



---

**MULTI-FAMILY REVENUE BOND**

**PROCEDURAL GUIDELINES**

**AND**

**PROGRAM DESCRIPTION**

**FOR PROJECTS TO BE REVIEWED PURSUANT TO**

**ARIZONA REVISED STATUTES § 35-726(E)**





# ARIZONA DEPARTMENT OF HOUSING PROCEDURAL GUIDELINES FOR PROJECTS TO BE REVIEWED PURSUANT TO ARIZONA REVISED STATUTES SECTION 35-726(E)

## **I. Introduction**

Arizona Revised Statutes §35-726(E) states that bonds shall not be issued by an industrial development authority (a "Corporation") for the purpose of financing a multi-family residential rental project, sanitarium, clinic, medical hotel, retirement home, nursing home, skilled nursing facility, or life care facility (each a "Project") unless the Arizona Department of Housing (the "Department") approves the Project. The Department interprets this section 35-726(E) as requiring approval of any Project that has any of the practical, operational or service elements of the types of facilities specifically described. Consequently, bonds issued by a Corporation to finance assisted living facilities, senior or special care providers or other such facilities constituting a project regardless of their name, are subject to approval by the Department. In reviewing the Project, the Department shall consider the following:

- A. The demand for and feasibility of the Project in the area set forth in the application to the Corporation.
- B. The financial, legal and technical capacity of the user of the bond proceeds to carry out the Project.
- C. The terms and conditions of the proposed bonds.
- D. The proposed use of bond proceeds.
- E. The benefit to the public if the Project provides rental housing for persons of low and moderate income or encourages rental housing in blighted or slum areas.
- F. If the Project consists of a nursing home or life care facility, the benefit to the public of the Project, including the proposed rent, fees and other charges of the Project in relation to the level of services to be offered.

In order to facilitate an orderly process of review for each Project and to assure that adequate information, relevant to the above listed considerations, is received by the Department, these procedural guidelines have been established to assist in the Department's consideration of each Project.

## **II. Financing with Bonds**

Bonds are interest-bearing securities issued and sold by a Corporation to raise money to finance the acquisition or construction of a facility. The money is then generally loaned to a private for-profit or non-profit user/owner of the facility. Generally, the holder of the bonds or investor is promised a repayment of the borrowed money on a specified repayment schedule. Interest repaid to the holder or investor is generally excluded from the gross income of the investor provided the requirements of federal tax law are met.

In conjunction with the benefits of tax-exempt bond financing, there are federal and state restrictions as to the use of the proceeds. Potential users of this type of financing are encouraged to seek legal counsel for information on the specific requirements of the Internal Revenue Code of 1986, as amended (the "Code") and the benefits and restrictions of tax-exempt bond financing.



# ARIZONA DEPARTMENT OF HOUSING PROCEDURAL GUIDELINES FOR PROJECTS TO BE REVIEWED PURSUANT TO ARIZONA REVISED STATUTES SECTION 35-726(E)

### **III. Eligibility**

Bonds of a Corporation are available to for-profit and non-profit entities for the purposes of financing the costs to acquire, rehabilitate or construct one or more Projects.

The Code imposes different requirements for tax-exempt financing through the use of bonds depending upon whether the Project is owned by a for-profit or non-profit entity; the Project is being acquired or is new construction; or if the Project is a "qualified residential rental facility", as defined by the Code, or some other type of facility. Again, users of this type of financing are encouraged to seek legal counsel to determine eligibility for tax-exempt financing. The Department reserves the right to request a legal opinion of Bond Counsel addressing eligibility issues.

The Department requires each applicant to provide evidence of their ability to develop, construct, market and manage its proposed Project, as described later in the Application Format section of these guidelines.

### **IV. Bond Sale**

The issuance cost associated with bonds can be substantial. The Department recommends that an applicant consult with Bond Counsel and an Underwriter prior to commencing the application process.

If the bonds are publicly offered, the bond must be rated "A" or better by a recognized national rating agency on either a stand-alone basis or with credit enhancement. If the bonds are rated less than "A" or not rated, the bonds shall be privately placed with an "investment company" under the Investment Company Act of 1940, as amended, a "qualified institutional buyer" within the meaning of Rule 144A of the Securities Act of 1933, or an "accredited investor" as defined in Rule 501 of Regulation D of the Securities and Exchange Commission (SEC) and the delivery of an investor letter satisfactory to the Department (collectively, such entities heretofore described shall be referred to as "Sophisticated Investors"). Un-rated Bonds owned and held to maturity by the developer or seller of a Project may be approved by the Department in its sole discretion.

