

# 1. Introduction

## 1.1. Background

The Low Income Housing Tax Credit Program (the "Program") provides federal income tax credits to Owners of qualifying residential rental projects. The Program was established by the Tax Reform Act of 1986 to replace traditional tax incentives for investment in low-income housing eliminated by the same law. The State of Arizona (the "State"), through the Governor's Office of Housing Development (the "Department"), is the housing credit agency in Arizona responsible for allocating tax credits to specific projects that comply with the Internal Revenue Code (the "IRC" or the "Code"). The Department carries out this responsibility through the creation and administration of the Qualified Allocation Plan (the "QAP").

The Program has been a viable incentive for the production of affordable housing for low and moderate-income households. Since the start of the Arizona Program in 1987, \$70 million in tax credits have been allocated, assisting in the creation of nearly 14,693 Units of low-income housing.

## 1.2. Program Description

The purpose of the QAP is to comply with federal requirements and meet the following general Program goals:

- Give preference to projects that provide housing to households with the lowest incomes and for the longest periods of time;
- Assist in affordable housing development in areas with the greatest low-income housing needs;
- Provide housing for special needs populations and large families;
- Encourage projects located in qualified census tracts, the development of which contributes to a concerted community revitalization plan.
- Encourage rural projects;
- Encourage approaches in design, planning, building and financing of low-income housing that maintain quality but reduce per-Unit cost; and
- Provide an Allocation of tax credits only in an amount sufficient to make the project financially feasible and viable as a low-income housing project throughout the compliance period.
- Support projects intended for eventual tenant ownership.

From year to year, the State may supplement these general goals with more specific goals in order to meet specific low-income housing needs.

In connection with the Year 2002 QAP, the State has set as its specific goals the following:

1. An equitable Allocation of projects between the urban and rural areas of the state and among various geographic regions;
2. Substantial involvement and input from the affected community;

3. Encourage projects serving very low-income families and other priority populations and projects to be built on Tribal lands;
4. Encourage acquisition/rehab and rehab projects.
5. Provide for projects: located in the border counties of Cochise, Santa Cruz, and Yuma; , serving priority populations with special housing needs; and funded by the RD 515 program.
6. Encourage mixed-income projects (projects containing both market and Low-Income Units) in communities that prefer them.
7. Encourage projects for which there is strong market demand;

Tax credits are allocated on a per-building basis. For a particular building to qualify for tax credits, it must be part of a low income housing "project." Among other requirements set forth in Section 42 of the IRC, the Owner must rent at least 20% of the Units in the project to households with incomes at or below 50% of the AMGI (as defined in IRC § 42 (g)) or rent at least 40% of the Units in the project to households with incomes at or below 60% of the AMGI (as defined in IRC § 42 (g)).

Note: a project may contain from 20% to 100% Low-Income Units. The Owner must also restrict the rent and utilities charged for the Low-Income Units to a maximum of 30% of the qualifying income limit as defined in IRC § 42 (g).

The Owner is required to agree that the Low-Income Units will be set aside under the terms of an Extended Use Agreement for low-income tenant occupancy for a minimum of 30 years. See IRC 42 (h). The Low-Income Units must be made available to the general public. Certain types of residential buildings such as dormitories, nursing homes, care facilities and trailer parks do not qualify.

Tax credit availability is limited to producers of residential rental projects through either new construction or substantial rehabilitation of existing buildings. See IRC § 42 (b), (d), and (e). A credit is also available for acquisition of projects for rehabilitation, under certain conditions. See IRC § 42 (b), (d), and (e). There are two available credits, a 30% and a 70% present value credit approximately 4% or 9% credit per year for 10 years depending upon the type of project. See IRC § 42 (b). The credit is issued in an annual amount and taken by the Owner each year for a ten-year period. See IRC § 42 (a) and (f). An Owner must obtain a tax credit Allocation for a building by the close of the calendar year in which the Reservation for tax credits is made. See IRC § 42 (h) and IRS Final Regulations (TD 8520).

### **1.3. Year 2002 Tax Credit Program**

In the Year 2002, the Department will allocate approximately \$9 million in tax credits for the State of Arizona.

**1.3.1. Disclosure.** The contents of applications received by the Department, as well as supplementary information provided by or on behalf of the Applicant, is the property of the Governor's Office of Housing Development and is a matter of public record. The Applicant may retrieve one copy of withdrawn or rejected applications after the ranking process is completed. Names, addresses, phone numbers, project scope, location and amount of tax credits reserved or allocated, if any, are routinely published by the Department and made available to the general public. Applications submitted to the Department may be reviewed at the Department or copies are available upon request for a nominal copying fee..

**1.3.2. Timetable.** The Department will hold one tax credit application round in the Year 2002. Applications will be available on or about January 1, 2002. Two Completed applications and the non-refundable application fee of \$3,000 will be due on or before the date and the time set forth below:

**April 1, 2002, 12:00pm**

All applications received between January 2, 2002, and 12:00 p.m., April 1, 2002, will be eligible for consideration.

One application only will be accepted for each project (no "optional" applications with different characteristics will be accepted). Applications received after 12:00 p.m. on April 1, 2002 will not be accepted.

Except that portion of the tax credit authority reserved in the governor's discretionary set-aside, all of Arizona's available Year 2002 annual tax credit authority, and any credits returned after January 1, 2002 or made available from the National Pool, will be available for Reservation in the round. Of the State's total annual credit authority, \$700,000 is reserved for the governor's discretionary set-aside, 10% is set aside for rural projects, and 20% for projects owned/operated and controlled by non-profit corporations. See "Set-Asides" below. In addition, tax credits will first be awarded to one project in each of the "priority project" categories set forth in 1.3.3.1 below. A waiting list will be established from eligible applications not receiving Reservations. This waiting list will remain in existence until December 31, 2002 (see below). The Department, however, reserves the right to not allocate all credits during this application period, and to accept applications subsequent to the deadline for consideration after all applications in this round have been reviewed. No project will receive a Reservation until the April 1, 2002 deadline passes and all projects are reviewed and ranked.

*The Department is charged by Congress with allocating tax credits at the minimum level needed to realize the financial feasibility of a project and its viability as a qualified low-income project throughout the extended use period. Accordingly, the Department, in its sole discretion, may reserve and allocate to projects a lesser amount of tax credits than otherwise is permissible and will subject all projects to its determinations (made in its sole discretion) of financial feasibility, cost reasonableness and other cost and financing limitations. See Section 7 below, "Underwriting."*

*Those projects passing Threshold Review (see Section 3), but not ranking high enough to receive tax credits during the Year 2002 application round, may be eligible to receive any tax credits returned during the Year 2002. Depending upon availability, returned credits and credits received during the Year 2002 from the National Pool will be allocated to the next highest scoring Year 2002 project(s) on the waiting list meeting Threshold Criteria. Tax Credits will be awarded per the ranking until December 30, 2002, All remaining credit will be carried forward to the year 2003. Any Year 2002 Applicant not receiving credits from the Year 2002 round must resubmit its application in order to be considered for Year 2003 credits.*

**1.3.2.1. Forward Commitments.** Forwarded commitments will only be considered in two cases. For large HOPE VI projects where one allocation of credits would greatly impact the current years allocation and in the case where the first project on the waiting list after the final reservation list is posted, is short \$100,000 or less in credits based on the requested amount in their application.

### 1.3.3. Set-Asides

**1.3.3.1. Allocations to Priority Projects.** As a priority, and at the sole discretion of the Department, tax credits will be awarded first to the highest scoring applications meeting all Threshold Criteria and underwriting criteria in each of the following categories. An award will not be made, however, if **“new demand** for new and vacant units for the project has not been demonstrated in the project’s market demand study. An award of tax credits will not be made to more than one family, one elderly, and one special needs category project (one project for each special needs category) per tax credit round in market areas with a population of 50,000 or less (Section 3.2.8).

1. One project located in a Governor’s Action Community.

YEAR 2002 ACTION COMMUNITIES		

2. A project funded partially by HUD HOPE VI.
3. Two acquisition/rehab (one rural & one urban) projects in which 100% of the Units undergo rehab.
4. One project allocating 100% of its Units to special needs, serving any combination of the following eight categories:
  - Homeless persons or families. A homeless person is a person sleeping in a place not meant for human habitation or in an emergency shelter; a person in transitional or Supportive Housing for homeless persons who originally came from the street or an emergency shelter. Homeless persons are to be certified by a referral agency recognized by the Department.
  - Victims of Alzheimer’s Disease and similar diseases which render their victims incapable of independent living, as certified by a licensed M.D. The targeted population must have a demonstrated need for Supportive Services.
  - Seriously Mentally Ill Persons, i.e., adults whose emotional or behavioral functioning is so impaired as to interfere with their capacity to remain in the community without supportive treatment. The mental impairment is severe and persistent and may result in a limitation of their functional capacities for primary activities of daily living, interpersonal relationships, homemaking, self-care, employment or recreation. The mental impairment may limit their ability to seek or receive local, state or federal assistance such as housing, medical and dental care, rehabilitation services, income assistance, or protective services. Seriously Mentally Ill Persons are to be certified by a referral agency recognized by the Department.
  - Seriously Emotionally Disturbed, i.e., persons between birth and age 18 who currently or at any time during the past year have had a diagnosable mental, behavioral, or emotional disorder that resulted in a functional impairment which

substantially interferes with or limits the person's role or functioning in family, school, or community activities. Seriously emotionally disturbed persons are to be certified by a referral agency recognized by the Department.

- Developmentally Disabled Persons suffering from a severe, chronic condition attributable to a physical or mental impairment manifesting itself before the age of 22 and likely to continue indefinitely. Developmentally Disabled Persons are to be certified by a referral agency recognized by the Department.
- Victims of AIDS/HIV, as certified by a licensed M.D.
- Victims of domestic violence, as certified by referral agency recognized by the Department.
- Victims of chronic substance abuse, as certified by a referral agency recognized by the Department.

*If the project seeks an award of points for committing to a set-aside of Low-Income Units for transitional or permanent housing for groups with special needs, including enhanced services or conveniences for the above populations, attach at **Tab M** of the Application, "Commitment to Set Aside Units," along with Forms M and M1 as required.*

The Department will require that the applicable set-aside be included in the Extended Use Agreement before issuing a final Allocation of tax credits and will monitor performance of these set-asides throughout the 30-year or longer compliance period.

Supportive Services shall be provided to the residents with special needs on an as-needed basis. It is the Owner's responsibility to plan and coordinate these Supportive Services so that they are provided by on-site providers or by existing off-site social service agencies. This requirement of the Owner to provide Supportive Services will be included in the project's Extended Use Agreement. Supportive Services are not to be included in the operating budget of the project. Please see **Exhibit D** for the contents of the required Supportive Services plan to be described on Form M1.

In all cases, tenants applying for a special needs Low-Income Unit must present the property manager with a letter of referral or equivalent documentation from a licensed M.D. or recognized social service agency, certifying the tenant as a member of the specific special needs group and noting any special accommodations required.

5. One project located on Tribal lands.
6. One or more projects funded in part by the RD 515 program. This priority category is limited to eight (8) percent of annual credit authority.
7. One project located in the border counties of Cochise, Santa Cruz, Yuma.
8. One project located in each of the four rural Council of Governments Regions (see 1.6, "Definitions"), if this priority has not been satisfied already by the selections in items 1-7 above.

Tax credits will be reserved next for the Governor's Discretionary Set-Aside (Section 5.4.2). Thereafter, tax credits will be awarded to satisfy the Non-Profit Set-Aside (Section 5.4.3), and

the Rural Set-Aside (Section 5.4.4) if they have not already been satisfied by the priority projects awarded above.

**1.3.3.2. Governor's Discretionary Set-Aside.** \$700,000.00 of the State's annual low-income housing tax credit authority is reserved in a Governor's Discretionary Set-Aside to be awarded by the Governor in her sole discretion. Any Governor's Discretionary Set-Aside authority not reserved to specific projects by September 1, 2002, will be released to be used for projects on the Year 2002 waiting list. To be eligible for the Governor's Discretionary Set-Aside, applicants:

1. Must submit an application for tax credits in the competitive round by April 01, 2002, at 12:00 p.m.
2. Must not be listed on the Year 2002 tentative Reservation list.
3. Will be subject to all aspects of the Year 2002 QAP, including credit ceilings, threshold review, and underwriting.

The following procedures will apply to the administration of the Governor's Discretionary Set-Aside:

- At the time of the Department's publication of the tentative Reservation list for the competitive round, the Department will announce that all applicants not on the tentative Reservation list are eligible to apply for the Governor's Discretionary Set-Aside.
- No more than 10 days after the date of this notification, applicants wishing to be considered for the Governor's Discretionary Set-Aside must give written notice to the Department that:
  - a) they are applying for tax credits from the Governor's Discretionary Set-Aside, and
  - b) they are enclosing an additional non-refundable application fee of \$5,000. If an application is chosen to receive credits from the Governor's Discretionary Set-Aside, this \$5,000 will be applied against the project's Reservation and Allocation fee.
- Applications for the Governor's Discretionary Set-Aside will be reviewed by the Department and forwarded to the Governor's Office for a final decision. Selection criteria will take into consideration 1) service to the lowest-income populations and 2) public services to be provided, 3) support of local communities and conformity to the other goals of the Program.

**1.3.3.3. Non-Profit Set-Aside.** Twenty (20) percent of the State's annual credit authority is set aside for "non-profit projects," as defined in Section 3.2.2. Only non-profit projects that meet all of the Threshold Criteria will be eligible for an Allocation of non-profit set-aside credits. The Allocation of non-profit set-aside credits will be based on the rankings of non-profit projects under the scoring system.

For threshold documentation requirements, see Section 3.2.2, "Non-Profit Projects."

**1.3.3.4. Rural Set-Aside.** Ten (10) percent of annual credit authority is set aside for projects to be located in rural areas. Rural areas shall mean counties under 400,000 in population according to the most recent United States decennial census and "Census County Divisions" [see 1.6, "Definitions"] under 50,000 in population in counties with populations of 400,000 or more according to the most recent United States decennial census. These projects may, of course, compete for overall credit authorization; or lacking sufficient demand, rural set-aside funds may be pooled with non-set-aside funds for Allocation to any project.

The Department reserves the right, irrespective of point ranking, and in its sole discretion, to allocate tax credits in a manner which yields an equitable distribution of credits among the geographic regions of the state and which avoids the risk of over-concentration of projects within individual regions.

Thereafter, tax credits will be awarded using a competitive, point scoring system. The Applicant must provide full documentation to receive points. Priority projects may be used by the Department to fulfill its set-asides for the rural areas and for non-profit organizations.

Those projects meeting the threshold criteria, but not ranking high enough to receive tax credits during the Year 2002 application round, will remain eligible to receive any tax credits returned during the Year 2002. Depending upon availability, returned credits will be allocated to the next highest scoring Year 2002 project(s) in the queue meeting threshold criteria as described above.

**1.3.4. Credit Ceiling.** The maximum Reservation for any single project will be \$700,000 of the State's annual credit authority, and no more than \$1.4 million for any Developer or *Affiliate of the Developer* (see Definitions 1.6.) with two exceptions: A developer may be awarded three projects as long as one of the projects is either a rural project or an acquisition/ rehab project. A waiver of the \$700,000 credit limit per project may be requested for 4% acquisition credits in an acquisition/rehab project. Developers of large projects may be required to phase the projects, accepting a Reservation for only one phase during the Year 2002 program year. Accepting a Reservation for only one phase during the Year 2002 program will not preclude an Applicant from receiving a Year 2003 Reservation for a subsequent phase, nor does it guarantee that the Applicant will receive Reservations for subsequent phases.

Note: Applicants will not be allowed to bypass the per-project credit ceiling by proposing adjacent projects, each of which requests tax credits at or near the per-project credit ceiling (e.g., two projects of 90 Units each, each requesting \$450,000 in credits, for a total of \$900,000). All such proposals will be treated as one project and be subject to the \$700,000 per-project credit ceiling.

## **1.4. Questions**

The Department will accept written questions concerning its scoring of items in an Applicants application. Questions must be based solely on facts provided in the Applicant's original application. Copies of the Department's scoring sheets are available at the Department and may be copied for the standard fee.

## **1.5. Non-Allocated Projects**

Those applications, which fail to receive an Allocation by December 31, 2002, are withdrawn and must reapply and compete in subsequent years to be considered for tax credits. All fees paid to the Department are non-refundable.

## **1.6. Definitions**

The following definitions shall apply to both the Allocation Plan and application for the Year 2002 Program:

Affiliate —any person who directly or indirectly owns or controls another Person by having any ownership interest or a Controlling Interest in that Person.

Allocation — the award of tax credits by the Department to the owner of an LIHTC project either at the time of satisfaction of the 10 percent carryover requirement (as described in Section 10.1) or after completion of the project (i.e., at receipt of the Form 8609). The Allocation is set forth in a binding agreement between the Department and the project Owner.

AMGI — Area Median Gross Income. The measure of household income, adjusted for family size, used by the IRS as a reference in establishing income levels for the Program (e.g., “60 percent of AMGI,” “50 percent of AMGI”) and as the base in calculations, which yield maximum rents by number of bedrooms. See the “Imputed Incomes/Allowable Rents” tables appended to this Allocation Plan at Exhibit H.

Applicant — an existing legal entity submitting an application for LIHTC for a project pursuant to the Allocation Plan.

Approved Building Plans — the final construction plans/documents that have been approved by the local governing body which will be utilized for the construction of the project.

A.R.S.—the Arizona Revised Statutes, as amended from time to time.

Award Letter — a letter from a governmental or quasi-governmental agency, e.g., the Federal Home Loan Bank, stating that funds in a specific amount are awarded or are to be awarded to the project in a specific time frame.

Builder — the general contractor which is a member of the project’s Development Team.

Census County Divisions — divisions within counties delineated by the U.S. Census Bureau. For example, the two metropolitan counties in Arizona comprise the following “Census County Divisions.” Maricopa: the divisions of Buckeye, Chandler, Deer Valley, Gila Bend, Phoenix, St. Johns, Salt River, Tonto, and Wickenburg. Pima: the divisions of Ajo, Arivaca, Marana, Papago, and Tucson. Because some of these divisions are under and some over 50,000, and because parts of incorporated communities often lie in more than one division, please call the Department for clarification.

Controlling Interest  $\frac{3}{4}$  the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the means of ownership, position, contract, or otherwise.

Commitment Letter  $\frac{3}{4}$  a written commitment from a lender or other provider of funds, representing a commitment to provide financing and stating the amount, interest rate, security, and repayment terms, subject only to reasonable, commercially-acceptable contingencies.

Community-Based Non-Profit — an IRC 501(c)(3) or (4) organization, the provision of affordable housing one of its approved exempt purposes, its membership drawn from and representative of the community it serves.

Consultant — an advisor to the Development Team or to any member of the Development Team.

Council of Governments Regions — Arizona comprises four rural (and two metropolitan) Councils of Governments serving regional planning districts. The four rural councils and the districts they serve are: Northern Arizona Council of Governments (**NACOG**), serving the Region 3 Counties of Apache, Coconino, Navajo and Yavapai Counties; Western Arizona Council of Governments (**WACOG**), serving the Counties of LaPaz, Mohave and Yuma in Region 4; Central Arizona Association of Governments (**CAAG**), serving Region 5: the Counties of Gila and Pinal;

and South Eastern Arizona Governments Organization (**SEAGO**), serving Region 6, which consists of Cochise, Graham, Greenlee and Santa Cruz Counties.

