

STATE OF ARIZONA  
Low-Income Housing Tax Credit Program

~~2006~~2007

# QUALIFIED ALLOCATION PLAN

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# 1. INTRODUCTION

## 1.1. Background

The federal low-income housing tax credit (“LIHTC” or “tax credit”)<sup>1</sup> program was established by the Tax Reform Act of 1986, codified in Section 42 of the Internal Revenue Code of 1986, as amended (“IRC Section 42”) to encourage construction and rehabilitation of low-income rental housing. The Arizona Department of Housing (“ADOH”) is the housing credit agency responsible for allocating tax credits to owners of qualifying residential rental projects (“projects”). The Revenue Reconciliation Act of 1989 amended IRC Section 42 by adding Section 42(m), which requires allocating agencies to allocate low-income housing tax credits pursuant to a Qualified Allocation Plan (“QAP,” “Plan,” or “Allocation Plan”). IRC Section 42(m)(1) provides as follows:

(B) QUALIFIED ALLOCATION PLAN--For purposes of this paragraph, the term 'Qualified Allocation Plan' means any plan--

(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

(ii) which also gives preference in allocating housing credit dollar amounts among selected projects to--

(I) projects serving the lowest income tenants, and

(II) projects obligated to serve qualified tenants for the longest periods,

(III) projects which are located in QCTs (as defined in subsection (d)(5)(c) and the development of which contributes to a concerted community revitalization plan

and

(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of noncompliance with the provisions of this section which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

(C) CERTAIN SELECTION CRITERIA MUST BE USED--The selection criteria set forth in a Qualified Allocation Plan must include--

(i) project location,

(ii) housing needs characteristics,

(iii) project characteristics including whether the project includes the use of existing housing as part of a community revitalization plan,

(iv) sponsor characteristics,

(v) tenant populations with special housing needs,

(vi) public housing waiting lists,

(vii) tenant populations for individuals with children, and

(viii) projects intended for eventual tenant homeownership.

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<sup>1</sup> The defined terms that are used in this QAP are in Section 9.

(D) APPLICATION TO BOND FINANCED PROJECTS--Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the Qualified Allocation Plan applicable to the area in which the project is located.

There are two methods for obtaining a tax credit allocation: (i) through an application submitted pursuant to this QAP and (ii) tax-exempt bond financing.

Since the start of the Arizona program in 1987, over \$~~900-928~~ million in private capital has been invested into the State of Arizona (the "State"), assisting in the development of ~~nearly 36,162~~37,116 units of affordable housing. The LIHTC program has resulted in the production of affordable housing for low and moderate-income households throughout Arizona.

## 1.2. General And Specific Goals

A. General Goals. The LIHTC program is not an entitlement program. The federal government has established annual ceilings on the dollar amount of tax credits that ADOH may allocate to qualifying projects, and detailed eligibility standards and priority uses for available tax credits. ADOH ~~awards-reserves~~ tax credits following a competitive process. In furtherance of the statutory provisions affecting the program, ADOH has established the following general goals for allocating tax credits in Arizona:

- To maximize the number of affordable rental housing units added to the existing housing stock;
- To develop affordable rental housing units in areas with the highest market demand;
- To allocate tax credits to projects that provide the greatest overall public benefits;
- To allocate all tax credits;
- To encourage development and preservation of appropriate rental housing for people and families that need governmental assistance to find and maintain suitable, habitable, and affordable rental housing in the private marketplace;
- To enable substantial rehabilitation of existing rental housing in order to prevent losses to the existing supply of affordable units;
- To prevent the loss from the existing stock of low-income rental housing of those units under expiring contracts with federal agencies or subject to prepayment which, without the allocation of tax credits, would be converted to market rate units;
- To maximize the utilization of tax credits;
- To provide an equitable distribution of tax credits across the State; and
- To provide opportunities for participation in the tax credit program to all qualified sponsors of low-income rental housing.

B. Specific Goals. In addition, in allocating tax credits, ADOH seeks to achieve specific goals. These are:

- To use tax credits in connection with rental housing "projects serving the lowest income tenants";
- To use tax credits in connection with rental housing "projects obligated to serve qualified tenants for the longest periods";
- To distribute tax credits by apportioning federal tax credit among proposals targeting low-income populations -- including large families, homeless persons, persons with special needs, and senior citizens;
- To hold competition among only those projects considered sound investments of public funds;
- To expend public funds in the minimum amount necessary to achieve program goals;
- To administer the LIHTC program in a manner that encourages timely project completion and occupancy; and,
- To encourage the highest available quality and design [standards](#) for projects financed with tax credits.

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

## **2. APPLICATIONS FOR TAX CREDITS**

### **2.1. Amount of State's Annual Credit Authority Available Statewide**

~~The State will receive an annual allocation of tax credits based on a population allocation of \$1.75 per resident, adjusted for inflation.~~

**For calendar year 2006, the amount used under Section 42(h)(3)(C)(ii) to calculate the States Housing credit for the LIHTC program is the greater of (i) \$1.90 multiplied by the States population or (ii) \$2,190,000. These figures are adjusted annually for inflation.**

### **2.2. Maximum Tax Credit Reservation**

The maximum reservation for any single project or scattered site project ~~, not utilizing HOPE VI,~~ will be \$900,000 of the State's annual credit authority and no more than a total of \$2.7 million in any year for any one owner, developer, co-developer or affiliate of the developer or co-developer with multiple projects. ADOH may award tax credits for a maximum of three projects each year to a developer, co-developer and any affiliate of the developer or co-developer provided one of the projects is a ~~rural~~ project [located in a rural area](#). [Applicants proposing large projects with total costs that exceed the maximum tax credit amount for a single project must divide the project and compete for the additional tax credits by submitting applications in subsequent allocation years.](#) A reservation of tax credits for one phase of a large project does not guarantee a reservation of credits for subsequent phases in later allocation years. ~~Developers of large projects may be required to phase their projects, accepting a reservation for only one phase during the 2006 program year. Accepting a reservation for only one phase during any program year will not preclude an applicant from receiving a subsequent reservation for a subsequent phase, nor does it guarantee that the applicant will receive reservations for any subsequent phases.~~

~~Each HOPE VI proposal may only contain one Project regardless of the number or location of buildings. Each HOPE VI Project is subject to a maximum Reservation of up to \$1.2 million from the 2006 State Annual Credit Authority. HOPE VI proposals that intend to utilize more than \$1.2 million in any given year must be done in phases. Each HOPE VI proposal must identify all Tax Credit needs of all development phases in the first application submission. Additional Reservations from future rounds may not be made to the same phases that received a prior Allocation. All subsequent phases that have not received a previous Allocation are eligible for future Reservations, but are not guaranteed a Reservation. ADOH will award Tax Credits to HOPE VI proposals in an amount not in excess of \$1.2 million.~~

~~Applicants may not divide a Project into two or more Projects for the purpose of receiving more Tax Credits in the same year.~~

### **2.3 Multiple Projects.**

If ADOH determines that multiple applications in the same year constitute a single project, ADOH may deny the applications, or combine them into a single application. An allocation, as determined by ADOH, shall not exceed the amount ADOH determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project. ADOH, in its discretion, may treat multiple applications for projects located within the same demographic or market area with common ownership or development team members as a single application if it identifies two or more of the following factors in separate applications: the maximum tax credit reservation as described in Section 2.2; projects that target similar populations; large project size in relation to market, market saturation, commonality of design; shared amenities; commonality of application for funding from ADOH, HUD or other housing authorities.

### **2.34. Timetable and Application Submission Location**

ADOH will hold one tax credit application round in ~~2006~~07. Applications will be available on or about the first business day of January ~~2006~~. Applicants must submit to ADOH one original and two complete copies of an application and a non-refundable application fee of \$3,500 for each application on or before 4:00 P.M. of March 15, each year. If the 15<sup>th</sup> falls on a holiday or weekend, applications will be due on the next business day. Applications must be received at the reception desk of the Arizona Department of Housing located on the 2nd Floor of the Executive Tower at 1700 W. Washington, Suite 210, Phoenix, Arizona, 85007. Facsimile and e-mail submissions will not be accepted. All applications received between January ~~032, 2006~~07 and ~~4:00 P.M.~~ March 15, 4:00 P.M. (the “deadline date”) will be ~~eligible for consideration~~reviewed for eligibility.

### **2.45. Application Format and Compliance**

(A) Application materials must be in 8-1/2 x 11 format, placed in an adequate sized three ring binder, 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 formats. All such plans should be in the smallest practical (readable) format. Maximum acceptable drawing size is C-size; and (2) items of significant volume (such as a real estate appraisal, market demand study, capital needs assessment or environmental reports) may be submitted as separate bound items. Each application must comply with the format and content of this QAP and present to ADOH a clear, unambiguous and complete application by the deadline date. ADOH may reject any application that does not conform to the requirements of this QAP or is submitted after the deadline date.

(B) An application cover letter must be submitted with the application materials. The cover letter should provide an overview of the project and should include a description of the project, target AMI and rent structure, public benefit of the project, any special characteristics of the project, and any other information

deemed pertinent to the project. Include the cover letter at the front of the application before the numbered tabs.

## **2.56. Application Review Process for Projects that are not Bond Financed**

A. Overview. For other than bond-financed projects, ADOH will ~~score~~ evaluate all applications in a competitive review process. Generally, applications that pass the threshold determination will be reviewed for eligibility. Eligible applications will be scored, ranked and underwritten until sufficient qualifying applications are identified to exhaust the amount of tax credits available for the round. Scoring means review includes auditing the applicant self scores by verifying support for the points claimed, and deducting adjusting points in a competitive scoring process according to the criteria set forth in Section 2.9. Underwriting includes review of the project described in the application for economic feasibility, quality, market demand, and public benefit utilizing the criteria listed here in Section 7.

B. Review Process. ADOH will take the following steps in processing applications and reserving and allocating credits:

(1) Threshold determinations. Applications that fail to comply with the threshold requirements set forth below will not be considered and will be moved to the list of ineligible applications.

(a) Complete application. The application must be complete and submitted according to form. The applicant must submit one original and two copies of a complete and accurate application organized in the prescribed sequence and format, as required by this QAP and by the “Arizona Year 2007 Low-Income Housing Tax Credit Program Application Forms and Instructions,” together with the non-refundable application fee. ADOH will not accept any additional information, amendment or change to the application after the deadline date. Notwithstanding the foregoing, ADOH may make written inquiries to the applicant, architects, engineers, financial institutions and the local governments in order to complete the eligibility documentation or to verify the information submitted. ADOH will consider such supplemental documentation for eligibility purposes only, and will not consider the supplemental information in scoring the application.

(b) Application fee. Applications must be accompanied by the application fee described in Section 6.1. ADOH will deem an application ineligible if the application fee payment does not clear to ADOH’s deposit account.

(c) Authorized signatures. All documents that require a signature must be signed by the applicant’s authorized representative. An applicant must be an existing legal entity authorized to conduct business in Arizona and in good standing with the office of the Secretary of State of Arizona. ADOH will not consider forms signed on behalf of an entity that is not duly formed or by a representative without authority.

(d) Good standing. At the time of the application is submitted, no member of the development team may be in default on a low-income housing financial obligation to ADOH, HUD, or to any local government body or housing authority in Arizona.

(e) Demonstration of Local Government Support. Applications must include the demonstration of local government support as provided by paragraph 6 of this subsection.

(f) Disqualification. An application must not be subject to disqualification as provided in Section 4.7.

~~(2) Eligibility Determination - ADOH will review the application and any other information pertaining to the applicant and other development team members to determine if the eligibility criteria items identified in Section 2.7 have been met. **Applications that fail to meet eligibility requirements shall be moved to the ineligible list and shall not receive a reservation of tax credits regardless of its audited score.** See, paragraph (5), below, and Section 2.13. ADOH may shall review an application for eligibility at any time that when prior to an allocation is being made.~~

(3) Set-Asides - Applications will be categorized based on Set-Asides elected and information included in the application. For Set-Aside information see Section 2.87. of this QAP;

~~(2) Eligibility Requirements—ADOH will review the application and any other information pertaining to the Applicant and other development team members to determine if the eligibility items identified in Section 2.6 have been met. If the requirements outlined in Section 2.6 have not been met, ADOH may reject the application.~~

(43) Project Score - Each project will be reviewed and receive points based on the scoring criteria set out forth in Section 2.9 of this Plan QAP. No application will be scored higher than the applicant's self score. An application must provide a factual basis and documentary support for points claimed. Claims for points that fail to meet the criteria in Section 2.9 or that are not supported by the application shall be denied. In the event that an applicant claims points in mutually exclusive point criteria, ADOH will deduct the smaller amount of points that are not supported by the application. Applications will be scored based SOLELY on the information supplied in the application. ~~For project Scoring information refer to Section 2.8 of this QAP.~~

(54) Project Ranking - Each ~~complete, eligible~~ application must be complete and eligible to compete for available credits and will be ranked based on the points received within each set-aside category and for the non-set-aside applications category. ~~The Applicant must submit complete documentation to receive points. Notwithstanding the Project's audited score, a project will not receive an allocation if it fails to underwrite for feasibility and public benefit. See paragraph 7 below and Section 2.13.~~ if the Project's Market Demand Study does not adequately demonstrate strong new demand for the specific development being proposed without causing economic disruption to other comparable properties in the market, it shall not receive an Allocation. ~~The Market Demand Study is required as a protection against saturation of Low Income Units and to ensure absorption of new Units.~~

(56) ~~Notification of Support from~~ Local Government - ADOH will seek a letter of consent to the project from the local government in the form of Exhibit B. *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 does not ~~consent support~~ to the project, ADOH will reject the application. ADOH will notify the local government of an application and request comment on verification of support for the proposed project. The notification will be sent directly from ADOH following the Eligibility Review. ADOH will reject applications that are deemed unfavorable by the local government. Please be advised that local governments may have independent requirements for obtaining the letter of support. ADOH strongly recommends that you contact local governments early.

~~(6) Reservation List—ADOH will issue a Reservation to those Projects that score highest in relation to all applications, meet the Eligibility Requirements, demonstrate a strong market demand, have received the written consent of the Local Government, and underwriting analysis. ADOH, based upon an evaluation of all applications and in its sole discretion, will issue a letter notifying the Applicant of the Reservation of Tax Credits, which shall include a request for payment of the Reservation Fee described in Section 6, and the requirements needed for the Applicant to satisfy the Carryover Allocation~~

~~requirements.~~

~~(7) Underwriting - ADOH will conduct the first of three underwriting reviews for all Projects. Eligible projects will be underwritten before any reservation of credits is made. ADOH will establish the reservation amount following the procedures in Section 2.2., “Maximum Tax Credit Reservation,” and underwrite the projects as provided in Section 7, “Underwriting,” of this QAPPlan. Generally, only projects with costs of capital, pro forma costs, and market demand that adequately demonstrate economic feasibility and strong new demand for the specific development being proposed that do not cause economic disruption to other comparable properties in the market shall qualify for project an allocation. The market demand study is required as a protection against saturation of low-income units and to ensure absorption of new units. ADOH may require clarifications or other information pertaining to the feasibility of the proposed project. The applicant must submit the supplemental underwriting information within 10 business days from the date of the written notification from ADOH. ADOH may reject applications during the underwriting process based on fundamental defects such as arithmetic errors or unfilled funding gaps.~~

~~(8) Reservation and Eligible Lists – ADOH, based upon evaluation of all applications and in its sole discretion, will establish and make available to the public a reservation list describing projects receiving an allocation, an eligible list of projects that did not receive an allocation as described in detail at Section 2.13, and a list of ineligible projects that will not be considered for an allocation in the allocation year. The final allocation shall be determined by ADOH, in its sole discretion, in accordance with Section 7 of this QAP.~~

~~(89) Tax Credit Reservation – ADOH, based upon an evaluation of applications and in its sole discretion, shall reserve tax credits to the highest scoring projects in each set-aside or non-set-aside projects that: 1) meets the eligibility requirements; 2) demonstrates a strong market demand; 3) has received the written consent of the local government; and, 4) and demonstrates feasibility, quality, and benefit to the public.~~

~~ADOH, will issue a letter notifying the applicant of the tax credit reservation, which shall include: 1) a request for payment of the reservation fee described in Section 6.4; 2) instructions for application for a carryover allocation described in Section 2.14; and, 3) a description of the requirements needed for meeting the 10% Cost Test according to Section 2.15. The Applicant to satisfy the Carryover Allocation requirements. ADOH will determine the actual Reservation based upon the Applicant’s request. Although the Reservation may not necessarily equal the Applicant’s request, the Reservation shall not exceed the amount requested. The final Allocation shall be determined by ADOH, in its sole discretion, in accordance with Chapter 7 of this QAP.~~

## **2.6-7 Eligibility Requirements**

A. General Requirements. To ensure that all projects have a high probability of completion, applicant and project must meet the eligibility requirements set forth in this Section-2.6.

~~The Applicant must submit one original and two copies of a complete and accurate application organized in prescribed sequence and format, as required by this QAP and by the “Arizona Year 200607 Low Income Housing Tax Credit Program Application Forms and Instructions,” together with the non-refundable application fee. ADOH will not accept any additional information, amendment or change to the application after the Deadline Date. Notwithstanding the foregoing, ADOH may make inquiries to the Applicant, architects, engineers, financial institutions and the Local Governments in order to complete the eligibility documentation or to verify the information submitted. ADOH will consider such supplemental documentation for eligibility purposes only, and will not consider the supplemental information in scoring the application.~~

ADOH eligibility review will include a review for geographic distribution of the projects.

