

# **NEBRASKA INVESTMENT FINANCE AUTHORITY LOW INCOME HOUSING TAX CREDIT PROGRAM**

## **2003 CARRYOVER ALLOCATION PROCEDURES MANUAL**

The Nebraska Investment Finance Authority (“NIFA”) Low Income Housing Tax Credit (“LIHTC”) Program Carryover Allocation Procedures Manual (this “Manual”) sets forth criteria and documentation for filing a Carryover Allocation. All portions of this Manual must be adhered to when filing a Carryover Allocation with NIFA.

### **SECTION 1.1 QUALIFYING FOR CARRYOVER**

- (a) A development owner that is in receipt of a Firm Commitment of LIHTC is eligible to file a Carryover Allocation only if the development will not be placed into service (i) prior to December 31, 2003 or (i) if the Firm Commitment is received after June 30, 2003, six months thereafter and provided that the conditions set forth below and in Section 1.2 of this Manual are met. If the development is to be placed into service prior to December 31, 2003, development owners must refer to the Cost Certification Procedures Manual for instructions on how to request IRS Form 8609(s). Evidence of satisfaction of the following conditions/documentation must be submitted to NIFA to received a Carryover Allocation:
- (1) Commitment Fee specified in NIFA’s Allocation Plan has been received by NIFA
  - (2) All conditions and requirements specified in NIFA’s Allocation Plan have been satisfactorily cleared with NIFA
  - (3) The provisions set forth in Treasury Regulation Section 1.42-6 have been satisfied
  - (4) Ownership entity has been formed and received a Federal Tax ID Number
  - (5) Development owner’s basis in the development is more than 10% of the development owner’s reasonably expected basis in the development, determined in accordance with Treasury Regulation Section 1.42-6
  - (6) Plans and Specifications have been received by NIFA and
  - (7) Certificate of Good Standing (dated within 30 days of carryover submission).

## SECTION 1.2 REQUIREMENTS FOR FILING A CARRYOVER ALLOCATION

- (a) Development owners satisfying the conditions in Section 1.1(a) of this Manual must file a Carryover Allocation with NIFA either (i) prior to **November 1, 2003** for developments receiving a Firm Commitment prior to June 30, 2003; or (ii) no later than 5 months after receipt of a Firm Commitment made after June 30, 2003. **NOTE: A Late Fee of 1% of the LIHTC allocation will be assessed for any development that fails to meet the specified deadlines for submission of a Carryover Allocation Form.**

The following documentation must be submitted to NIFA to receive a Carryover Allocation:

- (1) Carryover Allocation Form, Section 1.3 of this Manual, which is hereby incorporated into the Carryover Allocation Procedures Manual, as amended and made a part hereof, complete with original signatures. The Carryover Allocation Form certifies, among other things, the expenditures paid or incurred to date, and the percentage of reasonably expected basis represented by such expenditures. Upon execution by the development owner and NIFA, the Carryover Allocation Form is considered to be an allocation of LIHTCs pursuant to Section 42(h)(1) of the Internal Revenue Code of 1986, as amended.
  - (2) An Independent Auditor's Report on Applying Agreed-upon Procedures (must be from an independent, third-party certified public accountant or attorney). A sample can be found in Section 1.5 of this Manual.
  - (3) Completed Carryover Qualification Worksheet, Section 1.4 of this Manual, in accordance with the instructions provided therein.
- (b) All documentation stated in Section 1.2(a)(1) through (3) of this Manual must be stapled together and submitted to NIFA. Upon review of the submitted documentation by NIFA, the development owner will only be notified by NIFA if any discrepancies are found in the submitted documentation. The development owner will be given a specific time frame in which to correct such discrepancies. Given that this is occurring at the end of the year, time is of the essence. Thus, if the development owner does not comply with the requirements within the specified time frame, NIFA may terminate the application without further review or consideration.
- (c) If the development owner will be satisfying the requirements of a carryover allocation, pursuant to Code Section 42(h)(1)(E), through the acquisition of land or land and its associated improvements the development owner must submit to NIFA a copy of the executed Warranty Deed with the ownership entity as the grantee which has been filed with the appropriate real property records office. Further, the development owner must supply to NIFA a copy of the closing statement for the acquisition of the land and its associated improvements which has been executed by the ownership entity and the title company, if appropriate.
- (d) When all conditions and requirements of this Manual have been deemed satisfied by NIFA, NIFA will execute the Carryover Allocation Form and return one copy to the development owner. The original Carryover Allocation Form will be filed with the Internal Revenue Service

by NIFA.