Deferred Developer Fee — a certain sum of money owed to the Developer and evidenced by a promissory note, partnership agreement, or other written agreement acceptable to the Department, such fee to be repaid subject to the applicable project's cash flow after payment of operating expenses of the project and after payment of debt service for all superior liens.

Department — The Arizona Department of Commerce, Office Of Housing and Community Development Division, which is the housing credit agency authorized to allocate federal low-income housing tax credits in the State of Arizona pursuant to A.R.S. Section 35-728(B).

Developer — any legal entity or person, which will provide or arrange for design, financing, or construction services in connection with a project.

Development Team — the entities and professionals assembled to develop the project, typically comprising the Developer(s), General Partner, Contractor, Management Company, Tax Attorney, Certified Public Accountant, and all other project consultants.

Employee Unit — A Unit set aside by project management as a Residential Rental Unit for a manager, or a maintenance person, and/or a security officer (see Arizona Department of Commerce LIHTC Compliance Manual, Section 3.2.1.), which Units will be regarded as Low-Income Units by the Department. Industry standards indicate that one manager's unit and one maintenance person's unit are needed per one hundred Units. One security officer's Unit per project is allowed if, management can show that the Unit is reasonably required. Project management, in its discretion, may designate such units for employees or return them to service as Low-Income Units as circumstances dictate. In accordance with IRS Revenue Ruling 92-61, while these units are employee Units they will be included in the eligible basis of the building but will be excluded from both the numerator and the denominator of the applicable fraction. In mixed-income properties, the Department will assume that any employee Units are taken from the low-income rather than the market-rate side.

Extended Warranty — any construction warranty of at least two years.

Financial Beneficiary — one who is to receive a financial benefit of: a) 3% or more of total estimated project cost if total estimated project cost is \$5 million or less, and b) 3% of the first \$5 million and 1% of any costs over \$5 million if total estimated project cost is greater than \$5 million. This definition does not include the owner of the tax credit project unless the owner is also the Developer or the Builder and meets the above financial requirements.

Historic Preservation Project- (i) A structure individually listed in the National Register of Historic Places, or; (ii) A structure certified by the National Parks Service as contributing to a Register District. A Register District is a designated area listed in the National Register, or listed under State or Local Statute as substantially meeting the requirements for listing of districts in the National Register.

HUD Regions — the "Index Location Factors" in Section 7.2.4.5 (multipliers to adjust Cost Caps to regional differences within Arizona) utilize HUD's seven geographic regions as follows:

Phoenix: Maricopa County and the incorporated area of Apache Junction

Casa Grande: Gila County and all of Pinal County except the incorporated area of Apache Junction

Flagstaff: Coconino, Apache, and Navajo Counties

Kingman: Mohave, Yavapai, and LaPaz Counties

Sierra Vista: Graham, Greenlee, Santa Cruz, and Cochise Counties  
Tucson: Pima County  
Yuma: Yuma County

LHHC — the Low-Income Housing Tax Credit, a program of the Internal Revenue Service that provides federal income tax credits to Owners of qualifying residential rental projects.

Letter of Interest or Intent — documentation addressed to the Applicant/Developer of an interest or intent to provide funding, setting forth the writer's intention to negotiate the financing and stating the amount, interest rate, security, repayment terms, as applicable, and including the minimum debt service coverage ratio and loan-to-value ratio used by the lender to size the financing. If the sole Developer of the project is a non-profit organization, the letter of interest or intent from the investment syndicator must state that the non-profit holds the right of first refusal to acquire the project following the fifteen-year compliance period. Such letters or documents may be subject to reasonable, commercially acceptable contingencies, as determined by the Department in its sole discretion.

Low Income Unit — Any Unit in a project if the Unit is rent restricted (as defined in IRC 42 (g)(2)) and the individuals occupying such Unit meet the income limitation applicable under IRC 42 (g)(2) for the project.

Material Changes — changes from information previously submitted to the Department in the substance of the Project, including but not limited to changes in the composition of the Owner, in the project itself, in the terms or sources of financing, or in construction lender, permanent lender, and syndicator.

Mixed-Finance Projects — low-income housing projects developed partly with funding from the HUD Low Rent Public Housing Program and partly from other public sources.

Operating Costs — the fixed and variable expenses of operating the project, including but not limited to taxes, insurance, utilities, management, and replacement reserves, but excluding debt service.

Owner — the legal entity, which ultimately will own the project and to which tax credits will be allocated.

Person — an individual, partnership, corporation, trust or other entity.

Physically Disabled Persons — persons who have physical impairments that substantially limit one or more major life activities, have a record of such impairment, or are regarded as having such impairment.

Placed in Service — has two definitions; one for buildings and one for rehabilitation expenditures that are treated as a separate new building (section 42 (e)(4)(A)). The placed-in-service date for a new or existing building used as residential rental property is the date on which the building is ready and available for its specifically assigned function, i.e., the date on which the first unit in the building is certified as being suitable for occupancy in accordance with state or local law. Rehabilitation expenditures that are treated as a separate new building are placed-in-service at the close of any 24-month period over which the expenditures are aggregated.

Primary Permanent Funding — the loan secured by the first lien on the project plus any additional notes secured by subordinate liens on the project, which represent additional debt service requirements intended to be paid from sale proceeds or operating income generated by the project.

Redevelopment Area 34 - An area determined by official action of the governing body of the municipality or county to be either:

- (a) An area in which a majority of the structures are residential or an area in which there is a predominance of buildings or improvements, whether residential, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, open spaces, high density of population and overcrowding or the existence of conditions which endangers life or property by fire and other causes, or any combination of these factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and is detrimental to the public health, safety, morals or welfare.
- (b) An area that because of the predominance of defective or inadequate street layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of the site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public, health, safety, morals or welfare in its present condition and use.

Reservation — a non-binding, written statement issued by the Department to the Applicant after the application round indicating that the Department has reserved for the project a specific amount of tax credits which shall receive an Allocation upon the project's satisfaction of certain conditions.

Residential Floor Area — living area per Unit measured from the interior wall surfaces of the Unit's perimeter walls.

Residential Rental Unit — An area legally licensed or permitted for use as a living space containing, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator, and sink, all of which are separate and distinct from other residential rental Units. *Federal Tax Regulations (FTR) 1.103-8(a) 8(i)*

State Housing Fund — a combination of federal and state dollars administered by the Department. Available federal dollars come from the HOME Investment Partnership Program and state dollars are made available through the Arizona Housing Trust Fund.

Supportive Housing — affordable permanent independent rental housing for persons who are homeless or have disabilities. These populations are limited, however, to the following groups: homeless; victims of Alzheimer's Disease and similar diseases; seriously mentally ill; physically disabled; developmentally disabled; migrant and seasonal farm workers; victims of AIDS/HIV; victims of domestic violence; and victims of chronic substance abuse (see Section 5.4.1 for more complete definitions of these groups). Supportive Services are provided to residents of Supportive Housing on an as-needed basis for as long as they are needed, with the purpose of helping residents achieve maximum possible self-sufficiency and maintain their permanent housing. Supportive Services may be provided directly by the Owner or through coordination with existing service agencies and may be delivered through a combination of both on- and off-site service delivery mechanisms, with the provision that an on-site service coordination capacity must be maintained.

Supportive Services — services such as attendants, housekeeping, assistance with activities of daily living, transportation, and training provided by the Owner to help residents maintain their lifestyle and achieve self-sufficiency.

Unit — any accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation (e.g. a residential dwelling, consisting of one apartment, one single family home, one half of a duplex, etc.). Such accommodations may be served by centrally located equipment, such as air conditioning or heating.

## 2. The Allocation Process

### 2.1. Conflict of Interest and False Filing

**2.1.1. Conflict of Interest.** *Applicants are advised that the Arizona Low-Income Housing Tax Credit Program is covered by the conflict of interest provisions of A.R.S. 38-511, which authorizes the State of Arizona to, within three years, cancel any contract, without penalty or further obligation, made by the State, if any person significantly involved in initiating, negotiating, securing, drafting, or creating a contract on behalf of the State, at any time while the contract is in effect, is an employee, agent or consultant for any other party to the contract. The statute also allows the State to recoup any fee or commission paid to the person. Solely for the purposes of A.R.S. Section 38-511, "Cancellation of political subdivision and state contracts," any Reservation or Allocation (Certificate of Reservation or Binding Commitment, Carryover Allocation, or Final Allocation on IRS Form 8609) between the Applicant and the Department constitutes a contract.*

**2.1.2. False Filing.** *An application, including all exhibits, appendices and attachments thereto, made to the Arizona Department of Commerce for an award of low-income housing tax credits (including any materials filed at a later time with the Department in connection with an application) is considered to be an "instrument" for the purposes of A.R.S. Section 39-161. The knowing inclusion of any false information in or with the Application is considered a class 6 felony, as prescribed by that statute. Furthermore, such an act will result in the barring of the Applicant and members of the project team from future awards of low-income housing tax credits in the State of Arizona. In addition, false filing may be subject to the provisions of A.R.S. Section 13-2311, "Fraudulent schemes and practices; willful concealment...."*

### 2.2. Application and Review Process

Each Applicant must submit two (2) copies of a complete and accurate application for each tax credit project. Subject to Allocations made to priority projects as set forth herein, all applications will be scored in a competitive review process utilizing the criteria listed herein. The Department will take the following steps in processing applications and reserving and allocating credits:

#### 2.2.1. Scoring

- a. Determine score.
- b. Determine the projects qualifying as set-asides under 1.3.3.
- c. Tentatively rank projects based on priority projects, set-asides, and score, as set forth in this QAP under Section 5.4. and upon the amount of credit available for Reservation.
- d. Publish tentative Reservation and waiting lists.
- e. Open the Governor's Discretionary Set-Aside for applications (see Section 5.4.2).

**2.2.2. Threshold Review.** Determine whether projects on the tentative Reservation list and any project(s) selected for the Governor's Discretionary Set-Aside meet the threshold criteria as provided herein. If threshold criteria are not met, the Department in its sole discretion may contact the Applicant for correction of deficiencies. The Department will consider any supplemental documentation for threshold purposes only, and will not consider the supplemental information in scoring the application.

During the threshold review, it is possible that incurable defects will be discovered in an application. If so, the application will be removed from the Tentative Reservation list. Similarly, during the underwriting process defects such as arithmetic errors or unfilled funding gaps may cause applications to be removed from the tentative Reservation list.

The threshold review will include a review for geographic distribution of the projects on the tentative Reservation list. See Section 1.3.3.1, "Allocations to Priority Projects."

**2.2.3. Underwriting.** Conduct the first of three underwriting reviews of projects on the tentative Reservation list. Establish the amount of the tentative tax credit reservation following the procedures at Section 1.3.4, "Credit Ceiling," and in Section 7 "Underwriting" of this Allocation Plan.

**2.2.4. Reservation.** Approve Reservation of credit for winning projects and issue a final Reservation and waiting list (approximately three months after application deadline):

- a. Issue a tentative award letter.
- b. Issue a Certificate of Reservation following satisfaction of any contingencies and payment of Reservation fees.

**2.2.5. Carryover Allocation.** The deadline by which a project must meet the 10% test will be the later of either December 31, 2002 or six months after the date of the credit allocation.

- a. Conduct second of three underwriting reviews of project.
  - b. Approve and issue Year 2002 credit Allocation, or,
  - c. Approve carryover Allocation.

**2.2.6. Construction Loan Closing.** Request an updated application (Form C) and conduct a second underwriting for all projects funded in part by the State Housing Fund, prior to construction loan closing.

**2.2.7. "Placed-In-Service" or Final Allocation.**

- a. Conduct final underwriting review of project.
- b. Approve final tax credit Allocation
  - c. Reduce tax credit dollar amount if indicated by third underwriting.
  - d. Finalize Extended Use Agreement.
  - e. Issue Form 8609.

**2.2.8. Monitoring.** Monitor project to ensure compliance with program regulations and the Extended Land Use Agreement (see Section 11. "Monitoring").

### 3. Threshold Review

To ensure that all projects have a high probability of completion, the following threshold criteria must be met. The Department may determine at any time, in its sole discretion, that credits reserved in a Reservation or awarded in a carryover Allocation be returned to the Department.

The Applicant must submit two (2) copies of a **complete and accurate application** organized in prescribed sequence and format, as required by this QAP and by the “Arizona Year 2002 Low Income Housing Tax Credit Program Application Forms and Instructions,” together with the correct non-refundable application fee. After the application deadline, the Department will accept no additional information from the Applicant or from anyone acting in support of the Applicant or any member of the Development Team. Notwithstanding the foregoing, the Department may make inquiries to the Applicant, architects, engineers, financial institutions and the local jurisdictions in order to complete the threshold documentation or to verify the information submitted. The Department will consider such supplemental documentation **for threshold purposes** only, and will **not** consider the supplemental information in scoring the application.

**Note:** *Any documentation that requires the signature of the Applicant may be signed only by an authorized representative of an existing legal entity. Forms signed in the name of an entity that has not been formed will not be accepted.*

#### 3.1. Threshold Eligibility

**3.1.1. Applicant’s Certifications.** The Applicant is required to make certain certifications in the Applicant Affidavit, Release, and Oath (included in Form C, “Low-Income Housing Tax Credit Application,”) including a certification that the Department’s minimum design features will be complied with in the construction of the project and that, if they are not, all credits awarded to the project will be surrendered to the Department.

*Enclose at **Tab C** of the Application a fully executed Applicant Affidavit, Release, and Oath (included in Form C, “Low-Income Housing Tax Credit Application”).*

**3.1.2. Qualified Project.** The project must be a qualified residential rental project, which meets the requirements of Section 42 of the Code.

*Enclose at **Tab D** of the Application an opinion of counsel regarding “qualified project.” See “Sample Legal Opinion Letter.”*

**3.1.3. Placed in Service.** The project must not have been **placed in service prior to the date the application is submitted.** For purposes of this matter, the Department has adopted the Treasury’s definition of “placed in service.”

*Enclose at **Tab D** of the Application an opinion of counsel regarding “placed in service.” “Sample Legal Opinion Letter.”*

**3.1.4. Disqualification.** An application will be disqualified without further review if, in the Department's discretion, the Applicant (including any Person Controlling the Applicant) or other members of the Development Team have: (i) failed to make satisfactory progress in the construction or rehabilitation of any project previously allocated credits (see Section 3.1.6 below); (ii) not corrected compliance problems in other Section 42 projects in a timely manner; (iii) not paid when due the Department's compliance monitoring fees or any other fees required by the Department; (iv) filed with the Department any materials containing false information, documents, or instruments, whether in the Year 2002 or prior program years; (v) failed to build a previously-approved project in conformity with the terms, provisions, and agreements contained in the application submitted to the Department, in the applicable year's Allocation plan, and in the Extended Use Agreement for the project, including but not limited to the terms, provisions and agreements to conform to the minimum design standards, install equipment, amenities, or design features; to serve a specific target population; to provide a specific mix of Unit sizes; to serve priority populations with special housing needs; or to set aside a certain number of Units for persons at or below a specific percent AMGI; or, (vi) has been convicted, are currently under indictment or complaint, has been found liable or is currently accused of fraud in The State or any other state, or misrepresentation relating to: (1) the issuance of securities, (2) the development, construction, operation, or management of any tax credit or other government subsidized housing program, (3) the conduct of the business of the applicable party, in any criminal, civil, administrative or other proceeding, or (4) any filing with the Internal Revenue Service in any state.

**Note:** *In addition to the disqualification from the current and future years' tax credit programs, the filing of false information, documents and instruments with the Department will carry the penalties set forth in A.R.S. Section 39-161.*

*Concerning item (vi) above, please enclose at Tab H of the Application a fully completed Form H, "Development Team Experience," including a complete response to Item 12 of Form H.*

**3.1.5. Tax Information Authorization.** Applicants are required to complete copies of IRS Form 8821, "Tax Information Authorization," authorizing the Arizona Department of Commerce as "Appointee" to receive from the IRS available information regarding any Financial Beneficiary's (see Section 1.6, "Definitions") conduct of its business with the IRS relating to the Low-Income Housing Tax Credit Program. See Arizona Year 2002 Tax Credit Application Forms and Instructions (Form C). Such information received from the Internal Revenue Service may be used by the Department in its sole discretion to disqualify an application pursuant to Section 3.1.4 above.

*Complete and enclose at Tab Z of the Application copies of IRS Form 8821, "Tax Information Authorization," for each "Financial Beneficiary" of the project.*

**3.1.6. Satisfactory Progress.** Applicants who have previously received a Reservation or Allocation of tax credits in the State or any other state will be required to have made "satisfactory progress" and be in substantial compliance with the requirements of federal law with respect to such prior projects before any new application is considered. "Satisfactory progress" means that the Applicant including any Person Controlling the Applicant has presented sufficient evidence, as determined by the Department in its sole discretion, that the benchmarks for various phases of the development of the project, such as financing, construction or rehab, as established in the project schedule (Form X) submitted in the tax credit application, or as may otherwise be reasonable or as amended and approved by the Department, have been met. If satisfactory progress has not been demonstrated, the Department, in its sole discretion, may recapture the Reservation or Allocation

of tax credits and decline to review any new application from the same Applicant or Development Team or a member or members of the Applicant or Development Team

**3.1.7. Developer Capacity.** The Developer must demonstrate in its application that it possesses the experience and capacity to successfully complete a proposed project and any other projects under construction, and that it has developed projects of comparable size and financing complexity. If such capacity and experience are not demonstrated, the Department, in its sole discretion, may reject the application. The Department reserves the right to check the references and credit of the Applicant and other Development Team members, as it deems necessary to determine Developer capacity.

*Attach at **Tab H** of the Application lists of residential rental housing projects developed by the Developer, any co-Developer, and any person who either owns part of the Developer or is an executive-level employee of, officer of, or contractor to the Developer. (Include the name of the Developer or other person, name of the project, address of the project, city, state, number of rental Units, and the role the Developer played in development of the project.)*

**3.1.8. Extended Use Period.** Pursuant to Section 42 of the Code, the State requires that all recipients of credits enter into the initial 15-year compliance requirement and an additional extended-use restriction for at least an additional 15 years after the initial compliance requirement, extending the total commitment to a minimum of 30 years. Prior to the issuance of Forms 8609, the Owner of the project will be required to execute and record with the county recorder where the project is located, such an extended use agreement, which shall constitute a restrictive covenant running with the property upon which the project is located. The agreement shall be in the form provided by the State and is available from the Department.

## **3.2. Threshold Documentation**

**If the correct forms or required information are not submitted at the appropriate Tabs, the application will not meet the threshold criteria. The following must be submitted:**

**3.2.1. Identity of Interest.** There exists an “identity-of-interest” between the Developer and any other Development Team member or prospective member if there is **any** financial or ownership interest, direct or indirect, between the Developer and the other Person (see 1.6. “Definitions.) Where there is such an identity-of-interest between the Developer and the Builder, total developer, consultant, and builder fees will be limited to the developer fee in the table in Section 7.2.1.1 plus builder’s overhead and general requirements. The Department will review other identities of interest among members of the Development Team and may, in its sole discretion, reduce fees to be paid by the Developer to another Development Team member.

*Enclose at **Tab H** of the Application Form H, “disclosing any financial or ownership interest, direct or indirect, between members or prospective members of the Development Team. Specifically, the Applicant is required to list at Tab H every owner of both the Developer and the Builder.*

**3.2.2. Non-Profit Projects.** “Non-profit projects” are projects in which a qualified non-profit organization (i.e., an IRC § 501(c)(3) or (4) organization) owns an interest (directly or through a partnership) and materially participates within the meaning of IRC § 469(h)(i) in the development and operation of the project throughout the compliance period. **The non-profit organization may not itself be an Affiliate of or controlled by a for-profit organization.** Material participation is defined at IRC § 469(h)(i) as involvement “in the operations of the activity on a basis that is regular, continuous and substantial.” The State defines “substantial” as having the authority or right to participate in the decision-making process for design, location, materials, management, etc. of the project.