~~An Applicant must be an existing legal entity authorized to conduct business in Arizona and in good standing with the office of the Secretary of State of Arizona. All documents that require a signature must be signed by the Applicant's authorized representative. ADOH will reject forms signed on behalf of an entity that is not duly formed or by a representative without authority.~~

B. Eligibility. Applications must meet each of the following eligibility requirements. ADOH will reject the application if these requirements are not met.

(1) **Payment of ADOH fees** - The application fee is due with the application. ADOH will reject any application that is not accompanied by the application fee.

(2) **Land Control**

(a) Land Control for all land needed for the project must be evidenced by a written **governmental** binding commitment to transfer the land to the applicant, a recorded deed or long term lease in the applicant's name, a lease option or by a fully executed purchase contract or purchase option between the applicant and record owner of property. If a purchase contract or purchase option is submitted, the agreement must provide for, respectively, either a closing date or an initial term lasting until September 30th of the year in which the application is submitted. The applicant must submit the following to ADOH (enclose all required documents at **Tab 9I**):

- (i) A "Status (Condition) of Title Report" for the property dated within 30 calendar days of the date of the application.
- (ii) For projects that are not located on governmental or Tribal land, the applicant must establish that it has legal control of the property by submitting a recorded deed, purchase agreement, purchase or lease option, lease agreement (for a term at least equal to the duration of the Extended Use Agreement), or a resolution by a governmental agency that owns the property.
- (iii) For projects that are located on governmental or Tribal lands, the applicant must establish that it has legal control of the property by submitting: (1) an agreement between the applicant 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. For Tribal leases only, ADOH will consider the length of the lease 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 applicant.
- (iv) In cases requiring use of powers of eminent domain by the local government, the applicant must enclose evidence that a condemnation lawsuit has been filed for the specific parcels of real property upon which the project will be situated together with the court's order of possession.
- (v) If the applicant is submitting a purchase agreement, option, or lease agreement to acquire the real property, the purchase agreement, purchase or lease option, or lease agreement must specify purchase price or rental amount. The term of any lease agreement must be a minimum of 30 years.
- (vi) 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 reservation.

(b) Applicants must acquire land and buildings for the project from unrelated third parties in arms-length transactions. An applicant may file a written request for a waiver of this requirement with ADOH at the same time that the applicant filed its application. A written request for waiver must include a full justification for the waiver and it must include, as attachments, an appraisal, which is less than six months old, prepared by an Arizona certified general real estate appraiser. ADOH may grant the waiver request if it determines the applicant has demonstrated adequate justification and complied with the requirements of this paragraph.

(3) **Satisfactory Progress and Compliance** - ADOH may reject applications from applicants or for projects having development team members that do not meet the requirements of Section 4.2 of this QAP or have failed to comply with the tax credit requirements and conditions in previous applications or developments including, but not limited to, payment of any other fees as described under Subsection B(1) of this section and ~~Chapter~~Section 6 of this ~~QAP~~Plan, or if members have outstanding compliance issues with any other subsidized programs as described in Section 2.9(5).

(4) **Qualified Project** - The project must be a qualified residential rental project, which meets the requirements of IRC Section 42. (See Legal Opinion, Exhibit E.)

(5) **Placed in Service** - The project must not have been placed in service prior to the date the applicant filed the application. (See Legal Opinion, Exhibit E.)

(6) City Approval – If a project has received approval by the City or County Manager (or other appropriate governmental official), submit a copy of the approval letter at Tab 2.

(67) Form E3 and Applicant’s Certifications - Form ~~E3~~E3 must be complete and accurate, and signed by the appropriate party. The applicant is required to make certain certifications in the applicant Affidavit, Release, and Oath (included in Form ~~E3~~E3, “Low-Income Housing Tax Credit Application”) including a certification that ADOH’s minimum design features (Exhibit D) will be complied with in the construction of the project and that, if they are not, an acknowledgement that all credits awarded to the project may be surrendered to ADOH. Enclose at ~~Tab E3~~Tab E3, Form ~~E3~~E3 and the Applicant Certification.

(78) IRS Form 8821 - Applicants are required to submit complete and executed copies of IRS Form 8821, “Tax Information Authorization,” for the applicant and each development team member who has a financial interest in the project, authorizing ADOH as “Appointee” to receive from the IRS available information regarding any “financial beneficiary’s” (see ~~Chapter~~Section 9) conduct of its business with the Internal Revenue Service (“IRS”) relating to the Low-Income Housing Tax Credit Program. Such information received from the Internal Revenue Service may be used by ADOH in its sole discretion to disqualify an application pursuant to ~~Chapter~~Section 4 of this Plan. Enclose IRS Form 8821 at ~~Tab E3~~Tab E3, behind the Applicant Affidavit, Release, and Oath.

(89) Legal Opinion - Must be on professional letterhead and in substantially similar form to Exhibit E “Sample Legal Opinion”. However, it should be noted that the attorney providing the opinion should be as detailed as possible describing all the unique characteristics of the development and how those characteristics qualify for the tax credit program. The legal opinion must clearly address the Ten-Year Rule regarding the eligibility for acquisition tax credits (See ~~Chapter~~Section 9). If the legal opinion submitted in the application is unsatisfactory, ADOH will require the applicant to update the legal opinion or require an additional opinion from another attorney at the sole expense of the applicant. Enclose legal opinion at ~~Tab D4~~Tab D4.

(910) CPA Opinion - Must be on professional letterhead and in substantially similar form to Exhibit E-1 “Sample CPA Opinion.” Enclose CPA Opinion at ~~Tab E5~~Tab E5. Applicants may defer submitting the must submit a CPA Opinion until such time as the applicant demonstrates eligibility compliance with the 10% Cost Test for a carryover allocation as required by Sections 2.154 and 2.165.

**(4011) Legal Formation** – The applicant must submit evidence that the applicant and developer are duly formed legal entities authorized to transact business in the State of Arizona and in good standing with the Office of the Secretary of State of Arizona. Enclose at **Tab F-6** of the application the Certificates of Good Standing or Existence, as appropriate, and all other documentation required under this section.

**(a) Corporations.** If the applicant or developer is incorporated in Arizona, a Certificate of Good Standing, issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the deadline date, 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 deadline date **and** a Certificate of Authority to Transact Business in Arizona or a Certificate of Good Standing for such foreign corporation, issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the deadline date.

**(b) Limited Partnerships.** If the applicant or developer is a limited partnership organized under the laws of Arizona, a Certificate of Existence, issued by the Arizona Secretary of State and dated not earlier than 30 days prior to the deadline date, 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 not earlier than 30 days prior to the deadline date, **and** an Arizona Certificate of Foreign Limited Partnership from the Arizona Secretary of State or a Certificate of Existence dated not earlier than 30 days prior to the deadline date.

**(c) Limited Liability Companies.** If the applicant or developer is a limited liability company organized under the laws of Arizona, a Certificate of Good Standing, issued by the Arizona Corporation Commission, dated not earlier than 30 days prior to the deadline date, 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 Good Standing or its equivalent from the state of organization dated not earlier than 30 days prior to the deadline date **and** an Arizona Certificate of Authority to Transact Business in Arizona issued by the Arizona Corporation Commission and dated in the year of application or a Certificate of Good Standing for such foreign limited liability company dated not earlier than 30 days prior to the deadline date.

**(4112) Non-Profit Information** - Under Tab **G7**, the applicant must submit evidence that the applicant is a current 501(c)(3) or (4) entity. In addition, the applicant must execute and enclose at **Tab G-7** Form **G7**, a “Certificate of Non-Profit Participation,” and all other evidence required. In the case where a governmental or tribal agency is applying for non-profit consideration, it must provide the appropriate 501(c)(3) or (4) documentation, a letter from the executive officer of the local governmental or tribal agency. “Non-profit Projects” are projects in which a qualified non-profit organization (i.e., an IRC Section 501(c)(3) or (4) organization) owns an interest (directly or through a partnership) and materially participates within the meaning of IRC Section 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 Section 469(h)(i) as involvement “in the operations of the activity on a basis that is regular, continuous and substantial.” The ADOH defines “substantial” as having the authority or right to, among other things, participate in the decision-making process for design, location, materials, and management of the project. In addition, ADOH requires that the non-profit organization provide on a best-evidence basis: (1) IRS documentation of status 501(c)(3) or 501(c)(4); (2) a description of the nonprofit organization and its activities, to include the promotion of affordable housing in its articles; (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 IRC Section 42; (6) the names of board members of the nonprofit organization; (7) the names and resumes of all paid full-time staff; (8) the 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.

**(4213) Development Team** – The applicant must enclose at **Tab H8**, Form **H8**, an identification of development parties and financial statements of the developer or co-developer, which must be in full and final form. Applications that do not identify a contractor must do so prior to ADOH issuing a final reservation. The developer must demonstrate 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, ADOH may reject the application. ADOH may check the references and credit of the applicant and other development team members as it deems necessary to determine developer capacity.

[ADOH requires that developers execute and submit Form 8-2 \(Authorization for Release of Information\) allowing ADOH to contact other state allocating agencies.](#)

**(4314) Identity of Interest**- There exists an "identity of interest" between the developer, the management company or architect 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. Where there is an identity of interest between the developer and the builder, the total developer, consultant, and builder fees will be limited to the developer fee in Section 7 plus the builder's overhead and general requirements. See Section 7.2. ADOH will review other identities of interest among members of the development team and may reduce fees to be paid by the developer to another development team member. Enclose at **Tab H8** of the application Form **H8**, disclosing specifically in Section 11 of **Tab H8** every owner of the developer, the builder, and the consultant.

**(4415) Zoning** – The applicant must enclose a fully completed Form **J10**. Form **J10** must be signed by the appropriate governmental planning and/or zoning official and must evidence that the proposed site is zoned or conditionally zoned for the proposed use. Developments sited on land that is not subject to zoning or which is zoned agriculture are exempt from this eligibility requirement. For sites with conditional zoning approval for the proposed use, documentation from the local government stating the specific conditions to be satisfied must be included under **Tab J10**. ADOH may determine if the conditions are minor. **p**Projects that are not zoned with minor conditions or are conditionally zoned must obtain final approval by May 15th of the year following the year in which the carryover allocation is made.

**(4516) Financial Ability to Proceed** - As evidence of commitments for funding sources the applicant must enclose at **Tab K-11** the following required documents:

- (a) A letter of interest or a letter of intent for both construction period and permanent financing, with a term sheet, where applicable, 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

ADOH's application deadline, must submit a "letter of interest or intent" from the funding source with the application.

(b) Letters of interest or intent from each lending source (permanent and construction), excluding any equity investors, should include (i) a term sheet (ii) amount of the loan, (iii) interest rate, including all points, (iv) amortization period, if applicable, (v) term of the loan, (vi) loan-to-value factor, (vii) maximum and minimum debt service coverage allowable (not required if the permanent lending source is a governmental or tribal entity), (viii) all commitment and/or origination fees, (ix) and a description of all other fees directly attributed to the funding of the loan.

(c) 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 the "deferred developer fee" will be required with the final underwriting package.

~~(d) ADOH may determine 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 result in all or a part of the credits being recaptured or reduced by, or returned to ADOH.~~

~~(e)~~ Except for those applicants who have submitted an application for state housing funds, if an applicant intends to use a funding source to fund a funding gap, the applicant must include a Letter of Interest or Intent from the prospective Lender of gap funds and a "letter of interest or intent" ~~Letter of Interest or Intent~~ from an alternative Lender as well.

~~(e) If applicable, include a commitment from the entity facilitating any operating deficit reserve/escrow funds. See Section 2.6(B)(23).~~

~~ADOH may determine whether the "letter of interest or intent" ~~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 result in all or a part of the credits being recaptured or reduced by, or returned to ADOH.~~

~~(f)~~ 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 for projects with less than 50 units or 1.20 for projects of 50 units or more will be rejected unless the applicant or lender has submitted a waiver request justifying higher debt service coverage. Coverage ratios above 1.30 or 1.20, as applicable, must be approved by ADOH. Applications submitted with coverage ratios below 1.15 will be rejected unless the applicant provides an irrevocable source of adequate additional funds.

~~(g)~~ ADOH may reject any application with unfilled funding gaps. See Section 7.13. ADOH will consider exceptions only in cases where a State Housing Fund application has been submitted concurrently with the application for tax credits, or letter of credit in the event other funding sources are not available.

~~(h) If applicable, include a commitment from the entity facilitating any operating deficit reserve/escrow funds. See Section 2.6(B)(23).~~

**(4617) Market Demand Study** – The applicant must submit a market demand study at **Tab L12**. The market demand study must be in final form, executed by the analyst and include a statement from the analyst that the report was prepared according to ADOH’s Market Demand Study Guide (see Exhibit L), that the information included is accurate, and that the report can be relied upon by ADOH to present a true assessment of the housing market in the primary area of the proposed development. ADOH may determine the market demand study supplied with the application to be unsatisfactory and may require additional information at the sole expense of the applicant. —Also see Section 2.4., “Application Format.”

**(4718) Special Needs Populations** - Applicants that intend to serve special needs populations must complete and execute Form **M13** describing services to be provided and must include any service plans or agreements. Enclose Form **M13-1**, and all documentation required by Form **M13-1** at **Tab M13** as detailed in Section 2.8(10). Applicants must submit proof of a subsidy source to help pay the rent for these units for the 15 year compliance period and show a line item on the operating budget paying for the services provided.

**(4819) Priority Market Need** – The applicant must complete Form **N16** and enclose it at **Tab N146**. **Tab N146** must be accurate and match page 8 of Form **E3**. *Tax credit unit income and rent thresholds cannot exceed the maximum established by IRC Section 42 (60% AMGI when using the 40/60 convention or 50% AMGI when using the 20/50 convention). The maximum rent threshold is based on the income level selected on Form N.*

*Example: If the 40% AMGI rent level is selected on Form **L46N**, then the rents may not exceed the maximum allowable rent per IRC Section 42. However, the income of a qualified tenant may exceed the 40% AMGI level by a maximum variance of 5% unless IRC Section 42 or other federal requirements prohibit such a variance.*

**(4920) Tenant Ownership** – The applicant must include at **Tab O157** of the application: (1) a letter of intent from a qualified non-profit organization to purchase the units, including a calculation of the purchase price and (2) a detailed description of the ownership proposal that includes financial counseling services plan, tenant identification, unit pricing in accordance with IRC Section 42(i)(7), a program for down-payment assistance, a marketing strategy, and a proposed sale agreement.

**(2021) Historic Preservation** - The applicant must enclose at **Tab P168** all documentation evidencing historic preservation as detailed in Section 2.8.(F)(1), “Historic Preservation.”

**(2122) Monitoring Compliance** – The applicant must include at **Tab Q179** a plan that describes the method, training and education of the management agents responsible for the daily adherence to IRC Section 42, State and local requirements.

**(2223) Marketing Plan**- The applicant must include at **Tab R1820** an affirmative marketing plan in accordance with fair housing requirements, to the primary market area identified in the market study. If applicant has designated certain units for a Special Needs Population, the marketing plan must indicate how the population will be targeted.

**(2324) Pro Forma and Operating Expenses** -The applicant must include at **Tab S1921** a 15-year pro forma and operating expense data. The 15 year pro forma must be signed by the first mortgagee (or the syndicator/investor if the project is funded 100% by equity) that exclusively reflects the following language verbatim: “We acknowledge that this pro forma substantially matches the assumptions used in our underwriting and due diligence of the mortgage (or equity investment).”

The pro forma must precisely reflect the rent structure in the application, all lenders’ assumptions such as principal and interest payments, non-rental income, detailed operating expenses, required reserves,

annual fees, debt service coverage ratio etc., as well as other characteristics that impact the financial feasibility (for example, cost of Supportive Services). The ~~15~~Year-year pro forma must mirror the operating assumptions and rent structure as shown in the application.

If the pro forma reflects negative cash flow in any year, the application shall demonstrate the funding and utilization of an operating deficit escrow account or describe the source of the operating deficit funds. A commitment from the entity facilitating the operating deficit reserve/escrow funds needs to be included at **Tab ~~K-11~~** with the other funding source documents.

The ~~15-y~~Year pro forma may reflect rental assistance only if such assistance is evidenced at **Tab ~~K-11~~** with the other funding source documents.

~~applicants~~Applicants shall submit at least two forms of data supporting the operating expenses stated in the pro forma (for example, database information from similar projects, comparable project information as illustrated in a market demand study, IREM information or Real Data information). ADOH may require submission of the audited financial statements for comparable projects owned by the applicant. Rehabilitation projects may submit 3 years of historical information as evidence of operating expense assumptions.