### SECTION 1.3 CARRYOVER ALLOCATION FORM

Development Name: \_\_\_\_\_ NIFA LIHTC #: \_\_\_\_\_

Development

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

The Nebraska Investment Finance Authority (“NIFA”) hereby issues a Carryover Allocation of 2003 low-income housing tax credits (“LIHTC”) pursuant to Section 42(h)(1)(E)(ii) of the Internal Revenue Code of 1986, as amended (the “Code”), in an amount not to exceed the amount stated in Section 1.3(a) of this Carryover Allocation Form.

\_\_\_\_\_ (the “Development Owner”) hereby certifies that each building for which this LIHTC allocation is being made is a qualified building as defined in Section 42(h)(1)(E)(ii) of the Code.

The Development Owner hereby certifies that each building for which this LIHTC allocation is being made will be placed in service no later than December 31, 2005.

The Development Owner hereby certifies that as of the date of this Carryover Allocation, the expenditures actually paid or incurred by the Development Owner are \$ \_\_\_\_\_, which represents \_\_\_\_\_% of the Development Owner’s reasonably expected basis of \$ \_\_\_\_\_ in the development as of December 31, 2005.

The Development Owner hereby acknowledges that it is aware of and agrees to abide by all terms and conditions which are stated in the Commitment Notice and the Carryover Allocation Procedures Manual.

The Development Owner hereby agrees and acknowledges that all requirements as stated in the Cost Certification Procedures Manual Form must be met before IRS Form 8609(s) can be issued by NIFA.

The Development Owner hereby agrees and consents to the return of any unused LIHTC at the time of final allocation should NIFA determine that a reduction in LIHTC is appropriate under Section 42(m)(2) of the Code.

If this box is checked, the Development Owner hereby irrevocably elects, pursuant to Section 42(b)(2)(A)(ii) of the Code, to lock the applicable credit percentage for the development as the percentage prescribed by the Secretary of the Treasury for the month of \_\_\_\_\_, 200\_, which is the month of execution of this Carryover Allocation Form. NIFA and the Development Owner acknowledge that this Carryover Allocation Form constitutes an agreement binding upon NIFA, the Development Owner, and all successors in interest to the Development Owner as development owners of the development, subject to compliance by the Development Owner with the requirements of Section 42 of the Code and the requirements of NIFA.

**NOTE TO DEVELOPMENT OWNERS: IF YOU HAVE PREVIOUSLY EXECUTED AN AGREEMENT AND ELECTION STATEMENT WITH NIFA LOCKING THE APPLICABLE LIHTC PERCENTAGE**

**FOR THE DEVELOPMENT, YOU MAY NOT DO SO AGAIN HERE.**

If this box is checked, the Development Owner hereby irrevocably elects to designate the placed in service date of the building(s) as the date on which the gross rent floor in Code Section 42(g)(2)(A) will take effect. If the Development Owner does not check this box, or otherwise makes a written designation containing the information in the preceding sentence that is received by NIFA at the address specified below on or before the date the building is placed in service, then the gross rent floor in Code Section 42(g)(2)(A) will take effect on the date of NIFA's initial allocation of LIHTCs to the building (or, for bond-financed buildings described in Code Section 42(h)(4)(B), the date NIFA initially issues a determination letter to the building).

The Development Owner hereby agrees and acknowledges that NIFA reserves, commits, and allocates LIHTCs to partnerships, limited liability companies, corporations, and individuals. Reservations, commitments, and carryover allocations of LIHTC are not transferable, and any change in ownership of the development requires NIFA's prior written approval.

In issuing this Carryover Allocation, NIFA has relied solely upon the information submitted to it by the Development Owner. NIFA makes no representations concerning or guaranteeing that the Development Owner will be eligible to receive the LIHTC stated herein, as such determination rests with the Internal Revenue Service.

NIFA, as the low-income housing tax credit agency for the State of Nebraska, hereby allocates LIHTC to the development as set forth in Section 1.3(a) of this form.

