.
- Certification under a national Green Building Program.

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

- Enterprise Green Communities – 2015
- LEED v4 BD+C Homes & Multifamily Lowrise (1-3 stories) – Silver
- LEED v4 BD+C Multifamily Midrise (4-8 stories) – Silver
- LEED v4 BD+C New Construction & Major renovation (over 8 stories) – Silver
- ICC/ASHRAE 700 National Green Building Standard - Silver

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

- Enterprise Green Communities – 2015 – Moderate Rehab
- LEED v4 O+M – Multifamily - Certified
- ICC/ASHRAE 700 National Green Building Standard – Silver
  - Under Section 305.3 – Whole Building Rating – Bronze
  - Under Section 305.4 – Functional Areas Rating – Compliant with Chapter 12 (must include kitchens and bathrooms)
- Energy Efficiency Goals –
  - Reduced HERS Index – five (5) points may be awarded to those developments that exceed the requirements of Energy Star® Version 3.0 by achieving a lower HERS Index as specified in the Guidelines. (Points in this category are not available if seeking points for Passive House.)
  - 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.)

Please review the 2017/2018 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.

**C. Resident Population and Services**

*55 points*

1. Income and Rent Targeting – The Applicants may be awarded up to twenty (20) points for developments that are designed to be substantially occupied by and affordable to residents with incomes that are at or below 50 percent of the area median income. Points will be considered for the following percentages of units affordable to and occupied by residents whose incomes are at or below 50 percent of area median income:

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

2. Designated Populations & Supportive Services – To receive 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. 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.

Satisfactory completion of the above three factors are the minimum requirements for 5 points. Demonstrated commitment of sufficient funds for at least 15 years and meeting or exceeding the recommended minimum on-site staffing may result in an additional 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.

3. Accessible Units – Consideration may be given to developments where the developer agrees to provide twice 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. For preservation developments, consideration will be given for points under this category if the development increases the number of fully accessible units which meet current standards in the development by at least 5 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.) (Ten (10) points)

4. Large Families – Up to ten (10) points may be awarded for those developments providing units with three or more bedrooms for large families. High rise developments and senior housing cannot qualify for this category. Points will be considered for developments that include the following percentages of units with three or more bedrooms:

<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.

5. Section 811 Participation – Up to five (5) points may be awarded to those developments with applicants and/or management agents that agree to include Section 811 units designated for persons with disabilities ages 18-61 in existing properties or those under development which received a previous award of Tax Credits. Consideration will be given if an applicant enters into an Agreement to Enter into a Rental Assistance Contract or a Rental Assistance Contract for eligible Section 811 properties on or before December 28, 2017. For consideration as a management agent, entities must have/or will have experience in the Section 811 program, satisfactory to the Agency, by December 28, 2017.

<u>Urban (including Allegheny County)</u>		<u>Suburban/Rural</u>	
<u>Units</u>	<u>Points</u>	<u>Units</u>	<u>Points</u>
10-20%	3	5-10%	3
20-25%	5	10-15%	5

**D. Development Process**

30 points

1. Noncompliance – The Agency may deduct up to ten (10) points from the score for proposals involving either an Applicant (or any related entity) that owns a managing or controlling interest in a Pennsylvania Tax Credit development or a management agent of such development who 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, early termination of a Tax Credit project or failed to meet the selection criteria for which an allocation of Tax Credits was made.
  
2. Development Team – Material Participation of Minority, Women’s and Veteran’s Businesses – The Agency may award up to ten (10) points for material participation in the development team by a minority-owned business, woman-owned business, veteran-owned business or service-disabled veteran-owned business which meets eligibility criteria of the Small Diverse Business Program (“SBD”) operated by the Department of General Services. A non-profit entity is eligible to receive points as an Owner/Developer or Management Agent if a minimum of fifty-one percent (51%) of the members of their board are minorities, women or veterans as evidenced by the non-profit’s organizational documents. Furthermore, the Agency encourages business opportunities for new or underutilized small diverse businesses in the development team.

<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

  

<u>Firm/Entity</u>	<u>Points for Participation</u>
Owner/Developer	3 points
Management Agent - (Minimum 2 year contract)	2 points

3. Ability to Proceed – Points may be awarded for zoning and committed funding sources. As the Agency strives to make resources available to those projects which can quickly and effectively utilize its resources, consideration will be given to those properties which can demonstrate the ability to proceed. A total amount of 20 points may be awarded in this category.
  - Zoning - Up to five (5) points will be available for developments which demonstrate that current zoning is in place to allow for the proposed construction or rehabilitation on all sites included in the Application, to the satisfaction of the Agency.
  - Commitment of Funds (Up to fifteen (15) 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:

- 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 soft financing which may include financing from state or local programs, nonprofit organizations, private capital, and permanent funding from foundations and/or federal programs. 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 soft 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

- 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

- Inclusion of Funding Applied For and 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). The Agency may award up to two (2) points for identified funding listed as applied for or to be applied for. 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
≤25%	2

- Inclusion of Project Based Unit Subsidy – The Agency may award up to 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.
- Evidence of Tax Abatement – The Agency may award up to one (1) point for developments that provide evidence of receipt of a real estate tax abatement from the municipal taxing authority.

**E. Development Cost Savings**

*10 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.

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

**Total Points Available**

*150 points*

## **TAX CREDIT PROGRAM GUIDELINES**

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The Low-Income Housing Tax Credit Program ("Tax Credit Program") is a federal program created by the 1986 Tax Reform Act and amended pursuant to several subsequent federal laws. The Pennsylvania Housing Finance Agency ("Agency") is responsible for the administration of the Tax Credit Program in the Commonwealth of Pennsylvania. The purpose of the Tax Credit Program is to assist in the creation and preservation of affordable housing for low-income households. The Agency has adopted an Allocation Plan containing the criteria to be used in distributing the Tax Credits based upon the housing needs of the Commonwealth. The Allocation Plan is located in the Multifamily Housing Program Guidelines.

The Tax Credit Program makes available to owners of and investors in low-income rental housing developments a federal Tax Credit which is a dollar-for-dollar reduction of their federal tax liability. The Tax Credit may be taken for a ten-year period provided that the development remains in compliance with the Tax Credit Program.

These guidelines are provided to assist applicants for Tax Credits in preparing the Application. The guidelines are a supplement to the Allocation Plan. Should there be an inconsistency between these guidelines and the Allocation Plan, the terms and descriptions set forth in the Allocation Plan will prevail. The terms set forth in these guidelines may change from time to time. The Agency will attempt to notify interested parties of any changes in the Tax Credit Program or the process of implementing the Tax Credit Program through the Agency's website at [www.phfa.org](http://www.phfa.org).

Applicants are advised to be familiar with the requirements of Section 42 of the Internal Revenue Code, as amended (the "Code"). Information concerning the basic requirements of the Tax Credit Program is provided on the Agency's website. It is recommended that, before completing the Application, applicants should check the Agency's website to ensure that the development meets current program eligibility.

### **Review Process**

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An Application, once received by the Agency, may not be altered, amended or modified except as approved by staff during underwriting and program review. If a discrepancy is found in an Application during the review process, the applicant may be given five business days to respond to the request for clarification. Corrections allowed by staff may not include replacement, substitution, or amendment of material items used in the ranking of the Application. An omission from the Application Checklist may result in the immediate rejection of the Application.

The following information and summaries are provided as a general overview only. Applicants must consult their own tax advisors and may be required to provide opinions from qualified professionals regarding any aspect of their development and the Tax Credit Program. All Tax Credits allocations in the Commonwealth are subject to the Agency's review and approval of Applications submitted in accordance with the Allocation Plan and subject to compliance with all of the requirements of the Tax Credit Program. Specific definitions of all terms used in the following description may be found in the Allocation Plan and in the Code.