In addition, the State requires that the non-profit organization provide on a best-evidence basis 1) IRS documentation of status 501(c)(3) or 501(c)(4) dated within a year of the application; 2) description of the nonprofit organization and its activities, to include the promotion of affordable housing in its charter; 3) evidence that it or its officers or members have experience in developing or operating low-income housing; 4) evidence (in the letter of intent received from the investment syndicator) that it holds the right of first refusal to acquire the project following the fifteen-year compliance period; 5) evidence that it has developed an operating plan for the project covering its role in developing and managing the project, including its participation in the Developer fee; its control of project reserves; its plan for maintenance, replacement, and renovation; and its oversight of marketing and of compliance with Section 42 of the Code; 6) names of board members of the nonprofit organization; 7) names and resumes of all paid full-time staff; 8) sources of funds for annual operating expenses and current programs; 9) evidence of financial capacity in the form of balance sheets and income statements for the past two years; and 10) Form G, "Certificate of Non-Profit Participation," certifying that the nonprofit organization will materially participate in the development and operations of the project on a basis which is regular, continuous, and substantial.

*To satisfy threshold requirements for Non-Profit Projects, enclose at **Tab G** proof of 501(c)(3) or (4) status in the form of an Internal Revenue Service determination letter dated within the year of the application or other evidence that the non-profit is a current non-profit entity, also dated within the year of the application. In addition, enclose at Tab G Form G, "Certificate of Non-Profit Participation," and all other evidence required in the paragraph immediately above.*

**3.2.3. Existing Legal Entities.** Evidence that the Applicant and Developer are existing legal entities authorized to transact business in the State of Arizona. Individuals and Tribal Governments, however, are exempt from submitting proof that they are existing legal entities.

Corporations. If the Applicant or Developer is incorporated in Arizona, an Arizona Certificate of Good Standing, issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the application deadline, should be submitted. Applicants and Developers incorporated in another state and doing business in Arizona should submit the following: a Certificate of Good Standing or its equivalent from the state of incorporation dated not earlier than 30 days prior to the application deadline **and** an Arizona Certificate of Authority to Transact Business in Arizona, issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the application deadline.

Limited Partnerships. If the Applicant or Developer is a limited partnership organized under the laws of Arizona, an Arizona Certificate of Limited Partnership, issued by the Arizona Secretary of State and dated in the year of the application, should be submitted. Applicants and Developers organized under the laws of another state and doing business in Arizona should submit the following: a Certificate of Limited Partnership or its equivalent from the state of organization, dated in the year of application, **and** an Arizona Certificate of Foreign Limited Partnership from the Arizona Secretary of State dated in the year of application.

Limited Liability Companies. If the Applicant or Developer is a limited liability company organized under the laws of Arizona, an Arizona Certificate of Existence, issued by the Arizona Corporation Commission and dated in the year of application, should be submitted. Applicants and Developers organized under the laws of another state and doing business in Arizona should submit the following: a Certificate of Existence or its equivalent from the state of organization dated in the year of application **and** an Arizona Certificate of Authority to Transact Business in Arizona issued by the Arizona Corporation Commission and dated in the year of application.

Similar documentation for the entity that will own the project, if not the Applicant, will be required at the time of submittal of materials for the carryover Allocation (see 10.1 below).

*Enclose at **Tab F** of the Application the Certificates of Good Standing, Certifications of Limited Partnership, or Certificates of Existence required by this section.*

**3.2.4. Land Control.** Evidence of land control and, in addition, a “Status (Condition) of Title Report” for the property dated within 30 days of the date of the application.

Evidence of land control may be satisfied by a deed, purchase agreement, option, lease agreement (for a term at least equal to the duration of the Extended Use Agreement), or a resolution by a governmental agency if the agency is the seller.

The Status of Title Report must identify the owner of the land, who may be the Applicant or Co-Applicant, Developer or Co-Developer, or Owner or a person with whom the Applicant or Co-Applicant, Developer or Co-Developer, or Owner has a contract or option for purchase of the land. The owner of the land may also be an entity owning the Applicant or Co-Applicant, Developer or Co-Developer, or Owner. Any option, with available extensions, should be of sufficient duration that the Applicant can close on the land prior to year-end, subject to the issuance of the tax credit Reservation.

This threshold will be met for projects to be located on governmental or Tribal lands if the Applicant presents evidence of (1) an agreement between the Project Owner/Developer and the Tribe or other government to enter into a lease of specific real property for a term at least equal to the duration of the Extended Use Agreement, and (2) a resolution of a Tribe or other governmental agency authorizing the Tribe or governmental entity to enter into the agreement. If only a resolution is available, a waiver must be requested according to the procedures in 7.2.6, “Exceptions/Waiver Requests.” For Tribal leases only, the length of the lease shall be considered to be the original term of the lease plus the term of any option to renew, provided that the option to renew is held solely by the project Owner/Developer. If only a tribal resolution is available or the tribal lease term plus option does not equal the required duration, a waiver must be requested in accordance with 6.2.5, “Exceptions/Waiver Requests.”

In cases requiring use of powers of eminent domain by the local jurisdiction, the Applicant should enclose evidence that a condemnation lawsuit has been filed for specific parcels of real property together with the court’s order of possession.

Any purchase agreement, option, or lease agreement must specify a specific purchase or rental amount.

*Enclose at **Tab I** the documentation (deed, purchase agreement, option, lease agreement, and Status (Condition) of Title Report, etc.) required by this section.*

**3.2.5. Acquisition of Land and Buildings.** Applicants are required to acquire land and buildings from unrelated third parties in arms-length transactions. Requests for a waiver of this requirement must be submitted with the application and include a full justification, including an appraisal prepared by an Arizona Certified General Real Estate Appraiser, which is less than six months old and will be granted in the sole discretion of the Department.

**3.2.6. Financial Ability to Proceed.** Demonstration of financial ability to proceed with the project, which, at a minimum, must include:

For both construction-period and permanent financing, submission of a Letter of Interest or Intent from each funding source for, in the aggregate, the full amount of the project’s construction and permanent financing needs (including tax credit investors). For all government sources of funds, submission of a copy of the Award Letter is required. However, Applicants seeking funding from a governmental or quasi-governmental funding source, other than State Housing Funds, that has not

issued a funding decision prior to the Department's application deadline must submit in the application a Letter of Interest or Intent from the funding source. The Letter of Interest or Intent from the permanent loan source should include the minimum debt service coverage ratio and loan-to-value ratio used by the lender to determine the financing (not required if the permanent loan source is a governmental or tribal entity).

The Letter of Interest or Intent from each lending source (permanent and construction) must include (i) amount of the loan, (ii) interest rate, including all points (iii) amortization period, (iv) term of the loan, (v) loan-to-value factor and/or maximum debt service coverage allowable, (vi) all commitment and/or origination fees, (vii) a description of all other fees directly attributed to the funding of the loan. The letter of Interest from the Investor must include the first year credit period.

For a Developer's loan or Deferred Developer's Fee, insert in the Permanent Financing Table of the Application, the amount needed to balance sources of funds with Total Estimated Cost. Documentation for Deferred Developer Fee will be required with the final underwriting package.

The Department reserves the right to determine, in its sole discretion, whether the Letters of Interest or Intent, Award Letters, or Commitment Letters are satisfactory; whether a lender or investor possesses the financial capacity to make a specific loan or investment; and whether lenders are licensed to conduct business in the State. A change in the financing source or financing terms after Reservation of credits may, in the sole discretion of the Department, result in all or a part of the credits being recaptured or reduced by, or returned to, the Department.

The Application must demonstrate that the project will be financed in such a manner that maximum mortgage payments supportable by project cash flow are made by the Owner. Applications with coverage ratios above 1.30 (or 1.20, as applicable) will be rejected unless the Applicant or lender has submitted a waiver request justifying a higher debt service coverage. Coverage ratios above 1.30 (or 1.20, as applicable) must be approved by the Department. Applications submitted with coverage ratios below 1.00 will be rejected unless the Applicant provides an irrevocable source of adequate additional funds. See also Section 7.3.3, "Permanent Financing Provisions."

Applications are not to be submitted with unfilled funding gaps, the Department is authorized to contact the Applicant to resolve any funding gaps resulting during the Department's underwriting. See Section 7.3.4, "Funding Gaps."

*Enclose at **Tab K** of the Application the Letters of Interest or Intent, Award Letters, and Commitment Letters required by this section.*

**3.2.8. Market Demand Study.** The Department requires an independent, comprehensive, current (less than six months old), and professional market study for each project. A market analyst, unaffiliated with the Applicant or the Developer and experienced in multifamily rental housing, should prepare the study.

The Department may reject an application and remove it from consideration for tax credits if it determines, in its sole discretion, that (1) the applicant's Market Demand Study is not satisfactory in form, content, or organization, or (2) based on information submitted in the applicant's Market Demand Study or information obtained by the Department from other sources, market demand and conditions do not justify the project as proposed. The Department will consider all facts and circumstances in making this determination, including the possible disruption caused by unneeded Units entering the market at low rents. If a project utilizes more than 80% of "**new demand**" (see below), the Department may, in its sole discretion, seek additional documentation that the project will not actually weaken its market. As a protection against over-saturation of low-income markets and to ensure absorption of new projects, the Department will approve no more than one family,

one elderly, and one special needs category project (one project for each special needs category) per tax credit round in market areas with a population of 50,000 or less.

The objective of the market demand study is to demonstrate strong market demand for the specific project. The Department also wants to ensure that there is not undue economic disruption to other comparable properties in the same marketplace. Data or a study originated by the Applicant must be supported by independently produced data. The demand for the proposed Units must represent new demand, not current residents at existing, comparable properties. Acceptable indicators of **“new demand”** will include current market data reflecting growth estimates for renter populations, as modified by current data on rental housing Units planned, under construction, or recently added to the market. “New demand” may be augmented by counts of homeowners re-entering the rental market. A third acceptable component of “new demand” is residents living in substandard housing or otherwise not able to be served by available low-income housing. A letter from the local jurisdiction must fully support the number of residents in this third component. The market analyst should clearly document what percentage of new demand will come from growth in existing population of the primary and secondary market areas and what percent will be associated with in-migration from outside these market\_areas.

In its review of supply and demand, the market demand study must focus on the type of low-income housing project proposed (i.e., elderly, large family, populations with special housing needs) as well as the income and rent levels proposed for the project. The study must demonstrate strong demand for the type of low-income housing project proposed, as evidenced by low vacancy rates and rapid absorption rates in comparable projects in that sub-market. The market analyst is required to solicit the views of appropriate local government officials (planning, housing, or economic development officials) concerning demand for the Project in the sub-market and to record the views of the government officials in the market study. The Applicant must provide these officials a copy of the Market Study as soon as it is available. For Arizona communities of 100,000 population or more, the appropriate officials are:

City of Phoenix	Liz DeMichael	(602) 262-4785
City of Tucson	Emily Nottingham	(520) 791-4171
City of Mesa	Wayne Balmer	(480) 644-2644
City of Glendale	Lillian Hamilton	(623) 930-2180
City of Scottsdale	Paul Ludwick or Brian Swanton	(480) 312-7647
City of Tempe	Dave Fackler	(480) 350-8331
City of Chandler	Kurt Knutson	(480) 782-3200

The market analyst should demonstrate a clear numerical comparison of the market demand and supply for the type of proposed housing. All assumptions and sources of data must be clearly documented.

In selecting comparables for the proposed project, the market analyst should treat separately the three segments of the overall market: 1) existing tax credit projects; 2) market-rate properties; and 3) properties with heavy rental subsidy such as HUD project-based or RD 515. The analyst is required to detail market conditions for each segment, including actual or estimated income generated by the properties, current operating expenses, amenities offered, and general condition of the properties. In its review of all three segments, the Department will take into account possible negative effects of the proposed project on existing properties, including scattered-site facilities owned by private citizens.

The market demand study must also include a **summary page** highlighting the following: the project’s market area; the specific target population; occupancy levels and vacancy rates of comparable projects within that target population; absorption patterns (rates over time) for comparables within that target population which have come recently (during the last 24 months)

into the market; rents and operating expenses per Unit per year prevailing in the market area for market-rate, tax credit, and heavily subsidized Units; current waiting lists from the Public Housing Authority in the area; and other data indicating the market demand for the specific project.

Following its review of the market study, the Department, in its sole discretion, may request additional market information from the Applicant, or a third party market analysts and possibly additional comment from the local government before reserving tax credits, and may decline to reserve credits if the proposed project is likely to disrupt the local housing market.

In addition, the local government entity must submit a letter commenting specifically on the conclusions of the market study concerning the demand for this specific project in the market area and detailing any disagreements it may have with the market study. The Department, in its sole discretion, may require a more detailed adjunct to the market study before awarding additional credits in a community already having a concentration of tax credit projects.

*Enclose at **Tab L** of the Application the market demand study for the project, in organization, form, and content substantially as required by this section.*

**3.2.9. Capital Needs Assessment.** Applicants are required to provide the Department a Capital Needs Assessment (CNA) for all rehab and acquisition/rehab projects. The CNA shall examine and analyze the following building components:

1. Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities and lines;
2. Structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system, and drainage;
3. Interiors, including unit and common area finishes (carpeting, vinyl tile, plaster walls, paint condition, etc.), unit kitchen finishes and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors;
4. Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, and fire protection; and
5. Elevators.

The CNA shall include the following major parts:

- Critical Repair Items. All health and safety deficiencies, or violations of housing quality standards, requiring immediate remediation. If the project has tenants, these repairs are to be made a first priority
- Two-Year Physical Needs. Repairs, replacements, and significant deferred and other maintenance items that need to be addressed within 24 months of the date of the CNA. Include any necessary redesign of the project and market amenities needed to restore the property to the standard outlined in Sections 7.2.4.2 through 7.2.4.4. These repairs are to be included in the development budget and funded by construction-period sources of funds.
- Long-Term Physical Needs. Repairs and replacements beyond the first two years that are required to maintain the project's physical integrity over the next twenty (20) years, such as major structural systems that will need replacement during that period. These repairs are to be funded from the reserves for replacement account.

- Analysis of Reserves for Replacement. An estimate of the initial and monthly deposit to the reserves for replacement account needed to fund long-term physical needs, accounting for inflation, the existing reserves for replacement balance, and the expected useful life of major building systems. This analysis should not include the cost of the critical repair items, the two-year physical needs, or any work items that would be treated as operating expense. Requests for monthly deposits above the \$300 per unit per year limit (Section 7.3.1) should be contained in a fully justified waiver request.

The professional preparing the CNA shall:

1. Be an architect or mechanical/structural engineer licensed in the State.
2. Conduct site inspections of a minimum of 35 percent of all Units. Units shall be randomly sampled while taking into consideration the unit size mix, e.g., one-bedroom, two-bedroom, etc. All vacant units, however, must be inspected.
3. Identify any physical deficiencies as a result of a) visual survey, b) review of pertinent documentation, and c) interviews with the property owner, management staff, tenants, community groups, and government officials.
4. Identify physical deficiencies, including critical repair items, two-year physical needs, and long-term physical needs. These should include repair items that represent an immediate threat to health and safety and all other significant defects, deficiencies, items of deferred maintenance, and material building code violations that would limit the expected useful life of major components or systems.
5. Explain how the project will meet the requirements for accessibility to persons with disabilities. Identify the physical obstacles and describe methods to make the project more accessible, listing needed repair items in the rehabilitation plan.
6. Prepare a rehabilitation plan, addressing separately all two-year and long-term physical needs.
7. Prepare a replacement reserve schedule, including an estimate of the initial and annual deposits, accounting for inflation and based on a twenty-year term.
8. Determine the cost/benefit of each significant work item in the rehabilitation plan (items greater than \$5,000) that represents an improvement or upgrade that will result in reduced operating expenses (e.g., individual utility metering, extra insulation, thermopane windows, setback thermostats). Compare the cost of the item with the long-term impact on rent and expenses, taking into account the remaining useful life of building systems.

*Enclose at **Tab Y** of the Application the Capital Needs Assessment for the rehab or acquisition/rehab project.*

**3.2.10. Utility Allowance Schedule.** The Applicant must include in the application a current utility allowance schedule, which is the basis for the utility allowances, entered on page 6 of the application. The utility allowance schedule, published by the local Public Housing Authority, utility company, or other source (see IRS Regulation 1.42-10 to determine the appropriate source of the schedule), must be accompanied by a letter from the issuing authority dated within 30 days of the date of application submission. The letter from the issuing authority must state that the utility allowance schedule submitted is the current schedule.

*Enclose at **Tab V** of the Application the utility allowance schedule for the project, along with the letter of certification from the issuing public housing authority, utility company, or other appropriate source.*

**3.2.11. Local Government Review.** The Department will seek a letter of support from the local government entity in the form of Exhibit B. The local government's recommendations should take into account any input received from affected neighborhood groups and tenant organizations. *The letter shall be signed by the City or County Manager (or other appropriate governmental official with specific knowledge of affordable housing needs) or be adopted by resolution of the governing body.* If the local government entity declines to provide the letter, the application will receive no further review.

**3.2.12. Exceptions/Waiver Requests.** To be considered for an exception or waiver of applicable policies or criteria, set forth in the Allocation Plan, Applicants, lenders, or syndicators must request the waiver or exception in writing with full justification as detailed in Section 7.2.6. The justification should include quantities, itemized labor and materials bare costs, markups, taxes, etc. If this detail is not supplied, the waiver will not be granted.

Waivers or exceptions will be granted only at the time of application and will not be granted without a written, fully justified request from the Applicant. Waiver requests of any threshold item not submitted at the time of application will not be considered.

*Enclose at **Tab A**, as an attachment to the Applicant's cover letter, a separate written request for each waiver of the Department's policies or criteria.*

**3.2.13. Disclaimers.** The Department's review of documents submitted in connection with the tax credit application process is for its own purpose. The Department makes no representations to the Applicant, Developer, Owner, or syndicator or to any other person as to project eligibility or compliance with the Code, Treasury Regulations, or any other laws or regulations governing the Low Income Housing Tax Credit program. No member, officer, agent or employee of the Department shall be liable for any claim arising out of, or in relation to, any project or the tax credit program. Applicants will be required to execute a release and indemnification of the Department and related parties prior to issuance of the Form 8609.

## 4. Scoring

*Projects will be scored in twelve categories:*

<u>Historic Preservation</u>	<u>40</u> points
Acquisition/Rehabilitation	25points
<u>Tenant Ownership</u>	<u>25</u> points
City, Town or County not receiving an allocation of Tax Credits in past 5 Years	25points
Developer Experience	25points
Priority Market Need	20 points
Community Revitalization	20points
Family Projects	20 points
Special Needs	20 points
Project Readiness	15points
Elderly Project	10 points
Mixed Income Developments	5 points
<b>TOTAL AVAILABLE POINTS</b>	<hr style="width: 100%; border: 0.5px solid black;"/> 250

The Department will conduct scoring based solely on the information submitted in the application. If there are inconsistencies in information submitted in the application, and these inconsistencies affect the scoring of the application, the Department in its sole and absolute discretion will review the entire application and reach a determination concerning the inconsistencies using only the information presented within the application.

A self-scoring sheet will be provided with the application and will require the Applicant's signature to be submitted behind the cover letter at Tab A.