### **V. Definitions**

As used herein:

- A. "Accountant" means an independent certified public accountant as the term is defined in the 1933 Act.
- B. "Allocation Plan" means the Low Income Housing Tax Credit Program (LIHTC) qualified allocation plan produced annually by the Department, as required by Section 42 of the Code.
- C. "Applicant" means the Concern submitting an application on behalf of a Corporation.
- D. "Arizona Blue Sky Law" means Arizona Revised Statutes, Title 44, Chapter 12, as amended.
- E. "Bond Counsel" means an acceptable firm of attorneys with a proven reputation in the field of municipal finance specializing in municipal bonds which is either employed by: the issuer of bonds, the User or the Underwriter to render an unqualified opinion on the legality of the bonds and such other matters as are herein set forth and also to draft or be responsible for the drafting of the legal proceeding leading to the issuance of the bonds.



# ARIZONA DEPARTMENT OF HOUSING PROCEDURAL GUIDELINES FOR PROJECTS TO BE REVIEWED PURSUANT TO ARIZONA REVISED STATUTES SECTION 35-726(E)

- F. “Concern” means any person, group of persons, limited partnership, partnership, association, corporation, limited liability corporation, syndicate, joint venture, joint stock company or similar form of legal entity.
- G. “Costs” means costs incurred in the acquisition, construction, reconstruction or improvement of a Project, including architectural and engineering fees, construction permit fees, and other costs, fees and expenditures associated with the issuance of the bonds such as financing fees, costs of issuance, reserve funds, capitalized interest, bond discounts, underwriter fees and credit enhancement costs..
- H. “Corporation” means any corporation organized as an authority pursuant to Arizona Revised Statutes, Title 35, Chapter 5, Article 1. (35-701 et seq.)
- I. “Department” means the Arizona Department of Housing of the State of Arizona and any successors thereto.
- J. “Designated Area” means any area of the State of Arizona which is either designated pursuant to Section §36-1472, Arizona Revised Statutes, as a redevelopment area, as defined in Section §36-1471, or designated by regulation as a pocket of poverty or a neighborhood strategy area by the United States Department of Housing and Urban Development pursuant to Title I of the Housing and Community Development Act of 1977 (42 U.S.C. 5301-5302, as amended) and the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).
- K. “Escrow Structure” means a financing structure in which ninety percent (90%) or more of the bond proceeds are invested or not otherwise capable of being paid out for any period of time during which the User attempts to obtain credit enhancement or satisfy any other conditions precedent to the use of all of the bond proceeds for Costs of the Project.
- L. “Financial Advisor” means an accountant, accounting firm, or any other Concern employed by the Department to offer advice on the financial aspects of applications.
- M. “Financial Consultant” means a Concern employed to draft and circulate a notice of public sale or an Official Statement in order to generate interest in specific issues that are to be sold by competitive bidding as opposed to private negotiation.
- N. “Guaranty” means either a guaranty of payment or guaranty of collection.
- O. “Housing Credit” means the Low Income Housing Tax Credit, a program that provides federal income tax credits to Owners of qualified housing, as outlined by Section 42 of the Code.
- P. “Net Proceeds” means the amount of bond proceeds (including premium, if any) which are intended to be used in the purchase, construction or acquisition of the Project but does not include bond discounts, accrued interest, financing fees, Underwriter fees, costs of issuance, capitalized interest or reserve funds, or amounts used to pay trustee’s or paying agent’s fees.
- Q. “1933 Act” means the federal Securities Act of 1933, as amended.
- R. “1934 Act” means the federal Securities Exchange Act of 1934, as amended, and regulations of the SEC pertaining to the marketing, or transfer of municipal securities and the rules of the municipal securities and the rules of the Municipal Securities Rulemaking Board.



# ARIZONA DEPARTMENT OF HOUSING PROCEDURAL GUIDELINES FOR PROJECTS TO BE REVIEWED PURSUANT TO ARIZONA REVISED STATUTES SECTION 35-726(E)

- S. "1939 Act" means the federal Trust Indenture Act of 1939, as amended.
- T. "Official Statement" means a prospectus, limited offering memorandum, private placement memorandum or offering statement concerning the bonds to be sold to provide financing for the Project, and where a sale by competitive public bidding is concerned, it also includes a notice of the sale of bonds.
- U. "Project" means any land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment whether or not now in existence or under construction that are used for one or more of the purposes set forth in Arizona Revised Statutes, Section 35-726(E), located within or out of the State, the municipality or county approving the formation of the Corporation. Except, however, a Project constituting residential real property for dwelling units shall be located within the municipality or county approving the formation of the Corporation, and in the case of a county, whether or not it is also within a municipality that is within the county.
- V. "Property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to a Project and any other personal property deemed necessary in connection with a Project.
- W. "Related Concern" means any Concern of which the User beneficially owns 25% or more, either directly or through one or more Related Concerns.
- X. "Third Party Guarantor" or "Guarantor" means any Concern (including a parent, affiliate or subsidiary of the User) other than the User who guarantees either the bonds or the underlying security for the bonds.
- Y. "Underwriter" means any person who has purchased from a Corporation with a view to public distribution of the bonds or participates or has a participation in the direct or indirect underwriting of such distribution.
- Z. "User" means the Concern, which seeks to have bonds issued for its benefit to purchase, construct or acquire one or more Projects.