### **Property Eligibility Requirements**

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- Be located within the Commonwealth.
- Make all units available to the general public and allow units to be occupied in accordance with all federal, state, and local laws, including fair housing and accessibility laws.
- Be suitable for occupancy and comply with all applicable federal, state, and local building and health codes.
- Meet all requirements of the Internal Revenue Code (the "Code") and applicable federal laws relating to rental housing.
- Provide a permanent, decent, safe, and sanitary structure for year round residential use on a non-transient basis.
- Be located in a geographic area which does not have competing developments or an over-concentration of affordable housing.
- Provide new units, substantially improve the quality of or preserve existing units, or preserve existing federally assisted/subsidized housing units.
- Address a demonstrated housing need.
- Be ready to proceed to closing in an expeditious timeframe.
- Properties are encouraged to adopt smoke-free policies to protect residents from the dangers of second-hand smoke and to reduce property maintenance costs. HUD, HHS, the American Lung Association and the American Academy of Pediatrics have new toolkits to assist owners with instituting a smoke-free initiative. The HUD toolkit is found at <http://portal.hud.gov/hudportal/documents/huddoc?id=pdfowners.pdf>.

### **Preservation of Agricultural Land**

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The Agency is committed to the preservation of the Commonwealth's primary agricultural lands. Multifamily or single family housing developments proposed for certain priority agricultural lands as defined in Executive Order 2003-2 may not be eligible for Agency funding. Priority agricultural lands include lands that are currently in active non-timber agricultural use and that have been in such use for the preceding three years, lands that are subject to specific land use restrictions, and/or lands that are classified as unique or prime agricultural lands by applicable federal or state agencies.

The Agency will evaluate developments involving conversion of lands in these categories and may deny funding unless specific economic and environmental concerns support the conversion. The Agency will continue to actively encourage both single family and multifamily housing development in rural communities as long as the affected lands meet all applicable program funding criteria.

### **Equal Opportunity**

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The equal opportunity policy adopted by the Board of the Agency is as follows:

It is the policy of the Agency to actively encourage and ensure minority and female participation in the ownership, development, design, financing, construction, and management of multifamily housing developments that receive funding from the Agency.

To further this policy, the Agency has developed technical assistance and outreach efforts to increase minority and women's business enterprise ("M/WBE") participation in Agency sponsored developments. The Agency will provide technical assistance to development owners and their development teams on how to identify and include minority and female vendors and establish ongoing working relationships with these enterprises and encourages participation through the Allocation Plan Selection Criteria. Agency staff will also coordinate efforts with state and local M/WBE technical assistance providers and certification offices to apprise M/WBE firms of opportunities available from Agency programs.

Agency staff will review this Equal Opportunity Policy with program applicants and will monitor MBE/WBE outreach activities of funding recipients.

### **Fees and Cost Limitations**

The Agency has developed a Development Cost Limits Schedule and a Fee Schedule. These schedules, included in the Application Instructions, are an applicant's guide for the fees and expenses that are normally incurred in developing a property. The fees and expenses outlined in these two schedules are the maximum amounts that may be included in the total development cost and, if applicable, the eligible basis of the development. Any cost, whether developmental or operational, that is deemed unreasonable may be adjusted by the Agency.

### **Maximum Per Unit Basis Limitations**

The Agency has established Maximum Basis limits as defined in the Allocation Plan. A detailed explanation of the conditions under which an applicant may request a waiver of these limits is found in the Allocation Plan. Maximum Basis is calculated by applying the limits by the number of units, as shown in the Application. To this amount is added the approved developer fee. This total may be adjusted for any federal subsidies, non-recourse debt, non-qualifying units of higher quality, and historic rehabilitation tax credits. In certain developments, these adjustments may be pro-rated. To request a waiver of the Maximum Basis limits, a development's high costs must be due to the existence of one or more of the factors outlined in the 2018 Allocation Plan. An applicant must formally request a high cost waiver at the time of application, supplying detailed information on the high cost conditions, cost estimates, and cost comparisons. This information will be reviewed by Agency staff and a specific waiver amount may be approved. This approved high cost amount will be added to the Maximum Basis amount. If a development also qualifies for Acquisition Tax Credits, the Acquisition Tax Credits will be in addition to the New Construction/Rehabilitation Tax Credit. There is no high cost waiver provision applicable to Acquisition Tax Credits.

### **Rural Development Section 515**

For developments financed through the Rural Development Section 515 program, the Agency will recognize only those costs that have been approved by Rural Development. The Agency has entered into a Memorandum of Understanding with Rural Development regarding agreed-upon procedures for processing developments involving both Rural Development funds and Tax Credits. These procedures will be applied when processing a Tax Credit request for a development with Rural Development funding and are available upon request.



**Submission Requirements for Tax Credit Developments following receipt of Tax Credit award**

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- 1) Monthly Status Report (Exhibit 2 to the Program Guide)
- 2) Applications for the development of occupied buildings or unoccupied buildings in which tenants have been displaced or relocated must provide a copy of the Residential/Non-residential Anti-displacement and Relocation Assistance Plan prepared for the development.
- 3) Documents required by the Agency's Technical Services Division are required as follows and as described in further detail in the Architect Submission Guide.
  - a. **At least 60 days prior to the construction closing**, all developments shall submit two (2) sets of drawings and specifications for review by the Technical Services Division of the Agency (exception – only one copy of the Phase I Environmental Site Assessment is required). Civil engineering, architectural, structural, HVAC, plumbing, and electrical drawings and specifications shall be submitted, as applicable. Hard copies of all documents shall be submitted, except for the Phase I Environmental Site Assessment, which **must be submitted on a CD**. Drawings shall be full size.

**For a description of the items to be reviewed and the minimum development standards, refer to Tab 6 of the 2018 Submission Guide for Architects.**

All submissions shall be sent to the Development Officer assigned to that project **at least 60 days prior to the scheduled construction closing date**. If the Agency's review of the submitted documents finds conditions that are not in compliance with these requirements, written comments will be forwarded to the owner identifying the deficiencies. Revised documents addressing these comments along with written responses to the comments must be submitted to the Agency. When all of the documents are found to be in compliance, an approval letter from the Technical Services Division of the Agency will be issued.

**Five days prior to the scheduled construction closing, the documents listed in Tab 6, Section 6.03 of the Submission Guide for Architects must be submitted to PHFA.**

**Extended Use Agreement/Restrictive Covenant Agreement**

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The Indenture of Restrictive Covenants Agreement (the "Agreement") sets forth the income and occupancy restrictions for the development for the entire compliance period or extended use period, whichever is greater. Furthermore, the Agreement requires that the applicable fraction of low-income units will remain the same for each taxable year in the extended use period. In addition to identifying the minimum set-aside election of the buildings, the Agreement will also include the Selection Criteria on which the development was ranked and obtained a reservation of Tax Credits. Tax Credits may not be claimed until the Agreement is executed and recorded. The Agreement must be recorded in the Office of Recorder of Deeds for the county in which the property is located prior to any recording or filing of financing documents for the development. The Agreement will be forwarded to the owner with a copy of the executed carryover Allocation Agreement, and must be returned with the Carryover Allocation 10% test documentation evidencing that it has been recorded prior to any other document. The original recorded Agreement must be returned to the Agency.

The Agreement is binding on all successors to the owner.

### **Carryover Allocation Requirements**

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The Allocation Plan outlines the important deadlines and requirements associated with the execution of a Carryover Allocation Agreement.