*Note: If the correct forms or required information are not submitted or are not submitted at the correct Tab, the application will not be awarded points.*

*Employee Units (see Section 1.6, "Definitions") will be counted by the Department as Low-Income Units in making scoring calculations.*

The Applicant's commitment to serve specific populations as set-asides shall be binding commitments for the duration of the extended use period and shall be included in the recorded Extended Use Agreement. The Department will monitor resident files to determine that the set-asides are being honored.

### **4.1. Historic Preservation (up to 40 points)**

20 points- for a Historic Preservation Project- (i) A structure individually listed in the National Register of Historic Places, or; (ii) A structure certified by the National Parks Service as contributing to a Register District. A Register District is a designated area listed in the National Register, or listed under State or Local Statute as substantially meeting the requirements for

listing of districts in the National Register. (At Tab P, submit a letter from the National Parks Service or local SHPO office).

20 points-for projects that have received a preliminary approval from the National Parks Service meeting the Secretary of Interior's Standards for rehabilitation. (At Tab P, submit the preliminary approval for rehabilitation work from the National Parks Service).

**4.2. Acquisition/Rehabilitation (up to 25Points possible).**

<b>Cost of Rehab per Unit</b>	<b>Points Awarded</b>
<b>\$15,000+</b>	<b>25</b>
<b>10,000-14,999</b>	<b>15</b>
<b>5,000 – 9,999</b>	<b>10</b>

Projects containing Acquisition/Rehab and New Construction will only be given points in this category if rehab units total 50% or more of the total project and the Acquisition/Rehab is at least 20 units. The type of rehabilitation improvements and the amount of rehabilitation costs shall be appropriate for the project and proportionate to the benefit as determined by the Department in its sole discretion. The Department may utilize the services of a cost estimator in determining whether the rehab costs are reasonable.

*Applicants should indicate that the project is a rehab or acquisition/rehab in the Cover Letter of the Application (Tab A) and on Form C, as applicable.*

**4.3 Eventual Tenant Ownership (25 Points)**

25 points will be awarded if the project is designed for tenant ownership after the 15 years compliance period. (At Tab O, provide ownership proposal at the end of the 15 years).

**4.4. City, Town or County not receiving an Allocation of Tax Credits in past Five Years (25 Points possible).**

25 points will be awarded to projects that are located within an Arizona City, Town or County that has not had a tax credit project within its geographical limits and which has been successfully placed in service since 1995. A list of qualified Cities, Towns or Counties is available through the Department.

Note: The market study must also support the need for affordable housing as described in Section 3.2.8.

**4.5. Developer Experience (up to 25 points possible).**

Significant participation by Developer(s) with a demonstrated track record in the development/rehabilitation of residential rental housing. In scoring this category, the Department will count the number of Tax Credit Units developed by the Developer, any Co-Developer, and any person who either owns part of the Developer or Co-Developer. Units of single-family experience will be counted when the proposed project is single-family; Units of multifamily experience will be counted when the proposed project is multifamily. If serving a special needs population, the Developer should document previous development experience for the population to be served.

Scoring will be based on the type of project presented. Acquisition rehab projects will be awarded a score from the Acquisition/Rehab matrix etc.

New Construction		Acquisition/Rehab	
Units Developed	Points Awarded	Units Developed	Points Awarded
750+	25	500+	25
500-749	15	400-499	15
300-499	10	300-399	10
200-299	2	200-299	5
Less than 200	1	Less than 200	1

Attach at **Tab H** of the Application lists of residential rental housing projects developed by the Developer, any Co-Developer, Consultant and any person who either owns part of the Developer or Co-Developer. (Include the name of the Developer or other person, name of the project, address of the project, city, state, number of rental Units, and the role the Developer played in development of the project.) Include separate lists for “New Construction” and “Acquisition/Rehab”. Units cannot be included on both lists for double counting.

#### 4.6. Priority Market Need (up to 20 points possible).

Up to 20 points are awarded as follows for a combination of set-asides of Low-Income Units for populations at 50,40,30, & 20% AMGI. Rents will be further restricted for the Low-Income Units to ensure that households pay no more than 30 percent of the applicable income limit during the Extended Use Period. No more than 20 points will be awarded for these combined set-asides.

1. For residents with incomes at or below **50** percent AMGI (adjusted for family size):
  - 2 points for 10% to 39% of the Low-Income Units in the project
  - 5 points for 40% to 59% of the Low-Income Units in the project
  - 8 points for 60% to 79% of the Low-Income Units in the project
  - 11 points for 80% or more of the Low-Income Units in the project
  
2. For residents with incomes at or below **40** percent AMGI (adjusted for family size):
  - 2 points for 10% to 19% of the Low-Income Units in the project
  - 5 points for 20% to 39% of the Low-Income Units in the project
  - 8 points for 40% to 59% of the Low-Income Units in the project
  - 11 points for 60% to 79% of the Low-Income Units in the project
  - 14 points for 80% or more of the Low-Income Units in the project
  
3. For residents with incomes at or below **30** percent AMGI (adjusted for family size):
  - 5 points for 10% to 19% of the Low-Income Units in the project
  - 8 points for 20% to 39% of the Low-Income Units in the project
  - 11 points for 40% to 59% of the Low-Income Units in the project
  - 14 points for 60% to 79% of the Low-Income Units in the project
  - 17 points for 80% or more of the Low-Income Units in the project

4. For residents with incomes at or below **20** percent AMGI (adjusted for family size):

- 8 points for 10% to 19% of the Low-Income Units in the project
- 11 points for 20% to 39% of the Low-Income Units in the project
- 14 points for 40% to 59% of the Low-Income Units in the project
- 17 points for 60% to 79% of the Low-Income Units in the project
- 20 points for 80% or more of the Low-Income Units in the project

*Attach at **Tab N** of the Application Form N, "Commitment to Lower-Income Set-Aside." A set-aside of Units under this category will be a binding commitment recorded against the property in the Extended Use Agreement.*

#### **4.7. Community Revitalization Projects (20 Points Possible).**

##### Redevelopment Area (10 points)

Ten points will be awarded if the project is located in an **area** that has been designated on or before December 31, 2000 as a Redevelopment Area either by the governing body of the municipality under the provisions in Title 36, Chapter 12, Article 3 (the "Redevelopment Act") or by the governing body of the county following the same requirements and definitions of the Redevelopment Act.

Include at Tab U of the Application: (i) a copy of the municipal ordinance or resolution dated on or before December 31, 2001, by which the governing body of the municipality or county designated the area as a Redevelopment Area and (ii) a map showing boundaries of the Redevelopment Area and the location of the project within the Redevelopment Area. The map must clearly show the names of the roads, streets or other boundaries of the Redevelopment Area and also clearly reflect the location of the project on such roads or streets. If the resolution or ordinance does not include the specific boundaries of the Redevelopment Area, then also include Form U, signed by an authorized representative of the municipality or county, stating that the project is within the boundaries of the designated Redevelopment Area.

##### Qualified Census Tract (10 points)

If the project is located within a Qualified Census Tract, the project will be awarded 10 points.

#### **4.8 Family Projects (20 points possible)**

Twenty points will be awarded for projects in which at least 50% of the Low-Income Units are three or four bedrooms.

#### **4.9. Special Needs (20 points possible).**

Twenty points will be awarded to projects serving 100% special needs populations as described in Section 1.3.3.1 (4).

*If the project seeks an award of points for committing to a set-aside of Low-Income Units for transitional or permanent housing for groups with special housing needs, including enhanced services or conveniences for the populations described in Section 1.3.3.1 (4), attach at **Tab M** of the Application, “Commitment to Set Aside Units,” along with Forms M and M1 as required*

**4.10. Project Readiness (up to 15 points possible).**

Ten points are awarded for successful documentation that zoning is in place for all project land and five points if the applicant has site plan approval

*Note: Developers should allow sufficient time for the zoning official to research the question before completing Form J or the equivalent document.*

Zoning that has been conditionally approved by the local jurisdiction will receive points only if the Applicant submits documentation from the local jurisdiction stating the specific conditions to be satisfied and the Department in its sole discretion is satisfied that the conditions are minor.

For projects located on Tribal lands, a Tribal resolution may be used to substitute for zoning certification. The Tribal resolution should state that the project will be located in an area where the zoning requirements established by the Tribal government permit the project or, if there are no specific zoning requirements, in an area in which the Tribal government authorizes the project to be constructed and operated.

*Attach at **Tab J** of the Application Form J, “Project Zoning Certification and site plan approval” or an equivalent document, signed by the community zoning official, stating the zoning classification of the property and whether such zoning 1) allows construction of the project, 2) complies with the community’s General Plan, and 3) is vested. Also attach documentation on conditions to be satisfied if zoning was conditionally approved and /or a Tribal resolution if either is applicable. Form J will incorporate both Zoning and Site Plan approval.*

**4.11. Elderly Projects (0, 1 or 2 Bedroom Units Only - 10 points possible).**

A total of 10 points for projects serving 80% or more elderly individuals (at least one individual in the household must be 55 years of age or over) and offering all necessary supportive services. The tenant file must include proof of date of birth.

*Applicants should indicate this intention on Form C of the Application and enclose at **Tab M** of the Application Form M, “Commitment to Set Aside Units,” along with the supporting documentation required by that form. ,*

**4.12. Mixed Income Developments (up to 5 points possible).**

This category offers an incentive to develop projects for mixed income populations. Points will be awarded based on the percentage of market-rate Units in the project (total market rate Units divided by total Units in the project):

<b>% Market Rate Units</b>	<b>Points Awarded</b>
50% or more	5
40-49%	4
30-39%	3
20-29%	2

10-19%	1
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## **5. Project Ranking**

### **5.1. State Discretion $\frac{3}{4}$ Projects Not Considered**

The State of Arizona reserves the right not to reserve or allocate tax credits for any project(s), regardless of ranking under the project scoring criteria, if it determines, in its sole discretion, that an Allocation for such project does not further the purpose and goals set forth in Section 42 of the Internal Revenue Code or in the State's Year 2002 QAP, or otherwise attempts to circumvent the goals and requirements of the QAP.

### **5.2. Tentative Reservation List – Removal**

If and when the Department removes a project from the tentative Reservation list, its place will not necessarily be taken by the next project on the tentative waiting list. This is because the removed project may have been selected to fulfill a priority projects category or a setaside (Sections 1.3.3.1. and 1.3.3.2.). If this is the case, the Department will go to the next highest scoring project within the same priority category or setaside group rather than to the next project on the tentative waiting list.

### **5.3. Due Diligence**

The State reserves the right to make any inquiries to verify and audit the information submitted with an application for tax credits, carryover Allocation, or final Allocation, or any other documentation submitted from time to time in connection with the project.

### **5.4. Ranking**

Each project will be reviewed and assigned points based on the scoring criteria set out in this QAP. Each project must compete for available credits and will be ranked based on the points received. The Applicant must provide full documentation to receive points. An award will not be made, however, if "new demand" for the project has not been demonstrated in the project's market demand study or if an award would violate the Department's guideline of no more than one family, one elderly, and one special needs category project (one project for each special needs category) per tax credit round in market areas with population of 50,000 or less (Section 3.2.8). As a priority and at the sole discretion of the Department, tax credits will be awarded first to the highest scoring applications in each of the following Priority Project categories.

#### **5.4.1. Priority Projects**

1. One project located in a Governor's Action Community. See Section 1.3.3.1 (1) for the Communities and Boundaries
2. A project funded partially by HUD HOPE VI or a .
3. Two Acquisition/Rehabilitation projects (one urban and one rural) in which 100% of the Units undergo rehab.
4. One project allocating 100% of its Units to Special Needs, serving any combination of the eight categories as outlined in part 4 of Section 1.3.3.1.
5. One project located on Tribal lands.
6. One or more projects funded in part by the RD 515 program. This priority category is limited to eight (8) percent of annual credit authority.
7. One project located in the border counties of Cochise, Santa Cruz, Yuma, .
8. One project located in each of the four rural Council of Governments Regions (see 1.6, "Definitions"), if this priority has not been satisfied already by the selections in items 1-7 above.

#### **5.4.2. Additional Set-Asides**

1. Governor's Discretionary Set-Aside (\$700,000 of the State's 2001 annual credit authority- see Section 1.3.3.2.)
2. Non-Profit Set-Aside (20% of the State's 2001 annual credit authority-see Section 1.3.3.3.)
3. Rural Set-Aside (10% of the State's 2001 annual credit authority-see Section 1.3.3.4.)

#### **5.5. Tiebreaker**

In the event two projects in the queue have the same score, the following tiebreaker will be used.  
Tiebreaker Criteria (possible points = 10)

1. Priority Project (see 1.3.3.1) — 3 points possible
2. Rural — 2 point possible
3. Non-Profit — 2 point possible
4. Highest proportion of extremely Low-Income Units (30% or less of median) — competitive, 3 point to winner

If necessary, a final tiebreaker will used giving priority to the application in order of date and time received by the Department.

These are not bonus points and are not added to the project's total score. This scoring system only determines the ranking of projects with the same final score under the Program's competitive scoring process.

## **6. Material Changes**

Because of the Department's statutory mandate to award tax credits only to the extent they are necessary for project feasibility, any proposed Material Change (see Section 1.6, "Definitions") in the project should be communicated in writing immediately to the Department for an assessment of the impact on final underwriting and Allocation of credits. The written request must include the Applicant's basis in Section 42 or in this Allocation Plan for believing that the change is permissible. This communication will assist all involved in understanding the implications of a Material Change. All Material Changes must be approved by the Department in its sole discretion. Projects applying for a Material Change will be underwritten to the standards in the Allocation Plan of the year that Credits were awarded.

### **6.1. Change of Location and Use**

The Department will not allow an Applicant to change the location of a project once the application has been submitted. Notwithstanding the foregoing, the Department, in its sole discretion, may allow a project relocation prior to the Allocation of tax credits if the new site for the project is within the census tract specified in the application, the Department receives the written approval of the unit of local government, and the need for relocation was unforeseeable and beyond the Developer's control. If an Applicant changes the location of a project without the written approval of the Department, the Department will recapture the credits reserved for the project. Changes in the use of a project (e.g., elderly, family, transitional) after the application has been submitted will not be allowed except with the written approval of both the unit of local government and the Department. See also below, Section 6.3, "More Complex Material Changes," if the change in location involves an increase in project costs.

### **6.2. Uncomplicated Material Changes**

Uncomplicated material changes, such as a substitution of the general partner, or a change in syndicator or permanent lender, will be approved by the Department in its sole discretion as long as the changes do not change scoring or negatively impact the project or project feasibility.

### **6.3. More Complex Material Changes**

More complex material changes, for example restructurings that involve a change in the number of Units or in the sources of funds, will be reviewed following the guidelines below:

- Unforeseeable circumstances or the imposition of extraordinary governmental rules and regulations, if fully documented and justified, will be viewed as reasons to approve material changes.
- When a project is re-underwritten as the result of a material change, any decrease in the scoring or ranking of the project will not be allowed in the year of Allocation. Post Allocation requests for material changes necessary to prevent substantial hardship to the project or its feasibility will be considered for approval by the Department on a case-by-case basis exercising its sole discretion. All material changes requiring re-underwriting will require a \$500 re-underwriting fee to be submitted with the request.
- If, without approval of a waiver at the time of application, cost caps are later exceeded and create a need for additional funding, the Department's resources will not be a source of the additional funding. In addition, the presence of newly found sources of governmental or non-governmental funds in a project may be regarded by the Department as evidence that

the Department's State Housing Funds are not needed in the project, causing a reduction or elimination of those funds.

- The applicant must submit to the Department written approvals of the material change from the community, the lender, and the syndicator.
- When the material change involves a restructuring, all commitments (e.g., set-asides, amenities) must be proportionately the same as at time of application.

Material Changes, when not communicated in writing to and approved by the Department, may result, in the sole discretion of the Department, in all or part of the credits being recaptured or reduced by, or returned to, the Department. It is the State's express desire and objective that each Applicant Owner/Co-Owner strictly adheres to the terms of the tax credit application upon which any Reservation or Allocation is made.

## 7. Underwriting

### 7.1. Background

Congress charges the Department with allocating tax credits at the minimum level needed to realize the financial feasibility of a project and its viability as a qualified low-income project throughout the Extended Use Period. This determination must be made three times: 1) at Application; 2) at Carryover Allocation; and 3) at date Placed-in-Service. The Department, in its sole discretion, may request an update to any information contained in the application and thereafter underwrite a project at any time based on such updated information, and will do so at the time of construction loan closing for projects partially funded by the State Housing Fund. In accordance with its Congressional mandate, the Department's underwriting includes determinations that:

**7.1.1. The Project is Needed.** The market demand study is evaluated to ascertain that there is strong market demand for the type of low-income housing proposed. The underwriter reviews data submitted concerning the market area; the target population (e.g., elderly, large family, priority populations with special housing needs); occupancy levels and vacancy rates of comparable projects; absorption rates for comparable projects recently entering the market; and current waiting lists, including the waiting list of the local Public Housing Authority. The underwriting review assesses the risk associated with adding the proposed Units to the housing stock, including the risk of economic disruption to properties already offering comparable housing in the market area. If the market study submitted with the application is incomplete, the Department may require the Applicant to supplement the study in whole or in part before the evaluation of market risk can be completed. Supplements will be ordered by the Department and be paid for by the Applicant.

**7.1.2. The Proposed Rents are Affordable.** The underwriter reviews the proposed rents to determine whether they will be affordable to the target population and whether they will generate sufficient income to cover operating expenses and debt service. The primary focuses of this review are affordability to the residents, the appropriate quality of the proposed housing, including design features and amenities committed to by the Developer/Owner, and the project's long-term viability as affordable housing. The review attempts to balance the initial cost of the project against the affordability to low-income residents and against long-term viability. The review evaluates the risk of obtaining proper value for the taxpayer's investment and how that value is distributed between affordability and long-term viability.

**7.1.3. The Developer Has the Experience and Ability to Deliver the Project as Designed in the Time Allotted.** This review focuses on "Developer risk," the possibility that the Development Team is insufficiently skilled, experienced, or financed to deliver as promised. The underwriter reviews resumes and financial statements of key members of the Development Team for indications of sufficient experience and borrowing capacity. Any indications of identity of interest among members of the team are investigated to determine whether appropriate adjustments should be made to the compensation allowed the team.

**7.1.4. The Project is Buildable as Proposed and Can Be Completed for the Budget Indicated.** The underwriter determines that all costs are appropriate and reasonable, that the site is buildable, that all utilities and necessary community amenities are available to the site, and that, once completed, the project will make available affordable housing to the targeted low-income residents throughout the proposed extended use period.

Only projects determined by the Department to be feasible will be awarded tax credits.

## 7.2. Overall Project Cost Reasonableness

The Department, at each of the three times underwriting is performed, shall review the cost reasonableness of all project costs in order to calculate the amount of eligible basis for the Project. Failure to comply with cost reasonableness could be, at any of the three times underwriting is performed, the basis for the denial, reduction, or return of a Reservation or Allocation of credits. The procedures described here do not constitute all the criteria used by the Department in underwriting a Project.