## **VI. Application Procedure**

The Department requires all Applicants to submit to the Department, three (3) complete applications in accordance with the requirements of these guidelines. An application shall be submitted by the Corporation or on behalf of the Corporation by the User, Bond Counsel or Underwriter as so authorized by the Corporation.

No later than ten (10) business days after the Department receives an application, the Department will send the Applicant written notification that either:

1. the submittal is a complete application along with notice of the time and place of the hearing, if any, and the date that the Department must render its decision on the application which shall be no later than thirty (30) calendar days after receipt of the complete application; or
2. the submittal is incomplete because it fails to comply with the requirements of these Procedural Guidelines along with an explanation of what additional materials or information must be



## **ARIZONA DEPARTMENT OF HOUSING PROCEDURAL GUIDELINES FOR PROJECTS TO BE REVIEWED PURSUANT TO ARIZONA REVISED STATUTES SECTION 35-726(E)**

submitted before the Department can consider the application. In the event that the Applicant fails to deliver the additional materials or information to the Department within ten (10) business days after receipt of the notification, the Department shall reject the application and refund the security deposit. If the additional materials or information are sufficient to permit consideration of the request, then the Department shall notify the Applicant as provided in subparagraph 1, above.

An application will be treated as complete notwithstanding the lack of final pricing terms of the bonds and evidence of final approval by the Corporation or the governing body of the municipality or county approving the formation of the Corporation. Copies of the application will be distributed to other persons as the Department deems necessary. An application will not be considered completed unless all documents required by these guidelines are submitted in final form together with all fees and security deposits. The Department will charge each Applicant submitting a Project approval request a non-refundable fee of \$5,000.

In addition, the Department will require, at time of application, a security deposit in the amount of \$7,500 for reimbursement of its actual costs and expenses incurred in reviewing the Project by its legal counsel and its Financial Advisor. The security deposit will be applied by the Department to pay the fees and costs of its legal counsel and Financial Advisor. If the final billing of its legal counsel and its Financial Advisor exceeds the \$7,500 security deposit, the Applicant is obligated to pay promptly upon receipt of a written request from the Department. Should the final billing from its legal counsel and its Financial Advisor be less than \$7,500, such difference will be refunded to the Applicant.

The application, files and records of the Applicant (and any Guarantor) filed with the Department will be available for inspection by the public. Public disclosure of applications submitted for review pursuant to A.R.S. §35-726(E) shall be as provided by Title 39, Chapter 1, Article 2 of the Arizona Revised Statutes. As required by law, confidential personal and entity identifying information, and materials deemed to be proprietary shall be redacted or withheld from any records that may be disclosed pursuant to public request. Market demand studies shall be considered proprietary and confidential in absence of an express written waiver of the proprietary right from the applicant from whose application disclose of the market study is sought. The Applicant, by filing the application, agrees that any information delivered to the Department by or on behalf of such Applicant is not subject to the attorney-client privilege and may be disclosed to the public. By making the application, the Applicant is expected to have disclosed any and all matters which could be in any way material to the proposed financing at the date of application.

If due to actions or omissions of an Applicant, a §35-726(E) hearing has not occurred and/or the Department concludes that it does not have sufficient information to issue an Approval letter within three (3) months of the date of Application, the Application shall be considered withdrawn and a new Application including all required fees and security deposits must be submitted.

Projects that plan on combining their bond proceeds with the Department's Low-Income Housing Tax Credit (LIHTC) Program are also subject to the requirements of the State's Qualified Allocation Plan (QAP). Applications requesting an allocation of 4% credits must also complete a LIHTC application in accordance with the current year's QAP and be accompanied by an additional non-refundable LIHTC application fee of \$5,000.



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

By making the application, the Applicant will be deemed to know, and understand the Department's guidelines as outlined herein.