If the building is to be placed-in-service by December 31, 2018, all documents shown under Placed-In-Service Requirements must be received by November 4, 2018, to enable the Agency to issue IRS Forms 8609 in 2018. In the event the development will not be placed-in-service by December 31, 2018, or if the Placed-In-Service Requirements cannot be submitted by the required date, the developments must be eligible for an Allocation of Tax Credits by November 11, 2018. To be eligible the Agency must receive the Carryover Allocation Requirements, both Part I and Part II, detailed in Exhibit 5, which are found in the Post-Tax Credit Award Requirements section of the 2018 Program Guide. **NOTE: Exhibit 5 represents the current requirements in effect for 2016, and the requirements and dates are subject to change upon issuance of the "Attachment A" for the 2018 Applications. The updated requirements will be posted to the Agency's website when available.**

If at the time the 10% test documentation is required construction is complete and the certified public accounting firm is completing the cost certification, submission of the 10% test documentation may be waived. If the event a waiver is approved, the cost certification and Placement-In-Service Package must be submitted within 90 days from the date the 10% test documentation was due or extension fees will be assessed.

**Failure to meet all of the above requirements will result in an immediate recapture of the Year 2018 Tax Credit reservation.**

### **Placed-in-Service Requirements**

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Upon completion of the development, a cost certification must be performed. The Placed-in-Service Package must be received by the Agency no later than 90 days after the last residential building receiving Tax Credits in the development is considered **placed-in-service** pursuant to IRS Advance Notice 88-116. Please note for rehabilitation buildings, the placed in service date for the rehab work is the close of the 24 month period when the rehab is substantially complete. The Placed-in-Service package is due to the Agency within 90 days of the placed-in-service date shown by the owner on the certification form. Owners who are not able to submit the cost certification, including all documentation required by the Placed-in-Service Package within the 90-day period, may request an extension, but will be required to pay extension fees. The maximum extension that will be granted to any development will be **30 days**, unless the owner is deferring the start of the Tax Credit period, as defined in Section 42 (f)(1) of the Code. Refer to the Placed-in-Service package located on the Agency's web site for the specific requirements.

The Agency has developed a cost certification guide to assist applicants in completing the cost certification. This guide is not an authoritative pronouncement on those costs that may be Tax Credit basis eligible or ineligible, but rather serves as a tool for completing the cost certification.

The Placed-in-Service Package requirements can be found on the Agency's website at [www.phfa.org](http://www.phfa.org). All of the required documents must be forwarded to the Agency for review and approval prior to the issuance of IRS Form 8609 (Low-Income Housing Credit Allocation Certification).

Upon submission, review, and satisfaction of all requirements, IRS Form 8609 will be issued. For developments that have received financing through the Agency, the cost certification required by the Loan Program must be received by the Agency's Finance Division prior to the release of the IRS Form 8609. It is the owner's and syndicator's (investor's) responsibility 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.

### **Annual Recertification Exemption**

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The Housing and Economic Recovery Act of 2008 (HERA) eliminates the annual income recertification requirement for 100% qualified Tax Credit developments. The Agency adopted this provision effective January 1, 2009. Owners of 100% qualified properties are required to certify each year on the Owners Certification of Continuing Program Compliance that no unit was occupied by an ineligible household. In addition, owners must provide annual updates for all units regarding household composition, student status, rent, and information relating to accessible units. All vacancies must be reported in real time on [PAHousingSearch.com](http://PAHousingSearch.com). Properties that are less than 100% qualified Tax Credit developments must continue to recertify on an annual basis. Also, additional funding sources, such as Section 8 and HOME, have annual recertification requirements that must be adhered to.

### **HUD Tenant Data Collection**

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HERA 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 Tax Credits. All developments receiving Tax Credits must participate in this data collection effort and will be expected to provide the required information.

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## **PHFA Loan Program Requirements**

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### **Property Eligibility Requirements**

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- Be located within the Commonwealth.
- Make all units available to the general public and allow units to be occupied in accordance with all federal, state and local laws, including fair housing and accessibility laws.
- Be suitable for occupancy and comply with all applicable federal, state, and local building and health codes.
- Meet all requirements of the Internal Revenue Code and applicable federal laws relating to rental housing if utilizing Tax Credits, federal HOME Investment Partnerships Program, and/or tax exempt financing.
- Provide a permanent, decent, safe, and sanitary structure for year round residential use on a non-transient basis.
- Be located in a geographic area which does not have competing developments, including developments with rental assistance contracts resulting in an undue concentration of rent restricted or competing market units in a specific location.
- Provide new units, substantially improve the quality of or preserve existing units, or preserve existing federally assisted/subsidized housing units.
- Address a demonstrated housing need.
- Provide credit enhancement for any debt financing provided by the Agency. Credit enhancement is to provide financial security to ensure repayment on Agency financed developments. Examples include: letters of credit, Department of Housing and Urban Development, or Agency's self-insurance program.
- Not displace existing tenants or result in an increase in rents greater than 7% of current rental payment for existing residents. Applicants proposing developments with existing tenants must comply with applicable relocation and displacement procedures.
- Comply with Agency design standards, local code and accessibility standards, environmental due diligence, Multifamily Loan Program Guidelines, the Housing Finance Agency Act, and marketing and underwriting standards.
- Expend a minimum of 25% of the replacement cost shown in the Multifamily Housing Application, in necessary development improvements as determined through the Agency's underwriting process. Applicants for Preservation funding are exempt from this requirement.
- Limit commercial space in a development to 25% of gross income and/or gross area of the development. (However, it is recommended that commercial income not constitute more than 10% of the effective gross income. An exception would apply if the proposed owner guarantees the income for the tax credit compliance period via cash or a letter of credit.) All commercial tenants are subject to the Agency's approval. Additionally, program funds cannot be used in the development of commercial space.

- Owner/Borrower must be a single asset, single purpose Pennsylvania entity organized exclusively for the purpose of owning and operating the proposed development.
- Properties are encouraged to adopt smoke-free policies to protect residents from the dangers of second-hand smoke and to reduce property maintenance costs. HUD, HHS, the American Lung Association and the American Academy of Pediatrics have new toolkits to assist owners with instituting a smoke-free initiative. <http://portal.hud.gov/hudportal/documents/huddoc?id=pdfowners.pdf>

### **Scattered Sites**

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The Agency encourages the development of properties that are comprised of self-contained contiguous units. However, exceptions may be made if conditions warrant. The Agency will consider the approval of a scattered site development if it satisfies all of the following requirements:

- The proposed development will be managed by a financially capable management agent with experience in managing scattered site developments.
- The developer has experience in the development area and is recognized locally as having an important role in the revitalization effort.
- The municipality or the developer has devised a long-range plan for the proposed area which includes a strategy for obtaining site control of selected properties.
- If in a significantly distressed area, as characterized by many vacant and vandalized properties, the following criteria must be met:
  1. All units of the development must be within one-half mile of each other.
  2. The development must be implemented in accordance with a current, measurable neighborhood strategic plan.
  3. There must be evidence of, acceptance of, and commitment to the neighborhood strategic plan from local providers of funds.
  4. The developer must be able to demonstrate the ability to raise funds for continued revitalization of the area.
  5. The Agency discourages placement of scattered site units adjacent to a vacant structure that is not part of the proposed application.

The Agency recognizes that the concerns and issues of scattered site developments in rural areas may not be addressed by application of the above. The Agency will consider the processing of these developments on a case-by-case basis. Furthermore, it is sometimes the goal of developers of housing for special needs populations that such housing be disbursed throughout the community rather than concentrated in one facility or one area. These scattered site requirements should not be interpreted to discourage those goals.