**(~~2425~~) Project Location** – The applicant must include at **Tab ~~F-202~~** of the application: (1) an 8x10 map or fold-up map clearly indicating the project location; (2) detailed directions to the site from the nearest major intersection; (3) an additional 8x10 or fold-up map indicating the following facilities located within 2 miles of the proposed development:

- a. Existing LIHTC or any other governmental subsidized housing developments
- b. Retail centers
- c. Medical complexes
- d. Recreational Facilities
- e. Educational Facilities
- f. Large scale employment centers
- g. Public transportation

**(~~2526~~) Community Revitalization** - The applicant must enclose at **Tab ~~U-213~~** the following: (i) a copy of the municipal ordinance or resolution by which the governing body of the municipality or county designated the area as a housing priority area or evidence that the property is located in one of the following: (a) a federal empowerment zone or federal enterprise community, (b) a Redevelopment Area (c) an established HUD Neighborhood Revitalization Strategy Area, ~~or~~ (d) a geographic area or parcel of property that has been established by the local government as part of a comprehensive affordable housing plan, or (e) a revitalization area designated by the local government and (ii) a map showing boundaries of the housing priority area and the location of the project within the housing priority area. The map must clearly show the names of the roads, streets or other boundaries of the housing priority 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 housing priority area, then also include Form ~~U213~~, signed by an authorized representative of the municipality or county, stating that the project is within the boundaries of the designated housing priority area.

**(~~2627~~) Utility Allowance Schedule** – The applicant must include at **Tab ~~V-224~~** of the application: (1)

“will serve” letters from the local utility providers indicating water, sewer, and electrical utilities are available to the site; and (2) a copy of the most recent and current utility allowance schedule from the local Public Housing Authority, utility company or other source. The current utility allowance schedule 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 no sooner than 30 days prior to the date of application submission. The letter from the issuing authority must state that the utility allowance schedule submitted is the current schedule.

~~(2728)~~ **Drawings and Plans** – The applicant must include at **Tab ~~W-235~~** the preliminary drawings and renderings of the development. Include (1) a site plan showing the general development of the site, including the building and parking location and proposed landscaping; (2) ~~if the project proposes a community facility or community services facility, include~~ the ~~community services facility~~ building layout and net floor area ~~for projects proposing a community facility or community services facility; and~~ (3) Elevations for each proposed building and clubhouse; ~~and, (4) design considerations in support of claim for competitive points for water conservation, see Section 2.8(14).~~ . ~~A community services facility is as defined in Section 9.; and 4) design considerations in support of claim for competitive points for water conservation, see Section 2.8(14).~~ The applicant must submit plans and specs (submitted to the local government for approval) at the time of carryover. ~~Also enclose at Tab W24, completed Exhibit W2.~~

~~(2829)~~ **Property Design Standards** - As applicable, all newly constructed and rehabilitated properties must meet the current Uniform Building Code, the National Standard Plumbing Code, the National Electric Code, the 2000 International Energy Code, the International Building Code and the Federal Fair Housing Act (42 U.S.C. §§ 3601, et seq.), the Arizona Fair Housing Act (A.R.S. §§ 41-1491 through 41-1491.37), and HUD Fair Housing Regulations (24 C.F.R. Part 100, subpart D), the Uniform Federal Accessibility Standards (Section 504 of the 1973 Rehabilitation Act) and the Americans with Disabilities Act (42 U.S.C. §§ 12101 through 12213). The applicant must include at **Tab ~~W-246~~**, completed Exhibits ~~WY, W-1, and W-2~~ signed by the Architect for the project and the general contractor respectively for the project certifying that the project meets the above design standards, ~~Exhibits W-1 and W2 are to be~~ submitted with the 8609 package.

~~(2930)~~ **Lead-based Paint** - If the project includes a building or structure that was built before January 1, 1978, the applicant must have a lead-based paint inspection completed by a certified lead-based paint inspector. That inspector must prepare and the applicant must include in its application at **Tab ~~W-246~~** a complete copy of that report. If the report indicates the presence of lead-based paint, the applicant must include at **Tab ~~W-246~~**: (1) a written amelioration plan for the elimination and disposal or encapsulation of the lead-based paint, and (2) a written on-going maintenance plan to manage the lead-based paint.

~~(3031)~~ **Project Schedule** – The applicant must complete and execute Form ~~X-257~~ and insert it at **Tab ~~X257~~**.

~~(3132)~~ **Capital Needs Assessment** - Applicants are required to provide to ADOH a capital needs assessment (“CNA”) for all rehabilitation and combined acquisition and rehabilitation projects. Insert at **Tab ~~Y-268~~** a CNA that meets the requirements outlined below. Applicants must include a statement from the architect or engineer that the report was prepared according to ADOH’s CNA Guidelines and that the information included is accurate and that the report can be relied upon by ADOH to present a true assessment of the proposed rehabilitation budget and immediate repairs required at the property. ADOH may determine the CNA report is unsatisfactory and may require additional information at the sole expense of the applicant.

The CNA shall examine and analyze the following building components:

- Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities and lines;
- Structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system, and drainage;
- 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;
- Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, and fire protection; and
- Elevators.

The CNA report 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 this Plan, Exhibit D. 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 the 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 expenses.

The professional preparing CNA report must:

- (a) Be an architect or mechanical/structural engineer licensed by the State.
- (b) 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 must be inspected.
- (c) Identify any physical deficiencies as a result of (i) visual survey, (ii) review of pertinent documentation, and (iii) interviews with the property owner, management staff, tenants, community groups, and government officials.
- (d) 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.

- (e) 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, and list needed repair items in the rehabilitation plan.
- (f) Prepare a rehabilitation plan, addressing separately all two-year and long-term physical needs.
- (g) Prepare a replacement reserve schedule, including an estimate of the initial and annual deposits, accounting for inflation and based on a 20-year term.
- (h) Conduct a cost/benefit analysis 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, thermo-pane 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.

**(3233) Internet Access** - All units shall be wired with three networks back to a central location: 1) a network for phone using CAT-5 wire; 2) a network for television using COAX cable, and 3) a network for data using CAT-5 wire.

**(3334) Registration With Social Serve** - Applicants who receive an allocation must agree to register the units with socialserve.com and maintain such registration with socialserve.com for the duration of the Compliance Period.

**(3435) ADOH Signage** - Applicants who receive an award of tax credits must erect a sign at the construction site indicating that the project is funded through the ADOH and listing the sources of funds. The sign must be a minimum size of 24 inches high by 36 inches wide, include a minimum 5 inch high ADOH logo and text printed at a minimum 72 point font. An individual ADOH sign does not have to be provided if incorporated into a larger group sign.

### **2.7.2.8 200607 Set-Asides**

(A) **BASED ON SCORING.** For Census Designated Places with populations of 50,000 or less according to the 2000 U.S. census data, an allocation will not be made to more than one family, one senior, and one Special Needs Project in any year. ~~with a~~ No more than \$900,000 shall ~~being devoted allocated~~ to Special Needs Populations Projects per Tax Credit round. ~~Provided, In the event that there is more than one qualified viable application in each category, as a priority, and at the sole discretion of ADOH, then~~ ADOH will award tax credits first to the highest-scoring applications meeting all eligibility requirements and underwriting criteria in each of the ~~following~~ set-aside categories ~~described below~~. Unallocated balances in one or more set-aside categories will be awarded to the eligible and feasible project with the next highest audited competitive score.

<b>SCORING SET-ASIDES</b>
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<b><u>HOPE VI Urban</u></b>	<del>A total of \$1.2 million is available for HOPE VI Projects</del> <u>A total of \$4,500,000 is available for projects located in Maricopa and Pima Counties that are not funded by the United States Department of Agriculture Rural Development Program. [What about Pinal county? Its part of the Phoenix MSA]</u>
<b>Acquisition/Rehabilitation – Urban</b>	Acquisition/Rehabilitation development located in an urban area where 100% of the units undergo rehabilitation
<b>Acquisition/Rehabilitation – Rural</b>	Acquisition/Rehabilitation development located in a rural area where 100% of the units undergo rehabilitation
<b>Special Needs Populations</b>	A total of \$900,000 is available for projects allocating 100% of their units to Special Needs Populations.
<b>Senior Set-Aside</b>	A total of \$1,000,000 for Senior projects allocating 100% of their units to Seniors (62 or older or handicapped) with Supportive Services.
<b>Tribal Land</b>	A total of \$1,500,000 for projects located on Tribal Lands
<b>Rural Council of Governments</b>	One project located in each of the four Rural Councils of Governments Regions (see <u>ChapterSection</u> 9, “Council of Governments”). In cases where another set-aside has provided a development within a particular Rural Council of Governments Region, no additional development shall be provided by this set-aside.
<b>Non-Profit Set-Aside</b>	20% of the State’s annual credit authority is set-aside for “non-profit projects,” as defined in Section 2.6(B)(11) of this QAP. Only non-profit projects that meet all of the eligibility requirements 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.
<b>Rural Set-Aside</b>	<u>Not less than</u> 10% of annual credit authority is set aside for projects to be located in rural areas as that term is defined in 7 C.F.R. § 3350.10. These projects may compete for overall credit authorization. If no application meeting the requirements of this QAP for rural areas is submitted, rural set-aside funds may be pooled with non-set-aside funds for allocation to any project.

(B) In its sole discretion, ADOH may limit the number of developments in a specific market or geographical area based on concentration or negative impact in a given market area. In the case where multiple applications are submitted for a given market area, ADOH will select the application that scores the highest within its set-aside category. If the project does not fall within a set-aside category, selection will be based on scoring and new market need. If multiple applications are filed for a given market area proposing to serve different populations (e.g., elderly, family or Special Needs Populations), ADOH will analyze the applications to ensure that neither project will be unnecessarily redundant or may cause harm to the other.

(C) SUPPLEMENTAL ALLOCATION SET ASIDE DIRECTOR’S DISCRETION. \$900,000.00 of the State’s annual ~~L~~ow-~~I~~ncome ~~H~~ousing ~~t~~ax ~~c~~redit authority is reserved by and for the Director of ADOH to allocate in the Director’s sole discretion to projects that need additional credits because of ~~material~~technical errors of ADOH or projects with severe hardships. The amount that may be awarded by the Director under this subparagraph may also be supplemented by the amount of credits returned that were originally reserved in prior allocation years.

- (1) SEVERE HARDSHIP. Requests based on severe hardships may be submitted from January 1<sup>st</sup> through August 15<sup>th</sup> of the allocation year ~~1-3-06 to 8-15-06~~, or until funds are exhausted, along with an additional application fee of \$2,500. Hardship requests must be documented to the satisfaction of ADOH and must demonstrate the existence of an unforeseen hardship or emergency situation where the completion of the project is jeopardized without an award of additional tax credits.
- (2) MAXIMUM CREDIT ALLOCATION. Applicants cannot apply for a supplemental allocation of tax credits ~~from the Director's discretion~~ if they have already received the maximum credit allocation allowed by eligible basis limits in the year that the application for supplemental allocation is made. In determining whether a supplemental allocation will be reserved to a project, ADOH will also consider the amount of gap financing intended or pledged to the project, gap financing limits or the Maximum Tax Credit Reservation limits.
- (3) UNRESERVED SUPPLEMENTAL ALLOCATION AMOUNTS, UNRESERVED SET-ASIDE. Any Director's Discretion Set-Aside authority Supplemental allocation set-aside amounts not reserved to specific projects by August 15<sup>th</sup>, ~~2006~~, or such earlier date that may be selected by the Director, will be released to be used for projects on the Year ~~year~~ current ~~2006~~ waiting ~~eligible~~ list, or any project that received a partial allocation of credits.

(D) Those projects meeting the eligibility requirements, but not ranking high enough to receive tax credits during the allocation year ~~2006~~ application round, will be placed on an waiting list eligible list and remain eligible to receive to be considered for any tax credits returned during the allocation year ~~2006~~. Depending upon availability returned tax credits will be allocated to the next highest scoring projects in the allocation year 2006 Project(s) in the queue that meet ing threshold criteria, eligibility requirements, and underwriting review as described above.

## **2.89. ~~2006~~ Project Scoring**

- (A) ADOH will conduct scoring based solely on the information submitted in the application.
- (B) A self-scoring sheet will be provided with the application and will require the applicant's signature. It is to be submitted behind the cover letter at **Tab A1**.
- (C) No application will be scored higher than the applicant's self score. An application must provide a factual basis and documentary support for points claimed. ADOH will not award deduct points if the correct forms or required information are not submitted, or are not submitted at the correct tab. In the event that an applicant claims points in mutually exclusive point criteria, ADOH will deduct the points that are not supported by the application.
- (D) ADOH will count Employee units (see ChapterSection 9, Definitions) as 60% low-income units in making scoring calculations.
- (E) The applicant's commitment to serve specific populations as set-asides shall be binding for the duration of the extended use period and shall be included in the recorded Extended Use Agreement. ADOH will monitor resident files to determine that the set-asides are being honored.
- (F) ADOH will score projects in the following 14-16 categories:

**(1) Historic Preservation:** up to 40 points

15 points – Fifteen points are available for the following projects: (i) ~~A consisting of one or more structures individually listed in the National Register of Historic Places as evidenced by a letter from the National Parks Service, or State Historic Preservation Office (SHPO), or tribal equivalent thereof identifying the structure as individually listed in the National Register of Historic Places,~~ or (ii) ~~A consisting of one or more~~ structures certified by the National Parks Service, SHPO Office or certified local government as contributing to a Register District (a Register District is a designated area listed in the National Register, or listed under state statute or local ordinance as substantially meeting the requirements for listing of districts in the National Register), or (iii) ~~Location of a project~~ located within an area that has been zoned as an historic area as evidenced by a copy of. ~~The applicant must include~~ the municipal zoning ordinance that was adopted on or before the deadline date and a letter from the local municipality indicating that the design will meet the requirements outlined in the zoning ordinance. (At **Tab P168**, submit the appropriate evidence as identified above.)

25 points – Twenty-five points are available for projects that have received a certification signed by the National Park Service for Historic tax credits. (At **Tab P168**, submit the certification signed by the National Park Service).

**(2) Acquisition/ Rehabilitation:** up to 30 points

Projects containing acquisition/rehabilitation and new construction will be given points in this category only if the rehabilitation units total 50% or more of the total project and the acquisition/rehabilitation is 100% of the acquired 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 ADOH. ADOH ~~will~~ may utilize the services of a cost estimator in determining whether the rehabilitation costs are reasonable. The applicant shall be responsible for the costs of the cost estimator. Cost of rehabilitation per unit is determined by adding direct construction costs and appliances, then dividing that sum by the number of qualified rehabilitation units.

*Applicants should indicate that the project is a rehabilitation or acquisition/rehabilitation in the cover letter of the application (~~Tab A1~~) and on Form ~~E323~~, as applicable.*

<i>Cost of Rehabilitation per Unit</i>	<i>Points Awarded</i>
\$15,000+	30
14,999-10,000	15
9,999-5,000	10

**(3) Preservation of Existing Subsidized Housing:** 40 points

40 Points will be given to projects that are preserving projects with existing rental assistance, i.e. project based Section 8 or RD rental assistance that would otherwise be lost.

**(Note: points will only be given in one area of Preservation, not all three (Historic Preservation, Acquisition/Rehabilitation, Subsidized Housing).**

**(4) Tenant Lease Purchase:** 6 points

6 points - will be awarded if 100% of the project is designed for tenant home ownership opportunities after the 15-year compliance period. (At **Tab O15**, provide: (A) a letter of intent from a qualified non-profit organization to purchase the units, including how the purchase price will be calculated at the end of the 15-year compliance period should no qualified tenants be identified who are willing to operate the project as a rental project for the remaining term of the LURA; (B) a detailed description of the ownership proposal to

include: (i) a strategy that incorporates an exit strategy; (ii) home-ownership financial counseling services; (iii) how the eligible tenants will be identified and offered a right of first refusal; (iv) how the units will be priced in accordance with IRC Section 42(i)(7); (v) the manner in which homebuyer assistance will be generated from the project and provided to the homebuyer; and (vi) proposed sale agreement. Applicants that intend to utilize these points shall be required to execute and record an Extended Use Agreement that indicates the provisions set forth above for the remaining compliance period. Also, there are additional fees associated with these points. See [ChapterSection 6, Fees](#). **Only projects consisting of exclusively of single family, duplex or four-plex designs with no more than 60 units are eligible for this scoring item.**

**(5) Developer Experience Points for New Construction or Rehabilitation:** Maximum of 15 points awarded for developer experience category.

Up to 15 points are awarded for developer experience with either rehabilitation or new construction of residential rental projects using-financed through the LIHTC program or significant participation by a developer(s) with a demonstrated track record in the timely development-completion of new construction or rehabilitation of residential rental housing. In scoring this category, ADOH will count the number of residential rental projects “placed in service” by the developer, any co-developer, and any person who holds at least an equity interest in owns part of either the developer or co-developer. These points are not available for consultants or other development team professionals. If a project relies on a co-developer’s experience, the applicant must submit to ADOH, as part of **Tab H98**, a written agreement between the developer and the co-developer that outlines the length of time that the co-developer will be associated with the development of the project and evidencing the scope of the co-developer’s participation in the development of the project.

In order to claim points for developer experience, the following developers must submit reference letters demonstrating successful completion of the requisite number of residential rental projects using the LIHTC program from allocating agencies in states outside the Arizona:

- 1) Developers who have not previously received an reservation of tax credits in Arizona; and,
- 2) Developers that are organized under the laws of a state other than the State of Arizona; and,
- 3) Developers who do not maintain an office with a street address in Arizona; and,
- 4) Developers who have not paid Arizona payroll taxes for a least two employees for the three-month period preceding the March 15<sup>th</sup> of the current allocation year.