**VII. Application Format**

Application material must be in 8-1/2 x 11 format, side bound, indexed and tabbed to correspond with the enumeration prescribed below. Exceptions: 1) legal documents; 2) items of significant volume (such as market demand studies, feasibility reports and appraisals) may be submitted as separate bound items. No duplexed documents shall be submitted. Submit three (3) complete, tabbed sets of the application to the Department with a \$5,000 non-refundable fee and a \$7,500 security deposit. The following items must be tabbed as follows:

TAB	DESCRIPTION	INFORMATION REQUIRED
A.	<b>Cover Letter</b>	All Applicants must include a cover letter that summarizes the scope of the Project, the ownership experience, the low-income set-aside, if any elected, the nature of the funding, the expected debt service coverage ratio for the first five years of operations or until stabilization, which ever is later, and describe the existing market conditions that make the Project feasible for the area and the market information that supports the demand for this Project.
B.	<b>Legal Entity</b>	Evidence that User is an existing legal entity and in good standing authorized to do business in Arizona, along with 501(c)(3) determination letter and 1023 application, if applicable.
C.	<b>Compliance Certificate</b>	A compliance certificate in a form substantially similar to the form prescribed by the Department as attached hereto.
D.	<b>Application Forms</b>	Complete the MultiFamily Revenue Bond Application and Budget as prescribed by the Department.
E.	<b>Appraisal</b>	Projects seeking bond financing must submit an appraisal of the proposed Project. The following are minimum requirements for the submitted appraisal: <ul style="list-style-type: none"> <li>• A third party, member of the Appraisal Institute (MAI) or other outside person if qualified and licensed to render an appraisal. The report should include the name, address, and license number of the appraiser;</li> <li>• The appraisal must be prepared in accordance with the Uniformed Standards of Appraisal Practice and must so state in the appraisal document;</li> </ul>



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

TAB	DESCRIPTION	INFORMATION REQUIRED
		<ul style="list-style-type: none"> <li>• The appraisal must have been prepared within six (6) months of the application for approval. Exceptions to this requirement may be made on a case-by-case basis by the Department in its sole discretion.</li> </ul> <p>Projects that have obtained a commitment for FHA credit facility may utilize the FHA appraisal. Projects with enhancements (i.e. GNMA/FNMA) that can produce a copy of such entity’s appraisal may utilize it.</p>
F.	<b>Evidence of Site Control</b>	<p>The following documents will properly evidence site control;</p> <ul style="list-style-type: none"> <li>• Executed and Recorded deed of the current owner if it is the Applicant;</li> <li>• Executed Purchase option with date certain performance;</li> <li>• Executed Purchase Contract;</li> <li>• Executed Land Contract;</li> <li>• Executed long-term land lease or option on a long-term lease.</li> </ul> <p>Each site control option/contract, including extensions, must not expire before 60 days following the submission of the application.</p>
G.	<b>Permissive Zoning</b>	<p>The Applicant must demonstrate that the site(s) for the Project is appropriately zoned and allows for the proposed use by the Applicant. Applicants must include a letter from the local jurisdiction, which confirms the permissive zoning, and it must include the following:</p> <ul style="list-style-type: none"> <li>• The actual zoning designation and a description of this designation;</li> <li>• Any density and/or lot coverage requirements;</li> <li>• If a conditionally permitted use, explanation of the conditions to be met for the Project to be considered a permitted use;</li> </ul> <p>A description of any overlay or planned development district regulations that would further condition the development of the Project.</p>
H.	<b>Market Study</b>	<p>A market demand and feasibility study conducted by a qualified, independent market study professional must be submitted with the application. Please review the State’s Qualified Allocation Plan for the guidelines governing the structure and content of the market demand study.</p>



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

TAB	DESCRIPTION	INFORMATION REQUIRED
<b>I.</b>	<b>Property Condition Report</b>	In the case of acquisition Projects, a thorough third party evaluation of the condition of the property, buildings, improvements and fixtures. (If not applicable, insert a page with "Not Applicable" printed on it at this tab)
<b>J.</b>	<b>Borrower's Financial Information</b>	<ol style="list-style-type: none"> <li>1. User, User's general partners if User is a partnership, or User's managing member if User is a limited liability corporation, financial statements (audited, if available) for the previous three (3) years or for the full life of the User (or general partner or managing member) if the User has not been in business three (3) full years.</li> <li>2. User, User's general partner's if User is a partnership, or User's managing member's if User is a limited liability corporation, most recent quarterly statement (audited, if available).</li> <li>3. User, User's general partner's if User is a partnership, or User's managing member's if User is a limited liability corporation, annual reports (audited, if available) for the past three (3) years or for the full life of the User (or general partner or managing member) if the User has not been in business for three (3) full years.</li> </ol>
<b>K.</b>	<b>Project Financial Information</b>	<ol style="list-style-type: none"> <li>1. Project pro forma income and expense statements for five (5) years, including debt service coverage ratios of the bonds. The financial statements should clearly state all material assumptions.</li> <li>2. The past three (3) years income and expense statements for an existing Project.</li> <li>3. A complete and accurate description of the terms and provisions of all bonds and other financial commitments, including but not limited to debt service schedules.</li> <li>4. All commitment letters and term sheets from credit enhancers as required under Tab W.10.</li> <li>5. In the case of an Escrow Structure, a complete list of all conditions that must be satisfied in order for all bond proceeds to be spent on Project costs and the date each condition is expected to be satisfied.</li> </ol>
<b>L.</b>	<b>Periodic Reports</b>	If the User is required to file periodic reports or disclosure statements under the 1934 Act or any similar law in any state or under any other similar law of the United States, a copy of the most recent report must be attached. (If not applicable, insert a page with "Not Applicable" printed on it at this tab)