### **Property Management**

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The Agency will monitor the management, maintenance, and financial operations of the development on an ongoing basis, as the Agency deems necessary to comply with program requirements. The Agency may require annual audited financial statements, annual operating budgets, and quarterly operating reports for each development.

Property site visits, review of tenant files, and annual financial reviews will be performed by Agency staff or by its agents as the Agency deems necessary to meet program requirements.

Additionally, the Agency's monitoring includes review of the occupancy of the development's accessible units. As part of its efforts to ensure that units with accessibility features are available for and occupied by persons needing such features, the Agency requires that owners and management agents notify local agencies working with persons with disabilities to market any available units and may require that owners agree to relocate existing residents in accessible units if someone needing the accessible features applies for occupancy.

In connection with the ongoing operation of the development, the Agency will require compliance with its policies and procedures, and with terms/conditions set forth in its loan documents and/or other regulatory documents.

### **Universal Accessibility Standards**

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All Agency developments shall comply with Title III of the Fair Housing Amendments Act of 1988 Accessibility Guidelines; American National Standards Institute, ANSI A117.1; the Pennsylvania Uniform Construction Code; Uniform Federal Accessibility Standards ("UFAS") as applies; Section 504 of the Rehabilitation Act of 1973, as amended; Americans with Disabilities Act Accessibility Guidelines ("ADAAG"); the Pennsylvania Universal Accessibility Standard; and Local Codes.

As a reminder, the most restrictive requirements of any of these regulations regarding accessibility will apply.

### **Preservation of Agricultural Land**

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The Agency is committed to preservation of the Commonwealth's primary agricultural lands. Multifamily or single family housing developments proposed for certain priority agricultural lands as defined in Executive Order 2003-2 may not be eligible for Agency funding. Priority agricultural lands include lands that are currently in active non-timber agricultural use and that have been in such use for the preceding three years, lands that are subject to specific land use restrictions, and/or lands that are classified as unique or prime agricultural lands by applicable federal or state agencies.

The Agency will evaluate developments involving conversion of lands in these categories and may deny funding unless specific economic and environmental concerns support the conversion. The Agency will continue to actively encourage both single family and multifamily housing development in rural communities as long as the affected lands meet all applicable program funding criteria.

### **Equal Opportunity**

---

The equal opportunity policy adopted by the Board of the Agency is as follows:

It is the policy of the Agency to actively encourage and ensure minority and female participation in the ownership, development, design, financing, construction, and management of multifamily housing developments that receive funding from the Agency.

To further this policy, the Agency has developed technical assistance and outreach efforts to increase minority and women's business enterprise ("M/WBE") participation in Agency sponsored developments. The Agency will provide technical assistance to development owners and their development teams on how to identify and include minority and female vendors and establish ongoing working relationships with these enterprises. Agency staff will also coordinate efforts with state and local M/WBE technical assistance providers and certification offices to apprise M/WBE firms of opportunities available from Agency programs.

Agency staff will review this Equal Opportunity Policy with program applicants and will monitor MBE/WBE outreach activities of funding recipients.

### **Sound Land Use and Planning**

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The Agency is committed to the development of multifamily and single family developments which promote sound land use. PHFA will consider and may rely upon local comprehensive plans and zoning ordinances when reviewing applications for funding. The Department of Environmental Protection has the authority to rely on comprehensive plans and zoning ordinances when evaluating grant or funding applications for facilities or infrastructure projects in certain municipalities. (Refer to the Municipal Planning Code, including Section 619.2(a), for additional information. ([www.landuselawinpa.com](http://www.landuselawinpa.com)).

A development will also be evaluated for its impact on sound land use practices, as outlined in [www.oa.pa.gov/Policies/eo/Documents/1999\\_1.pdf](http://www.oa.pa.gov/Policies/eo/Documents/1999_1.pdf).

A development that does not incorporate sound land use practices may not be eligible for Agency funding. Sound land use may include but not be limited to efforts to minimize urban sprawl, alleviate traffic congestion, promote efficiencies, reduce environmental degradation, or contribute to more efficient long-term economic growth while preserving Pennsylvania's historical, cultural, and educational resources.

## **LOAN PROGRAM GUIDELINES (INCLUDES PENNHOMES)**

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The Agency's PennHOMES Program offers zero percent ("0%") interest, deferred payment loans that can be used to support the development of lower income rental housing. PennHOMES funds may be structured as primary or secondary mortgage loans.

The funding for the PennHOMES Program is a combination of resources from the Agency's unrestricted reserves and federal HOME funds. The Agency's unrestricted reserves are available for developments located within Participating Jurisdictions and the HOME funds are used for developments located within Nonparticipating Jurisdictions.

PennHOMES funds are limited. Therefore, applicants are strongly encouraged to make maximum use of other financial resources and to create public/private partnerships. The presence of non-Agency support funds is essential to the successful development and operation of properties. Evidence of support funds will be a significant factor used in the selection process among competing Applications. Examples of other financial resources and support funds include owner equity, equity from the sale of Tax Credits, private or public grant monies or low interest loans, and donated real estate.

The Agency has set aside a portion of HOME funds for developments located in Nonparticipating Jurisdictions that will be developed, owned, or sponsored by Community Housing Development Organizations ("CHDOs") that are certified by the Department of Community and Economic Development ("DCED"). Potential "CHDOs" should reference the 2013 HOME Final Rule: Subpart G – Community Housing Development Organizations, Section 92.300

**Financially infeasible Applications that do not demonstrate long term viability may be returned to the applicant at any time and will not be reconsidered.**

All applicants must comply with the following Agency requirements, as well as other requirements the Agency may develop from time to time.

### **Review Process**

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An Application, once received by the Agency, may not be altered, amended or modified except as approved by staff during underwriting and program review. If a discrepancy is found in an Application during the review process, the applicant may be given five business days to respond to the request for clarification. Corrections allowed by staff may not include replacement, substitution, or amendment of material items used in the ranking of the Application. An omission from the Application Checklist may result in the immediate rejection of the Application.

### **Fees and Cost Limitations**

The Agency has developed a Development Cost Limits Schedule and a Fee Schedule. These schedules, included in the Application Instructions, are an applicant's guide for the fees and expenses that are normally incurred in developing a property. The fees and expenses outlined in these two schedules are the maximum amounts that may be included in the total development cost and, if applicable, the eligible basis of the development. Any cost, whether developmental or operational, that is deemed unreasonable may be adjusted by the Agency.



### **Rural Development Section 515**

For developments financed through the Rural Development Section 515 program, the Agency will recognize only those costs that have been approved by Rural Development (with the exception of the developer's fee). The Agency has entered into a Memorandum of Understanding with Rural Development (RD) regarding agreed upon procedures for processing developments involving both Rural Development funds and Tax Credits. These procedures will be applied when processing a Tax Credit request for a development with Rural Development funding and are available upon request.

### **USDA Rural Development 538 Guaranteed Rural Rental Housing Program**

The Guaranteed Rural Rental Housing Program ("RD 538") allows developers of affordable housing to get a loan guarantee for the debt used to finance a project. USDA RD can guarantee:

- Up to 90% of the loan amount for for-profit entities; and
- Up to 97% of the loan amount for non-profit entities.

Rents cannot exceed 30% of 115% of the Area Median Income at initial occupancy, and units must be occupied by households that do not exceed this limit. Any rural area with a population of up to 20,000 is eligible for the program.

The Agency does not administer the RD 538 program, but is an RD-approved lender and has utilized this program in the past. Developers interested in this program should first contact RD at (717) 237-2186. They can then meet with the Agency or another approved lender and work jointly on an application for RD 538 funds, which is completed by the lender and submitted to RD.