~~Developers, or Co-Developer who have outstanding compliance issues with the Department or any other state allocating agency, will receive 0 points in the Developer experience category.~~

Attach at **Tab H-98** Form **H98-1** and any additional lists of residential rental housing projects developed by the developer, any co-developer and any person who owns part of either the developer or co-developer, reference letters, and business information necessary to support a claim for points under this paragraph. (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.)

Number of Projects	Points Awarded
5+	15
3-4	12

ADOH requires that developers execute and submit Form 8-2 (Authorization for Release of Information) allowing ADOH to contact other state allocating agencies. Attach at Tab 8 Form 8-2.

**Points Deducted.** ADOH may deduct five (5) points from the amount of claimed and confirmed developer experience points for each and every instance within five years prior to the date of application that:

1) a developer, co-developer, or rental manager failed to resolve compliance issues with the Department consistent with Section 8.2(F), or with any other state allocating agency within six months of notification of non-compliance;

2) a developer or co-developer failed to complete a project with features or amenities for which competitive points were received without the express written consent of ADOH;

3) a developer or co-developer failed to notify ADOH of material changes to an application as required by section 4.10; or,

4) a developer or co-developer failed to make substantial progress consistent with section 2.6

5) a project fails to request 8609 within 120 calendar days year of placement in service.

6) a project fails to provide a project schedule on Form 24.

**(6) Rent Restricted Units Set-Aside for 50% and 40% AMGI Tenants:** a maximum of 35 points for any combination of set-asides of low-income units at 50 or 40 AMGI (15 points for 50% AMGI and 20 points for 40% AMGI).

See Section 2.6 (18) Priority Market Need for guidance regarding the income and rent restrictions regarding these points. Attach at **Tab N-146** of the application Form **N146**, "Commitment to Lower-Income Set-Aside."

\*(NOTE: This calculation is based on total units in the project. AMI is equal to or less than 40 or 50% AMGI. Form ~~X27~~ is not to be submitted until 10% Cost Test is due on December 1<sup>st</sup>).

<b>50 % AMGI Rural Points</b>	<b>50% AMGI Urban Points</b>
51% + = 15	51% + = 15
21-50% = 10	41-50%= 10
10-20%= 5	20-40%= 5

Up to 20 points are awarded for rent restricting a percentage of total units for populations at 40% AMGI. Rents will be restricted for the low-income units to ensure that households pay no more than 30% of the applicable income limit during the Extended Use Period.

<b>40% AMGI Rural Points</b>	<b>40% AMGI Urban Points</b>
41%+=20	<del>51</del> 41%+=20
16-40%=15	<del>21-51</del> 16-40%=15
5-15%=10	<del>5-20</del> 15%=10

**(7) Development Location - Community Revitalization Projects:** 15 points

15 points will be awarded if the proposed project addresses an identified planning need or objective of the local government as evidenced by one or more the following: 1) correspondence between project principals and local government originating at least 9 months prior to application deadline; 2) a local governing body resolution or ordinance dated at least 9 months prior to application; 3) a planning document approved by the local governing body at least 9 months prior to application. The points will also be awarded if the property is

located within one of the following housing priority areas:

- Federal Empowerment Zones or Federal Enterprise Communities
- Established HUD Neighborhood Revitalization Strategy Areas
- Established Colonias as designated by the United States Department of Agriculture or HUD
- Geographic areas or parcels of property that are established by the local government as part of a comprehensive affordable housing plan.

Include at **Tab U-213**: (i) Local government ordinance or resolution, correspondence, planning document excerpts; (ii) maps showing boundaries of the housing priority area or designated redevelopment area and the location of the project within that area. The map must clearly show the names of the roads, streets or other boundaries of the housing priority area or designated redevelopment area and also clearly reflect the location of the project on such roads or streets.

**(8) Development Location—Projects in a QCT, DDA or outside an MSA: 10 points**

If a project is located within a Qualified Census Tract (QCT) or Difficult Development Area (DDA), or outside of a Metropolitan Statistical Area (MSA) as designated by HUD the project will be awarded 10 points.

**(9) Family Project: 20 points**

20 points will be awarded for projects in which at least 40% of the low-income units are three or four bedrooms and have a minimum of two bathrooms.

**(10) Project Zoning: up to 10 points**

Up to 10 points are awarded for successful documentation that zoning is in place for all project land. Zoning that has been conditionally approved by the local government will receive points only if the applicant submits documentation from the local government stating the specific conditions to be satisfied and ADOH is satisfied that the conditions are minor. On sites that don't require zoning, the applicant must submit a letter from the appropriate governmental entity stating such. 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. Include at **Tab J-10** of the application ADOH **Form J10**, "Project Zoning Certification," and other documentation required under this section.

**(11) Special Needs Populations: 10 points**

10 points will be awarded to projects of which at least ~~25~~<sup>15</sup>% of the project serves special needs populations, as defined in Section 9. ADOH will review all service agreements and pre-approve applications that intend to utilize these points. The following information must be submitted to ADOH no later than February ~~13~~<sup>9</sup>, ~~2006~~<sup>07</sup> to receive an evaluation letter. ADOH will respond with an evaluation letter no later than March 1, ~~2006~~<sup>07</sup>. Applicants must provide evidence of coordination with agencies specializing in services to special needs populations, a client source (e.g. letters from a referring agency, etc.) and service agreement for each population served, which also must be inserted at **Tab M13**. This agreement must be on the service entity's letterhead, signed and dated by both parties. The applicant must also submit under **Tab M-13** other documentation that demonstrates previous experience for each entity that will be providing services. Also submit Forms **M-13** and **M13-1**. Applications that are not pre-approved by ADOH or do not demonstrate

satisfactory experience serving Special Needs Populations will not be eligible for these points. ADOH will require that the applicable set-aside be included in the Extended Use Agreement before issuing a final allocation and will monitor performance of these set-asides throughout the compliance period.

Applicant must provide evidence of funding source to be used by service agency. Sufficient evidence consists of grant agreements for Shelter Plus Care, Supportive Housing Funds, Project-Based Section 8, and contracts with Behavioral Health Organizations. Applicant must provide a line item in the operating budget for the cost of agency services.

**(12) Senior Projects:**

10 points for projects serving 80% or more elderly individuals. Units serve elderly individuals if (at least one individual in the household ~~is~~must be 55 years of age or over).

15 points for projects serving individuals who are 62+ years of age or who are disabled, and must offer Supportive Services (see ~~Chapter~~Section 9). The tenant file must include proof of date of birth or proof of the qualifying disability. The project will not contain 3 or 4 bedroom units.

*Applicants should indicate this intention on Form ~~C-3~~ of the application and enclose at **Tab M-1315** of the application Form ~~M-15~~, “Commitment to Set-Aside Units for Senior Population,” along with the supporting documentation required by that form, and ~~Form Exhibit ZN~~.*

**(13) Mixed Income:** 5 points

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</b>
50%	5
40-49%	4
30-39%	3
20-29%	2
10-19%	1

**(14) Rural Area Development:** 15 points

15 points are available for new construction, acquisition/rehabilitation, and preservation projects that are funded by United States Department of Agriculture (USDA) through the Section 515/514/516 and Section 538 programs. Letter of intent from the USDA Rural Development Authority should be provided at Tab 11

**(15) Water Conservation:** 10 points

10 points are available for projects, which include water conservation devices into the project, e.g., alternative and low-flow toilets, low-volume showerheads, aerator or flow restrictor devices in the faucets, front-loading or horizontal axis washers, and xeriscape landscaping. Documentation of project design considerations for water conservation should be included in Tab 235.

**(16) Project Readiness: 20 points**

20 points are available for projects that demonstrate readiness to commence construction. ADOH will

consider a project ready for construction if the applicant demonstrates each of the following at the time of application:

1) current, exclusive control of the project property through deed or lease in the name of the ownership entity;

2) compliance with all applicable zoning, set-back, and other site-specific land use regulations for all project land;

Conditionally zoned projects do not qualify for project readiness points. On sites that do not require zoning, the applicant must submit an explanatory letter from the appropriate governmental body. For projects located on tribal lands, a tribal resolution may substitute for the 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. Include at Tab 10 of the application ADOH Form 10, "Project Zoning Certification," and other documentation required under this section.

3) completed Phase I Environmental Review Report, and any environmental review documents that may be a condition for eligibility for funding through HUD, if HUD funding is contemplated;

4) ~~clearance~~certification letters from the state or tribal historical preservation organizations, if applicable;

5) preapproval of project design by the local government body; and,

6) executed construction contract with a contractor licensed and authorized to do business in Arizona.

All documentation supporting a claim for project readiness points should be attached at Tab 2729

**(17) Sustainable Development: 10 points**

10 points are available for projects that demonstrate at least three of the following indicators of sustainable development:

1) Project located within a three-mile radius of a major employment center or concentration of employment centers;

2) Project located one mile or less from a mass transit route;

3) Project located within a three-mile radius of city center or some other readily identifiable concentration of local government offices;

4) ~~Project is infill development~~ served by existing roads, utilities, and communications infrastructure.

5) ~~Project located within one of the top ten highest population growth areas in the state~~ a three-mile radius of community amenities, i.e. medical facilities, educational facilities, shopping.

6) ~~Project located within one of the top ten highest population growth areas in the state.~~

All documentation supporting a claim for Sustainable Design should be attached at Tab 2830.

## **2.9-10 Rents**

The project's LIHTC rent should be 10% below market rents in the area the project is going to be built, as evidenced by the market demand study. Please note that the calculation of rent must include any utility allowances and any rent tax imposed by the municipality in which the project is located. The budget should show a line item for the tax.

## **2.1011. Tiebreaker**

In the event two projects in the queue have the same score, the following tiebreaker will be used.

Tiebreaker Criteria (possible points = 12)

1. Efficient use of credits per tax credit unit: 1 point (calculation will be made before QCT and DDA adjustments)
2. Rehabilitation projects: 4 points
3. Rural area development: 1 point
4. Sole non-profit: 1 point
5. Efficient use of tax credits per occupant: up to 2 points
6. Direct construction cost per bedroom less land and soft costs: up to 3 points
7. In the event that two projects both located in either the Phoenix or Tucson metropolitan areas have the same audited score, then to the application with evidence of intent for funding with the greatest amount of funds provided by the city: 1 point.

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.

## **2.1112. Project Ranking Amount and Allocation of Annual Tax Credit Authority**

All of Arizona's available ~~Year~~ 200607 annual tax credit authority, and ~~any previous years'~~ tax credits returned after January 1, 200607 or made available from the National Pool, will be available for Reservation ~~reservation~~ in 200607, except that portion of the tax credit authority reserved ~~or designated to~~ the Director's Discretion supplemental allocation set-aside. ~~Of the State's total annual tax credit authority, 10% is set aside for rural projects, 20% is set aside for projects owned/operated and controlled by non-profit corporations, \$900,000 is reserved for the Director's Discretion set-aside.~~

Returned tax credits that were not reserved in the current allocation year may 1) be added to the annual tax credit authority as permitted by IRC Section 42, or 2) be added to the supplemental allocation set-aside.

## **2.123 Reservation and Eligible Lists**

~~In addition,~~ Tax Credits will first be ~~awarded reserved for to~~ the highest scoring projects in each of the "set-aside" categories described in Section 2.7 that meet eligibility and underwriting requirements. ADOH will determine the actual reservation based upon the project application. Although the reservation may not necessarily equal the amount requested, the reservation shall not exceed the amount requested. Projects receiving a reservation of tax credits will be disclosed to the public on a list of projects in descending order of audited scores along with the name of the project, the application number, project location, set-aside category, self score, and annual tax credit amount.

ADOH will establish an waiting eligible list ~~list from~~ that includes eligible applications not receiving

reservations as described in section 2.5 (7). The eligible list will disclose projects not receiving a reservation in descending order of audited scores along with the name of the project, the application number, project location, and set-aside category, if any. Applications that have not received an allocation may not be underwritten. The ~~This waiting list~~ eligible list will remain in existence until December 31 of the allocation year. In the event that ADOH determines that there are insufficient eligible or feasible applications to support reservation of the entire the annual allocation authority, ADOH, however, reserves the right to ~~may~~ hold tax credits during the application period, and ~~to accept~~ new applications after the deadline date ~~for consideration after all applications in this round have been reviewed.~~

### **2.134 Allocation of Returned Credits**

Those projects ~~meeting the eligibility requirements (see Section 2.6.), but that did not ranking high enough to~~ receive tax credits during the current application round, may be eligible to receive any tax credits returned during the year. Depending upon availability, ADOH will allocate tax credits that have been returned and those it has received ~~during the Year~~ from the National Pool to the next highest scoring ~~Year 2006~~ project(s) on the ~~waiting list~~ eligible list ~~meeting the eligibility requirements. Applications will be reviewed for eligibility and underwritten before credits are reserved. Returned tax credits will be reserved to the project with the highest audited score within the set-aside from which the credits are returned if the project continues to meet eligibility and underwriting requirements at the time of review. National Pool credits may be combined with returned credits, added to the Supplemental Allocation, or reserved for the eligible and feasible project with the next highest score. The eligible list expires on~~ ADOH will award tax credits per the ranking until December 31 of the allocation year. ADOH will carry forward remaining tax credits to the next calendar year as permitted under IRC Section 42. Any applicant not receiving tax credits ~~from in~~ the current allocation year ~~Allocation~~ must ~~resubmit its an~~ application in order to ~~be considered~~ compete for tax credits in ~~for~~ subsequent ~~Year~~ years's tax credits. ADOH reserves the right not to reserve or allocate tax credits for any project(s) ~~in 2006~~, 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 IRC Section 42 or in the QAP, or otherwise attempts to circumvent the goals and requirements of the QAP or ADOH.

### **2.125. Carryover Allocation**

Projects under which the applicant intends to place buildings in service after December 31, 200607, may receive a carryover allocation. Federal law allows a carryover allocation of tax credits for projects that have expended, within six (6) months of the allocation of credits, **more than 10%** (including land costs) of the reasonably expected basis in the project by the close of the second calendar year.

A Carryover Allocation Agreement document will be sent to the applicant for signature following the reservation of credits, after which a letter outlining the requirements to meet the 10% Cost Test will be mailed. The finalized Carryover Allocation Agreement will be completed at the time that the 10% Cost Test requirements are met as outlined in Section 2.15.

The following information is required for a carryover allocation and must be submitted to ADOH in 8 1/2 x 11 format, a three ring binder of adequate size, on or before the close of business December 1, 200607:

- ~~— (1) An updated application (ADOH Form C3);~~
- ~~(2) Per building Eligible Basis information required on Draft Table A (ADOH supplied form).~~
- ~~(3) A 10% Test strategic plan, which includes the following items:~~
  - ~~(a) — A CPA or legal opinion which attests to the basis in the land, eligible basis, and amount~~

of tax credits reserved for the project and the amount of cost to be incurred to satisfy the 10% Test, as referenced in Section 2.12 of this QAP (the form of this opinion may be similar to **Exhibit E-1** "Sample CPA Opinion"); and

~~(b) "Project Cost Form" (**Exhibit F-1**) which shall indicate what line items will be expensed or accrued to meet the 10% Test.~~

~~(4) Evidence, from the appropriate State agencies or commissions, that the entity that will own the project is an existing legal entity authorized to transact business in the State and the ownership entity's taxpayer identification number. If the applicant does not have a fully formed qualified legal entity that will own the property to which ADOH can assign the allocation of tax credits, satisfactory progress (as described in Sections 2.6 (B)(3) and 4.2.) has not been met and ADOH may reject the application.~~

~~(5) Provide, in accordance with IRC Section 42(m)(2)(B)(i) and Section 2.6. (B)(15) herein, all updated, draft and firm financing documents in existence including, but not limited to, the equity syndication prospectus (offering memorandum or equity letter), limited partnership agreement, operating agreement or joint venture agreement, partnership administration services agreement, development agreement, any amendments to the aforementioned documents, and any relevant agreement between and among the relevant parties setting forth the terms of the financial arrangements, final commitment letters and mortgage documents.~~

~~(6) A Phase I Environmental Review Report for all projects.~~

~~(7) Payment of all applicable fees to ADOH.~~

~~(8) Any additional information requested by ADOH.~~

~~(9) Copy of the Plans and Specs for the project (submitted to the local government for approval).~~

## **2.136. 10% Cost Test and Other Required Documentation**

IRC Section 42(h)(1)(E)(ii) requires applicants with an executed carryover allocation to meet the 10% Cost Test the later of (a) the date which is 6 months after the date the allocation is made, or (b) the close of the calendar year in which the allocation is made. ADOH has chosen the close of the calendar year in which the allocation is made to meet the 10% Cost Test because allocations are made in June. To determine if a project with a carryover allocation is or has progressed in a satisfactory manner, the IRS requires a test of whether the amount of qualified costs which have been accrued or expensed within the six months described above is greater than 10% of the reasonably expected basis (eligible basis plus land). Satisfaction of the This 10% Cost Test shall be certified by an independent auditor's report and submitted to ADOH in 8-1/2 x 11 format, placed in an adequately sized three ring binder on or before the close of business December 1, 2007, and shall include the following:

(1) An updated application (ADOH **Form 3**);

(2) Per building Eligible Basis information required on **Draft Table A** (ADOH supplied form).