**7.2.1. Developer’s and Consultants’ Fees, Builder’s Profit/Overhead, General Requirements.** *The Department will limit consultant fees, and Developer and Builder fees and overhead, in calculating the amount of tax credits to be allocated to a proposed project. The following parameters will change, however, if the project is subject to subsidy layering analysis and/or there is an identity-of-interest between the Developer and the Builder.*

### 7.2.1.1. Developer’s Fee, Overhead, and Consultant’s Fee Limits

<b>Developer Fee, Overhead, and Consultant Fee Limits As A Percent Of Total Eligible Basis In Cost Categories I-V <sup>3</sup>/<sub>4</sub> pages 14-15 of Application</b>	
<b>If Developer has an identity of interest with the Builder, Builder’s Profit will be excluded from Eligible Basis for the purposes of this calculation.</b>	
Number of Units	Percent Allowed
1-15	18%
16-30	17%
31-45	16%
46-60	15%
61+	14%

For Cost Category IX, Developer’s Fee, Overhead and Consultant Fee limits for Acquisition/Rehabilitation projects are calculated using 14% on the eligible acquisition cost to be listed in the 4% column; the chart above will be utilized to calculate the Developer’s Fee, Overhead and Consultant Fee on the eligible rehabilitation cost in the 9% column.

**7.2.1.2. Builder’s Profit, Overhead and General Requirements Limits.** The Department will allow the following maximum percentages as Builder or general contractor charges. (Percentage will be applied to the aggregate of the “Total: Site and Demolition,” the “Subtotal: Direct Construction,” and the line items “Community Buildings” on Form C of Application.) If an identity of interest exists between the Developer and the Builder, Builder’s Profit will be allowed at a lower percentage (see chart below.) See Section 3.2.1, “Identity of Interest.”

<b>Builder’s Profit, Overhead* and General Requirements**</b>	<b>Percent of Costs</b>				
Project size in Units	1-15	16-30	31-45	46-60	61+
<i>Builder’s Profit (with Identity-of Interest), or</i>	2	2	2	2	2
Builder’s Profit	6	5.75	5.5	5.25	5
Builder’s Overhead	3	2.75	2.5	2.25	2
General Requirements	6	5.75	5.5	5.25	5
<b>Total Maximum Percentage</b>	<b>15</b>	<b>14.25</b>	<b>13.5</b>	<b>12.75</b>	<b>12</b>

- \* Project-related overhead includes a percentage for main office expenses for the job.
- \*\* General requirements include project-related site costs such as fencing, utilities to site during construction, job site supervisor, job site office, etc.

**7.2.2. Reasonable and Customary Costs.** All costs shall be reasonable and customary with respect to comparable projects considering variations for, but not limited to, project size and type, mix, location and amenities. The Department will determine cost reasonableness from, among other sources, a data base compilation of the experience of prior multifamily projects in Arizona and consultation with construction cost experts.

**7.2.3. Cost Caps.** In addition to the requirement that all costs shall be reasonable and customary, the Department may establish limits on certain project costs. For purposes of its eligible basis and equity gap analyses, the Department will limit costs in certain project cost categories to an amount the Department has determined, in its sole discretion, to be reasonable for that category (the “Cost Cap”).

For the Department’s purposes in underwriting the project and allocating tax credits, line item costs will be limited in maximum amount to Cost Caps set forth below. The Department reserves the right to amend the stated Cost Caps and to add to or delete categories of Cost Caps.

Cost Caps for the line item “Direct Construction Cost” on Form C of the application will be adjusted for regions within Arizona by the Index Location Factors in Section 7.2.4.5.

**7.2.4. Development Standards.** The Department generally yields to the local jurisdiction in all matters pertaining to development and construction standards. If a local jurisdiction, therefore, has published more restrictive standards than those stated below, the standards of the local jurisdiction will apply. The Department will expect the finished product to be substantially as represented in the Application as pertains to building materials, amenities, and equipment. The Department must approve any Material Change or it may result in a reduction or recapture of tax credits.

All projects financed and built under the program are to meet or exceed the following development standards:

Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code (1994 Editions)

National Electrical Code (1993 Edition)

Uniform Federal Accessibility Standards (Section 504 of the 1973 Rehabilitation Act) and the Americans with Disabilities Act, as applicable

2000 International Energy Conservation Code (IECC).

Federal Fair Housing Act (42 U.S.C., § 3601 *et seq.*), Arizona Fair Housing Act (A.R.S. § 41-1491 to 41-1491.37), and the HUD Fair Housing Regulations (24 C.F.R., Part 100, Subpart D)

**7.2.4.1. Flood Hazard.** Evidence of insurance or a binder for insurance will be required prior to issuance of 8609s.

**7.2.4.2. Curb Appeal.** Projects should be designed with pleasing esthetics and adequate landscaping. They should complement neighboring structures and enhance the appearance of the neighborhood, providing a positive image for affordable housing programs in the communities.

**7.2.4.3. Specific Construction Features.** The following represent ***minimum*** design standards to be met by each tax credit project. These minimum requirements (or alternatives of equal or greater quality and durability) will be imposed on every Applicant, regardless of project size, amenities, or geographic location, unless the standards required by a local jurisdiction exceed those established by the Department.

The Applicant will be required to certify in the Applicant Affidavit, Release and Oath (see Form C, "Low-Income Housing Tax Credit Application") that these minimum design features will be complied with in the construction of the project and that, if they are not, credits will be surrendered to the Department. The Applicant will also be required to certify full compliance with these standards prior to issuance of IRS Forms 8609.

All construction features in a LIHTC project should conform to goals of attractiveness, utility, efficiency, and long-term durability. All features should be designed for long-term extended use (50-year minimum). A specific goal of the program is to minimize monthly tenant Operating Costs.

The project architect should provide relief on all surfaces by designing varied building heights and rooflines and distinctive window and entry door detail. The architect should vary building orientations along the street as well as building masses, clusters, and colors.

1. Site Work.

- Termite treatment is required as part of site work.
- Site planning for drainage. Minimum slopes required for proper drainage are:
  - a) Slopes away from foundations: 5% first 10 feet (6 inches in first 10 feet)
  - b) Slopes on paved areas: 1% (1/8 inch per foot)
- Exterior grade should be shown a minimum of 4-6 inches below the top of slabs on grade.

2. Foundations and Slabs.

- Soils report by Arizona Registered Engineer required.
- Cast in place concrete foundations suited to specific locations (design for local frost depth where applicable), designed by a registered professional.
- Four-inch concrete slab on four inches of ABC aggregate. Concrete slabs, including carports and driveways, should be reinforced if directed by the soils report using the following methods or equivalent:
  - a) 6x6 10/10 WWF wire mesh, centered in the slab vertically, OR,
  - b) polypropylene fibers in the concrete mix for slabs (Fibermesh is a typical manufacturer). Application of the product should be in the proportions and according to the recommendations of the manufacturer.

Note: Where severe expansive soils are present, floor slabs and foundations must be designed by an Arizona Registered Structural Engineer.

3. Frame and Stucco Construction.

- Stucco: three-coat cement stucco with metal expansion joints or 3/8" fiber-reinforced stucco on wire lathe, on one-inch foam insulation board.
- Frame: 2x4 or 2x6 wood or metal studs in exterior and party walls, 2x4 in other walls. The choice of 2x4 or 2x6 will be dictated by the methods selected to meet International Energy Conservation Code requirements, sound barrier requirements, and engineer's specifications. Exterior walls should be designed to achieve a U-value of .056.
- Wood floor framing with <sup>3/4</sup> or 5/8" plywood sheathing and lightweight concrete or equivalent gypsum topping.

4. Roof.

- Concrete tile roof on one layer 40 lb. felt with wood truss framing, minimum slope 3:12. Flat roofs must have a minimum 3/8"/1' slope.
- In rehab work where existing flat roofs are present, properly drained built-up roofs should be constructed with a minimum of 72# fiberglass cap sheet with mineral surface over two layers of at least 30# felt with the base layer nailed to the plywood decking.
- Roof trusses must be designed by an Arizona Registered Structural Engineer.
- Roof sheathing should be called out on the Roof Framing Plan. Required: minimum 1/2" exterior grade plywood or 1/2" exterior grade OSB (oriented strand board). All sheathing must be gapped 1/8 inch on the edges and ends with metal clips appropriately installed on the trusses.

5. Electrical.

- All standard basic service and lighting must conform to National Electric Code (1993 or later) and local codes. Smoke detectors must be hard-wired.

6. Plumbing.

- Copper pipe or CPVC for domestic water, PVC outside and for sanitary (polybutylene piping is prohibited).
- Durable fixtures. All bathroom sinks and toilets to be porcelain. Enamel finish steel tub with PVC prefinished wall panels or a one-piece epoxy resin tub/shower unit.
- Durable toilet accessories; medicine cabinet with mirror.

7. Energy Conservation.

Project must comply with the 2001 International Energy Conservation Code (IECC). Compliance with this code shall be determined in accordance with Sections 101.3.1 and 101.3.2 of the IECC. Construction documentation shall be submitted for review in accordance with Section 104 of the IECC.

- a) Insulation: Insulation must be installed such that there are no gaps, voids, wind intrusion or compression of the insulation. The insulation and the air barrier (e.g., sheetrock) must be continuous and aligned in all cases. Sound insulation is required in party walls.
- b) Minimum HVAC efficiencies:

- AC: 12 SEER
- Heat Pump: 12 SEER and 7 HSPF
- Combustion furnace: 80% AFUE.

Note: Electric resistance heating can be used only if the Owner documents, utilizing the IECC Systems Analysis (Chapter 4) approach, that the utility costs for the structure are equal to or less than the IECC standard design of like architectural characteristics. The analysis will be completed utilizing a combustion furnace for the standard design with an efficiency value of 80% AFUE.

c) Air Distribution Systems:

- All joints in the air distribution system shall be sealed with duct mastic or approved equivalent.
- For duct systems located outside the conditioned space, total duct leakage in CFM, measured at 25 Pascals pressure, shall be less than or equal to 3% of the square footage served by the system (e.g., 1,000 sq. ft. unit x 3% = 30 CFM allowable leakage).
- All ducts located outside the conditioned space shall be insulated to a minimum of R-6.
- Airflow to each room will match design airflow calculations to within +/- 10%.

d) Room Pressures:

Under normal operating conditions, an air handler cannot create room pressures with a magnitude greater than +/- 3.0 Pascals, with reference to outside, anywhere in the Unit.

e) Indoor Air Quality:

- Exhaust hoods above gas ranges must be vented to the outside.
- Unvented combustion appliances (fireplaces, heaters or gas logs) are not allowed.
- A carbon monoxide detector, hardwired, shall be installed in all Units with an attached garage or with any combustion appliance located in the conditioned space.

f) Windows:

At minimum, all windows shall be dual pane.

Contact [Charlie Gohman](#) at (602) 280-1402 for further guidance regarding Energy Inspections.

**Inspections of Energy Conservation Features**

Inspections of energy features are to be carried out by the Department's Arizona Energy Office (AEO) or approved agent. The initial inspection will be on the building plans approved by the local governing body and then will be carried out randomly, on approximately 10% of the Units. The Department will notify AEO of the construction schedule to facilitate inspections that need to be completed at various phases of construction. AEO will document all items that pass inspection and will consult with the Construction Superintendent on items that do not pass.

- Building plan review: after the local governing body has approved the building plans, one set of construction plans must be submitted to the AEO prior to the beginning of construction.
- Insulation inspection (pre-sheetrock) to verify R-value and that there are no gaps, voids or compression of the insulation.

- Verification of HVAC equipment efficiency.
- Duct testing of completed system (pre-sheetrock) to verify leakage amounts and duct R-values.
- Room airflow on completed Units.
- Room pressures on completed Units
- Verification that windows are dual pane.
- Verification of carbon monoxide detector installation where required.

8. Doors:

- Solid wood or insulated metal front door with wood or metal frame. Paint grade pre-hung hollow-core interior doors with residential grade finish hardware.

9. Floors.

- Carpet and sheet vinyl.
- Base of painted wood, vinyl, rubber, or MDF compressed wood.

10. Walls & Ceilings.

- Painted 5/8" gypboard, moisture resistant at wet areas, type 'X' at areas required by prevailing building code.

11. Appliances.

- Range/oven, exhaust hood above range, refrigerator, disposal, dishwasher.

12. Cabinets.

- Solid wood or particleboard with durable laminate; durable laminate counter tops.

13. Exterior Stairs, Entrance Landings, and Balconies.

- Should be constructed of precast concrete treads on painted steel framing with painted steel handrails or according to a system of equivalent or greater durability and quality.

14. Exterior Fencing.

- Fence the property (masonry preferred) to limit access of non-residents, as appropriate and desired by the affected jurisdiction. Gates are not required unless specified by the local jurisdiction.

15. Exterior Finish

- Select a finish material that will withstand extended weathering in the project location.
  - a) Desert and mountain localities: three-coat cement stucco with metal expansion joints, or 3/8 inch, fiber-reinforced stucco on wire lath, on 1-inch foam insulation.

- b) Mountain localities at higher elevations: various siding products (fiberboard, mineralboard or vinyl) may be substituted for stucco if warranted by the manufacturer for a minimum of 40 years.

16. Site Lights.

- For security purposes, provide adequate site lighting, especially at the rear of the buildings and for walkways, parking, corridors and stairways.

**7.2.4.4. Other Features, Amenities.** The Line Item Cost Caps established in Section 7.2.4.6. below, include costs for the following design features and amenities: wood structural system; concrete tile roof; stucco exterior finish; slab-on-grade foundation.

Any Units set-aside specifically for the physically disabled have an additional cost allowance of \$1,997 per Unit (plus \$1,600 per each second bathroom). Developers should take this allowance for the UBC-required two percent accessible Units (five percent for projects using Federal funds) and for any additional Units committed to on Form W at TAB W.

Adaptable Units for the physically disabled are required in all ground floor Units. The Department has built adaptable Unit costs into the line item cost caps (Section 7.2.4.6) for all Units in the project.

Swimming pools should be entered in the Development Budget under Cost Category II, "Site and Demolition," on the line item "Site work, landscaping, fencing, and swimming pool." Swimming pools typically are not allowed in projects funded partially with State Housing Funds.

Elevators are not included in the cost caps. If elevators are required, they must be requested by means of a waiver request (Section 7.2.6 below). The cost of elevators should be entered in the Development Budget under Cost Category III, "Direct Construction Costs," on the line item "Elevators." The Department's normal allowance for a complete, installed passenger elevator is \$50,000 for two stops and \$10,000 for each additional stop (including shaft, pit, and machine room).

Community and recreational buildings, including a management office, laundry room, and maintenance storage, limited as described below, should be entered in the Development Budget on the line item "Community Buildings" following the "Subtotal: Direct Construction." State Housing Fund projects must restrict use of common rooms to tenants only.

Interior hallways, if they are required (e.g., in an elderly or physically handicapped project), will have an allowance of \$3,928 per Unit, but only with the approval of a waiver request.

Appliances, including disposal, dishwasher, range/oven, refrigerator, and kitchen exhaust hood, are capped at \$1,600 per Unit. These costs should be entered in the Development Budget on the line item "Appliances Per Allowance" following the "Subtotal: Direct Construction."

Interior sprinkler systems, Will be included in the "Direct Construction Cost Caps"

Amenities and features in addition to those listed above should be requested under the exception procedure described below (Section 7.2.6, "Exceptions/Waiver Requests.")

**Minimum Standards for Manufactured Housing.** Where the Department’s minimum standards are in conflict with HUD or State Housing Fund requirements for the design and construction of manufactured housing, the HUD or State Housing Fund requirements will prevail. For items not covered by the HUD or State Housing Fund requirements, e.g., site drainage and site lighting, the Department’s minimum standards will prevail.

**7.2.4.5. Index Location Factors.** Apply these factors to the Phoenix Base City “Direct Construction Costs,” set forth below, and to the allowances for carports and community buildings, to adjust for the respective regions of the state centered in the following cities. See “HUD Regions” in 1.6, “Definitions.”

Phoenix	1.00	Casa Grande	1.00	Yuma	1.10
Tucson	1.00	Kingman	1.085	Sierra Vista	1.10
Flagstaff	1.055				

**7.2.4.6 Line Item Cost Caps.** The cost caps below are based on a one-story model for projects of 30 Units or less, and on a two-story model for projects in excess of 30 Units. Applicants planning a single-story project of more than 30 Units may apply for a variance under the exception procedure described below (Section 7.2.6, “Exceptions/Waiver Requests.”)

- Site and Demolition cost will be underwritten utilizing a cost cap of \$5,200 per Unit. Projects experiencing abnormal soils or extreme site conditions must submit an Exception/Waiver Request as outlined in Section 7.2.6. The Department may require additional soils or site information supporting the Exception/Waiver Request.
- The direct construction cost caps below do not contain allowances for Arizona sales (transaction privilege) taxes on construction materials, permits, or fees. Enter these items on the line “Fees/Permits,” of the Development Budget.
- Tenant Relocation Costs incurred during the construction period should be entered on the line “Tenant Relocation (Capitalized)”, of the Development Budget.
- Any hard cost contingency allowance (not to exceed 5% of Site Work & Direct Construction Costs for new construction and 10% for rehabilitation.) is to be included in the line items under “III. Direct Construction Costs” of the Development Budget
- Any soft cost contingency allowance is to be added to the line item “Miscellaneous Soft Cost” on the Development Budget.
- “Extended Warranty,” if any, may not exceed \$10,000 and is to be included in the total line item “Builder’s Overhead.” (See 1.6, “Definitions.”)
- The following Cost Caps are the lesser of the “per Unit” or the “per square foot” amount. For purposes of these Cost Cap calculations, “square foot” means a square foot of the net rentable living area of the Unit (“Residential Floor Area” as entered by the Applicant on page 4 of the Application). (See 1.6, “Definitions.”)

Note: Cost Caps are calculated by multiplying the number of Units of each size by the corresponding Unit cap. Multiply the square feet of net rentable living area of each size Unit by the number of Units of that size, then by the corresponding square foot cap. Select the product that is the lesser amount. Total the products to arrive at the Subtotal of Direct Construction Cost cap, Cost Category III, on the Development Budget of the Application.

Line Item Category	1-15 Units	16-30 Units	31-45 Units	46-60 Units	61+ Units
<b>0 bedroom, 1 bath (450 sq. ft.)</b>					
Per Unit					
Per sq. ft.					
<b>Community Buildings Per Project</b>					
<b>1 bedroom, 1 bath (650 sq. ft.)</b>					
Per Unit					
Per sq. ft.					
<b>Community Buildings Per Project</b>					
<b>2 bedrooms, 1 bath (800 sq. ft.)</b>					
Per Unit					
Per sq. ft.					
<b>Community Buildings Per Project</b>					
<b>2 bedrooms, 2 baths (880 sq. ft.)</b>					
Per Unit					
Per sq. ft.					
<b>Community Buildings Per Project</b>					
<b>3 bedrooms, 2 baths (1,000 sq. ft.)</b>					
Per Unit					
Per sq. ft.					
<b>Community Buildings Per Project</b>					
<b>4 bedrooms, 2 baths (1,150 sq. ft.)</b>					
Per Unit					
Per sq. ft.					
<b>Community Buildings Per Project</b>					

Line Item Category	1-15 Units	16-30 Units	31-45 Units	46-60 Units	61+ Units
<b>Total Soft Costs Per Unit</b>					
<b>Construction Financing Cost</b> (See Section 7.2.4.7. below)					
<b>Permanent Financing Cost</b> (See Section 7.2.4.8. below)					
<b>Rent-up and Operating Reserves: Sum equal to 4 months' debt service, operating expense, and replacement reserve payments. Reserves in excess of this limit require a fully justified waiver request from the permanent lender and syndicator.</b>					

**7.2.4.7. Construction Financing Cost:** The Department, at its sole discretion, may lower the cost included in this category based on the reasonableness of the Construction Lender's Letter of Interest or Intent. The Department will analyze (i) if the interest rate is comparable to the market, (ii) the origination and loan fees are equivalent to 2% of the Construction Loan Amount, (iii) the Construction Interest will be calculated as follows;

$$\text{Construction Loan Amount} \times \frac{\text{Annual Interest Rate}}{12} = \text{Monthly Interest}$$



$$\text{Monthly Interest} \times \text{Months of Construction plus Stabilization} = \text{Interest} \times 50\% \text{ Outstanding} = \text{Construction Interest}$$

Construction Financing Cost in excess of the above limits require a fully justified waiver request as outlined in Section 7.2.6 "Exceptions/Waiver Request" of this Allocation Plan.