### **Multifamily Accelerated Processing (MAP) Lending**

The Agency is an approved MAP Lender. Please contact the Agency for additional information on this program.

HUD-FHA mortgage insurance for loans used to create, acquire or rehabilitate multifamily rental housing can be accessed by pre-approved lenders using HUD's MAP Program. Section 223(f) and Section 221(d)(4) are the most commonly used mortgage insurance programs. The 223(f) program insures loans to acquire or refinance existing developments with identified repairs costing less than \$17,550 per unit. The 221(d)(4) program insures loans for developments with rehabilitation costs greater than \$17,550 per unit.

### **Small Mortgage Assistance Program (SMAP)**

SMAP is designed to provide first mortgage financing to assist in the acquisition, preservation and development of existing or new construction small multifamily developments consisting of more than twenty units. The maximum loan under this Program is \$750,000, and the minimum loan is \$200,000.

The interest rate for this program will be 250 basis points over the US 10-year Treasury Rate, and an origination fee of 0.5% or \$1,500, whichever is greater, will be charged. The loan must be sized using a minimum debt service coverage ratio of 115% in the base year, and must not fall below breakeven throughout the initial 15 years of project operations. With the exception of the credit enhancement provision, all projects

requesting financing under SMAP must adhere to the property eligibility requirements outlined under the PHFA Loan Program Requirements section of the Program Guide.

## **PennHOMES Program Highlights**

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### **Minimum Number of Units**

A development seeking PennHOMES funding must consist of 10 or more units that are under common ownership, management, and financing as a single undertaking. Developments located in the City of Philadelphia or Allegheny County must consist of at least 15 units, except for special needs housing. In Nonparticipating Jurisdictions, the Agency may accept applications for less than 10 units.

Note that for larger projects, less than 12 units may be HOME-assisted.

Commercial space is limited in a development to 25% of gross income and/or gross area of the development. (However, it is recommended that commercial income not constitute more than 10% of the effective gross income. An exception would apply if the proposed owner guarantees the income for the tax credit compliance period via cash or a letter of credit.) Throughout the compliance period, all commercial tenants are subject to the Agency's approval. Additionally, PennHOMES funds cannot be used for the development or operational support of commercial space.

### **Maximum Income of Tenants**

Applicants must comply with the Agency's Maximum Income/Rent Chart (as may be adjusted from time to time by the Agency). A minimum of 50% of the units assisted by the PennHOMES Program must be rented to households whose incomes do not exceed 50% of the area median income, adjusted for family size. The remaining number of the units assisted by the PennHOMES Program must be rented to families whose incomes do not exceed 60% of the area median income, adjusted for family size. Developments may still house residents with incomes over 60% of median income, but only those units serving households at or below 50% and 60% of median income for the term of the PennHOMES loan are eligible for PennHOMES funding.

### **Maximum Rents**

All HOME-assisted units must comply with the Agency's Maximum Income/Rent Chart (as may be adjusted from time to time by the Agency). A minimum of 50% of the units must be affordable to households at 50% of the median income and may not exceed the applicable Fair Market Rents established by HUD. Any additional units anticipating PennHOMES funds must be affordable to households at or below 60% of the median income and may not exceed the applicable Fair Market Rents established by HUD. PHFA encourages a 5-10% pricing advantage on proposed rental units to existing rental comparables in the primary market.

### **Per Unit Funding Limitations**

PennHOMES funds are limited and there are certain restrictions as to where and how the funding sources may be used. The Agency has established per-unit funding limitations to allow for an equitable method of distributing funds to more developments. The per-unit limitations for various areas of the Commonwealth are set forth below:

### **Participating Jurisdictions**

Developments located in Participating Jurisdictions are limited to \$30,000 per-unit with a per-development maximum of \$1,500,000. (PennHOMES funding is not available for projects located in Participating Jurisdictions.)

### **Nonparticipating Jurisdictions**

Developments located in communities that do not receive entitlement allocations under the HOME Program (Nonparticipating Jurisdictions) are limited on a per-unit basis to the Maximum PennHOMES Limits found in the Multifamily Application Instructions.

As a change from prior policy, the Agency will no longer treat 100% of the units as HOME assisted and will permit specific units in a development to be designated as HOME assisted.

New proposals of HOPE VI, Comprehensive Grant Funds, Section 202, and Section 811 developments, and developments going through the mark-to-market process are not eligible for PennHOMES funding. Existing Section 202 and Section 811 developments are eligible to apply for PennHOMES funding only if the applications request Agency refinancing of the Section 202 and Section 811 program debts.

Any application seeking Agency HOME funding for a project located in a Nonparticipating Jurisdiction is required to follow 24 CFR 58.22. This Code of Federal Regulation states that no participant in the proposed development may commit any HUD or non-HUD funds to the project or take on any activity that would have an adverse environmental impact or be considered a choice limiting action. This means that if an applicant is considering submitting an application to the Agency, 24 CFR 58.22 is in effect and no participant in that proposed development may undertake activities such as purchasing the site, clearing timber, demolishing unwanted buildings, etc. These activities are just examples of what would be considered choice limiting actions and they may not be carried out at any point between the time a funding application is submitted to the Agency and a Request for Release of Funds (RROF) is approved by HUD. Receiving a RROF is the final step of the Agency's Environmental Review process under 24 CFR 58 and NEPA. This Environmental Review is not performed until after the application is given feasibility approval from the Agency. Applicants seeking Agency HOME funds should review the entire "Section 58.22 Limitations on activities pending clearance" at [http://edocket.access.gpo.gov/cfr\\_2008/aprqtr/24cfr58.22.htm](http://edocket.access.gpo.gov/cfr_2008/aprqtr/24cfr58.22.htm).

### **Interest Rate**

The annual interest rate on a PennHOMES loan is zero percent (0%).

### **Term of Loan**

The term of the PennHOMES loan is 30 years.

In the event the loan is prepaid, however, restrictive covenants and other federal requirements relating to the affordability period may continue for the minimum affordability period required by the HOME Program, Tax Credit Program, or other funding program, as applicable.

### **Equity Funding Requirements**

Proceeds from a PennHOMES loan may only be used to pay Agency-approved Replacement Cost items. The PennHOMES loan is generally disbursed proportionally with owner's equity only after all other subordinate financing has been disbursed. Owners must demonstrate the availability of a cash equity contribution to be disbursed during construction as required by the Agency at initial loan closing.

### **Return on Equity**

Distribution to for-profit owners from excess revenue of a development will be limited to an annual return of fifteen percent (15%) of the owner's equity in the development. The right to receive the return on equity is cumulative after payment of debt service on the PennHOMES loan. The equity in the development shall be determined at final closing based on the cost certification. The stated owner's equity in the development may be adjusted annually to reflect increases in the Consumer Price Index.

### **PennHOMES Repayment Terms**

Developments that generate a surplus of revenues over expenses in any calendar year shall distribute 50% of the excess revenue to repay the PennHOMES loan principal and 50% to pay the owner's return on equity after allowing for one month's debt service to be retained in the Project Operating Account. If the Agency has provided a primary loan with fixed debt service in addition to the PennHOMES loan, the amount retained in the Operating Account is based upon the debt service of the loan that is greater.

### **Primary Mortgage Requirements**

If the development can support debt, applicants shall incorporate permanent Agency financing as part of the financing plan unless another primary lender can offer significantly better financing terms than available through the Agency (as determined by the Agency).

### **Debt Service Coverage Ratio**

If PennHOMES is secured as the first mortgage, the development must be projected to achieve and maintain breakeven cash flow for the first five years of project operations.