(3) A 10% Cost Test strategic plan, which includes the following items:

(a) A CPA or tax attorney's legal opinion which attests to the basis in the land, eligible basis, and amount of tax credits reserved for the project and the amount of cost to be

incurred to satisfy the 10% Cost Test, as referenced in Section 2.15 of this QAP (the form of this opinion may be similar to **Exhibit E-1** “Sample CPA Opinion”); and

- (b) A Certification in the form of an Independent Auditor’s Report (Exhibit F) and “Project Cost Form” (**Exhibit F-1**) completed by an independent third-party certified public accountant or ~~qualified~~ tax attorney, on firm letterhead, that 10% or more of the reasonably expected basis in the Project has been incurred by December 1, 2007. If the developer fee is included in the 10% Cost Test basis it must be reasonable (should not be greater than 20% of the total developer fee and should not include fees that will be deferred). A certification that is equal to or less than 10% may result in ADOH revoking the carryover allocation due to unsatisfactory progress.
- (4) Evidence, from the appropriate State agencies or commissions, that the entity that will own the project is an existing legal entity authorized to transact business in the State and the ownership entity’s taxpayer identification number. If the applicant does not have a fully formed qualified legal entity that will own the property to which ADOH can assign the allocation of tax credits, ~~then~~ satisfactory progress (as described in Sections 2.7 (B)(3) and 4.2.) has not been met and ADOH may reject the application, and the allocation of tax credits ~~shall~~ will be forfeited.
- (5) ~~Provide a~~ deed in the name of the ownership entity and an MAI appraisal of the land or acquired project. On government or tribal lands, 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.
- (6) Evidence of a binding commitment to the ownership entity for all construction and permanent financing and for the equity placement.
- (7) Construction lender’s appraisal, if available.
- (8) A copy of the syndication or investment agreement for the equity capital.
- (9) Provide, in accordance with IRC Section 42(m)(2)(B)(i) and Section 2.6(B)(16) herein, all updated, draft and firm financing documents in existence including, but not limited to, the equity syndication prospectus (offering memorandum or equity letter), limited partnership agreement, operating agreement or joint venture agreement, partnership administration services agreement, development agreement, any amendments to the aforementioned documents, and any relevant agreement between and among the relevant parties setting forth the terms of the financial arrangements, final commitment letters and mortgage documents.
- (10) Complete copies of all applicable construction contracts for the project.
- (11) A Phase I Environmental Review Report for all projects.
- (12) A letter from the State Historic Preservation Office (SHPO) identifying the structure as individually listed in the National Register of Historic Places or location of a project within an area that has been zoned an historic area or tribal equivalent.
- (13) Applications from the ~~P~~projects not previously placed ~~-in -~~service must provide evidence that the project is now appropriately zoned for the proposed use and that the ~~local~~ government permits the construction of the proposed project.

(14) Evidence of appropriate building permits or any other applicable permits allowing for the construction of the project, issued by the local government within 275 calendar days of the executed Carryover Allocation Agreement.

(15) For applications that did not previously identify a contractor, provide contract information.

(16) Copy of the plans and specifications for the project (submit copy to ADOH and Arizona Energy Office)

(17) Payment of all applicable fees to ADOH.

(18) Any additional information requested by ADOH.

~~(1) A certification in the form of Exhibit F and Exhibit F1 completed by an independent third-party certified public accountant or qualified tax attorney, on firm letterhead, that 10% or more of the reasonably expected basis in the project has been incurred by the above prescribed dates. If the developer fee is included in the 10% Test basis it must be reasonable (should not be greater than 20% of the total developer fee and should not include fees that will be deferred). A certification that is equal to or less than 10% may result in ADOH revoking the carryover allocation due to unsatisfactory progress.~~

~~(2) Evidence of ownership or basis in the land and improvements (if applicable), supported by a title report and closing statement from the title company. On governmental or tribal lands, the applicant must 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 Bureau of Indian Affairs (BIA), and other governmental agencies.~~

~~(3) Complete copies of all applicable construction contracts for the project.~~

~~(4) Applications for projects not previously placed in service must provide evidence that the project is now appropriately zoned for the proposed use and that the local government permits the construction of the proposed project.~~

~~(5) Evidence of appropriate building permits or any other applicable permits allowing for the construction of the project, issued by the local government within 275 calendar days of the executed carryover allocation Agreement.~~

#### **2.147. Forward Commitments**

ADOH may consider forward commitments for projects. Projects that will be considered for a forward commitment are the first project on the waiting list/eligible list which is short \$100,000 or less in tax credits based on the requested amount in the application if such amount of tax credits is necessary for funding of the project. Applicants that exceed the \$100,000 are not eligible for a forward commitment. Forward commitments will be granted by ADOH in its sole discretion.

#### **2.158. Questions/Disclosure of LIHTC Application Materials**

~~ADOH will accept written questions concerning its scoring of items in an applicant's application. Questions must be based solely on facts provided in the applicant's original application. Copies of ADOH's scoring~~

sheets are available at ADOH and may be copied for the standard fee. Public disclosure of LIHTC applications shall be as provided by Title 39, Chapter 1 Article 2 of the Arizona Revised Statutes. All confidential personal and entity identifying information, materials subject to legal privilege, and materials deemed to be proprietary shall be redacted or withheld from any records that may be disclosed pursuant to public request. Market demand studies shall be considered proprietary and confidential in absence of an express written waiver of proprietary right from the applicant from whose application disclosure of the market demand study is sought.

## **2.169. Non-Allocated Projects**

Those applications that fail to receive an allocation by December 31 of the allocation year are denied. projects -that are denied may reapply and compete in subsequent years to be considered for tax credits. All fees paid to ADOH are non-refundable.

## **2.20. Finality of Allocation and Reconsideration Determination of Eligibility and Adjustment of Audited Score**

Reservation of allocations, carryover allocations, and issuance of IRS Form 8609 by ADOH are final.

After notice of reservation of allocations, unsuccessful applicants may request a meeting with program staff to discuss the application. An aggrieved applicant who is not satisfied with the explanation of staff may request a meeting with the Director. ADOH will also accept written questions concerning its scoring of items in an applicant's application. Questions must be based solely on facts provided in the applicant's original application.

In the event that ADOH determines that there was a material error with respect to determination of eligibility or auditing of scores that prevented an otherwise qualifying project from receiving an allocation, the project will be eligible for allocation of return of tax credits as provided by Section 2.14. If the otherwise qualifying project does not receive a reservation of returned credits by the end of the application year, then ADOH will refund the application fee, or at the election of the applicant waive the application fee for submission of the application for the subsequent application round.

The financial and other risks associated with holding or carrying property for LIHTC program development is solely the responsibility of the applicant and the development team. See Section 4.13.

## **3. TAX CREDITS FOR DEVELOPMENTS FINANCED WITH STATE VOLUME CAP BOND AUTHORITY**

### **3.1. Determination of tax credits for Tax-Exempt Bond Projects**

IRC Section 42(h)(4) allows low-income housing projects financed with tax-exempt bonds to be eligible for 4% tax credits if they meet the minimum requirements of the QAP. Applications for projects financed with tax-exempt bonds may be submitted to ADOH as soon as applicants receive confirmation of volume cap allocation from the Finance Division of the Arizona Department of Commerce (phone: 602-771-1112, fax: 602-771-1208). At the time of final allocation, applicants sponsoring tax-exempt bond financed Tax Credit projects will be required to pass all eligibility requirements (see [ChapterSection 2.67](#)), adhere to all General Regulations set forth in this QAP, and comply with all applicable requirements under Section 5, "Final Tax Credit Allocation." Applicants should consult with their legal advisors to determine a project's eligibility. Applications for eligible tax-exempt bond projects may be submitted, will be reviewed, and ADOH may

allocate such tax credits outside the normal application round. The review of an application for a determination of qualification under IRC Section 42(m)(1)(D) will ~~coincide~~ occur in conjunction with the tax-exempt bond hearing that is required under A.R.S. Section 35-726(E).

Tax-exempt bond financed projects may receive tax credits on the full amount of their eligible basis only if at least 50% of the project's "aggregate basis" of any building and land upon which the building is located is financed with tax-exempt bonds. Tax-exempt bond projects with funding gaps, requesting state housing funds to fill those funding gaps, must submit an application at the same time that the applicant submits its tax credit application. The procedures followed by ADOH in processing applications for bond-financed projects are set forth below.

(A) Upon application:

1. ADOH will review tax credit applications at any time of the year after the applicant has received a final resolution from the bond issuing authority. An applicant must submit a complete tax credit application, at least 30 calendar days prior to the hearing required by Section 35-726 (E) of the Arizona Revised Statutes ("Section 35-726 (E) hearing"). The applicant must use the current year tax credit application forms. The application must be accompanied by the appropriate application fee.
2. To fully utilize 4% tax credits for tax-exempt bond projects, the applicant must include a letter from a certified public accountant or tax attorney at **Tab A-1** that attests that 50% or more of the project's aggregate basis of any building and land upon which the building is to be located is "financed" by the tax-exempt obligation.
3. ADOH will determine whether the applicant and the project comply with all eligibility requirements of the QAP.
4. The applicant must submit a certification that principal payments on the bonds will be applied within a reasonable period of time to redeem bonds that funded the financing for the project.
5. ADOH will perform the first of two feasibility analyses to determine the amount of credits necessary for the viability of the project. Before ADOH will make a determination of qualification of tax credits, ADOH will complete underwriting and comparison of the application submitted for the Section 35-726(E) hearing. ADOH feasibility analysis will include an underwriting of the project in accordance with ADOH's current standards as set forth in this QAP.
6. The applicant must pay all required fees to ADOH when due.

(B) After Volume Cap allocation for the bonds:

1. ADOH will issue a determination of qualification letter after both the Section 35-726 (E) hearing and after ADOH issues an approval letter.
2. The applicant will submit to ADOH a written election statement, referencing IRC Section 42(b)(2)(A)(ii)(II). This election statement will certify that the applicant 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:
  - (a) The certification must 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) The certification must state the month in which the bonds are issued;
- (c) The certification must 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) The certification must be signed by the applicant;
- (e) The applicant must provide the original notarized election statement to ADOH 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 that date, then ADOH must use the percentage based on the Placed in Service date; and
- (f) The applicant must provide ADOH with a signed statement from the governmental unit that issued the bonds that certifies: (1) 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 (2) the month in which the bonds were issued.

3. At the placed-in-service date, the applicant will submit to ADOH: (a) a completed cost certification, and (b) an opinion of the applicant’s certified public accountant that 50% 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 applicant’s counsel that the project is eligible to receive tax credits under IRC Section 42(h)(4). At this point ADOH will perform the final feasibility analysis of the project.

4. The applicant will submit to ADOH the recorded Extended Land Use Agreement and Consent and Subordination Agreement for the project along with certifications that:

- (a) The bonds issued to finance all or a portion of the project have received an allocation of the state’s private activity bond volume cap pursuant to 26 U.S.C. § 146;
- (b) 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
- (c) That the governmental unit which issued the bonds made a determination under rules similar to those set forth in IRC Section 42 (m)(2)(A) and (B) that the housing credit dollar amount for the project does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

5. If the requirements of IRC Section 42 and this QAP are satisfied, ADOH will issue IRC Form 8609 for the project at the applicable credit percentage under IRC Section 42(B)(2) and will file the original of the election statement with the original of the Form 8609 with the appropriate IRS Form 8610.

#### **4. GENERAL REQUIREMENTS**

##### **4.1. False Filing**

An application, including all exhibits, appendices and attachments thereto, made to ADOH for an award of low-income housing tax credits, including any materials filed at a later time with ADOH in connection with an application, is considered to be an “instrument” for the purposes of A.R.S. Section 39-161. According to that statute, knowingly including any false information in or with the application is a class 6 felony. Such an act may also result in barring the applicant and development team members from future awards of low-

income housing tax credits. In addition, false filing may be subject to the provisions of A.R.S. Section 13-2311 ([designating as a class 5 felony the conduct of business with any department or agency of this state by knowingly using any false writing or document](#)), ~~“Fraudulent schemes and practices; willful concealment....”~~

## **4.2. Satisfactory Progress**

Applicants who have previously received a determination of qualification, reservation or allocation in Arizona or any other state must make satisfactory progress and be in substantial compliance with the requirements of federal law with respect to all prior projects before ADOH will consider a new application. “Satisfactory Progress” means that the applicant, including any person with an ownership interest in the applicant or development team member, has presented sufficient evidence, as determined by ADOH that the applicant has met the benchmarks for various phases of the development of each project, e.g. financing, construction or rehabilitation, as established in the project schedule (Form ~~X27~~) submitted in the tax credit application, or as may otherwise be reasonable or as amended and approved by ADOH. If the applicant fails to demonstrate satisfactory progress, ADOH may recapture the reservation or allocation of tax credits and reject any new application from the same applicant, development team, and any person with an ownership interest in the applicant, or a member or members of the applicant or development team.

Applicants that have received previous allocations must demonstrate satisfactory progress towards any project placed in service (See Section 9, Definitions). Applicants that have not closed on construction loans or utilized bond proceeds for construction within 240 days of allocation are not eligible for future awards without a written waiver request explaining the circumstances causing and justifying the delay. Waivers for any delay shall be granted or denied by ADOH in its sole discretion. All applicants that have received a determination of qualification or reservation, carryover allocation or allocation will be required to report on project progress, using ~~Form X, the “Project Schedule”~~ [the “Bi-Monthly Performance Report”](#),<sup>2</sup> accompanied by a brief narrative, every 60 calendar days after receipt of the determination, reservation, carryover allocation or allocation. Applicants with projects that include tax credits that have not received a final allocation must make a written request for an approval of the deviation from the approved project schedule submitted with the application. Projects that are not proceeding according to the original project schedule submitted, and approved amendments, may be subject to revocation due to lack of satisfactory progress.

ADOH may monitor both the progress and quality of construction. If progress or quality has not been satisfactory, ADOH may report significant deficiencies to any funding source, to other members of the project team, and to the applicant.

## **4.3. Change of Ownership**

ADOH’s prior written approval is required for any kind of change of ownership of the applicant. Once a determination, reservation, carryover allocation or allocation has been issued for a project, transfer of ownership of that project (sale of ownership of any kind) will constitute an automatic event of revocation by ADOH. ADOH may revoke or reverse a determination, reservation, carryover allocation or allocation or reduce the amount of tax credits at any time.

## **4.4. Special Needs Populations**

For projects serving special needs populations, the project owner will provide supportive services to the residents. 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 will be included in the applicant’s Extended Use Agreement. The applicant must appropriately detail and break down the costs in its supportive services operating budget.

In all cases, tenants applying for special needs population low-income units must present to the property manager 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 Special Needs Population and noting any special accommodations required.

#### 4.5. Senior Projects

The project owner will provide to the residents a service package that promotes the resident's quality of life and independence while providing efficient delivery of Supportive Services to the residents.

#### 4.6. Revocation of a ~~Certificate of Qualification~~ Notice of Eligibility for for 4% Tax-Exempt Bond Credits, or Reservation Tentative Award Letter, Certificate of Reservation or Carryover Allocation for 9% Tax Credits.

ADOH may deny or revoke a ~~determination of qualification~~ notice of eligibility -for 4% tax exempt bond credits, ~~tentative award letter~~, reservation or carryover allocation for 9% tax credits for any project. Denial or revocation may occur at ADOH's sole discretion, due to actions taken by the applicant, Affiliate or project owner from time of the certificate of reservation up to the placed in service date, for any of the following reasons:

- (1) Subsequent regulations issued by the Department of Treasury or the Internal Revenue Service.
- (2) Information submitted to ADOH is determined to be fraudulent.
- (3) Failure to pay fees.
- (4) Failure to meet eligibility requirements, as outlined above, or other requirements of this QAP.
- (5) Site evaluation and suitability based on the market impact on other affordable housing developments within the primary market area, the proximity to railroad tracks, freeways, excessive noise levels and general site suitability and other conditions regarding clean title, easements, floodplains or wetland issues.
- (6) Failure to make satisfactory progress as defined in Section 4.2. of this QAP towards placed in service date.
- (7) Instances of curable or incurable noncompliance existing at any time during the compliance period for any federal or state subsidized project located in any state.
- (8) Applicant or owner fails to promptly notify ADOH of any material or adverse changes from the original application.
- (9) Material changes without written approval of ADOH.
- (10) Change in unit design, square footage, unit mix, number of units, number of buildings without the written approval of ADOH.
- (11) Debarment by HUD or other federal and state programs, bankruptcy, criminal indictments and convictions.
- (12) Failure to comply with federal or state fair housing laws.

- (13) Other cause demonstrating the failure of the applicant or the project to be qualified or meet the requirements of federal or state law or the requirements of the applicable tax credit program.

#### **4.7. Disqualification**

ADOH will reject an application if ~~ADOH~~the applicant, including any person with a controlling interest in the applicant or other members of the development team have: (a) failed to make satisfactory progress in the construction or rehabilitation of any project; (b) not corrected compliance problems in other tax credit projects as provided in Section 8.2(F) in a timely manner; (c) not paid, when due, ADOH's compliance monitoring fees or any other fees required by ADOH; (d) filed with ADOH any materials containing false information, documents, or instruments, whether in the allocation year or prior program years; (e) failed to build a previously-approved project in conformity with the terms, provisions, and agreements contained in the application submitted to ADOH, 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 special needs populations, or to set aside a certain number of units for persons at or below a specific percent AMGI; (f) developed or partially developed prior projects that are poorly constructed, evidence substandard workmanship, or do not comply with ADOH's minimum design standards; or, (g) been convicted, are currently under indictment or complaint, been found liable or is currently accused of fraud in this 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; (h) have been suspended or debarred by HUD.