**7.2.4.8. Permanent Financing Cost:** The Department, at its sole discretion, may lower the cost included in this category based on the reasonableness of Permanent Lender's Commitment Letter. The Department will analyze (i) if the interest rate is comparable to the market (ii) the origination and loan fees are equivalent to 2% of the Permanent Loan Amount. Permanent Financing Cost in excess of the above limits require a fully justified waiver request as outlined in Section 7.2.6 "Exceptions/Waiver Request" of this Allocation Plan.

**7.2.4.9. Acquisition Cost Limits.** Project land for multi-story multifamily projects consisting of more than the limits in the table below requires 1) the submission of a plot plan on which all undevelopable land has been clearly identified and 2) a waiver request under the exception procedure described below (Section 7.2.6, "Exceptions/Waiver Requests.") Single-story projects exceeding the limits below, and projects comprising single family residences exceeding 5,000 sq. ft per unit, must file a waiver request.

Bedrooms	Net Area Per Unit (Sq. Ft.)
0-Bedroom	1,700
1-Bedroom	2,200
2-Bedroom	3,500
3-Bedroom	4,200
4-Bedroom	4,800

Projects awarded Reservations will be required to substantiate land and building acquisition costs with an appraisal prepared by an Arizona Certified General Real Estate Appraiser as part of

Carryover documentation, or, if the project does not require Carryover, at final Allocation (see Section 8.1). The Department will not allow land and building acquisition costs in excess of appraised value.

**7.2.4.10. Costs Attributed to Market Rate Units.** The IRS will allow market rate Units to be built at whatever cost the market will allow. However, if the market rate Units are above the average quality standard of the Low Income Units in the same building, then, unless an election is made pursuant to § 42(d)(3)(B), the eligible basis of such building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to such market rate Units.

Pursuant to § 42(d)(3)(B) a taxpayer may elect to exclude from eligible basis only the excess costs of the market rate Unit rather than the entire cost of such Unit. A taxpayer is only eligible to make this election for a market rate Unit if the “excess cost” of such market rate Unit is not greater than 15% of the amount which would have been the cost of such Unit had it been built at the average per square foot cost of Low Income Units in the building. A market rate Unit’s “excess cost” is the excess of the cost of such Unit over the amount that would have been the cost of the Unit at the average square foot cost of Low Income Units in the building.

**7.2.4.11. Non-Profit Developed Projects.** For projects developed by a non-profit corporation meeting all the requirements herein for such participation in the Program, the Department will multiply the Cost Caps for Direct Construction, Construction Loan Costs, and Permanent Loan Costs by a factor of 1.1, after regional adjustments have been made. This bonus applies only to projects developed solely by a non-profit, without the benefit of a for-profit joint venture partner.

**7.2.5. Additional Development Cost Standards.** Cost Standards Applicable to Rehabilitation, Single-Family, and Manufactured Home Projects; Final Documentation for All Projects.

In determining reasonable and customary costs for rehabilitation, single-family (including 2-, 3-, and 4-plexes), and manufactured home projects, the Department will apply the cost caps set forth in Section 7.2.4.6 pertaining to Total Soft Costs, Total Construction Loan Costs, Total Permanent Loan Costs, and Rent-up and Operating Reserves. Initially, the Department will compare the proposed construction costs to costs prevailing in the marketplace. The Department will accept the proposed construction costs or request revisions at the time of application. As soon as the project’s construction loan has been closed, the Department will retain a cost estimator at the sole expense of the Applicant to estimate the costs of construction. If the estimator’s costs are lower than the Applicant’s, the Department in its sole discretion will accept the estimator’s costs.

If the project is a rehabilitation project, the Applicant will furnish the Department the plans and specifications of the project, if available, showing existing conditions prior to commencement of work. If they are not available, the Department will retain a cost estimator at the sole expense of the Applicant to inspect the property and record existing conditions. Upon completion of construction and prior to issuance of Forms 8609 for any such project (rehab, single-family, or manufactured home), The Department will retain a cost estimator at the sole expense of the Applicant, who will review all relevant information and thereafter make a recommendation as to the reasonableness of the costs. Absent extraordinary circumstances, the recommendation of the cost estimator will be accepted by the Department and the amount of tax credits will be adjusted.

In order to qualify for tax credits on rehabilitation expenditures, the rehabilitation expenditures must be equal to the *greater* of (a) 10 percent of the unadjusted basis of the building, or (b) \$5,000 for each Low Income Unit in the building. Only rehab expenditures on the Low Income Units or on common areas that substantially benefit the Low Income Units are counted. Rehab expenditures on non-Low Income Units cannot be used to meet this requirement. Nevertheless, in mixed-

income properties both the low-income and the market-rate Units must be rehabbed to the same standard (at least \$5,000 per Unit).

Upon completion of any project the Department will require final “as-built” plans and specifications, final cost details and any other documents needed to verify the reasonableness of the costs. All Applicants shall submit to the Department, as soon as available, an appraisal of the Project (normally prepared for the construction lender). Upon completion of the project the Applicant shall submit a copy of the permanent lender’s appraisal (or, if there is no permanent lender, an appraisal satisfactory to the Department). All appraisals shall be prepared pursuant to the guidelines set out in the Financial Institutions Reform Recovery and Enforcement Act. In underwriting a project the Department will expect that the total of all permanent sources of funds shall not exceed 130% of the value of a project located in an established market.

**7.2.6. Exceptions/Waiver Requests.** To be considered for an exception, Applicants, lenders or syndicators must request a waiver of the applicable policies or criteria at the time of application only and justify the request in an attachment to the cover letter of the application.

**7.2.6.1. Administrative Exceptions.** Administrative exceptions to the Department’s policies, underwriting criteria and design standards will be allowed if the Department, in its sole discretion, has determined that they are justified.

**7.2.6.2. Cost Cap Exceptions.** Projects obtaining financing from a governmental source or on a tax-exempt basis occasionally may be required to incur permanent loan costs or other soft costs in excess of the applicable cost caps. If the higher cost results in savings in another cost to the project or in a lower than market interest rate, the Department upon written request will consider granting a waiver of the cost cap. In no event will the waiver be for an amount in excess of the net economic benefit to the project. Notwithstanding the foregoing, the Department may accept or reject the waiver of the relevant cost cap in its sole discretion.

- If the request is for a waiver of cost limits, the project architect should separate these costs, itemize them, and report them to the Department separately as an attachment to the application’s cover letter. The architect’s itemization should be fully justified, including measurements, quantities, and estimated costs of all items. If, for example, a waiver request is for larger porches, the request should include the square feet of framing and decking, the lineal feet of railing, cost of labor, markups, taxes, etc. If the information is insufficient for the Department to verify the costs, the waiver will not be granted.
- Applicants experiencing higher development costs because of Davis-Bacon wages (triggered by State Housing Fund or CDBG funds) or because of the requirements of priority populations should request a waiver in the cover letter of the application.
- Where the higher costs relate to construction, public or competitive bidding in accordance with 24 Code Federal Registry (CFR), Part 85, may, in the sole discretion of the Department, be required. In addition, the Department may contract for an independent certified cost estimate to support the higher cost. The expense of the cost estimate will be borne by the Applicant. If a waiver is granted, it will be granted contingent on the results of public or competitive bidding and cost verification. Once these results are available, any Reservation or Allocation amount may, in the sole discretion of the Department, be decreased.
- Any inordinate cost items (e.g., extraordinary site preparation, unusual but necessary additions to common area) will be considered separately from the rest of the development budget, which must fall within allowable limits.

- The maximum permissible Developer's fee will be calculated based on allowable costs, not on exception costs.

### **7.3. Calculation of Tax Credits**

The Department will analyze and, if necessary, adjust the project cost in accordance with this QAP Allocation Plan. Proposed income, operating expenses and net operating income will be analyzed and adjusted if necessary as hereafter set forth. Permanent financing sources will be analyzed and adjusted as necessary in accordance with this Plan.

**7.3.1. Operating Costs.** Operating Costs proposed in the application will be evaluated for reasonableness based on comparable properties.

The Department restricts the costs in the operating budget to the costs directly associated with operating the real estate. Supportive Services costs are to be excluded from the operating budget and presented in the application in a separate budget.

A vacancy factor and credit losses (resulting from non-payment of rent) in excess of 7 percent for projects less than 50 Units, 5 percent for projects of 50 Units or more must be supported by the conclusions of the project's Market Demand Study.

Operating Costs will be examined by the Department and compared to the Market Study, Appraisal, Historical Operating Statements, and/or the Department's own database derived from LIHTC properties currently in service. The Department, at its sole discretion, may lower or increase operating expenses based on available data. The Department may determine independently the real property taxes to be assessed the project if the taxes presented by the Applicant vary significantly from the norm.

Management Expense greater than 5% of Effective Gross Income, for projects of 30 Units or more, and Management Expense greater than 7% of EGI for projects less than 30 units will require a waiver request per Section 7.2.6. "Exception/Waiver Requests."

If the Applicant claims that the project is exempt from real property taxes (e.g., has a non-profit exemption), a written certification from the Treasurer's or Assessor's Office of the appropriate jurisdiction will be required at the time of application. If verification of the property tax exemption is not provided or available, property taxes must be included in the operating expenses at the time of application. Applicants proposing housing for priority populations should present two operating budgets in their applications, the first for the costs of operating the project, less those increased costs attributable to serving the priority populations, and the second indicating the increased Operating Costs attributable to serving priority populations. The increased costs in the second budget will be disallowed as part of the project's Operating Costs.

**7.3.2. Operating Income.** Income will be recognized only for apartment rents (as restricted) and other real estate-related sources (laundry, vending and parking/garage rentals). Ancillary income will be underwritten at \$20/unit/month. A higher amount of ancillary income may be utilized for underwriting, at the Department's sole discretion, if there are three (3) years of audited operating statements available.

**7.3.3. Permanent Financing Provisions.** The Department will expect the Applicant to maximize its lending sources by paying at least the maximum mortgage payment described hereafter. The maximum mortgage payment on the Primary Permanent Funding (see 1.6, "Definitions") on an annual basis will be the quotient obtained by dividing the net operating income by maximum of 1.30 (130%) for projects with less than 50 Units and a maximum of 1.20, (120%) for projects of 50 Units or more as modified by the debt service coverage and loan-to-value ratios established by the lender in the Letter of Interest or Intent. (See also Section 3.2.6, "Financial Ability to Proceed," for discussion of coverage ratios less than 1.00.) Tax credits will be adjusted if

necessary to assume financing requiring maximum mortgage payments or such other maximum mortgage payment as is approved by the Department. Other mortgage terms (e.g., interest rate and amortization period) will be taken from the lender's Letter of Interest or Commitment Letter. An Applicant unable to meet the targeted coverage ratio should submit a waiver request (see Section 7.2.6, "Exceptions/Waiver Requests") supported by a letter from the lender(s).

Second mortgage(s)/lien(s) will be accepted as long as the first mortgage meets the maximum guidelines as indicated above. The secondary mortgage/lien will be accepted as long as the debt service coverage ratio does not fall below 1.05 (105%).

If a project is proposed that is funded 100% with equity, the Department will impute an amount of Primary Permanent Funding at the prevailing interest rate and term, using standard underwriting criteria, in order to perform the Equity Gap Analysis (see Section 7.5 below).

**7.3.4 Funding Gaps.** Applicants are expected to submit applications that have no unfilled funding gaps. Applications with unfilled funding gaps, whether as proposed or as a result of underwriting, will be given written notice to provide, in ten (10) business days, proof of additional sources to fill the funding gap.

Exceptions will be considered only in the case where a State Housing Fund application has been submitted.

**7.3.4.1. State Housing Fund.** If the State Housing Fund program determines that the project is potentially eligible, the program will provide an abbreviated State Housing Fund application to be submitted behind Tab C of the LIHTC application. Applicants should consult the current Notice of Funding Availability ("NOFA") for the State Housing Fund for rules of submission, amounts available, etc. State Housing Fund applications will only accepted in conjunction with the tax credit application in the competitive round.

The amount of State Housing Funds made available in the NOFA for funding gaps will be awarded in the order that projects are listed on the tentative Reservation list. Once the available funds are depleted, Applicants will be given 30 days to identify another source to fill the funding gap. If a viable source is not identified, the project will be removed from the tentative Reservation list and the Department will proceed to the next project.

Once the Department has announced a State Housing Fund award amount, the award amount ordinarily will not be increased. Any award (LIHTC or State Housing Fund) may be reduced, however, if:

- a) New funds, governmental or non-governmental, have been brought into the project by the Developer or Owner.
- b) Project costs have decreased.
- c) The syndication rate has increased while approved costs have not.

Since the Department's funds are regarded as "gap fillers", other funds introduced into the project without a corresponding increase in approved costs are considered evidence that the Department's funds are not needed. The Department's funds will be reduced accordingly.

## **7.4. Eligible Basis Analysis**

To comply with IRC Section 42, the Department limits the amount of credits that a project may be awarded to the amount computed under the "Eligible Basis Analysis." This limitation amount is

computed by multiplying the project's "qualified basis" by the "applicable percentage". The "applicable percentage" used for underwriting will be the percentage established as of March 2002. See IRC § 42 (a). The qualified basis is computed by multiplying the project's "eligible basis" by the "applicable fraction." See IRC § 42 (c). The project's eligible basis is the project's tax basis, adjusted as required by IRC § 42. In addition to the Section 42 adjustments, the Department limits costs, as discussed in this plan, in arriving at eligible basis. Note: It is required that certain sources of funds (e.g., State Housing Fund **grants** of HOME program moneys) be subtracted from the project's eligible basis before tax credits are calculated.

In cases where the Applicant has locked in the applicable percentage of the month of carryover, the Department will use the locked-in applicable percentage rather than the nominal percentage in any interim underwriting.

## **7.5. Equity GAP Analysis**

The "Equity GAP Analysis" is an essential aspect of the underwriting process, performed 1) at Application, 2) at the time of any interim underwriting, and 3) at Placed-in-Service. So that projects are not awarded credits in excess of the amount necessary to make the project feasible, in addition to the Eligible Basis limitation, the Department limits the total amount of credits that a project may be awarded to the amount computed under the "Equity Gap Analysis." This amount is computed by dividing the project "Equity Gap" by the project "Syndication Rate," by the Investor Ownership percentage, and by ten (years). The Equity Gap is defined as the amount by which projected uses of funds for development of the project exceed projected sources of funds for development of the project, after the Department has adjusted uses and sources per the underwriting guidelines described above. The Syndication Rate for a particular project is a ratio that reflects the price to the project for one dollar of tax credits awarded to the project (e.g., a Syndication Rate of .76 means that, for every dollar of tax credits awarded to the project, the project will realize \$.76).

The projected sources of funds for purposes of the Equity Gap Analysis consist of permanent conventional financing requiring the maximum mortgage payment or other mortgage payment approved by the Department as defined above in Section 6.3.3, "Permanent Financing Provisions," and any other loans or grants for which the project has received a Commitment Letter or Award Letter. The Department uses a Syndication Rate of the greater of .75 or the Syndication Rate set forth in the Applicant's tax credit application. Exceptions to this rule will not be made unless the investors have fully justified a lower Equity Factor in a letter to the Department. The Department will judge the sufficiency of the justification in its sole discretion.

At the Department's final (third) underwriting, in the sole discretion of the Department, the actual Syndication Rate will be applied in the Equity Gap Analysis to determine the actual amount of tax credits awarded.

## **7.6. Layering**

The Department routinely takes into account all public subsidies in its Equity Gap Analysis. In addition, Federal regulations prohibit the layering, or excessive use, of federal subsidy for any project or activity. Layering issues are evaluated on a case-by-case basis and take into account all federal and public subsidies. As a general rule note the following:

- To the degree additional federal resources proportionately increase the volume of clients or Units assisted, layering is generally not an issue since federal investment per Unit or client is not increased.

- To the degree additional federal resources offer no corresponding increase in the volume of clients or Units assisted, layering becomes an issue.
- Applications for both tax credits and the Department's State Housing Fund moneys will undergo joint underwriting by all programs involved. Tax credits will be awarded only if adequate funding is also available from the State Housing Fund to fill any funding gap. See the current Notice of Funding Availability for the State Housing Fund for amounts available and funding procedure.
- Concerns regarding layering should be addressed prior to submission of an application to the State. Applicants are required to disclose all sources of funding requested or received for a project. The Department will coordinate with other public funding agencies that by regulation or practice undertake layering reviews of projects proposed to be funded with tax credits.

## 8. Tax-Exempt Bond Financing Using Housing Credits

### 8.1. Allocations to Tax-Exempt Bond Projects

. Section 42(h) (4) of the Internal Revenue Code (IRC) allows low-income housing projects financed with tax-exempt bonds to be eligible for the 4 percent tax credit. Applicants should consult counsel to determine a project's eligibility. Applications for such eligible tax-exempt bond projects may be submitted, will be reviewed, and may be allocated tax credits outside the normal application rounds. The review and Reservation of tax credits will coincide with the § 35-726(e) Tax-Exempt Bond hearing as stated in the Bond Procedures Guidelines.

Provisions of this QAP (other than in matters related to Scoring, Credit Ceilings, and Carryover Allocations) shall apply to projects financed with tax-exempt bonds. Applications may be submitted to the Department as soon as Applicants receive Confirmation of Volume Cap Allocation from the Finance Division (602-280-1341) of the Arizona Department of Commerce. The project must pass all Threshold Criteria of the Program (see Section 3). At the time of final Allocation, Applicants sponsoring tax-exempt bond-financed tax credit projects will be required to comply with all applicable requirements under Section 8.2, "Tax Credit Allocation."

Note: Tax-exempt bond projects with funding gaps, requesting State Housing Funds to fill the funding gaps, may apply for State Housing Funds at any time during the year to coordinate the timing with the bonds and tax credits..

Below are the procedures followed by the Department in processing applications for bond-financed projects:

#### Upon Application:

1. The Department will accept and review tax credit applications at any time of the year after the applicant has received a volume cap allocation. An Applicant must submit a complete tax credit application, at least 15 business days prior to the 35-726 (e) hearing. . The Applicant must use the current year tax credit application forms. To fully utilize the 4% Credit for tax-exempt bond projects, developer must ensure that 50% or more of the projects aggregate basis is "financed" by the tax-exempt obligation. The application must be accompanied by the appropriate application fee.
2. Determine that the project has complied with all Threshold Criteria of the Allocation Plan. Provide a letter of support from the appropriate official of the affected local jurisdiction.
3. A certification that principal payments on the bonds will be applied within a reasonable period of time to redeem bonds the proceeds of which were used to provide financing for the project; and
4. Perform the first of two feasibility analyses to determine the amount of credits necessary for the viability of the project before a reservation of credits is granted, a complete underwriting and comparison of the bond application will be made. These feasibility analyses will include an underwriting of the project in accordance with the Department's current standards as set forth in this Plan.
5. Issue a Letter of Reservation after the § 35-726(e) Hearing and after a Bond Approval Letter has been issued by the Department.
6. Notify the appropriate official of the affected local jurisdiction concerning the Reservation.