**In the event the PennHOMES loan is used in conjunction with an amortizing primary loan, the debt service coverage ratio should be between 1.15 and 1.25 in the initial stabilized operating period and not drop below 1.00 through and including year 15, but be no higher than 1.2 in year 15.** Certain Rural Development projects or developments utilizing a HUD MAP insured loan may have a debt service coverage ratio as low as 110% in the first operating period but must maintain a ratio of 100% through year 15.

### **Loan to Value Ratio/Equity Requirement**

Loan underwriting and first mortgage credit enhancement requirements determine maximum loan to value ratio for an Agency development that includes an amortizing permanent loan in its financing plan. Usually, the ratio does not exceed 80 percent of replacement value and/or appraised value. In no event may the ratio exceed 90 percent of development cost for for-profit developers or 100 percent of development cost for nonprofit developers. The Agency may require an "as built" appraisal to determine market/development replacement value. The Agency's underwriting does not use a loan to value ratio to size the PennHOMES loan.

### **Affordability Period**

The affordability period is the time period during which the development must comply with maximum rent and tenant income restrictions, and will not be less than the term of the PennHOMES loan. The Agency will determine the appropriate affordability period based on funding sources.

### **Environmental Checklist**

All PennHOMES applicants must complete and submit the PennHOMES Environmental Checklist found in the instructions for Tab 17, along with any additional documentation required in the checklist.

### **Reserves**

Generally, PHFA will require that all reserve and escrow accounts be maintained and held by the Agency.

## **HOME Program**

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### **Match Requirements**

The Agency must meet certain funding match requirements of the HOME Program. Non-federal public and private funds included in a development's financing plan will assist the Agency in meeting its HOME Program match requirements. HOME-assisted, HOME-eligible, and partially-assisted HOME Program developments will be reviewed to determine the amount of match contribution earned.

The Agency will use PennHOMES loans as match under the HOME Program. For developments receiving an award of HOME Program funds from a local jurisdiction, unless claimed by that local Participating Jurisdiction, the Agency will also use all other eligible sources of match contributed to the PennHOMES development as HOME Program match.

### **MBE/WMBE/WBE and Section 3**

In addition to the Agency's equal opportunity policy, developments located in Nonparticipating Jurisdictions must also meet certain MBE/MWBE/WBE and Section 3 requirements.

The definition of an MBE is a "certified minority business enterprise," an MWBE is a "certified minority women's business enterprise," and a WBE is a "certified women's business enterprise."

Where applicable, owners and their development teams must conduct outreach to seek participation by MBE/MWBE/WBE professional services providers, Section 3 material and equipment suppliers, manufacturers, and subcontractors. The HOME Program requires that the owner must establish minimum participation goals of 7% for MBEs, 4% for MWBEs, and 4% for WBEs when contracting for professional services, construction and materials.

Section 3 of the Housing and Urban Development Act of 1968, as amended, establishes certain goals to enhance the economic opportunity to be afforded to local residents in the neighborhood of federally assisted developments. Section 3 seeks to ensure that employment and other economic opportunities generated by the HOME Program shall, to the greatest extent feasible, be directed to low and very low-income persons.

A Section 3 business is a business that is fifty-one percent (51%) or more owned by Section 3 residents; or commits to subcontract more than twenty-five percent (25%) of its contract to Section 3 businesses; or whose permanent, full-time workforce consists of at least thirty percent (30%) Section 3 residents. Section 3 residents are public housing residents or low-income individuals who reside in the metropolitan area or non-metropolitan County where the development is located.

The HOME Program requires that the owner must establish the following minimum participation levels for Section 3 participation:

- 10 percent of the total dollar amount of all building trades work contracts, and
- 3 percent of all non-building trade contracts, and
- 30 percent of all new hires generated (at all job levels)

As an example, the MBE/WBE goals would be calculated as follows:

	TOTAL DEVELOPMENT <u>BUDGET</u>	7% MBE <u>GOAL</u>	4% WMBE <u>GOAL</u>	4% WBE <u>GOAL</u>
Architectural Fees	\$50,000			
Engineering Fees	10,000			
Environmental Audit	5,000			
Furnishings & Equipment	5,000			
Legal Fees	20,000			
Accounting Fees	5,000			
Survey	500			
Title Insurance	5,000			
Property Insurance	5,000			
Marketing/Rent-Up	5,000			
Consultant	<u>15,000</u>			
	\$125,500	\$8,785	\$5,020	\$5,020
Construction (Less General Contractor's overhead and profit)	\$1,000,000	\$70,000	\$40,000	\$40,000

If the owner has contracted with businesses for services and/or material prior to the date of the Application submission, outreach will not be required for those contracts.

**The Agency currently keeps a database of qualified MBE/WBE. For more information on this database contact the Agency's Compliance Officer at 717-780-1847.**

**Residential/Non-residential Anti-displacement and Relocation Requirements**

All developments located in Nonparticipating Jurisdictions must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“URA”). A summary of these requirements is set forth in the Summary of the Federal Displacement, Relocation and Acquisition Requirements. Various sample reports, plans, and notices, as presented in the HOME Program regulations at 24 CFR 92.353 may be found under Tabs 25 and 26.

All owners of developments in Nonparticipating Jurisdictions (except vacant land developments where no demolition has occurred within the last 12 months) must prepare and adopt a Residential/Non-residential Anti-displacement and Relocation Assistance Plan. Owners of occupied developments must provide the Plan along with the Application submission. Owners of unoccupied developments that receive a preliminary funding award from the Agency must prepare and adopt the Plan within 90 days of the award notification.

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## VOLUME CAP FOR TAX EXEMPT BOND FINANCING

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All developments seeking volume cap, regardless of who issues the bonds, must be underwritten by the Agency in accordance with the Allocation Plan and Program Guide.

The Agency expects to issue the 2018 Tax Exempt Bond Request for Proposals by September 2017. Please refer to PHFA's website for more information.

Developments receiving tax exempt financing for at least 50 percent of the aggregate basis of the property including land are not required to submit an application for 9% Tax Credits from the Agency. However, the development must be evaluated by the Agency to assure that the proposal is in accordance with the priorities, Selection Criteria and other program requirements set forth in the Allocation Plan. Applicants are encouraged to use the Agency as Bond Issuer, but Applications using a local issuer will also be considered. The issuing authority must also determine the amount of Tax Credits required to assure the feasibility and long term viability of the development (the 42(m) review).

Developments financed through the issuance of tax exempt bonds are eligible for a 30 percent present value Tax Credit. The applicant has the option of deducting the amount of the tax exempt financing from the adjusted basis to be eligible for a 70 percent present value Tax Credit on the reduced eligible basis. If the applicant chooses this method, it must apply and compete for an allocation of Tax Credits from the Agency.

Developments receiving tax exempt financing on less than 50 percent of the aggregate basis will be eligible for 30% present value Tax Credits on only that portion of the eligible basis financed by the tax exempt bonds. For the remaining portion, the applicant must apply and compete for an allocation of Tax Credits from the Agency for the 70 percent present value Tax Credit. The development will be evaluated in accordance with the Allocation Plan and a determination will be made as to the amount of Tax Credits needed to assure feasibility and long term viability.

Every development (even those receiving only 30% present value Tax Credits) must submit an Application to the Agency. The Agency will review the Application for adherence to program criteria as set forth in the Program Guidelines and the accompanying exhibits. Upon the Agency's determination that the development qualifies for the Tax Credits, the Agency will issue the Indenture of Restrictive Covenants Agreement ("Restrictive Covenants Agreement"). Tax Credits may not be claimed until the Restrictive Covenants Agreement is executed and recorded pursuant to the Code.