#### **4.8. Extended Use Period**

Pursuant to IRC Section 42, the State requires that all recipients of tax credits enter into an 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 Form 8609(s), 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 ADOH upon request. See Section 5.4.

#### **4.9. 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 less than six months old prepared by an Arizona certified general real estate appraiser.

#### **4.10. Material Changes**

Notwithstanding the foregoing, ADOH strongly desires that each applicant strictly adhere to the terms of its application, which was the basis upon which any reservation or allocation was made. All material changes must be approved by ADOH. In order to obtain ADOH approval of a material change, the applicant must submit a written request to ADOH explaining the change and the reasons justifying the change. A \$1,000 administration fee must accompany the written request. ADOH will not consider the request unless the fee is included. Because of ADOH's statutory mandate to award tax credits only to the extent they are necessary for

project feasibility, the applicant must communicate in writing any proposed material change in the project immediately to ADOH for an assessment of the impact on final underwriting and allocation . The written request must include the applicant’s reasons under IRC Section 42 or in this Allocation Plan for believing that the change is permissible. Projects applying for a material change will be underwritten to the standards in the Allocation Plan of the year that tax credits were awarded. The applicant must submit to ADOH written approvals of the material change from the local government, the lender, and the syndicator as discussed below.

- A. Change of Location and Use. ADOH will not allow an applicant to change the location of a project once the application has been submitted. Notwithstanding the foregoing, ADOH, may allow a project relocation prior to the carryover allocation of tax credits if the new site for the project is within the census tract specified in the application, ADOH receives the written approval of the unit of local government, and the need for relocation was unforeseeable and beyond the developer’s control at the time of application. If an applicant changes the location of a project without the written approval of ADOH, ADOH will revoke the tax credits determined ~~or 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 ADOH. See also below “Complex Material Changes” if the change in location involves an increase in project costs.
- B. Changes to Principals. Substitution of a general or limited partner, or in syndicator or permanent lender may constitute a material change, and therefore, must be reviewed by ADOH. If ADOH determines there is no negative effect on the project’s feasibility, the change will not be considered material and no fee is due.
- C. ~~Complex Material Changes.~~ Complex material changes, (e.g. restructurings that involve a change in the number of units in the amount of borrowed funds, or in the sources of funds), will be reviewed following the guidelines below:
  - (1) 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.
  - (2) When a project is underwritten as the result of a material change, any decrease in the scoring or ranking of the project will not be allowed.
  - (3) Requests for material changes necessary to prevent substantial hardship to the project or its feasibility will be considered for approval by ADOH on a case-by-case basis.
  - (4) If, without approval of a waiver at the time of application, cost caps are later exceeded and create a need for additional funding, ADOH resources will not be a source of the additional funding. In addition, ADOH may consider the presence of newly found sources of governmental or non-governmental funds in a project as evidence that ADOH housing funds are not needed in the project. If that occurs, ADOH may reduce or eliminate its contribution to the project.
  - (5) When the material change involves a restructuring, all commitments (e.g., set-asides, amenities) must be proportionately the same as at time of application.
- D. Failure to get ADOH approval. If the applicant fails to obtain ADOH’s approval to material changes, ADOH may recapture or reduce all or part of the tax credits determined or reserved for the project.

#### **4.11. Distribution of Units**

Projects shall allocate the low and moderate income units among the different sized units to reflect the same percentage distribution as the number of different size units to the total number of units. A greater percentage of the low and moderate income units may, however, be allocated to the larger units. Additionally, low and moderate income units shall be distributed throughout the project so that tenants of those units will have equal access to and enjoyment of all common facilities of the project.

#### **4.12. Amendments to the QAP**

ADOH may modify this QAP, including its compliance and monitoring provisions, from time to time, or for any other reasons as determined by ADOH: (i) to reflect any changes, additions, deletions, interpretations, or other matters necessary to comply with IRC Section 42 or regulations promulgated there-under; (ii) to insert such provisions clarifying matters or questions arising under this QAP as are necessary or desirable and that are contrary or are inconsistent with this QAP or IRC Section 42; or (iii) to cure any ambiguity, supply any omission or correct any defect or inconsistent provision with this QAP or IRC Section 42.

#### **4.13. Disclaimers**

ADOH 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 ADOH shall be liable for any claim arising out of, or in relation to, any project or the tax credit program, including claims for repayment of construction, financing, or carrying costs incurred by an applicant, developer, owner, or syndicator or any other person. Applicants will be required to execute a release and indemnification of ADOH and related parties prior to issuance of the Form 8609.

#### **4.14. Return of Tax Credits**

At any time, ADOH may determine that tax credits reserved in a reservation or awarded in a carryover allocation or a Letter of Qualification (for Tax-Exempt Financed Developments) must be returned to ADOH. In the event that ADOH requires a return of a tax credits reservation, ADOH will give ~~upon~~ notice to the applicant.

### **5. FINAL TAX CREDIT ALLOCATION**

#### **5.1. Final Tax Credit Allocation and First Year Certification by ADOH**

By law, an applicant must receive a ~~determination of qualification or a certificate of~~ reservation letter and a carryover allocation of tax credits from ADOH by December 31 of the allocation year. ADOH will make a final determination of the amount of tax credits at the time the project is placed in service. ADOH will evaluate the project's final costs and the amount of revenues from the sale of the tax credits. ADOH's final evaluation may include a review of invoices, canceled checks and contracts. Accordingly, ADOH encourages developers to keep detailed records of construction costs. ADOH, in its sole discretion, may reduce credits based on its final evaluation and require a return of tax credits to ADOH. The applicant must submit an 8609 package within 120 calendar days of the last building being placed in service. Along with the 8609 package, the applicant must also submit a complete copy of an appraisal of the project and the property prepared by an Arizona certified general real estate appraiser indicating the value of land and buildings separately. At the

time of a final allocation, ADOH and the applicant will execute and record an Extended Use Agreement. Evidence of that recording must be presented to ADOH before the issuance of IRS Form 8609(s). Applicants will receive a final allocation of tax credits as described below.

## 5.2. First Year Certification and Issuance of Final Allocation (IRS Form 8609)

For buildings that are placed in service as part of a qualified project (by December 31<sup>st</sup> following the 24 months of closing of the bonds or from issuance of a carryover allocation), and upon compliance with all requirements of the Code and ADOH, ADOH will issue an IRS Form 8609 for each building as of the time the building is placed in service. ADOH will issue the Form 8906 after Tthe applicant must fully pays all fees, and file-submits the following items described below in 8.5x11 format, adequately bound, in a three-ring binder, and tabbed accordingly to correspond to the following order prior to 8609 issuance:

- (1) Project Information Update
- (2) An updated application (ADOH Form €3).
- (23) A 15 year pro forma, in the form stated in Section 2.6.B(23) of this Allocation Plan, starting with the placed-in-service date.
- (43) —A permanent lender's final appraisal of the project.
- (54) All certificates of occupancy, issued by the appropriate governmental authorities, for qualifying buildings that must indicate the dates the buildings were placed in service and the addresses of those buildings.
- ~~(5) An owner's certification of actual costs (ADOH supplied form).~~
- (6) An independent auditor's report certifying the final cost (ADOH supplied sample).
- (7) The applicant's building-by-building tax credit computation (on ADOH form Table A).
- (8) A letter from the permanent lender summarizing the terms and conditions of the permanent loan. Upon closing of the permanent loan, the applicant must submit copies of the promissory note and deed of trust to ADOH.
- (9) A promissory note from the project's ownership entity payable to the developer in an amount sufficient to cover any deferred developer fee. Other forms of obligation to pay may be substituted if allowed under the definition of deferred developer fee 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) if there is a lien, language stating that the lien is subordinate to other liens relating to permanent financing.
- (10) An Extended Use Agreement and Consent and Subordination Agreement signed by the applicant (form provided by ADOH). All agreements to be signed and recorded by December 31st must be submitted to ADOH not later than December 1st of that same year.
- (11) One 8 x 10-inch color photograph of at least one of the project's buildings with signage.

- (12) A ~~statement detailing~~ completed form stating the project's first credit year (ADOH provided form).
- (13) Final partnership, operating, or joint venture agreements.
- (14) An investor certification letter (ADOH provided form).
- (15) ~~Completed Fair Housing Checklist (see Exhibit Y) and signed by the project architect of the project, Fair Housing Checklist (See Exhibit Y).~~
- (16) Written certification from the architect 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), the International Building Code and the HUD Fair Housing Regulations (24 C.F.R., Part 100, Subpart D). (See Exhibit W-1.)
- (167) Completed and signed certification from the contractor is required that the project was built in compliance with the plans and specs provided by the architect. (See Exhibit W2.)
- (18) Completed and signed Placed-In-Service Acknowledgement (ADOH provided form) for each building in the project.
- (197) Certification from the Arizona Energy Office that the project complies with the 2000 International Energy Conservation Code (IECC) (contact the Energy Office at the Arizona Department of Commerce: (602) 771-1149).
- (20) Completed Exhibit X – Operational Risk Management (ADOH provided form)
- (2148) Proof of flood insurance, as applicable.
- (2249) Any additional information requested by ADOH.
- (23) Final allocation fee, if applicable.

### 5.3. Final Allocation Underwriting

Prior to the issuance of IRS Form 8609(s), ADOH will underwrite the project a final time using actual sources and uses of funds. Applicants must submit to ADOH a final cost certification, executed loan documents for all funding sources, and a copy of the final executed agreement with the equity investor. ADOH will perform an equity gap analysis a third and final time. Unreasonable costs, changes in financing sources, funding amounts, or excess equity may reduce the final amount of tax credits. ADOH reserves the right to adjust the high cost provision of section 42(d)(5)(c) or the applicable credit percentage at final underwriting.

The requirements for the final cost certification are set forth in IRS Regulation 1.42-17. It states that the applicant must certify to ADOH the full extent of all federal, state, and local subsidies that apply (or that the applicant expects to apply) to the project. The applicant must also certify to ADOH all other sources of funds and all development costs for the project. The applicant must prepare the required schedule of development costs based on the method of accounting used by the applicant for federal income tax purposes, and it 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 applicant must make the required certifications on the Certificate of Actual Costs Form

(ADOH supplied form). IRS Regulation 1.42-17 also requires that projects with greater than 10 units submit 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 G to this QAP.

#### **5.4. Extended Use Agreement**

(A) IRC Section 42(h)(6) requires that the project be subject to an “extended low-income housing commitment.” ADOH complies with these requirements by the execution and recording of an Extended Use Agreement at the time of the final allocation. The Extended Use Agreement sets forth covenants running with the land for a minimum of 30 years. The Extended Use Agreement will also indicate the units set-aside for lower income tenants, the percentage of median income tenants served, the special needs characteristics of tenants, tenant ownership, amenities, Supportive Services and other commitments or requirements, if any, that may apply based on the QAP or application. ADOH provides a standard form Extended Use Agreement.

(B) Applicants who have received a determination of qualification or reservation and carryover allocation of tax credits and desire to have the Extended Use Agreement completed and recorded by the end of the year must request it by November 1, 2006~~07~~. Any requests submitted after the November 1<sup>st</sup> deadline may not be completed by the end of the year.

### **6. FEES**

#### **6.1. Application Fee**

A ~~application non-refundable~~ fee of \$3,500 is due ADOH 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 fees. **Under no circumstances will the application fee be refunded by ADOH.**

NOTE: Please note that in accordance with the recent Rev. Ruling. 2004-82, application fees for applying for LIHTC are no longer allowed in basis.

#### **6.2. ~~Supplemental Director’s Discretion~~ Allocation Application Fee**

Applicants for hardship requests must submit an additional application fee of \$2,500 to ADOH. Hardship requests must be documented to the satisfaction of ADOH and must demonstrate the existence of an unforeseen emergency situation where the completion of the project is jeopardized without an award of additional tax credits.

#### **6.3. Building Permit Extension Fee**

Within 240 calendar days of the executed Carryover Allocation Agreement, the developer must submit ADOH evidence of appropriate building permits allowing for construction of the project, issued by the appropriate governing municipality. If the developer requires additional time, ADOH will grant a 30-day extension upon payment of a \$3,500 extension fee together with a written request for the extension, which must explain the reasons for the extension request. After ~~two~~~~three~~ extensions, however, ADOH may revoke an allocation, if it determines that the applicant has not achieved Satisfactory Progress in accordance with Section 2.6.B(3) and Section 4.2.

#### **6.4. ~~Determination~~ Notice of Eligibility or Reservation Fee and Final Allocation Fees**

(A) ADOH will assess a final allocation fee and either a non-refundable ~~determination of qualification~~ notice of eligibility fee (4% tax credits) or reservation fee (9% tax credits) to process an application to the point of tax credit determination or a non-refundable reservation. ADOH will calculate the total determination of qualification fee or the reservation fee as a percentage of tax credits requested by the applicant and the final allocation fee as a percent of the amount of tax credits allocated. The percentages applicable to the determination of qualification fee and the reservation fee are:

- (1) For-profit applicants: \_\_\_\_\_ 10.0%
- (2) Non-profit sponsored applicants: \_\_\_\_\_ 8.0%

(B) The total fee is payable as follows:

(1) The determination of qualification or reservation fee is payable after determination that an application represents a feasible and viable tax credit project with a likelihood of completion. The applicant must pay the determination of qualification or reservation fee to ADOH prior to issuance of a determination of qualification (4% tax credits) or reservation (9% tax credits).

(2) Four percent allocations that qualify for more tax credits at final allocation will be required to pay an additional reservation fee on the additional credits at the final allocation submission according to the following percentages of the additional credits:

- (i) For-profit applicants: 8.0%
- (ii) Non-profit sponsored applicants: 6.0%

(3) The final allocation fee of 2% is payable upon the issuance of an allocation of credit as evidenced by the IRS Form 8609. The applicant must submit the final allocation fee together with the final allocation information submitted in accordance with Section 5 of this QAP and prior to issuance of the IRS Form 8609(s). The final allocation fee will be 2% of the final tax credits allocated.

#### **6.5. Applicant's Obligation for Fee Payment**

ADOH will assess the non-refundable determination or reservation fee and final allocation fee for the purpose of covering the costs and expenses of processing an application to the point where the applicant may receive a final allocation. If a determination or reservation or carryover allocation is not assignable due to action or inaction by the applicant, the fees are nonetheless due and payable to ADOH upon demand. If ADOH does not award the entire allocation amount, upon issuance of Form 8609, ADOH will not refund any of the determination or reservation fee and final allocation fee.

#### **6.6. Tenant Ownership Fees**

Applicants with applications that include tenant ownership will be required to pay an additional \$4,000 legal review fee at the same time that they pay the determination or reservation fee.

#### **6.7. Carryover Allocation Late Fees**

ADOH will charge a carryover allocation late fee of- \$250 per day for any information received after the December 1st deadline of the allocation year. Carryover information not received by the close of business December 15 of the allocation year, will result in the project not receiving a carryover allocation. In extreme circumstances, such as a late reservation of tax credits, ADOH may waive the carryover allocation late fees.

## 6.8. Ten Percent Cost Test Late Fees

If the developer requires additional time to submit the information required under Section 2.16, ADOH may grant extensions of 30 calendar days upon payment of the \$3,500 extension fee. After three extensions ADOH may refuse to grant any further extensions and may reject the application if the applicant has not achieved satisfactory progress in accordance with Sections 2.67. (B)(3) and 4.2. ADOH will charge a \$500 per day fee for documentation regarding items ~~(1) through (4) above~~ in Section 2.16 of the QAP submitted after the announced deadline dates. No documentation will be accepted after close of business on the announced dates. ADOH will recapture all tax credits and notify the applicant if documentation is submitted later than the deadline.

## 6.9. Administration Fees

Applicants must submit a fee of \$1,000 to ADOH before any interim underwriting requested by the applicant or additional underwriting required by ADOH due to a material change is performed. If the applicant fails to pay the Administration Fee, ADOH will recapture all tax credits allocated to the project.

## 6.10. Compliance Monitoring Fees

Every applicant for a project that receives an allocation must pay to ADOH an annual, non-refundable monitoring fee. The monitoring fee will be \$65 per low-income unit, and is due annually whether or not a physical inspection is conducted on the property. The monitoring fee will be due on or before March 15<sup>th</sup> of each year along with the submission of the annual report.

ADOH will assess a \$100 late fee for every 30 days that the applicant is delinquent in paying the monitoring fee after March 15<sup>th</sup>.

## 6.11. Fees Are Not Refundable

All fees set forth in this ~~Chapter~~Section 6 are nonrefundable.

# 7. UNDERWRITING

## 7.1. Underwriting Standards

Congress charges ADOH 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. ADOH must make this determination three times: (1) for a reservation at application; (2) for aat carryover allocation; and (3) when a project is placed in service at the Placed in Service date. ADOH, 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.