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

<b>TAB</b>	<b>DESCRIPTION</b>	<b>INFORMATION REQUIRED</b>
<b>M.</b>	<b>User's Structure</b>	<ol style="list-style-type: none"> <li>1. A list identifying all executive or managing officers, directors and general partners of the User. The application must include a detailed explanation in the event that any such officer, director, general partner or officer, director or general partner of User or any Related Concern has been convicted - or is currently under indictment or complaint alleging commission - of a felony or of a misdemeanor involving moral turpitude in any court of any state or of the courts of the United States or Canada or is now or ever has been charged or convicted of any civil, administrative or criminal offense regarding or arising from the conduct of the business of the User or from the issuance, sale or solicitation of any type of security.</li> <li>2. If applicable, an organizational chart showing the structure of the partnership, and what percentage of ownership each entity will possess.</li> </ol>
<b>N.</b>	<b>Performance Statements</b>	<p>The application must include: (1) a statement describing any pending applications for tax-exempt bonds to finance Projects within the United States for the User or any Related Concern, (2) a statement describing any outstanding private activity bonds issued to finance Projects within the United States for the User or any Related Concern, and (3) the status of construction of any such Projects. The statement should list facilities mentioned in connection with this paragraph by location, and indicate the amount of bonds for each location and describe any past or current defaults or breaches suffered by each such Project. (If not applicable, insert a page with "Not Applicable" printed on it at this tab)</p>
<b>O.</b>	<b>User's Rating</b>	<p>If the User is rated or listed by any published rating agency, such facts must be noted and a copy of any current rating sheet or sheets must be attached. If the User has previously been rated and such rating has either been lowered or suspended, the application must so state. If the User is a corporation with stock which is actively traded by the public, the application must state the most recent market price, and the high and low market price of such stock for the preceding calendar year, as such prices can be reasonably determined. (If not applicable, insert a page with "Not Applicable" printed on it at this tab)</p>



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

<b>TAB</b>	<b>DESCRIPTION</b>	<b>INFORMATION REQUIRED</b>
<b>P.</b>	<b>Registration Statement</b>	If, within nine (9) months prior to making the application, the User has filed a registration statement under the 1933 Act or the Arizona Blue Sky Law, or if the User is not required to register with SEC or the State of Arizona but has filed a similar statement with another federal agency relative to the issuance of a security, or the User has qualified an indenture under the 1939 Act, or the User has filed a disclosure statement or periodic report pursuant to the 1934 Act and the statement contains information required by this procedural pamphlet to be included in an application, a copy of such statement in the application together with an affidavit of an officer or general partner of the User in a position to know the facts, stating that no material change has occurred since the statement or report was filed or registered or if material changes have occurred, listing such changes and supplying the current data. The changes must be cross referenced by number to the page, paragraph or section of the statement or report and also underlined or otherwise noted in red ink on the copy of such statement or report submitted to the Department. (If not applicable, insert a page with "Not Applicable" printed on it at this tab)
<b>Q.</b>	<b>Third Party Guarantor</b>	If the User expects to have a Third Party Guarantor guarantee the bonds or the security underlying the bonds, the Guarantor must also file an application setting forth all data required as if such Guarantor was, in fact, the Applicant. No additional fees will be charged for filing of the Guarantor's application. The requirements of this section shall not apply to a Third Party Guarantor which is the United States or any agency or instrumentality thereof or an entity whose obligations are rated "A" or better by one or more national rating agencies, which is providing credit enhancement in the form of a letter of credit, insurance policy or surety bond. (If not applicable, insert a page with "Not Applicable" printed on it at this tab)
<b>R.</b>	<b>Statement of Pending Litigation</b>	A statement describing any pending litigation either by or against the User, its subsidiaries or any Related Concern. If litigation of any nature is pending or threatened concerning either the Project, proposed site, or the bonds sought to be issued, such litigation must be noted. (If not applicable, insert a page with "Not Applicable" printed on it at this tab)
<b>S.</b>	<b>Volume Cap Allocation</b>	Evidence or receipt of an allocation of the state ceiling, if such allocation is required. (If not applicable, insert a page with "Not Applicable" printed on it at this tab)
<b>T.</b>	<b>Corporation Approval</b>	Evidence of final approval of the Project by the Corporation.