The Agency processes applications for volume cap for tax exempt financing on a competitive basis through an announced Request for Proposals ("RFP"). For additional information please see the Agency website at [www.phfa.org](http://www.phfa.org) or contact the Development Division.

Developments receiving Tax Credits exclusively through the issuance of tax exempt bonds will be subject to the fees and costs as determined by the Agency. Upon construction completion, the development will be required to submit a cost certification package. The cost certification package should be received by the Agency no later than 90 days after the last residential building in the development is placed in service.

The Agency will conduct its standard review of the cost certification. After completion of this review, the Agency will issue an IRS Form 8609 for each building in the development. All Tax Exempt Bond Financed projects will be monitored by Tax Credit compliance staff throughout the compliance period.



## Tax-Exempt Bond Term Sheet

**Project Information:**

**Project Name:** \_\_\_\_\_

**Project Address:** \_\_\_\_\_

**County:** \_\_\_\_\_

**No. of Units:** \_\_\_\_\_ **No. of Buildings:** \_\_\_\_\_

Target Population: \_\_\_\_\_

Type of Site Control:

Deed	_____	Expiration Date:	_____
Agreement of Sale	_____	Expiration Date:	_____
Option	_____	Expiration Date:	_____
Other	_____	Expiration Date:	_____

**Project Type:**

**New Construction** \_\_\_\_\_

**Acquisition** \_\_\_\_\_

**Rehabilitation** \_\_\_\_\_

**Other Project Type:** \_\_\_\_\_

**Proposed Amount of Bonds:**

Permanent Financing \_\_\_\_\_

Construction Loan \_\_\_\_\_

**Other Financing** (describe terms):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Proposed Proforma:**

Attach a copy of both the proposed Operating Budget and the Sources and Uses Statement.

**Owner/Borrower:**

Name: \_\_\_\_\_

Entity Type: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Primary Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Bond Issuer:**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Primary Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

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## **TAXABLE AND 501(C)(3) TAX EXEMPT BOND FINANCING**

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The Agency provides financing to developers building or rehabilitating rental units designed for lower income occupancy. Competitive financing rates are made possible through the sale of Agency tax exempt and taxable bonds. Mortgages provided through Agency bond proceeds must be secured by a priority lien position. Bond financing may be coupled with PennHOMES funds to help make the development financially feasible.

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### **Program Highlights**

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#### **Minimum Number of Units**

All Applications must consist of 15 or more units. The Agency may consider developments with less than 15 units if all Agency guidelines and financing requirements are met.

#### **Maximum Income of Tenants**

When using either tax exempt financing or Tax Credits, one of the following minimum set-aside requirements must be implemented:

- 20% of the units must be rented to persons with incomes at or below 50% of the area median income, adjusted by family size; or
- 40% of the units must be rented to persons with incomes at or below 60% of the area median income, adjusted by family size.

When using taxable financing not involving Tax Credits, at least 20% of the units must be rented to households with incomes at or below 80% of the area median income.

#### **Minimum Loan Amount**

The suggested minimum loan amount for taxable financing is \$100,000; the minimum loan amount for tax exempt financing is \$2,000,000, unless there are a sufficient number of developments requesting tax exempt financing that may be pooled together.

#### **Interest Rates**

Interest rates will vary depending on market conditions. Please contact the Agency's Development Division for projected mortgage interest rates.

#### **Affordability Period**

All developments must remain rental housing meeting the low and moderate income tenancy requirement for the longer of the term of the mortgage or 30 years.

#### **Term of Loan and Amortization**

The maximum loan term will be 30 years for taxable and tax exempt bond financing.

#### **Return on Equity**

Distribution to owners from excess revenue of a development will be limited to an annual return of 15% of the owner's equity in the development. The right to receive the return on equity is cumulative. The equity in the development shall be determined at final closing based on the cost certification. The stated owner's equity in the development may be adjusted annually to reflect increases in the Consumer Price Index.

**Debt Service Coverage Ratio**

The debt service coverage ratio must equal or exceed 115% in the first operating period and not drop below 100% through and including year 15. There may be additional requirements for 30-year bonds. Certain Rural Development projects or developments utilizing a HUD MAP insured loan may have a debt service coverage ratio as low as 110% in the first operating period but must maintain a ratio of 100% through year 15.

**Loan to Value Ratio/Equity Requirement**

Loan underwriting and first mortgage credit enhancement requirements normally determine maximum loan to value ratio for Agency developments. Usually, the ratio does not exceed 80% of replacement value and/or appraised value. In no event may the ratio exceed 90% of total replacement cost for for-profit developers or 100% of total replacement cost for nonprofit developers. The Agency may require an "as-built" appraisal to determine market value.

The combined total of taxable or tax exempt financing and PennHOMES funding cannot exceed the 90% and 100% amounts referenced above.

**Outside Funding Sources**

Applicants should seek other sources of public and private support, including donation of publicly held land, to enhance the financial viability of the development.

**Credit Enhancement/Mortgage Insurance**

Credit enhancement/mortgage insurance is required for all developments requesting Agency taxable or tax exempt bond financing.

The Agency has established a Mortgage Insurance Program designed to protect the Agency and its investors in the event of a fiscal or covenant default on an Agency financed development through direct insurance support on a property-specific basis.

Bond rating organizations have developed criteria for rating debt obligations secured by multifamily mortgages on a property specific basis. Only those properties classified as "prime quality properties" will qualify for a rating without other sources of credit enhancement.

If the Agency's Mortgage Insurance Program is requested, please indicate by checking the appropriate box on page one of the Application. The Agency's Mortgage Insurance Program is either self-insured or provided through other financial intermediaries which may include the HUD Risk Sharing Program.

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## CONSTRUCTION LOAN PROGRAM

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The Agency will provide below market rate construction loans for multifamily rental housing developments in conjunction with a permanent take-out loan from a lender other than the Agency. If the Agency is also the permanent take-out lender, the following Program Guidelines must also be met. Both new construction and rehabilitation developments are acceptable.

Eligible applicants for Agency financing include individuals, joint ventures, partnerships, limited partnerships, trusts, corporations, cooperatives, and condominiums, whether for-profit or nonprofit.

### **Program Highlights**

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#### **Minimum Number of Units**

The minimum number of units for the construction loan program is fifteen (15).

#### **Maximum Income of Tenants**

For a construction-only loan, a minimum of 20% of the units must be rented to tenants whose incomes do not exceed 80% of the area median income, adjusted for family size.

#### **Interest Rate**

The Agency construction interest rate is based upon the Agency's borrowing costs in the market. Agency staff may provide an approximate rate for purposes of financial estimates upon receipt of the application. Exact rates will not be available until the loan closing.

#### **Financing Fee**

Refer to the fee schedule for detail on associated fees.

#### **Loan to Value Ratio**

The Agency is authorized to make loans of up to 90% of replacement cost of the development to for-profit developers. The Agency may provide loans of up to 100% of replacement cost of the development to nonprofit developers. The loan to value ratio may be determined by an independent appraisal determining an "as-built" market value.

#### **Construction Retention**

Ten percent (10%) of each payment request for a construction item shall be retained by the Agency. The percentage retained may be reduced to five percent (5%) after construction has been fifty percent (50%) completed. Upon Substantial Completion, the percentage retained may be reduced to two and one-half percent (2.5%). In the event of multiple Certificates of Substantial Completion being issued for phased projects, reduction to two and one-half percent (2.5%) will be considered only after the final phase of the whole is accepted. The balance due to the contractor shall be payable at final loan closing provided the work is fully completed and contractor has complied with all provisions of the Agreement and Addendum to the Owner's and the Agency's satisfaction, including, but not limited to, submission and approval of the contractor's certificate of actual cost to the Agency and receipt of all certificates of occupancy for all units by Owner and the Agency.