*All required Reservation fees, Allocation fees and monitoring fees must be paid when due (see application and processing fees, Section 12). Failure to pay any fee when due will disqualify the tax-exempt project from eligibility for credits.*

Upon Closing of the Bonds:

1. Receive from the project Owner a written election statement, referencing IRC Section 42(b)(2)(A)(ii)(II). This election statement will certify that the project Owner has chosen to lock in the applicable percentage as of the placed in service date or as of the month that the tax-exempt bonds are issued. If the latter is elected, the certification must also:
  - a) Specify the percentage of the aggregate basis of the building and the land on which the building is located that is financed with bond proceeds.
  - b) State the month in which the bonds are issued.
  - c) State that the month in which the bonds are issued is the month elected for the applicable percentage to be used in the building.
  - d) Be signed by the project Owner.
  - e) The project Owner must provide the original notarized election statement to the Department before the close of the 5<sup>th</sup> calendar day following the end of the month in which the bonds are issued. If this certification is not received by such date, then the Department must use the percentage based on the placed in service date.
  - f) The project Owner must also provide the Department with a signed statement from the governmental unit which issued the bonds that certifies: a) the percentage of the aggregate basis of the building and the land on which the building is located that is financed with bond proceeds and b) the month in which the bonds were issued.
2. At placement in service (issuance of certificate of occupancy), receive from the project Owner a) a completed cost certification and b) an opinion of the Owner's certified public accountant that 50 percent or more of the aggregate basis for any building included within the project and the land on which the building is located are financed with tax-exempt bonds and c) an opinion of the Owner's counsel that the project is eligible to receive credits under IRC Section 42(h)(4). At this point the Department will perform the final feasibility analysis of the project.
3. Receive from the project Owner the recorded Extended Land Use Agreement and Consent and Subordination agreement for the project along with certifications that:

Note: that Section 42(h)(6)(C)(ii) provides that for bond-financed projects the amount of the credit allowed in any taxable year may not exceed the amount necessary to support the applicable fraction specified in the Extended Use Agreement.
4. Issue IRC Forms 8609 for the project at the "4 percent" rate and file the original of the election statement with the original of the Forms 8609 with the appropriate IRS Form 8610.

## 9. Tax Credit Reservation

### 9.1. Evaluation and Review of Project

The requested Reservation contained in the application will be the basis against which the State will determine the actual Reservation to be made. The State-determined Reservation will not necessarily equal the amount requested in the application. All projects will be evaluated to determine the actual credit amount on the basis of the following:

- Project development cost;
- Sources and Uses of Funds (Primary Source of Funds must be maximized);
- Estimated income and expenses, including appropriate rent levels and debt service coverage;
- Expected proceeds from the sale of the tax credits; and
- Minimum annual amount of tax credits needed to make the project feasible and viable.

### 9.2. Certificate of Reservation

Successful Applicants will receive a Certificate of Reservation showing the amount of annual credit reserved for their projects. A Reservation review fee must be paid prior to issuance of the Reservation certificate. If your project receives a Reservation of tax credits, the Reservation will be conditioned on evidence of progress toward completion, meeting Department procedures, and compliance with federal law. **The Department may recapture a Reservation at any time**, if the Applicant is unable to provide satisfactory evidence that the project is progressing toward completion. No Allocation of credit will be made until all current year Reservations are completed. Reservations will be made in the name of the Applicant and are not transferable. Once a Reservation has been issued for a project, sale of that project (sale of ownership of any kind) constitutes an automatic event of recapture by the Department. The Department's prior written approval is required for a change of ownership of any kind.

Note: A Reservation is **not** an Allocation of credit. The Department reserves the right to deny a Reservation of credit to any project and to recapture a Reservation or reduce the amount of tax credits at any time.

### 9.3. Status Reporting

All projects that have received a Reservation of tax credits will be required to report on project progress, in narrative format, every 30 days after receipt of the Certificate of Reservation. The report must demonstrate progress in areas such as zoning approvals, loan funding, construction progress, etc.

The Department reserves the right to monitor both the progress and quality of construction. If progress or quality has not been satisfactory, the Department may report significant deficiencies to any funding source and to the Applicant. By accepting a Reservation of tax credits the Applicant has made the Project a public record. The Department reserves the right to report any deficiencies that come to its attention to other parties involved in the financing of the Project and to other members of the project team.

## 10. Tax Credit Allocation

By law, a Year 2002 Applicant must receive an Allocation or carryover Allocation of Year 2002 credits from the Department by December 31, 2002. A final determination of the amount of tax credits will be made at the time the project is placed in service. The Department will evaluate the project's final costs and the amount of revenues from the sale of the tax credits. This final evaluation may include a review of invoices, canceled checks and contracts. Developers are encouraged to keep detailed records of construction costs. The Department, in its sole discretion, may reduce credits based on the final evaluation and require a return of credits. Final underwriting cannot take place until the Permanent Loan has closed. At the time of a final Allocation, an Extended Use Agreement will be executed indicating the low-income restrictions and the Applicant will be required to record the Extended Use Agreement against the project. Evidence of that recording must be presented to the Department before the IRS Form 8609(s) are issued. An Applicant may receive a direct 2002 Allocation or a carryover Allocation as described below.

### 10.1. Carryover Allocation

Projects, which intend to place buildings in service after December 31, 2002, may receive a carryover Allocation. Federal law allows a carryover Allocation of tax credits for projects that have expended, by the end of the calendar year, **more than 10%** (including land costs) of the reasonably expected basis in the project. The following information is required for such an Allocation and must be submitted to the Department by December 01, 2002:

- Updated application (Department Form C)
- Evidence that the entity that will own the project is an existing legal entity authorized to transact business in the State of Arizona.
- Evidence of ownership or basis in the land or the property and an appraisal with the land value separated from the total value prepared by an Arizona Certified General Real Estate Appraiser. On governmental or Tribal lands, the Applicant should provide evidence of a fully executed, irrevocable lease between the Developer/Owner and the Tribal or other government for a specific rental amount and a term equal to or longer than the Extended Use Period and, for Tribal lands, evidence that all necessary approvals have been secured from the Tribe, the BIA, and other governmental agencies.
- Evidence of a Commitment Letter to the Owner for all construction and permanent financing and for the equity placement.
- A certification of cost incurred (Exhibit E-1 not supplied in QAP) audited by a Certified Public Accountant or certified by an Attorney, that the Ownership Entity has or will have spent (paid in cash or accrued), by December 31, 2001, **more than 10%** of the reasonably expected basis for the project.
- An Independent Auditor's Report substantially in the form of Exhibit E to this Allocation Plan, comprising an audit report on costs actually incurred by the Applicant and an agreed-upon procedures report as detailed in Exhibit E.
- Payment of applicable fees to the Department.
- Any additional information requested by the Department.

Note: The Code allows a taxpayer 24 months from December 31 of the year in which a carryover Allocation is issued to complete a project and place it in service. The Department will, however, shorten this period and recapture the Allocation if the project fails to make satisfactory progress toward completion. Additionally, Department underwriting at the time the project is placed in service may result in a return of credits.

The Department reserves the right to deny or recapture a carryover Allocation for any project. The most common causes for recapture of a carryover Allocation are failure to secure appropriate financing or start construction in a timely manner, inability to close or have the project real property titled in the Ownership Entity's name, false filing of instruments with respect to the project or prior projects, and failure by the Applicant to comply with the Department's requests for continuing information regarding development of the project. Once an Allocation is made, the Applicant must make immediate and definite steps toward completion of the project.

## **10.2. Placed-in-Service or Final Allocation (IRS Form 8609)**

For buildings that are placed in service as part of a qualified project by December 31, 2003, and upon compliance with all requirements of the Code and the Department, an IRS Form 8609 will be issued for each building as of the time such building is placed in service. The following items will be required prior to issuance:

- Updated application (Department Form C)
- Final appraisal of the project.
- Certificates of Occupancy for qualifying buildings.
- The Applicant's building-by-building tax credit computation (on Department form Table A).
- Independent Certification of Uses of Funds (see below, section 10.2.1 "Final Placed in Service Underwriting.") (Department form Table A).
- Evidence of permanent loan closing (Promissory Note and Recorded Deed of Trust)
- Promissory Note between the Developer and project's ownership entity in an amount sufficient to cover any Deferred Developer Fee (see 1.6, "Definitions"). Other forms of obligation to pay may be substituted if allowed under the definition of Deferred Developer Fee (1.6, "Definitions") and if they include the following: 1) the interest rate; 2) the term of repayment; 3) the source of repayment and proof that the source of repayment is supported by cash flow projections or a binding commitment from a party capable of repayment; and 4) language stating that the lien is subordinate to other liens relating to permanent financing.
- Completion and execution of the Extended Use Agreement and Consent and Subordination Agreement by the Applicant (provided by the Department). Agreements to be signed and recorded by December 31 must be submitted to the Department not later than December 1 of that same year.
- One 8 x 10 color photograph of at least one building with signage.
- Payment of applicable fees to the Department.
- Final syndication agreement indicating tax credit yields.

- Signed statement of syndicator identifying all costs subtracted from the gross yield of the tax credits (Department-provided form).
- Architect's "as-built" drawings of the project and written certification that the project meets the minimum requirements of the Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code (1994 Editions), National Electrical Code (1993 Edition), Uniform Federal Accessibility Standards, 2000 International Energy Conservation Code (IECC), and the HUD Fair Housing Regulations (24 C.F.R., Part 100, Subpart D).
- Certification of the Owner that the project complies with the minimum design features required in Section 7.2.4.3.
- Certification of the Arizona Energy Office that the project complies with the 2000 International Energy Conservation Code (IECC).
- A final 15-year Proforma dated as of the placed in service date.
- Any additional information requested by the Department.

Note: The Department may require a return of credits if more credits are allocated to the project than are necessary for the financial feasibility of the Project and its viability as a qualified low-income project.

**10.2.1. Final Placed in Service Underwriting.** Prior to the issuance of IRS Forms 8609, the project will be underwritten a final time using actual sources and uses of funds. Applicants will be required to submit a final cost certification, executed loan documents for all funding sources, and a copy of the final executed agreement with the equity investor. **The final underwriting cannot be conducted until the project's permanent loan has closed. The permanent loan will be subject to underwriting tests to determine that it has been maximized.** The Department's Equity Gap Analysis (see Section 7.5) will be performed a third and final time. Unreasonable costs, changes in financing sources, funding amounts, or excess equity may reduce the final amount of tax credits.

IRS Regulation 1.42-17, effective as of 1/1/01, requires for all projects that:

- a. The taxpayer must certify to the Department the full extent of all federal, state, and local subsidies that apply (or that the taxpayer expects to apply) to the project. The taxpayer must also certify to the Department all other sources of funds and all development costs for the project. The required schedule of development costs is to be prepared on the method of accounting used by the taxpayer for federal income tax purposes, and must detail the project's total costs as well as those costs that may qualify for inclusion in eligible basis under IRC Section 42. The required certifications are to be made by the taxpayer on the Arizona Department of Commerce Certificate of Actual Costs Form (available from the Department).
- b. For projects of more than 10 units, IRS Regulation 1.42-17 also requires that the schedule of project costs be accompanied by a Certified Public Accountant's audit report on the schedule of project costs. The CPA's audit must be conducted in accordance with generally accepted auditing standards, be unqualified, and be presented substantially in the form of Exhibit F to this Allocation Plan.

- c. For projects with fewer than 11 units, the Department requires a certification, given by an attorney or Certified Public Accountant, that the attorney or Certified Public Accountant has reviewed the actual costs incurred with respect to the project and that, based on this review, it is the attorney's or accountant's belief that the taxpayer has fairly presented the project's final total development costs and that certain of those actual costs are properly includible in eligible basis. This certification is to be given by the tax professional on the Arizona Department of Commerce Certificate of Actual Costs Form (available from the Department).

### **10.3. Extended Use Agreement**

The Omnibus Budget Reconciliation Act of 1989 imposed an additional compliance requirement on projects applying in 1990 and thereafter. In addition to the initial 15-year compliance requirement, the Owner is required to commit to an extended restriction period of not less than 15 years, extending the total commitment to a minimum of 30 years.

Prior to the Allocation of tax credits, the Applicant will be required to execute and record in the county where the project is located an Extended Use Agreement, in a form satisfactory to the Department which shall constitute a restrictive covenant running with the property. The Extended Use Agreement will be provided by the Department upon request. The Extended Use Agreement will include all covenants existing between the Owner and the Department with respect to the property, including but not limited to the number of Residential Rental Units set aside by the Owner for low-income and very-low income residents.

## 11. Project Compliance Monitoring

The Department is required to monitor and inspect the project for compliance with IRS Section 42, Treasury Regulation 1.42-5, and the requirements (set-asides, income restrictions, rent skewing, affordability period, amenities and services, etc.) elected in the application and agreed upon in the Extended Use Agreement, and upon which the tax credit is based.

The Code further requires, effective January 1, 1992, that agencies publish and institute monitoring procedures as part of the approved Allocation plan. **All** projects for which tax credits are allowable are subject to the application of this compliance monitoring procedure. This means that all projects allocated tax credits since January 1, 1987, are to be monitored for compliance. The monitoring requirements under the Code are detailed in Treasury Regulation 1.42-5, as amended. The most recent amendments, detailing requirements for state agency health, safety, and building inspections and Owner reporting of building code and Fair Housing violations, are effective as of January 1, 2001.

The Department has prepared a **Low Income Housing Tax Credit Program Compliance Manual, revised in March of 2000**, which it provides to all Program participants. The manual outlines the Department's compliance monitoring procedures and reporting requirements. The manual includes all annual reports, certifications, etc. . Twice-annual training is offered by the Department on the **Compliance Manual** and Owners'/managers' compliance responsibilities.

The Code also allows for the collection of fees from project Owners to cover the cost of administering the compliance-monitoring program. These are addressed in Section 12 of this Allocation plan.

### 11.1. Compliance Monitoring Procedure

The Owner of a qualified Low Income Housing Tax Credit project for which tax credits are allowable is required to comply with the following:

**11.1.1. Record keeping.** The Owner is required to maintain accurate records for each building in the low-income housing project. These records must include:

- a. The total number of residential rental Units in the building, including the number of bedrooms and the square footage of each residential rental Unit.
- b. The total number of Low Income Units in the building.
- c. The total number of occupants in each Low Income Unit.
- d. The rent charged on each residential rental Unit in the building, including any utility allowance.
- d. The Low-Income Unit vacancies in the building.
- e. The number and household eligibility criteria for all special set-aside units in the building.
- f. The rentals of the next available Units in each building including when and to whom rented.
- g. The character and use of the non-residential portion of the building that was included in the building's eligible basis under the Code (i.e., facilities that are available on a comparable basis to all residents and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

h. Documentation regarding the eligible and qualified basis of each building as of the end of the first year of the tax credit period.

i. For each low-income household:

- Completed rental application, including the tenants' certification of assets.
- Tenant income certification form, including all required signatures.
- Documentation supporting each household's income certification (third-party verifications, asset certification, asset documentation and verification if more than \$5,000 in value.)
- Documentation of student status.

j. Current-year utility allowance schedule.

**11.1.2. Record Retention.** Owners are required to keep all records for each building for a minimum of six years after the due date (with extensions) for filing the federal income tax return for that year. However, the records for the first year of the credit period must be retained for at least six 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.

**11.1.3. Certification.** The Owner must certify the following, under penalty of perjury, at least annually through the end of the compliance period. See compliance manual for reports and additional certifications required.

a. That the project complied with the requirements for Special Set-Asides on which the Allocation was based (e.g., 20%, 30%, 40%, 50% AMGI), as applicable.

b. At least 20 percent of the Residential Units in the Project are both rent-restricted and occupied by individuals whose income is 50 percent or less of the AMGI

c. At least 40 percent of the Residential Units in the Project are both rent-restricted and occupied by individuals whose income is 60 percent or less of the AMGI

d. That the owner/agent has received an annual **Resident Certification** form from each low-income resident and verifying documentation to support that certification.

e. That the entire project/building was occupied by LIHTC residents and the Internal Revenue Service has or has not provided a waiver for the annual recertification of resident income.

f. That each Low-Income Unit was rent-restricted as defined in the Code.

g. That all units in the project are for use by the general public and are used on a non-transient basis.

h. That each building in the project was suitable for occupancy taking into account local health, safety, building codes, and HUD's inspection protocol under 24 CFR 5.703.

i. That all resident facilities included in the eligible basis of any building in the project were provided on a comparable basis without a separate fee to all residents in the project.

j. That there was no change in the applicable fraction of any building in the project (or, if there was a change, a description of the change). (Applicable fraction is defined as the percentage of qualified Low-Income Units in a building or the percentage of tax credit floor space to rentable floor space in a building, whichever is less.)

k. That there has been no change in any building's eligible basis under the Code (or that there has been a change, with an explanation of the change).

l. That a **Declaration of Affirmative Land Use and Restrictive Covenants Agreement** as described in the Code is in effect for projects receiving Allocations on or after January 1, 1990.

m. That the project complied with the requirements of all federal or state housing programs (e.g., RD assistance, HOME, Section 8, tax-exempt financing), as applicable.

n. That, if the owner received its credit Allocation from the portion of the state ceiling set aside for projects involving "qualified non-profit organizations," the non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.

o. That if a Low-Income Unit in the project becomes vacant during the year, reasonable attempts are made to rent that Unit or the next available Unit of comparable or smaller size to residents having a qualifying income before any Units in the project are rented to residents not having a qualifying income.

p. That if the income of the residents of a Low-Income Unit increases above 140% of the limit allowed in the Code, the next available Unit of comparable or smaller size will be rented to residents having a qualifying income.

q. Whether, for the preceding year, for buildings with four Units or less, any of the Units in the building were occupied by the owner or a person related to the owner.

r. Whether, for the preceding year, the project was the recipient of a federal grant or other federal subsidy that would cause a reduction in eligible basis.

s. That the state or local government unit responsible for making building code inspections did not issue a report of a violation for the project for the preceding 12-month period.

t. That the owner has not refused to lease a Unit to an applicant due to the applicant holding a HUD Section 8 voucher or certificate.

u. That the project has received no finding of discrimination under the Fair Housing Act (an adverse final decision by HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a Federal court).

**11.1.4. Reviews and Inspections.** Prior to the issuance of IRS Form 8609 or by the end of the second calendar year following the year the last building in a project is placed in service, the

Department will conduct on-site inspections of all new buildings in the project and, for at least 20 percent of the project's Low-Income Units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units.

At least once every three years, beginning after the placed in service date, the Department will conduct on-site inspections of all buildings in each low-income housing project and, for at least 20 percent of the project's Low-Income Units selected by the Department, inspect the Units (including all vacant Units) and review the low-income certifications, the documentation supporting such certifications, and the rent record.

In conducting physical inspections, the Department will follow HUD's inspection protocol under 24 CFR 5.703. Selection of units for physical inspection and file review will occur only at the time of the on-site visit and not before.

**11.1.5. Liability.** Compliance is the responsibility of the Owner. The allocating agency is not liable for an Owner's noncompliance.

**11.1.6. Correction of Non-Compliance Condition.** The agency will provide written notice of noncompliance to the Owner if:

- a. Annual Certification Report with attachments is not received by the due-date.
- b. The project is found to be out of compliance, through inspection, review or other means, with the provisions of Section 42 of the Code.