ADOH will perform an evaluation of the project costs to determine reasonableness as compared to other projects in similar areas. Generally, costs in excess of 1.25+0% of the Department of HUD's most recent 221(d)(3) base mortgage limit for a three-bed-room elevator building—currently \$89,71994,795 per unit—will not be permitted to be included in basis (although such costs are not prohibited). However, in unusual and well-documented cases, costs in excess of this limit may be included in eligible basis based on ADOH's underwriting analysis. Unusual cases may include, but are not limited to, small-size projects, projects located in QCTs or in a federally designated empowerment zones, federal enterprise community locations, HOPE VI

~~Projects~~, projects with deep rent targeting, projects sponsored by local nonprofit organizations, projects in DDAs, or difficult substantial rehabilitation projects.

In conducting its evaluations, ADOH will apply the following reasonableness standards in regard to fees:

A. developer and consultant fees (excluding "consultants" normally used in the development process, such as market analysts, environmental consultants, construction manager/consultant when not included in the construction contract, etc.) *ADOH will limit the developer fee, overhead, and consultant fees 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.*

**Developer Fee, Overhead, and Consultant Fee Limits  
As A Percent Of Total Eligible Basis In  
Cost Categories I-V of the Development Budget**

<b>Number of Units</b>	<b>Percent Allowed</b>
1-15	18%
16-30	17%
31-45	16%
46-60	15%
61+	14%

For Category IX of the development budget, developer's ~~F~~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.

B. Factors:

(1) Project Need. ADOH will evaluate the market demand study to ascertain that there is strong new market demand for the type of low-income housing proposed. The market demand study must be in the form and format required by ADOH. (See Exhibit L to this QAP.) ADOH underwriters will review data submitted concerning the market area; the target population (e.g., e, 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. ADOH underwriting review will assess 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 demand study submitted with the application is incomplete, ADOH may require the applicant to supplement the study in whole or in part before the evaluation of market risk can be completed. The applicant must pay for any supplements ordered by ADOH.

(2) Affordability of Proposed Rents. ADOH underwriter will review the proposed LIHTC rents to determine whether they are: (i) 10% below market rents being charged for the same type units in the primary market area (PMA), (ii) will be affordable to the target population; and (iii) will generate sufficient income to cover operating expenses and debt service of the project. 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. This review will attempt 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.

(3) Developer Experience and Ability to Deliver the Project as Designed in the Time Allotted. ADOH will assess the “developer risk,” - the possibility that the development team is insufficiently skilled, experienced, or financed to deliver as promised. ADOH underwriter will review resumes and financial statements of key members of the development team for indications of sufficient experience and borrowing capacity. ADOH will investigate any indications of Identity of Interest among members of the team to determine whether appropriate adjustments should be made to the compensation allowed the team. ADOH reserves the right to perform credit or background checks on the development team members.

(4) Project Feasibility. ADOH will award tax credits to only those projects that ADOH determines are feasible. ADOH underwriter will determine whether all costs are appropriate and reasonable, the site can be built as proposed, all utilities and necessary community amenities are available to the site, and once completed, the project will be able to make available affordable housing to the targeted low-income residents throughout the proposed extended use period.

(5) Overall Project Cost Reasonableness. At each of the three times that underwriting is performed, ADOH 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 the basis for the denial, reduction, or return of a ~~Reservation~~reservation or allocation of credits, at any of the three times underwriting is performed.

(6) Reasonable and Customary Costs. All costs must be reasonable and customary with respect to projects of comparable size and type, mix, location and amenities. ADOH will determine cost reasonableness from, among other sources, a database compilation of the experience of prior multifamily projects in the State and consultation with construction cost experts.

(7) Acquisition Cost Limits. For project land for multi-story multifamily projects consisting of more than the limits in the table below, the applicant must submit a plot plan on which all undeveloped land has been clearly identified.

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

Applicants for projects awarded reservations must 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 5.3.). ADOH will not allow land and building acquisition costs in excess of appraised value.

## **7.2. 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 item “Community Buildings,” on the Development Budget, Form C of the

application.) If an Identity of Interest exists between the developer and the builder, the builder's profit will be allowed at a lower percentage (see chart below.)

<b>Builder's Profit, Overhead* and General Requirements**</b>	<b>Percent of Costs</b>				
	1-15	16-30	31-45	46-60	61+
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
Total Maximum Percentage	15	14.25	13.5	12.75	12

\* Builder's overhead includes a percentage for main office expenses for the job.

\*\* General requirements include project related site costs such as temporary fencing, utilities to site during construction, job site supervisor, job site office, etc.

### 7.3. Construction Financing Cost

ADOH, in 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. ADOH 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; and (iii) the construction interest will be calculated as follows:

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

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

### 7.4. Permanent Financing Cost

ADOH, in its sole discretion, may lower the cost included in this category based on the reasonableness of permanent lender's Commitment Letter. ADOH will analyze: (i) if the interest rate is comparable to the market, and (ii) the origination and loan fees are equivalent to 2% of the permanent loan amount.

### 7.5. Rent-up and Operating Reserves

A sum equal to six months' debt service, operating expense, and replacement reserve payments is required.

### 7.6. Replacement Reserve

Annual operating reserves for new construction must be \$250 per unit per year, for Acquisition/Rehabilitation \$350 per unit per year.

### 7.7. Cost Attributed to Market Rate Units

Market rate units can be built at a higher cost than the low-income units in the building. 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 IRC Section 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 IRC Section 42(d)(3)(B) an applicant may elect to exclude from eligible basis only the excess costs of the market rate unit rather than the entire cost of such unit. An applicant 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.

## 7.8. Other Features

- (1) Adaptable units for the physically disabled are required in all ground floor units.
- (2) 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.”
- (3) The cost of elevators should be entered in the development budget under Cost Category III, “Direct Construction Costs,” on the line item “Elevators.”
- (4) Common Area Facilities, including Community Facilities, common recreational buildingsfacilities, including a management office, laundry room, and maintenance storage, limited as described in Exhibit D, should be entered in the Development Budget on the line item “Community Buildings” following the “Subtotal: Direct Construction Costs.”
- (5) Enter cost in the development budget of interior hallways, if they are required (e.g., in an elderly or physically handicapped project), on the line item “Interior Hallways” following the “Subtotal: Direct Construction Costs.”
- (6) The cost of appliances, including disposal, dishwasher, range/oven, refrigerator, and kitchen exhaust hood, must be entered in the development budget on the line item “Appliances Per Allowance” following the “Subtotal: Direct Construction.”
- (7) A “community services facility” building means a facilities building as described in IRC Section 42(d)(4)(C)(ii).

## 7.9. Development Cost Standards

(A) In order to qualify for tax credits on rehabilitation expenditures, the rehabilitation expenditures must be equal to the greater of: (a) 10% of the unadjusted basis of the building; or (b) \$5,000 for each low-income unit in the building. Only rehabilitation expenditures on the low-income units or on common areas that substantially benefit the low-income units are counted. Rehabilitation 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 rehabilitated to the same standard (at least \$5,000 per unit).

(B) Upon completion of any project ADOH will require final cost details and any other documents needed to verify the reasonableness of the costs. All applicants shall submit to ADOH, 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 ADOH). All appraisals shall be prepared pursuant to the guidelines set out in the Financial Institutions Reform Recovery and Enforcement Act. In underwriting a project ADOH will expect that the total of all permanent sources of funds will not exceed 130% of the market value of a project located

in an established market.

#### **7.10. Calculation of Tax Credits**

ADOH will analyze and, if necessary, adjust the project cost in accordance with this QAP. ADOH will analyze and adjust the proposed income, operating expenses and net operating expenses if necessary as hereafter set forth. ADOH will analyze and adjust permanent financing sources as necessary in accordance with this QAP.

#### **7.11. Operating Costs**

(A) ADOH will evaluate the operating costs proposed in the application for reasonableness based on comparable properties.

(B) ADOH restricts the costs in the operating budget to the costs directly associated with operating the real estate. The applicant must exclude supportive services costs from the operating budget and present them in the application in a separate budget.

(C) The conclusions set forth in the market demand study must support a project vacancy factor and credit losses (resulting from non-payment of rent). NOTE: This percentage must reflect the current vacancy factor in the PMA, but can be no less than 5%.

(D) ADOH will examine and compare operating costs to historical operating statements, and/or ADOH's own database derived from LIHTC properties currently in service. ADOH may lower or increase operating expenses based on available data. ADOH may verify independently the real property taxes to be assessed the project if the taxes presented by the applicant vary significantly from the norm.

(E) ADOH will examine operational risk management practices and proposed insurance coverage types, limits, deductibles and related risk strategies implemented by the applicant. This examination will also include a review of the applicant's operational staff capacity and stated practices for managing losses including fire and mold claims. Applicants whose risk management strategies demonstrate significant uninsured exposures and/or a lack of training may be asked to provide the rationale and provide plans for continuing operations under loss scenarios. Applicant shall complete and submit Exhibit X.

F) The applicant must submit a written waiver request for management expense greater than 57% of effective gross income ("EGI"), for projects of 30 units or more, and management expense greater than 79% of EGI for projects less than 30 units. ADOH will deny any waiver request that fails to offer an acceptable justification.

(G) As part of the application, the applicant must submit a written certification from the treasurer's or assessor's office of the local government and any governmental entity that has taxing authority over the real property upon which the project is located if the applicant claims that the project is exempt from real property taxes (e.g., has a non-profit exemption). If the applicant fails to submit verification of the property tax exemption the applicant must include the property taxes in the operating expenses. Applicants proposing housing for priority populations must present two operating budgets in their applications: (1) for the costs of operating the project, less those increased costs attributable to serving the priority populations, and (2) indicating the increased operating costs attributable to serving priority populations.

#### **7.12. Operating Income**

ADOH will recognize income only for apartment rents (as restricted) and other real estate-related sources (laundry, vending and parking/garage rentals). ADOH will underwrite ancillary income at no more than

\$20/unit/month. A higher amount of ancillary income may be utilized for underwriting if there are three (3) years of audited operating statements (including income and expense statements) available justifying a higher amount.

### **7.13. Permanent Financing Provisions**

ADOH 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 Section 9, “Definitions”) on an annual basis will be the quotient obtained by dividing the net operating income by a 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 2.6. B(15), “Financial Ability to Proceed,” for discussion of coverage ratios less than 1.00). ADOH will adjust tax credits if necessary to assume financing requiring maximum mortgage payments or such other maximum mortgage payment as is approved by ADOH.

ADOH will take other mortgage terms (e.g., interest rate and amortization period) from the lender’s letter of interest or commitment letter. ADOH will accept second mortgage(s)/lien(s) as long as the first mortgage meets the maximum guidelines as indicated above. ADOH will accept secondary mortgage/liens as long as the debt service coverage ratio does not fall below 1.05 (105%). This minimum debt service coverage ratio, however, does not apply to cash flow notes.

ADOH will impute an amount of primary permanent funding at the prevailing interest rate and term, using standard underwriting criteria, if a project is proposed that is funded 100% with equity, in order to perform the equity gap analysis (see Section 7.16. below).

### **7.14. Funding Gaps**

An applicant should not submit an application with an unfilled funding gap. ADOH may reject any application with unfilled funding gaps. ADOH may, but is not required to, give written notice to applicants with applications containing unfilled funding gaps, whether discovered as originally proposed or from the underwriting process, and may require the applicant to submit proof of additional sources to fill the funding gap within 10 business days from the date of the written notice from ADOH. If, after notice from ADOH, the applicant fails to submit adequate proof of additional funding, ADOH will reject the application. ADOH will consider exceptions only in cases where the applicant has submitted an application for state housing funds to ADOH concurrently with the application for tax credits.

### **7.15. State Housing Fund**

(A) If ADOH determines that the project is eligible, ADOH will provide an abbreviated State Housing Fund application to be submitted behind **Tab €3** of the LIHTC application. Applicants should consult the current Notice of Funding Availability (“NOFA”) for the State Housing Fund utilizing federal HOME funds or State Housing Trust Fund monies for rules of submission, amounts available, etc. ADOH will accept State Housing Fund applications in conjunction with the application in the competitive round. ADOH will also accept abbreviated SHF applications from projects that determine that additional funds are needed after submission of the initial application as long as the funding gap was not foreseeable when the initial application was submitted. Approval is conditioned upon the availability of funds.

NOTE: Late submittals will receive funding as long as it is available.

(B) 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 reservation list. Once the available funds are depleted, applicants will be given 30 calendar days to identify another source to fill the funding gap. If a viable source is not identified within that timeframe, ADOH will reject the application.

(C) The State Housing Fund is comprised of two sources of money: (1) the HOME Investment Partnership Program, and (2) the State Housing Trust Fund. If an applicant submits an application for State Housing Fund gap financing, the applicant must assure that the project will be financially viable using the most restrictive source of state housing funds. ADOH will determine whether an applicant qualifies for State Housing Fund gap financing and, if so, the source of that financing.

(D) Once ADOH 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:

- (1) The developer or owner has brought new funds, governmental or non-governmental, into the project.
- (2) Project costs have decreased.
- (3) The Syndication Rate has increased while approved costs have not

(E) Because ADOH's funds are regarded as "gap fillers", ADOH will consider other funds introduced into the project without a corresponding change in approved costs as evidence that ADOH's funds are not needed. ADOH's funds will be reduced accordingly.

#### **7.16. Eligible Basis Analysis**

To comply with IRC Section 42, ADOH limits the amount of tax credits that it may award to a project to the amount computed under the "Eligible Basis Analysis." ADOH computes the eligible basis of a project by multiplying the project's "qualified basis" by its "applicable percentage." ADOH will use 8.25 and 3.50 for 9% and 4% credits respectively as the "applicable percentage" for underwriting the 2006/07 applications. See IRC Section 42(a). ADOH will compute the project's qualified basis by multiplying the project's "eligible basis" by the "applicable fraction." See IRC Section 42(c). A project's eligible basis is the project's tax basis, adjusted as required by IRC Section 42. In addition to the IRC Section 42 adjustments, ADOH limits costs, as discussed in this QAP, in calculating the eligible basis. Certain sources of funds (e.g., state housing fund grants of HOME program moneys) must be subtracted from a project's eligible basis before ADOH may calculate tax credits. In cases where the applicant has locked in the applicable percentage of the month of carryover, ADOH will use the locked-in applicable percentage rather than the nominal percentage in any interim underwriting.

#### **7.17. Equity GAP Analysis**

In addition to the limitation regarding eligible basis as discussed above, ADOH limits the total amount of tax credits that it may award to a project to the amount computed under the "Equity Gap Analysis." The "Equity GAP Analysis" is an essential aspect of the underwriting process, performed: (1) at application, (2) carryover allocation and (3) at placed in service. So that projects are not awarded credits in excess of the amount necessary to make the project feasible, ADOH will calculate the "Equity Gap Analysis" for a project by dividing the project "Equity Gap" by the project "Syndication Rate," by the Investor ownership percentage, and by 10 years. A project's "Equity Gap" is defined as the amount by which projected development funds of the project exceed projected available funds to the developer for development of the project, after ADOH 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 project's projected sources of funds for purposes of the Equity Gap Analysis consist of permanent conventional financing requiring the maximum mortgage payment as defined above in Section 7.12. "Permanent Financing Provisions," and any other loans or grants for which the project has received a Commitment Letter or Award Letter. ADOH uses a Syndication Rate of the greater of .75 or the

Syndication Rate set forth in the application. ADOH will make exceptions to this rule only if the investors have fully and satisfactorily justified a lower Syndication Rate in a letter to ADOH. At ADOH's final underwriting, ADOH will apply the actual syndication rate in the equity gap analysis to determine the actual amount of tax credits that it will award.

### **7.18. Layering**

ADOH 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. ADOH will evaluate layering issues on a case-by-case basis and take into account all federal and public subsidies. Applicants should address concerns regarding layering before submitting an application. Applicants are required to disclose all sources of funding requested or received for a project in the application. ADOH will coordinate with other public funding agencies that by regulation or practice undertake layering reviews of projects proposed to be funded with tax credits. The applicant's analysis should include the following:

- (1) To the degree additional federal resources proportionately increase the volume of clients or units assisted, layering is generally not an issue because federal investment per unit or client is not increased.
- (2) To the degree additional federal resources offer no corresponding increase in the volume of clients or units assisted, layering becomes an issue.
- (3) Applications for both tax credits and ADOH's housing funds will be subjected to joint underwriting by all programs involved. ADOH will award tax credits 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 procedures.) Applications for state housing funds must be submitted concurrently with the application for tax credits. (See QAP Section 7.14.)

## **8. COMPLIANCE MONITORING**

### **8.1. Project Compliance Monitoring**

ADOH is required to monitor and inspect projects for compliance with IRC Section 42, Treasury Regulation 1.42-5, 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 ADOH based its award of tax credits.

The IRC also requires that ADOH publish and institute monitoring procedures as part of the approved QAP. This compliance monitoring procedure applies to **all** projects for which tax credits are allowable. Accordingly, ADOH must monitor all projects allocated tax credits since January 1, 1987.

**ADOH has prepared a Low-Income Housing Tax Credit Program Compliance Manual** for all Program participants. The manual outlines ADOH's compliance monitoring procedures and reporting requirements. The manual includes samples of all annual reports, certifications, etc. Twice-annual training is offered by ADOH on the **Compliance Manual** and owners'/managers' compliance responsibilities.