**Construction Monitoring**

The Agency will monitor construction and will attend monthly construction conferences at the site. In addition, Agency Technical Services Representatives may visit the development site to review site activity at any time during construction. The Agency Technical Services Representative and the Agency Finance Officer shall review and monitor all requisitions, payouts, and change orders to ensure compliance with the Agency's requirements.

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## **EQUITY BRIDGE LOAN PROGRAM**

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The Equity Bridge Loan Program is not available for the 2018 Application Funding round. Please check our website for updates.

A limited amount of funds may be available from the Agency to provide Equity Bridge Loan funds for certain multifamily properties which have short-term funding needs due to deferred equity pay-ins from investors in the Tax Credit Program. This program is available to new applications for Agency financing and developments which have received a preliminary award of Agency funds and/or Tax Credits. Applications will be considered on a first-come, first-serve basis.

Applications for an Equity Bridge Loan may be made at application or at any time up to 60 days prior to the initial loan/equity closing.

**Refer to the Bridge Loan Closing Indices for the Agency funded developments and Tax Credit-only funded developments.**

### **Program Highlights**

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#### **Maximum Loan Amounts**

The Equity Bridge Loan is limited to the amount necessary to fund the equity contribution to cover replacement costs (the "PHFA Cash Equity Requirement"). The Agency reserves the right to adjust the amount of the Equity Bridge Loan at initial loan closing.

The maximum Bridge Loan amount shall not exceed the greater of \$8,000,000 or 75% of the anticipated equity used to cover replacement costs.

#### **Interest Rate**

The interest rate will be set at the three month LIBOR plus 150 basis points (to be fixed by the Agency) at loan/equity closing.

#### **Repayment Term**

Repayment of the equity bridge loan shall be concurrent with the equity investor pay-in schedule, or a period as agreed upon by all parties. In no event shall repayment exceed two years from initial loan/equity closing. The Equity Bridge Loan may not be rolled over into other Agency financing.

#### **Collateral**

Requirements will include a Demand Note (in a form and manner acceptable to the Agency which must provide fixed, unconditional payments and be assignable to PHFA), a Pledge and Assignment of each Investor/Limited Partner's interest in the project partnership, and a mortgage against the property. In addition, the Agency reserves the right to require additional collateral on a case-by-case basis.

#### **Fees**

Refer to the Fee Schedule for detail on the associated fees.

**Loan Disbursement**

The Agency will disburse the Equity Bridge Loan proceeds during construction pursuant to the terms and conditions of a Disbursement Agreement. Equity Bridge Loan funds may be disbursed subsequent to contingent project financing including PennHOMES but prior to permanent mortgage financing. Disbursement will be limited to only the project's replacement cost items.

**Miscellaneous**

The Borrower may not assign its interest in the Project, nor convey, sell, transfer, or encumber any interest in the Project or any related Equity Bridge Loan Commitments, without the Agency's prior written approval. In addition, the Borrower may not sell or assign any general limited partnership interests without the Agency's prior written approval.

**Submission of Equity Bridge Loan Application**

Applications for the Agency Equity Bridge Loan Program may be made at any time prior to the Agency's loan commitment of financing or the initial equity closing. If the Equity Bridge Loan Application is made subsequent to the initial application for other Agency financing, a letter of request stating the amount of the equity bridge loan needed, updated syndication letter, and stated term of repayment to effectively correspond with the equity pay-in schedule, etc. as provided in Tab 23, Syndication Information, must be provided. Requests for funding with the initial application may be made by submitting the aforementioned documents under Tab 22, Bridge Loan Financing, in the Application. Refer to the Agency's web site [www.phfa.org](http://www.phfa.org) prior to making an Equity Bridge Loan application for funding availability and current rates.

**Small Mortgage Assistance Program (SMAP) Term Sheet**

<b>Program:</b>	Small Mortgage Assistance Program
<b>Eligible Projects:</b>	<ul style="list-style-type: none"> <li>1) Affordable Rental Housing defined by the Low Income Housing Tax Credit Program</li> <li>2) Twenty or more units</li> <li>3) Be located within the Commonwealth</li> <li>4) Provide a permanent, decent, safe and sanitary structure for year round residential use on a non-transient basis</li> </ul>
<b>Borrower:</b>	Pennsylvania Single Purpose Entity
<b>Loan Sizing:</b>	The loan must be sized using a minimum debt service coverage ratio of 1.15 in the base year. A minimum debt service coverage ratio of 1.0 must be maintained throughout the initial 15 years of project operations.
<b>Loan Term:</b>	18 Years
<b>Loan Rate:</b>	U.S. 10-year Treasury rate plus 250 bps
<b>Credit Enhancement Fee:</b>	None
<b>Amortization Period:</b>	30 Years
<b>Origination Fee:</b>	The greater of 0.5% of the loan or \$1,500
<b>Recourse:</b>	Loan is non-recourse.
<b>Maximum Loan:</b> <b>Minimum Loan:</b>	\$750,000 \$200,000
<b>Environmental Clearance:</b>	Completed by PHFA and is a prerequisite to the start of construction.
<b>Subsidy Layering Review:</b>	Completed by PHFA, when applicable. Subsidy Layering Review fee \$2,000.
<b>Davis Bacon Wages:</b>	Not applicable
<b>AFHMP:</b>	Affirmative Fair Housing Marketing Plan is required.
<b>Loan Closing:</b>	Conducted by PHFA.
<b>Reserve Requirements:</b>	The following reserves must be held by the Agency: Operating Reserve, Development Contingency Fund, Real Estate Tax and Insurance Escrows, and Replacement Reserves.



**Small Mortgage Assistance Program (SMAP) Term Sheet**

<b>Program:</b>	Small Mortgage Assistance Program
<b>Eligible Projects:</b>	<ul style="list-style-type: none"> <li>1) Affordable Rental Housing defined by the Low Income Housing Tax Credit Program</li> <li>2) Twenty or more units</li> <li>3) Be located within the Commonwealth</li> <li>4) Provide a permanent, decent, safe and sanitary structure for year round residential use on a non-transient basis</li> </ul>
<b>Borrower:</b>	Pennsylvania Single Purpose Entity
<b>Loan Sizing:</b>	The loan must be sized using a minimum debt service coverage ratio of 1.15 in the base year. A minimum debt service coverage ratio of 1.0 must be maintained throughout the initial 15 years of project operations.
<b>Loan Term:</b>	18 Years
<b>Loan Rate:</b>	U.S. 10-year Treasury rate plus 250 bps
<b>Credit Enhancement Fee:</b>	None
<b>Amortization Period:</b>	30 Years
<b>Origination Fee:</b>	The greater of 0.5% of the loan or \$1,500
<b>Recourse:</b>	Loan is non-recourse.
<b>Maximum Loan:</b> <b>Minimum Loan:</b>	\$750,000 \$200,000
<b>Environmental Clearance:</b>	Completed by PHFA and is a prerequisite to the start of construction.
<b>Subsidy Layering Review:</b>	Completed by PHFA, when applicable. Subsidy Layering Review fee \$2,000.
<b>Davis Bacon Wages:</b>	Not applicable
<b>AFHMP:</b>	Affirmative Fair Housing Marketing Plan is required.
<b>Loan Closing:</b>	Conducted by PHFA.
<b>Reserve Requirements:</b>	The following reserves must be held by the Agency: Operating Reserve, Development Contingency Fund, Real Estate Tax and Insurance Escrows, and Replacement Reserves.