The Owner will have 30 days from the date of notice to supply any missing information for the Annual Certification Report. The Owner will have 60 days from the date of notice to correct any noncompliance issues. The Department may grant an extension of up to 120 days if good cause is demonstrated as determined by the Department.

At the end of the allowable correction period, the Department is required to file Internal Revenue Service Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS. All non-compliance issues must be reported whether corrected or not. The Department will explain the nature of the noncompliance or failure to certify and state whether the noncompliance has been corrected. The IRS will make any determinations as to the applicability of recapture penalties, not the Department.

The Department reserves the right, throughout the first 15 years of the compliance period and any agreed-upon extended compliance period, to perform inspections of the project and to perform on-site audits of the resident certification forms and supporting documentation. The Owner will be notified by the Department in writing of the scheduling of any such inspection and audit.

## 12. Application and Processing Fees

### 12.1. Application Fee

A non-refundable fee of three thousand dollars (\$3,000) is due at the time of submission of the application. Applications will be rejected unless accompanied by this fee. For applicants requesting joint LIHTC/State Housing Fund funding, please consult the current Notice of Funding Availability of the State Housing Fund for applicable application fees.

### 12.2. Reservation and Allocation Fee

A non-refundable Reservation and Allocation Fee is assessed by the Department to process an application to the point of credit Allocation. The total fee is calculated as a percent of the greater of the amount of **annual credit subject to carryover Allocation or the amount of annual credit allocated to the project as evidenced by the IRS Form 8609**. The percentages are:

For-profit Applicants:	8.0%
Non-profit sponsored:	6.0%

This fee is payable in two stages:

The Reservation Review fee is payable after determination that the application represents a feasible and viable tax credit project with a likelihood of completion, and is required to be paid prior to issuance of a Reservation of credit to the project. The fee is calculated as a percentage of the **amount of annual tax credit to be awarded in the carryover Allocation (or on IRS Forms 8609 for the project)**.

For-profit Applicants:	6.0%
Non-profit sponsored:	4.0%

The Allocation Fee is payable upon the earlier of the issuance of a carryover Allocation or final Allocation of credit as evidenced by the IRS Form 8609. The Allocation fee is required to be paid prior to issuance of the carryover Allocation document or IRS Form 8609. The Allocation fee will be the difference between the total fee (6% or 8% of actual credit allocated) and the Reservation Review fee previously paid.

**12.2.1. Applicant's Obligation for Fee Payment.** The non-refundable Reservation and Allocation Fee is levied in order for the Department to process an application to the point where the Applicant may receive either a Reservation or an Allocation. If a Reservation or Allocation is not issuable due to action or inaction by the Applicant, the fees are nonetheless due and payable to the Department upon demand. If, at final Allocation (Form 8609), the Department does not award the entire Allocation amount, no refund of the Reservation and Allocation Fee will be made to the Applicant.

### 12.3. Interim Underwriting Fee

A fee of \$500.00 is due and payable prior to any interim underwriting requested by the applicant (e.g. material changes, unforeseen financing structure changes, etc.)

## 12.4. Compliance Monitoring Fees

Every project receiving a tax credit Allocation will be required to pay a non-refundable fee to cover compliance monitoring of the project . by or through the Department.

- The monitoring fee will be \$40 per low-income Unit plus and annual report fee as listed below. The monitoring fee will be assessed Annually and will be due on or before March 15<sup>th</sup>, with the submission of the annual report.

Number of Units	Annual Report Fee
0 – 50 Units	\$250
51 – 99 Units	\$500
100 + Units	\$1,000

- A \$100 late fee will be charged for every 30 days after March 15<sup>th</sup>.

# Exhibit A

## Low-Income Housing Tax Credit Provisions Contained in Section 42 of the Internal Revenue Code

In 1986, Congress eliminated a number of tax incentives previously provided to Developers of low-income housing and replaced them with a low-income housing tax credit that may be claimed by Owners of residential rental projects providing low-income housing. Section 42 of the Code provides lengthy and ornate rules governing eligibility for and the administration of the low-income housing credit program. Listed below are some of the resources available concerning the program:

Guggenheim, Joseph. Tax Credits for Low Income Housing: Opportunities for Developers, Non-Profits, and Communities Under Permanent Tax Act Provisions. Tenth Edition. Glen Echo, Maryland: Simon Publications, 1996. Telephone (301) 320-5771.

Novogradac & Company LLP, CPAs. Low-Income Housing Tax Credit Handbook: 1996 Edition. Deerfield, IL: Clark Boardman Callaghan, 1996. Telephone 1-800-323-1336.

Stevens, Herbert, Esq., and Thomas Tracy, LLM, CPA. A Developer's Guide to the Low Income Tax Credit. Fourth Edition. Washington, D.C.: National Council of State Housing Agencies, 2000. Telephone (202) 624-7710.

Arizona Department of Commerce. Compliance Manual: 2000 Edition. Arizona Department of Commerce, Office of Housing and Community Development. Telephone (602) 280-1365.

Additional information may be available at the following web sites:

Governor's Office of Housing Development  
Arizona Revised Statutes  
HUD's official web site  
Internal Revenue Service

[www.housingaz.com](http://www.housingaz.com)  
[www.azleg.state.az.us/ars/ars.htm](http://www.azleg.state.az.us/ars/ars.htm)  
[www.huduser.org/](http://www.huduser.org/)  
[www.irs.ustreas.gov/prod/tax\\_regs/](http://www.irs.ustreas.gov/prod/tax_regs/)

## Exhibit B

### Sample Letter of Community Assessment State of Arizona Low Income Housing Tax Credit Program

Governor's Office of Housing Development  
Rental Housing Programs  
3800 N. Central, Suite 1200  
Phoenix, Arizona 85012  
Attn: Cindy Coen

Dear Ms. Coen:

The (City/Town/County) of (unit of government) has received your letter notifying us that (apartment project name) is under consideration by the State of Arizona for a prospective Reservation and Allocation of Low-Income Housing Tax Credits pursuant to Section 42 of the Internal Revenue Code.

We have reviewed the aforementioned project and find that there is a strong market demand in the community for the project as proposed. We have reviewed carefully the project's market demand study dated \_\_\_\_\_, 200\_\_, and list below any disagreements with the study:

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The project and project site are consistent with the (City/Town/County) policies, strategies, and priorities pertaining to local housing needs and affordable housing.

The undersigned has the authority to bind the (City/Town/County) with respect to the matters set forth in this letter. Please contact me at (telephone number) for any further information you may need on this matter.

Sincerely,

(Name)  
(City/Town/County Manager)

## Exhibit C

### Year 2002 Difficult Development Areas and Qualified Census Tracts

The following locations are considered "Difficult Development Areas" in Arizona (subject to annual revision by the Department of Housing and Urban Development):

Metropolitan Areas: Yuma, Yuma County.

Counties: Apache, Cochise, Gila, Graham, La Paz, Navajo, Santa Cruz, Yavapai.

The following are "Qualified Census Tracts" within Arizona counties (subject to revision following the 2001 Census):

<u>Apache County</u> :	9760.00, 9771.00, 9772.00, 9773.00, 9774.00, 9775.00, 9777.00, 9778.00
<u>Cochise County</u> :	0009.00
<u>Coconino County</u> :	0010.00, 0018.00, 0022.00, 0024.00, 0025.00
<u>Gila County</u> :	9850.0, 9860.00
<u>Graham County</u> :	9950.00
<u>La Paz County</u> :	0201.00
<u>Maricopa County</u> :	0202.00, 507.00, 0608.00, 0609.00, 610.05, 610.08, 612.00, 0614.00, 0716.00, 925.00, 0926.00, 928.00, 0929.00, 1046.00, 1072.00, 1092.00, 1102.00, 1116.00, 1126.00, 1127.00, 1128.00, 1129.00, 1130.00, 1131.00, 1132.00, 1133.00, 1135.00, 1136.00, 1137.00, 1138.00, 1139.00, 1140.00, 1141.00, 1142.00, 1143.00, 1144.00, 1145.00, 1146.00, 1147.00, 1148.00, 1149.00, 1150.00, 1151.00, 1152.00, 1153.00, 1154.00, 1157.00, 1158.00, 1159.00, 1160.00, 1161.00, 1163.00, 1164.00, 1166.02, 3187.00, 3188.00, 3191.00, 3192.00, 3200.02, 4201.02, 4215.01, 4220.01, 4226.05, 5229.02, 5231.02, 5231.04, 6232.00
<u>Mohave County</u> :	9501.00, 9502.00, 9503.00, 9504.00, 9513.00, 9523.00
<u>Navajo County</u> :	9650.00, 9651.00, 9652.00, 9653.00, 9660.00, 9671.00, 9672.00, 9674.00, 9675.00, 9676.00
<u>Pima County</u> :	0001.00, 0003.00, 0004.00, 0005.00, 0008.00, 0009.00, 0010.00, 0012.00, 0013.01, 0013.02, 0014.00, 0015.00, 0021.00, 0022.00, 0023.00, 0024.00, 0026.01, 0028.00, 37.01, 0037.02, 0038.00, 0041.04, 0042.00, 0043.08, 0044.07, 0048.00, 0049.00
<u>Pinal County</u> :	0001.00, 0004.00, 0010.00, 0012.00, 0015.00, 0017.00, 0018.00, 0019.00, 0020.00
<u>Yuma County</u> :	0001.00, 0105.00, 106.00, 110.00, 0114.00, 0115.00, 116.00

## Exhibit D

### Supportive Services Plan

Supportive Services plans submitted on Form M-1 in conjunction with Section 5.4.1, Priority Populations, should specify:

- The person who will have the responsibility of Supportive Services coordinator
- The entities that will serve as the Supportive Services providers and a fully executed Form M-1 from each
- Services to be provided by each provider. Services to be considered and detailed on the Form M-1 as appropriate to the particular Priority Population, include:
  - Job training support services
  - Credit counseling
  - Homeownership counseling
  - Home economic skills training
  - Availability of both public and private health and mental health opportunities, including individual and group counseling, testing, and case management
  - Emergency food and meal availability or accessibility
  - Light housekeeping
  - Transportation services and shopping assistance
  - Scheduling of activities (cultural, social, recreational, health)
  - English literacy and citizenship preparation
  - Parenting
  - Utility and rental deposits; first month's rent

The adequacy of the Supportive Service Plan will be judged by the Department in its sole discretion.

# Exhibit E

## Ten Percent Letter

### Independent Auditor's Report

Date: XXXX XX, 200X

To: Governor's Office of Housing Development  
3800 North Central, Suite 1200  
Phoenix, AZ 85012

and

XXXX (the "Owner")  
Street  
City, State Zip Code

Re: Project Name

We have audited the accompanying Certification of Costs Incurred ("Exhibit E1") of the Owner for XXXX (the "Project") as of XXXX XX, 200X. Exhibit E-1 is the responsibility of the Owner and the 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 E1 is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in Exhibit E1. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of Exhibit E1. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Exhibit E1 was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and by the Arizona Department of Commerce (the "Department"), which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, Exhibit E1 referred to above presents fairly, in all material respects, costs incurred for the Project as of XXXX XX, 200X, on the basis of accounting described above.

In addition to auditing Exhibit E1 we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to the Project. These procedures, which were agreed to by the Owner and the Department, were performed to assist you in determining whether the Project 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 Owner, the Project's total reasonably expected basis, as defined in Treasury Regulation 1.42-6, to be \$XXXX as of XXXX XX, 200X.
- We calculated the reasonably expected basis incurred by the Owner as of XXXX XX, 200X, to be \$XXXX.
- We calculated the percentage of the development fee incurred by the Owner as of XXXX XX, 200X, to be XX% of the total development fee.
- We compared the reasonably expected basis incurred as of XXXX XX, 200X, to the total reasonably expected basis of the Project, and calculated that XX% had been incurred as of XXXX XX, 200X.
- We determined that the 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 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 Project needed to incur at least \$XXXX of costs prior to December 31, 200X. As of XXXX XX, 200X, costs of at least \$XXXX had been incurred, which is approximately XX.XX% of the total reasonably expected basis of the Project.

We were not engaged to, and did not, perform an audit of the Owner's financial statements or of the Project'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 management of the Owner and for filing with the Department 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, 200X

# Exhibit F

## Final Cost Certification Letter

### Independent Auditor's Report

Date: XXXX XX, 200X

To: Governor's Office of Housing Development  
3800 North Central, Suite 1200  
Phoenix, AZ 85012

and

XXXX (the "Owner")  
Street  
City, State Zip Code

Re: Project Name

We have audited the costs included in the accompanying Arizona Department of Commerce Final Cost Certification (the "Final Cost Certification") of XXXX (the "Owner") for XXXX (the "Project") as of XXXX XX, 200X. The Final Cost Certification is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on the Final Cost Certification 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 the Final Cost Certification is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Final Cost Certification. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall Final Cost Certification presentation. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Final Cost Certification was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and in conformity with the format and qualified Allocation plan rules set by the Arizona Department of Commerce (the "Department"), which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the Final Cost Certification presents fairly, in all material respects, the actual costs of \$XXXX and eligible basis of \$XXXX of the Owner for the Project as of XXXX XX, 200X, on the basis of accounting described above.

This report is intended solely for the information and use of the owner and the management of the Owner and for filing with the Department and should not be used for any other purpose.

We have no financial interest in the Project other than in the practice of our profession.

City, State  
XXXX XX, 200X

## Exhibit G

### Application Format

Form C, "Low Income Housing Tax Credit Application," and associated forms are available on the Department's web site [www.azcommerce.com](http://www.azcommerce.com) or on micro disk. Contact Marti Graham at (602) 280-1365 or [Marthag@azcommerce.com](mailto:Marthag@azcommerce.com)

Applicants are hereby directed not to revise, change or modify these forms in any way. Any such alteration may disqualify the application.

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) all drawings/plans may be included unbound if they do not lend themselves to the 8-1/2 x 11 format. All such plans should be in the smallest practical (readable) format. Maximum acceptable drawing size is C-size; 2) items of significant volume (such as market demand studies) may be submitted as separate **bound** items.

**The following items must be tabbed as follows to be located or scored:**

TAB	DESCRIPTION	INFORMATION PROVIDED	QAP SECTION
<b>A.</b>	<b>Cover Letter</b>	Describe the project in a cover letter addressed to the Department. Enclose any requests for a waiver of the Department's policies and underwriting criteria (one waiver request per page), including the applicant's (or a bank's) justifications for the request.	<b>7.2.6.</b>
	<b>Self-Score Sheet</b>	Complete and sign self-score sheet provided by the Department.	
<b>B.</b>	<b>Index</b>		
<b>C.</b>	<b>Application Form</b>	Complete Form C, "Low-Income Housing Tax Credit Application."	<b>2.2.</b>
<b>D.</b>	<b>Legal Opinion</b>	"Sample Legal Opinion."	
<b>E.</b>	<b>CPA Opinion</b>	"Sample CPA Opinion."	
<b>F.</b>	<b>Legal Formation</b>	Insert all information required by the Allocation Plan	<b>3.2.3.</b>
<b>G.</b>	<b>Non-Profit Information</b>	Insert all information required by the Allocation Plan	<b>3.2.2.</b>
<b>H.</b>	<b>Development Team</b>	Insert Form H and resumes of all Development team members. Complete Form H-1 for all new construction and rehabilitation tax credit projects for Developer Experience points.	<b>3.1.7 4.5.</b>
<b>I.</b>	<b>Land</b>	Insert documents evidencing land control or land ownership (option, purchase contract, agreement to lease, deed, lease, "Status or Condition of Title Report," title insurance	<b>3.2.4. 3.2.5.</b>

		policy).	
<b>TAB</b>	<b>DESCRIPTION</b>	<b>INFORMATION PROVIDED</b>	<b>QAP SECTION</b>
<b>J.</b>	<b>Project Readiness</b>	Complete and insert Form J, "Project Zoning Certification," or an equivalent document, as well as the other documentation of readiness required by the Allocation Plan.	<b>4.10.</b>
<b>K.</b>	<b>Sources of Funds</b>	Insert letters of intent, letters of commitment, or award letters for every source of funds listed under either Construction or Permanent Financing on Form C, "Low-Income Housing Tax Credit Application."	<b>3.2.6</b>
<b>L.</b>	<b>Market Demand Study</b>	Insert the Market Demand Study that has been prepared in accordance with the Allocation Plan.	<b>3.2.8.</b>
<b>M.</b>	<b>Special Needs Populations</b>	Insert Form M, "Commitment to Set Aside Units," along with all supporting documentation required by that form.	<b>1.3.3.1. #4, 4.9., 4.11.</b>
<b>N.</b>	<b>Priority Market Need</b>	Insert Form N, "Commitment to Lower-Income Set-Aside."	<b>4.6.</b>
<b>O.</b>	<b>Tenant Ownership</b>		<b>4.3.</b>
<b>P.</b>	<b>Historic Preservation</b>	SHPO and National Parks letters of support	<b>4.1.</b>
<b>Q.</b>	<b>Monitoring Compliance</b>	Insert a plan for ensuring compliance of the project against all requirements of I.R.C. Section 42.	<b>11.</b>
<b>R.</b>	<b>Marketing Plan</b>	Insert a description of proposed techniques and vehicles for marketing the property to potential low-income residents.	
<b>S.</b>	<b>Pro-Forma</b>	Insert an analysis of the estimated operating expenses, utility expenses and allowances, and other costs and income of the project on a 15-year pro-forma basis. Income should be increased by a factor of 3% a year, expense by 4% a year. (Non-project based rental assistance should be excluded from this analysis.)	
<b>T.</b>	<b>Project Location</b>	<ol style="list-style-type: none"> <li>1. Insert a 8x10 map clearly indicating the project location, include directions to the site.</li> <li>2. Insert an additional 8x10 map indicating the following facilities located within 2 miles; <ul style="list-style-type: none"> <li>• Existing LIHTC or other affordable housing developments</li> <li>• Retail Centers</li> <li>• Medical Complexes</li> <li>• Recreational Facilities</li> <li>• Educational Facilities</li> <li>• Large scale employment centers</li> <li>• Public Transportation</li> </ul> </li> </ol>	

<b>TAB</b>	<b>DESCRIPTION</b>	<b>INFORMATION PROVIDED</b>	<b>QAP SECTION</b>
<b>U.</b>	<b>Community Revitalization</b>	Insert a copy of the adopted ordinance, resolution, or other official action by which the local jurisdiction designated the Redevelopment Area,	<b>4.7.</b>
<b>V.</b>	<b>Utility Allowance</b>	Insert a copy of the current Utility Allowance Schedule (from Public Housing Authority, Utility Company, or other source), which is the basis for the utility allowances entered on Form C, "Low-Income Housing Tax Credit Application."	<b>3.2.10.</b>
<b>W.</b>	<b>Drawings/Plans</b>	Insert an architect's preliminary renderings of the project: 1) Site plan showing the general development of the site, including the location of the proposed buildings, lot lines and dimensions, streets, parking areas, and drives, service areas, utilities, and unusual site features; 2) Living unit types and composition plus a dimensional plan of each typical living unit; 3) Site and gross floor areas.	
<b>X.</b>	<b>Project Schedule</b>	Insert Form X, "Project Schedule."	<b>3.1.6.</b>
<b>Y.</b>	<b>Capital Needs Assessment</b>	For rehab and acquisition/rehab projects, Insert a Capital Needs Assessment in the format required by the Allocation Plan.	<b>3.2.9.</b>
<b>Z</b>	<b>IRS Form 8821</b>	Insert a fully completed IRS Form 8821 for each "Financial Beneficiary".	<b>1.6.</b>

## **Exhibit H**

**Income/Rent Table**

***TO BE PUBLISHED***