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

TAB	DESCRIPTION	INFORMATION REQUIRED
U.	<b>Governmental Approval</b>	Prior to final action by the Department, the User shall submit evidence of final approval of the Project by the governing body of the governmental unit approving the formation of the Corporation which is to issue the bonds or on behalf of which the bonds are to be used.
V.	<b>Indemnities</b>	<p>An executed, notarized indemnity and hold harmless letter, in a form acceptable to the Department, clearly providing as follows;</p> <p>A. The User and Underwriter (or placement agent) must indemnify, defend, and hold harmless the Department, including its Director, its managers, staff, employees, agents, counsel and other members of the Department (collectively, the "Department's Personnel") from and against any and all claims, liabilities, costs, expenses, allegations and suits relating to the Project, the issuance and sale of the Bonds including any fraud or misrepresentations or omissions contained in the proceedings or pertaining to the financial condition of the User or financial projections for the Project which, if known, might be considered a material factor in its decision whether or not to buy the bonds.</p> <p>B. The Sophisticated Investors and the Underwriter (or placement agent) waive due diligence on the part of the Department, Department's Personnel, including any due diligence associated with the Department's review pursuant to A.R.S. §35-726(E), and must rely solely on statements and representations of the User and their own investigation of the facts. Further, the Sophisticated Investors and Underwriter (or placement agent) shall hold harmless the Department's Personnel from any claim they may have against the Department, arising from any action the Department took or could have taken in connection with the authorization, issuance or sale of the bonds or in any statement or representation which induced the bond owner to purchase the bonds.</p> <p>C. If in the determination of the Department, the User has limited financial resources, the Department may require a Guarantor or other financially suitable entity related to the User to execute and deliver to the Department an indemnity acceptable to the Department under which the Guarantor agrees to indemnify, defend, and hold harmless the Department, the Department's Personnel from and against all errors or omissions of every nature whatsoever contained in any legal proceedings or any Official Statement or other official representation pertaining to the issuance of the bonds. The indemnity must be submitted to and approved by the Department prior to closing.</p>



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

TAB	DESCRIPTION	INFORMATION REQUIRED
W.	<p><b>Supporting Documents</b></p> <p><i>(Draft form of Bond Documents)</i></p>	<ol style="list-style-type: none"> <li>1. Any trust indenture or agreement or similar trust instrument;</li> <li>2. Any loan agreement or financing agreement;</li> <li>3. Any proposed Official Statement;</li> <li>4. If applicable, deed, regulatory agreement or such other document which provides for compliance by the Project in serving persons whose income is 60% or less of the area median income;</li> <li>5. The bond purchase agreement or bond placement agreement;</li> <li>6. Any Guaranty or commitments to provide a Guaranty;</li> <li>7. Sources and Uses of the Project illustrating the cost of issuance, Underwriter's discount, bond premium, credit enhancement, legal fees, consulting fees and so forth. If the Project is utilizing 4% LIHTC, the Sources and Uses must also demonstrate that 50% or more of the Project's aggregate basis is "financed" by the tax-exempt obligation.</li> <li>8. The form of Bond Counsel's opinion;</li> <li>9. The form of an Accountant's letter, if one is to be issued;</li> <li>10. The Arbitrage Certificate (if applicable);</li> <li>11. Firm Commitment letter(s) for all credit enhancements and guarantees. Reasonable and customary conditions imposed on the closing will be permitted.</li> </ol> <p>Conditional Financial Commitment letter(s) for construction and other permanent financing, grants, and equity sources shall be conditionally committed at the time of the application. These letters must be included with the application. A Conditional Financing Commitment shall contain the minimum of:</p> <ul style="list-style-type: none"> <li>• The amount of financing;</li> <li>• The interest rate of the loan;</li> <li>• The term and amortization term of the loan; and</li> <li>• The contact person's name and phone number.</li> </ul>