Development Name: \_\_\_\_\_ NIFA LIHTC #: \_\_\_\_\_

Development  
Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Under penalty of perjury, I certify that the information and the statements in this Carryover Allocation Form are true and accurate:

\_\_\_\_\_  
Signature of Development Owner Title Date

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_, County of \_\_\_\_\_

Commission expires: \_\_\_\_\_



Development Owner

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

Development Owner

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Federal Tax ID Number of Development Owner: \_\_\_\_\_

*(this number must be established)*

Acknowledged, agreed, and accepted:

Nebraska Investment Finance Authority

1230 "O" Street

Suite 200

Lincoln, Nebraska 68508

NIFA Federal Tax ID Number 47-0613449

\_\_\_\_\_  
Timothy R. Kenny, Executive Director

\_\_\_\_\_  
Date

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public in and for the State of Nebraska.

Commission expires: \_\_\_\_\_.

**SECTION 1.3(a) CARRYOVER CALCULATION WORKSHEET**

Development Name: \_\_\_\_\_ NIFA LIHTC #: \_\_\_\_\_

Development Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Total Number of Residential Buildings in the Development: \_\_\_\_\_\*

\*(disclosure of the number of buildings is irrevocable)

Bld#	Street Address	Bldg ID # (NIFA will assign)	Expected Placed in Service Date	Anticipated Eligible Basis Amount	Appl. Fraction	Qualified Basis Amount	** Credit %	LIHTC Amount
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10								

(High cost area, adjust by 130%) =

**TOTAL LIHTC =**

*\*\* If the Development Owner has elected to lock the credit percentage pursuant to Section 42(b)(2)(A)(ii) of the Code either in the Carryover Allocation Form or in the Agreement and Election Statement, this credit percentage is fixed and binding upon all buildings in the development with respect to which the LIHTC allocation is made, and upon the Development Owner and all successors as owners of those buildings in the development. If no such election is made, this credit percentage is an estimate for purposes of making the carryover allocation. The Development Owner understands that the actual credit percentage may change depending upon the month in which the development is placed into service.*

*If the Development Owner has elected to lock the credit percentage pursuant to Section 42(b)(2)(A)(ii) of the Code, then the elected credit percentage must be used on this page for purposes of calculating the maximum LIHTC amount allocated.*



**SECTION 1.4 CARRYOVER QUALIFICATION WORKSHEET**

The following information must be completed in its entirety for each development requesting a Carryover Allocation.

Development Name: \_\_\_\_\_ NIFA LIHTC #: \_\_\_\_\_

Development  
Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Total Number of Residential Buildings in the Development: \_\_\_\_\_ Date: \_\_\_\_\_

**Column "A"** = the taxpayer's basis \*\*\* in the development as of the date this form is prepared by the applicant.

**Column "B"** = the taxpayer's basis \*\*\* in the development as of December 31, 2003 or six months from receipt of a Firm Commitment.

**Column "C"** = the taxpayer's reasonably expected basis \*\*\* in the development as of December 31, 2005.

\*\*\* Basis means the taxpayer's adjusted basis in land and depreciable property that is reasonably expected to be part of the development, whether or not such amounts are includable in the eligible basis of the buildings in the development under Section 42(d) of the Code.

<b>Description</b>	<b>Column "A"</b>	<b>Column "B"</b>	<b>Column "C"</b>
1. Land	_____	_____	_____
2. Acquisition of existing structures	_____	_____	_____
3. Demolition	_____	_____	_____
4. Site grading, clearing	_____	_____	_____
5. New building costs	_____	_____	_____
6. Rehab of existing structures	_____	_____	_____
7. Accessory building	_____	_____	_____
8. General Requirements	_____	_____	_____
9. Construction contingency	_____	_____	_____
10. Architect design	_____	_____	_____
11. Architect supervision	_____	_____	_____
12. Survey/Engineering Fees	_____	_____	_____
13. Construction insurance	_____	_____	_____
14. Construction loan interest	_____	_____	_____
15. Constr loan origination fee	_____	_____	_____
16. Constr loan credit enhance fee	_____	_____	_____
17. Construction period taxes	_____	_____	_____
18. Constr period bridge loan exp	_____	_____	_____
19. Tax credit fees	_____	_____	_____
20. Environmental Study	_____	_____	_____
21. Market Study	_____	_____	_____
22. Real estate attorney	_____	_____	_____
23. RE Consultant	_____	_____	_____
24. Tax Credit consultant fee	_____	_____	_____
25. Contractor overhead	_____	_____	_____
26. Contractor Profit	_____	_____	_____
27. Developer overhead	_____	_____	_____
28. Developer Fee	_____	_____	_____
29. Title & recording	_____	_____	_____
30. Other_____	_____	_____	_____
<b>31. TOTALS</b>	<b>\$</b> _____	<b>\$</b> _____	<b>\$</b> _____
	"A"	"B"	"C"

**32. Carryover qualification test**

Line 31, Column B, divided by Line 31, Column C \_\_\_\_\_ %\*\*

\*\* This number **MUST EXCEED 10%** to satisfy the carryover qualification test.