The Code also allows ADOH to collect fees from owners to cover the cost of administering the compliance-monitoring program. Monitoring fees are set forth in Section 6.10 above.

### **8.2. Compliance Monitoring Procedure**

The owner of a qualified LIHTC project for which tax credits are allowable is required to comply with the following:

A. Record keeping. The owner must maintain accurate records for each building in the low-income housing project. These records must include:

(1) The total number of residential rental units in the building, including the number of bedrooms and the square footage of each residential rental unit.

(2) The total number of low-income units in the building.

(3) The total number of occupants in each low-income unit.

(4) The rent charged on each residential rental unit in the building, including any utility allowance.

(5) The low-income unit vacancies in the building.

(6) The number and household eligibility criteria for all special set-aside units in the building.

(7) The rentals of the next available units in each building including when and to whom rented.

(8) 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).

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

(10) For each low-income household:

(i) Completed rental application, including the tenants' certification of assets.

(ii) Tenant income certification form, including all required signatures.

(iii) Documentation supporting each household's income certification (third-party verifications, asset certification, asset documentation and verification if more than \$5,000 in value).

(iv) Documentation of student status.

(11) Current-year utility allowance schedule.

B. 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. The owner must retain the records for the first year of the credit period 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.

C. Certification. The owner must certify the following, under penalty of perjury, at least annually through the end of the compliance period:

(1) 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.

(2) At least 20% of the residential rental units in the project are both rent restricted and occupied by individuals whose income is 50 percent or less of the AMGI.

(3) At least 40% of the residential rental units in the project are both rent restricted and occupied by individuals whose income is 60 percent or less of the AMGI.

(4) That the owner/agent has received an annual **Tenant Income Certification** (commonly called the “TIC”) form from each low-income resident and verifying documentation to support that certification.

(5) 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.

(6) That each low-income unit was rent restricted as defined in the Code.

(7) That all units in the project are for use by the general public and are not used on transient basis.

(8) That each building in the project ~~was~~ is in decent, safe, and sanitary condition and in good repairsuitable for occupancy taking into account local health, safety, building codes, and HUD’s ~~inspection protocol under~~ Uniform Physical Condition Standards, see 24 CFR 5.703.

(9) 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.

(10) 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.)

(11) 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).

(12) 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.

(13) 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.

(14) That, if the owner received its allocation 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 IRC Section 469(h).

(15) 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.

(16) 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.

(17) For buildings with four units or less, whether any of the units in the building were occupied by the

owner or a Person related to the owner for the preceding year.

(18) 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.

(19) 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.

(20) 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.

(21) 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).

(22) That the owner has not evicted or terminated the tenancy of any existing tenant of any unit (other than for good cause) or increased the gross rent with respect to a unit not otherwise permitted by section 42, applicable throughout the entire compliance period.

D. Reviews and Inspections. Before ADOH issues the IRS Form 8609 or the end of the second calendar year following the year the last building in a project is placed in service, whichever is first, ADOH will conduct on-site inspections of all new buildings in the project and, for at least 20% of the project's low-income units, ADOH will inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units.

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

ADOH will follow HUD's inspection protocol under 24 CFR § 5.703 in conducting physical inspections. ADOH will select units for physical inspection and review files only at the time of the on-site visit.

E. Liability. The owner is responsible for compliance. ADOH is not liable for an owner's noncompliance.

F. Correction of Non-Compliance Condition. ADOH will provide written notice of noncompliance to the owner if:

(1) ADOH has not received the Annual Certification Report with attachments by the due date.

(2) ADOH finds that the project is out of compliance with any of the provisions of IRC Section 42.

The owner will have 30 calendar days from the date of notice of noncompliance to provide any missing information for the Annual Certification Report. The owner will have 60 calendar days from the date of notice of noncompliance to correct issues. ADOH may grant an extension of up to 120 calendar days if the owner demonstrates good cause for the extension to the satisfaction of ADOH.

ADOH is required to file IRS Form 8823, "Low- Income Housing Credit Agencies Report of Noncompliance," with the IRS within 45 calendar days of the end of the allowable correction period. ADOH must report all noncompliance issues whether corrected or not. ADOH will explain the nature of the noncompliance or failure to certify and state whether the noncompliance has been corrected. The IRS, not ADOH, will make any determinations as to the applicability of recapture penalties.

ADOH must perform inspections of the project and perform on-site audits of the resident certification forms and supporting documentation throughout the first 15 years of the compliance period and any agreed-upon extended compliance period. ADOH will notify the owner in writing of the scheduling of any such inspection or audit.

## **9. DEFINITIONS**

The following definitions shall apply to both the QAP and QAP application for the ~~Year~~ Year 2006 ~~07~~ Program

“10% Cost Test” refers to the requirement of IRC Section 42(h)(1)(E)(ii) that 10% of the reasonably expected basis in the project (as of the close of the second calendar year) have been incurred before the end of the year in which the allocation is made and the project must be Placed in Service no later than the second calendar year following the year of the allocation.

“10% Cost Test Late Fee” means the fee due in the amount of \$3,500 if a developer requests an extension to submit required documents to receive a carryover allocation in accordance with Section 2.12.

“ADOH” means the Arizona Department of Housing, 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).

“Administration Fee” means \$1,000 fee due from the applicant in the event the applicant requests an interim underwriting or ADOH requires an additional underwriting due to, among other things, a material change.

“Affiliate” means any Person, who directly or indirectly, owns or controls another person by having any family relationship, ownership interest or a controlling interest in that person.

“Allocation” means the award of tax credits by ADOH to the owner of an LIHTC project. The allocation is set forth in a binding agreement between ADOH and the owner.

“AMGI” means “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 LIHTC Program (e.g., “60 percent of AMGI,” “50 percent of AMGI”) and as the base in calculations that yield maximum rents by number of bedrooms. See the “Imputed Incomes/Allowable Rents” tables appended to this QAP at Exhibit H.

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

“~~Application Allocation Year~~” means the calendar year for the current annual allocation authority for which LIHTC applications are submitted ~~2006~~.

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

“A.R.S.” means the Arizona Revised Statutes, as amended from time to time.

“Award Letter” means 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” means the general contractor that is a member of the project’s development team.

“Capital Needs Assessment (“CNA”) means the assessment as set forth in Section 2.6(B)(31).

“Carryover Allocation” means an allocation made to the project if the project will not be placed in service by close of the calendar year of the allocation.

“Carryover Allocation Fee” means an additional fee of \$250 per day if the information required under section 2.12 of this QAP is submitted after December 1 of the ~~Application Year~~allocation year.

“Census County Divisions” means 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 people, and because parts of incorporated communities often lie in more than one division, please call ADOH for clarification.

“Census Designated Place (CDP)” means a statistical entity, defined for each decennial census according to Census Bureau guidelines, comprising a densely settled concentration of population that is not within an incorporated place, but is locally identified by a name. CDPs are delineated cooperatively by state and local officials and the Census Bureau, following Census Bureau guidelines. Beginning with Census 2000 there are no size limits.

“Co-Developer” means one of two or more developers of the same project.

“Code” and “IRC” mean the Internal Revenue Code.

“Common Area Facilities” means on-site laundry facilities, site office, maintenance and storage areas, community rooms, community service facilities as described in Exhibit D.

“Commitment Letter” means a written commitment from a lender or other provider of funds, representing a commitment to provide financing and stating the amount, interest rate, fees, term of the loan, debt service coverage, security, and repayment terms, subject only to reasonable, commercially-acceptable contingencies.

“Community-Based Non-Profit” means an organization qualified under IRC Section 501(c)(3) or (4), that has as one of its approved exempt purposes the provision of affordable housing, and its membership is drawn from and representative of the community it serves.

“Community Facility” means community room, clubhouse, recreation center or the like. Lobbies and laundry facilities shall not be considered within the scope of this definition.

“Community Services Facility” means a facilities building as described in IRC Section 42(d)(4)(C)(ii). means community room, clubhouse, recreation center or the like. Lobbies and laundry facilities shall not be considered within the scope of this definition.

“Compliance Period” means the compliance period for a building begins with the first year of the building’s Credit period, the first taxable year in which the owner claims housing tax credits for the project of which the building is a part, and lasts for 15 consecutive taxable years.

“Consultant” means an advisor to the development team or to any member of the development team.

“Controlling Interest” means 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.

“Council of Governments Regions” means one of the four rural Councils of Governments in Arizona 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, the counties of Cochise, Graham, Greenlee and Santa Cruz.

“Deadline Date” means Tuesday, March 15, 20~~06~~<sup>07</sup> on or before ~~5~~<sup>4</sup>:00 p.m. Mountain Standard Time.~~F.~~

“Deferred Developer Fee” means a certain sum of money owed to the developer and evidenced by a promissory note, partnership agreement, or other written agreement acceptable to ADOH, 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.

“Determination of Qualification” means a letter issued by ADOH in accordance with IRC Section 42(m), that indicates that the project, which has utilized tax-exempt financing, qualifies for an amount of tax credits and is in compliance at the time of the letter with all rules established by this QAP.

“Determination of Qualification Fee” means the fee payable after ADOH determination that an application represents a feasible and viable project with a likelihood of completion and it is payable prior to the issuance of a determination of qualification or reservation. (See section 6.2.)

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

“Development Team” means 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” means 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 Housing LIHTC Compliance Manual, Section 3.2.1.). ADOH will consider residential rental units as low-income units. 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, ADOH will assume that any employee units are taken from the low-income rather than the market-rate side.

“Equity Gap” means the amount by which projected development funds exceed projected available funds.

“Extended Use Agreement” means a covenant that runs with the land on which the project is developed, restricting the use of land by the owner and its successors to the terms and conditions of the project, as approved by ADOH.

“Extended Use Period” means the total minimum commitment of 30 years by the owner under the Extended Use Agreement.

“Extended Warranty” means any construction warranty with an initial term of two years or more.

“Federal Subsidy” for the purposes of tax credits, Federal Subsidies include federal grants and below market rate federal loans through programs such as those administered by HUD (with some exceptions for CDBG and HOME) and Rural Development, tax-exempt financing and other locally administered low-interest loans or grants from federal sources. Use of these financing sources may require reductions in eligible basis or reductions in a project’s maximum Applicable Credit Percentage (see IRC Section 42(d)(5)(A) and 42 (i)).

“Final Allocation Fee” means the fee payable upon the issuance of IRS Form 8609 equal to 2% of the Allocation.

“Financial Beneficiary” means a Person 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” means: (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 statute or local ordinance as substantially meeting the requirements for listing of districts in the National Register.

~~“HOPE VI” means a grant provided by HUD that is used to revitalize aging public housing.~~

~~“HOPE VI Proposal” means a Project located within a geographic area or on a parcel of land indicated in the HOPE VI grant application or award.~~

“HUD” means the United States Department of Housing and Urban Development.

“Identify of Interest” means any financial or ownership interest, direct or indirect, between developer and another Person.

“Land Control” means applicant’s evidence of ownership or control over the land required for the project in the form of: (i) a binding Commitment Letter from a governmental entity to transfer land to applicant; (ii) a recorded deed with applicant as grantee, (iii) a long term lease with applicant as grantee or (iv) a lease option or fully executed purchase option agreement between applicant and owner of property as recorded in jurisdiction of property.

“LIHTC” means the Low-Income Housing Tax Credit program, 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” means the 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 and including the minimum debt service coverage ratio and loan-to-value ratio used by the lender to size the financing, as applicable. 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 ADOH in its sole discretion.

“Local Government” means the governing body of the city, town, county or tribal government having jurisdiction over the real property upon which the project will be located.

“Low-Income Unit” means any unit in a project if the unit is rent restricted (as defined in IRC Section 42

(g)(2)) and the individuals occupying such unit meet the income limitation applicable under IRC Section 42 (g)(2) for the project.

“Market Demand Study” means a third party report that outlines the overall market demand for a project within a defined market area and identifies, with significant detail, the current supply of similar units, demographics, and economics contained within the market area.

“Material Changes” ~~means changes from information previously submitted to ADOH in the substance of the project, including but not limited to substantial changes in the composition of the owner, in the project itself, in the terms or sources of financing, or in the construction lender, permanent lender, and syndicator (if the credit pricing drops.)~~ are as described in Section 4.10.

“Maximum Tax Credit Reservation” means a maximum reservation for any single project or Scattered Site project ~~that is not utilizing HOPE VI is \$900,000~~. One owner, developer, co-developer or Affiliate of the developer or co-developer with multiple projects cannot exceed a total of \$~~2.755~~ million dollars in any allocation year.

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

“Operating Costs” means 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” means the legal entity which will ultimately own the project and to which tax credits will be allocated.

“Person” means an individual, partnership, corporation, trust or other entity.

“Physically Disabled Persons” means people who have physical impairments that substantially limit one or more major life activities or have a record of such impairment.

“Placed in Service” means: (i) for a new or existing building used as residential rental property, 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; and (ii) 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” means 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.

“Project” means any project for residential rental property if the project meets the requirement of subparagraph (A) or (B) whichever is elected by the taxpayer:

(A) 20-50 Test - The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40-60 Test - The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph, once made, is irrevocable. For purposes of this paragraph, any property

will not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes. Scattered sites may be considered to be one project if the Scattered Sites meet the above definition and the requirements in the “scattered sites” definition in this Section.

“Redevelopment Area” means an area determined by official action of the governing body of the municipality or county to be either:

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.

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” means a non-binding, written statement issued by ADOH to the applicant after the application round indicating that ADOH has reserved for the project a specific amount of tax credits which shall receive an allocation upon the project’s satisfaction of certain conditions.

“Reservation Fee” means the fee to process an application to the point of a Determination which is equal to 8% tax credits requested, for for-profit and 6% for non- profit developers.

“Residential Floor Area” means the living area per unit measured from the interior wall surfaces of the unit’s perimeter walls.

“Residential Rental Unit” means 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)*.

“Rural Area” means a “rural area” as defined in [7 C.F.R § 3550.10](#).

“Satisfactory Progress” means that applicants who have previously received a determination of qualification, reservation or allocation in Arizona or any other state have met the benchmarks imposed by Arizona or any other state for such prior projects.

“Scattered Sites” means projects that meet the following criteria:

1. consist of no more than six (6) non-contiguous parcels within a 15-mile radius of each other;
2. consist of no more than 200 units;

3. all buildings in the project must be under the ownership of one entity;
4. all units in the scattered site application must be managed by one entity;
5. all buildings in the project must be developed under one common plan of financing and considered as a single project by all funding sources;
6. to receive the 130% increase in basis allowed under IRC Section 42, all parcels making up the project must be located within a QCT or DDA;
7. the scattered sites must be appraised as a single proposed development; and
8. each parcel within the proposed project must meet all applicable threshold and scoring criteria.

“Senior Project” means “housing for older persons” as defined in Section 807(b)(2) of The Fair Housing Act, 42 U.S.C. § 3607, as it may be amended from time to time.

“Special Needs Populations” ADOH includes the homeless, the seriously mentally ill, the physically disabled, individuals infected with the human immune-deficiency virus or other populations with specialized housing needs. Other populations with specialized housing needs may include:

- Homeless Individual(s): a person(s) who has lived: a) in places not meant for human habitation such as cars, parks, sidewalks, abandoned buildings, etc.; b) in an emergency or shelter facility; c) in a transitional housing facility (not permanent housing).
- 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 ADOH.
- 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 ADOH.
- Victims of domestic violence as certified by referral agency recognized by ADOH.
- Individuals suffering from chronic substance abuse, as certified by a referral agency recognized by ADOH.

“State Annual Credit Authority” means an amount of tax credits allocated to the State based on the population of the State and multiplied by \$1.~~80~~90 per resident, adjusted annually for inflation.

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

“Supportive Housing” means affordable permanent independent rental housing for persons who are homeless or have disabilities. These populations are limited, however, to the following groups: homeless; Seriously mentally ill; seriously emotionally disturbed; physically disabled; developmentally disabled; victims of AIDS/HIV; victims of domestic violence; and victims of chronic substance abuse (see Section 9 above 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” means 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.

“Syndication Rate” means a ratio that reflects the price to the project for \$1.00 of tax credits awarded.

“Ten-Year Rule” means the following:

(A) In order for an existing building to qualify as part of a tax credit project, the applicant must acquire the building from an unrelated person who:

- (1) Has held the building for at least ten years at time of the application, and
- (2) Did not make substantial improvements during that period that are subject to 60-month amortization under IRC Section 197(k) or the Tax Reform Act of 1986.

(B) The Ten-Year Rule may be waived by the United States Secretary of the Treasury in the case of distressed sales of certain federally-assisted projects, prepayment of mortgages that result in buildings being converted to market use, buildings acquired from failed depository institutions, and single family residences used for no other purpose than a principal residence by the owner.

(C) The legal opinion provided by counsel for the applicant must provide a detailed analysis of the placed in service dates and acquisition dates for projects submitting an application in conjunction with the 10-Year Acquisition Credits.

(D) An appraisal that separates the appraised value of the land from the appraised value of the building must be submitted with the application when 10-year acquisition credits will be utilized.

“Unit” means 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.

“Water Conservation” means the preservation and careful management of water resources.

“Xeriscape Landscaping”, by definition, is landscaping designed specifically for areas that are susceptible to drought, or for properties where water conservation is practiced.