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

TAB	DESCRIPTION	INFORMATION REQUIRED
<b>W.</b>	<b>(Con't)</b>	<p>Bonds which are rated less than "A" or not rated must submit an investor suitability letter for each bond purchaser in a form satisfactory to the Department. In addition to the terms outlined, the privately placed Bonds must include the following terms;</p> <ul style="list-style-type: none"> <li>• Minimum denominations of \$100,000 on the bonds; and</li> <li>• Bonds may only be transferred to Sophisticated Investors executing the investor letter.</li> </ul> <p>11. Such other proceedings as the Department shall require;</p>
<b>X.</b>	<b>Public Benefit</b>	<ol style="list-style-type: none"> <li>1. The benefit to the public if the Project provides rental housing for persons of low and moderate income or encourages rental housing in redevelopment areas as defined in Section §36-1471.</li> <li>2. If the Project consists of a nursing home, or a life care facility as defined in Section §20-1801, the benefit to the public of the Project, including the proposed rent, fees and other charges of the Project in relation to the level of services to be offered.</li> </ol>
<b>Y.</b>	<b>Affidavit</b>	<p>To be executed by a general partner, managing partner, one officer or one director listed under Tab M above stating that all facts and statements contained in the application and the attachments are true and correct to the best of such general partner's, managing partner's, officer's or director's knowledge and belief that he knows of no material adverse fact relating to the Applicant and/or User having authority to make such statement and the application is made in accordance with these guidelines and the Applicant consents to all investigations deemed reasonably necessary by the Department as set forth therein.</p>

**VIII. Approval**

- A.** The Department shall refer the application to its legal counsel, Financial Advisor, and such others, as it deems necessary for their review.
- B.** For applications considered through a hearing, the Department shall convene a hearing at an appointed place and time. The Applicant shall appear before the Department, describe the Project to the Department, and shall respond to questions. The oral presentation may cover any aspects of the Project or its financing, and the capacity of the Applicant and/or User. The proceedings shall be recorded or transcribed. The Department, in its sole discretion, may hear and question persons who wish to offer testimony or documentary evidence to the Department. Upon completion of the hearing, the application shall be approved if the Department decides that the application satisfies the criteria set forth below.



## ARIZONA DEPARTMENT OF HOUSING PROCEDURAL GUIDELINES FOR PROJECTS TO BE REVIEWED PURSUANT TO ARIZONA REVISED STATUTES SECTION 35-726(E)

- C. The Department shall approve a Project if it finds that the application meets each of the following criteria:
1. the Project described in the application is subject to approval by the Department consistent with A.R.S. § 35-726(E);
  2. that the User has the financial, legal, and technical capacity to carry out the Project;
  3. the market demand is sufficient to justify the Project;
  4. the Project described in the application is feasible;
  5. the Project supported by bond proceeds is a benefit to the public; and
  6. the rents, fees, and charges of the Project in relation to the level of services offered are beneficial to the public.

If the Department determines that the application demonstrates the criteria set forth above, the Department shall inform the Applicant in writing that the application is approved. The Department may consider the application, amendments to the application, hearing testimony, and any underwriting prepared by the Department. In the event that the Department decides that the application fails to meet the criteria set forth above, the Department shall inform the Applicant in writing that the application is not approved and explain the basis of the decision.

- D. It is the Department's policy that bonds which are to be publicly placed shall receive an investment grade rating of "A" or higher from a nationally recognized rating organization, or be secured by credit enhancement issued or confirmed by a Concern rated as "A" or higher.
- E. Any bonds not rated or rated in a category less than an "A" shall be sold in a private placement and shall be purchased, and transfer restricted to, Sophisticated Investors, as defined herein.
- F. Any tax-exempt financing of a multi-family residential rental Project contemplating use of an Escrow Structure must include a certification from Bond Counsel to the Department that the Escrow Structure financing complies with and meets the requirements established by the Internal Revenue Service. Any Escrow Structure that does not in the opinion of the Department have the reasonable likelihood of releasing Bond proceeds to pay Project costs in six (6) months will not be approved by the Department. Escrow Structures utilized primarily to capture State volume cap for the proposed Project will not be approved.
- G. The Department requires all terms and provisions of the financing and Project to be final at the time the application is submitted; however, the Department may approve a Project if its legal documents contain "not to exceed" or other limits on the following items: interest rate, amount of issue, redemption features and maximum life of the bonds. The feasibility of the Project will be analyzed using the maximum limits allowed by the documents or such other terms as deemed reasonable by the Department.
- H. Prior to approval of the Project by the Department, transfer in the ownership of the Project or a change in the name of the Applicant may be requested pursuant to a submission to the Department of three (3) copies of the proposed change and, unless waived by the Department, payment of a filing fee which shall not exceed \$5,000. Submission of any change or amendment shall be construed as a submission for approval of the new Project.