**WARNING:** If the taxpayer's actual basis as of December 31, 2003 or \_\_\_\_\_, if Firm Commitment was received after June 30, 2003, is less than the amount shown on line 31, Column B, causing the carryover qualification test results (line 32) to be less than 10%, then the Carryover

Allocation Form set forth in Section 1.3 of this Manual for this development will not be valid.

The undersigned hereby acknowledges that he/she has read all information contained within the Carryover Allocation Procedures Manual and understands all aspects of this Manual. The undersigned hereby certifies that the information set forth by the undersigned within this Carryover Allocation Form, and any attachments in support thereof, is true, correct, and complete. The undersigned also agrees that NIFA may request additional information to evaluate the application and/or forms contained within this Manual.

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Development Owner Signature

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Date

**SECTION 1.5**

**INDEPENDENT AUDITOR’S REPORT ON APPLYING  
AGREED-UPON PROCEDURES**

(to be submitted under accounting firm’s letterhead)

**A. General Instructions**

All requested information must be prepared in the format provided below. Submission of this report in any other format or without all requested items will not be accepted by NIFA. If any question is not applicable, mark N/A and if necessary provide an explanation. The letter should be on the firm’s letterhead with an original signature.

**B. Required Format**

Date:

To: Nebraska Investment Finance Authority (“NIFA”)  
1230 “O” Street, Suite 200  
Lincoln, Nebraska 68508-1402  
Attn: Low Income Housing Tax Credit Division

RE: Low Income Housing Tax Credit Carryover Allocation

Name of Development: \_\_\_\_\_

NIFA LIHTC #: \_\_\_\_\_

Development Owner: \_\_\_\_\_

We have audited the accompanying Certification of Costs Incurred (“Exhibit XXX”) of the Development Owner for \_\_\_\_\_ (the “Development”) as of XXXX, XX, 200\_. Exhibit XXX is the responsibility of the Development Owner and the Development Owner’s management. Our responsibility is to express an opinion on Exhibit XXX based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether Exhibit XXX is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in Exhibit XXX. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of Exhibit XXX. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Exhibit XXX was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and by the NIFA, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, Exhibit XXX referred to above presents fairly, in all material respects, costs incurred for the Development as of XXXX XX, 200\_, on the basis of accounting described above.

In addition to auditing Exhibit XXX, we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to the Development. These procedures, which were agreed to by the Development Owner and NIFA, were performed to assist you in determining whether

the Development has met the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6. These agreed-upon procedures were performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representations regarding the sufficiency of the procedures below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

- We calculated, based on estimates of total development costs provided by the Development Owner, the Development's total reasonably expected basis, as defined in Treasury Regulation Section 1.42-6, to be \$XXXX as of XXXX XX, 200\_.
- We calculated the reasonably expected basis incurred by the Development Owner as of XXXX XX, 200\_ to be \$XXXX.
- We calculated the percentage of the development fee incurred by the Development Owner as of XXXX to be XX% of the total development fee.
- We compared the reasonably expected basis incurred as of XXXX XX, 2003 to the total reasonably expected basis of the Development, and calculated that XX% had been incurred as of XXXX XX, 200\_.
- We determined that the Development Owner uses the accrual method of accounting, and has not included any construction costs in carryover allocation basis that have not been properly accrued.
- Based on the amount of total reasonably expected basis listed above, for the Development Owner to meet the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6, we calculated that the Development needed to incur at least \$XXXX of costs prior to December 31, 2003 or XXXX XX, 200\_. As of XXXX XX, 200\_, costs of at least \$XXXXX had been incurred, which is approximately XX.XX% of the total reasonably expected basis of the Development.

We were not engaged to, and did not, perform an audit of the Development Owner's financial statements or of the Development's total reasonably expected basis. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Development Owner and the Development Owner's management and for filing with NIFA and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

City, State  
XXXX XX, 200\_