# ARIZONA DEPARTMENT OF HOUSING PROCEDURAL GUIDELINES FOR PROJECTS TO BE REVIEWED PURSUANT TO ARIZONA REVISED STATUTES SECTION 35-726(E)

- I. Each User shall be required to make an equity contribution equal to 10% of the Project costs in any financing involving an Escrow Structure.
- J. No Project will be approved unless the Department has determined that the anticipated debt service coverage on all debt is not less than 1.1 or if less than 1.1, other factors exist that demonstrate the Bondholder or lender has clearly assumed such risk.
- K. It is the Department's policy to deny approval of any Project that omits any material information or submits ambiguous financial information and to not refund any portion of the \$5,000 filing fee and to use such portion of the \$7,500 deposit to reimburse the costs and expenses incurred by the Department. If the actual costs and expenses incurred by the Departments are less than the \$7,500 security deposit, such difference will be refunded to the Applicant.

## **IX. Accuracy of Data**

- A. The Underwriter or the purchaser of the bonds shall have the responsibility of assuring itself that the statements attributed to the User in any Official Statement or private placement sale agreement are substantially true and correct and that there are not material misrepresentations of facts contained in, or omission of material facts from, the Official Statement. By agreeing to act as Underwriter, the Underwriter shall be deemed to know of and have read these guidelines and have agreed to their terms.
- B. If the Official Statement includes a balance sheet or annual financial statement of the User or Guarantor and the User or Guarantor is required by the Corporation to acquire a manually executed statement or letter from the Accountant or Accountants who reviewed, prepared or certified the financial statements allowing the Corporation to rely on such statements and to incorporate the statements in the Official Statement, then such statement or letter must also be addressed to the Department to allow the Department to rely on such statements.
- C. If the Accountant provides a form of comfort letter addressed to the Corporation relative to inquiries made by such Accountant or named personnel of the User prior to the closing, such comfort letter shall also be addressed to the Department.
- D. A officer, director or general partner of the User must appear at the public hearing scheduled by the Department for the Project. Such officer, director, or general partner must be prepared to answer any an all questions propounded by members of the Department or its advisors concerning matters relating to the Project, the issuance of the bonds, the information contained in the financial statements, or any other documents deemed pertinent. The Department at its discretion may record questions propounded and the answers thereto.
- E. Accuracy of the Official Statement will be the joint responsibility of the User and the Underwriter.
- F. An application and all exhibits, appendices and attachments thereto and all legal proceedings submitted to the Department are an "instrument" for purposes of A.R.S. §39-161. The knowing inclusion of any false information is a Class 6 felony.



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

**X. Closing**

Bond Counsel must submit to the Department after closing, a certificate of closing in the form prescribed by the Department with a treasurer's or trustee's receipt attached thereto.

**XI. Miscellaneous**

A. These guidelines will be considered to set forth minimum requirements and the Department reserves the right to add additional requirements on a case-by-case basis.

B. All applications shall be delivered to:

Arizona Department of Housing Attn: Rental Program Administrator 1110 West Washington, Ste. 310 Phoenix, Arizona 85007
---

C. The Department and its members are covered by Arizona's Conflict of Interest Law (Section §38-501, et seq., Arizona Revised Statutes). The Applicant should take every precaution available to it to learn of any possible conflict between itself, the Department or officers, employees or agents of the Department or any "relative" (as defined in the Conflict of Interest Law) of any of the foregoing which might prohibit the Department from completing the financing, especially where construction or other contracts may be signed before the bonds are authorized or issued.

**Modification and Waiver**

Notwithstanding any terms or provisions of these guidelines, the Department shall consider modification or waiver of any policy or requirement set forth in these guidelines upon a showing of good cause.



**ARIZONA DEPARTMENT OF HOUSING  
PROCEDURAL GUIDELINES  
FOR PROJECTS TO BE REVIEWED PURSUANT TO  
ARIZONA REVISED STATUTES SECTION 35-726(E)**

**COMPLIANCE CERTIFICATE  
TO THE  
ARIZONA DEPARTMENT OF HOUSING**

The undersigned officer of The Industrial Development Authority of \_\_\_\_\_  
\_\_\_\_\_ (the "Authority"), relying solely on the  
representations of the user of the bond proceeds, hereby certifies that the requirements and policies set  
forth in the procedural guidelines of the Arizona Department of Housing (the "Department") have been  
complied with in connection with the following bond issue:

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

except in the manner and for the reasons described in Exhibit A and in the application submitted by the  
user to the Authority, both of which are attached hereto and incorporated herein.

This financing does (does not) involve an Escrow Structure, as that term is defined in the Procedural  
Guidelines of the Department.

THE INDUSTRIAL DEVELOPMENT AUTHORITY OF \_\_\_\_\_

BY \_\_\_\_\_

ITS \_\_\_\_\_

APPROVED:

\_\_\_\_\_

Legal counsel to The Industrial Development Authority of \_\_\_\_\_

\_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Applicant

DATED: \_\_\_\_\_