ARKANSAS DEVELOPMENT FINANCE AUTHORITY
2017 WORKING DRAFT
GUIDELINES FOR MULTIFAMILY HOUSING APPLICATION

INTRODUCTION AND PURPOSE

The Multifamily Housing Application (MFHA) can be used for multiple housing funding sources available from Arkansas Development Finance Authority ("ADFA" or the "Authority"). However the primary use is for developments applying for the Low Income Housing Tax Credit ("LIHTC" or "Housing Credit").

The Housing Credit program encourages and promotes investment in affordable rental housing for low-income households. Through these investments, the number of housing units is increased and the quality of existing housing units is significantly upgraded in Arkansas. As a true public-private partnership, the award and deployment of credit is based on ability to complete housing on time and on budget and ensures professional management for the life of the development.

ADFA is charged by the Federal Government and the State of Arkansas with the responsibility of administering the federal housing credits and the state housing credits for the State of Arkansas (the "State"). The Tax Reform Act of 1986 created the Housing Credit to encourage the private sector to invest in the construction and rehabilitation of rental housing for low and moderate-income individuals and families (IRC Section 42). The Revenue Reconciliation Act of 1989 amended IRC Section 42(m) that requires allocating agencies, such as ADFA, to allocate the housing credit according to IRC 42 and local needs and priorities. As such, the Housing Credit program is based on Federal regulations which supersede State regulations unless Federal Law provides ADFA the discretion to choose otherwise. As stated in the State of Arkansas's Qualified Allocation Plan (QAP), the MFHA Guidelines below set forth details and regulations beyond those listed in the QAP.

Because the Housing Credit is such an important limited resource under ADFA's stewardship, it is paramount that only the best and most qualified developments meeting selection criteria in the QAP and Multifamily Guidelines are awarded LIHTC. Only applications that are "shovel ready" and able to close in a relatively short time frame will be recommended for Housing Credits.

It is ADFA's intent to work proactively in a transparent and positive manner with developers and applicants in a public-private partnership that ultimately creates the best and most cost-effective housing for low-income households in Arkansas. ADFA will endeavor to fully deploy the annual allocation of the Arkansas Housing Credits to the most qualified developments.

I. APPLICATION DEFINITIONS, PROCEDURES, REQUIREMENTS, AND REVIEW.

A. DEFINITIONS.

"**Application" or "MFHA"** means a MS Excel file of the application and all attachments and Adobe.PDF scanned version of the paper application and all attachments that ADFA will use interchangeably in reviewing, underwriting and scoring.

"Application Deadline" means 4:30 P.M. on the 1st Monday in April.

"Application Requirement(s)" means the items listed in Section I(C) of the Guidelines that must be included in a MFHA by the Application Deadline to be considered a complete application.

"**Assisted Living Housing**" means a combination of housing, supportive services, personalized assistance and health care designed to respond to the individual needs of those who need help with activities of daily living, in a way that promotes maximum independence for each resident. Supportive services are available 24 hours per day to meet scheduled and unscheduled needs of each resident. An Assisted Living development applicant shall comply with all state and federal regulations for assisted living developments. Assisted Living development applicants will be required to submit an approved Certificate of Need or Permit of Approval from the State of Arkansas with their application.

"DCR" or Debt Coverage Ratio: is defined as the ratio of a development's net operating income (rental income less operating expenses and reserve payments) to total debt service obligations.

"Development Team" means the applicant, developer, consultant, contractor, architect, accountant, and attorney.

"**Disability"**: Federal laws (Department of Housing and Urban Development) define a person with a disability as "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment." In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation that substantially limit one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

"Review and Response Period" means the Period after ADFA staff have underwritten applications and notified all applicants of any outstanding deficiencies. Applicants will have ten (10) business days from electronic notification to contact staff, clarify and/or provide explanatory documentation.

"**Financial Feasibility**" is an Application Requirement consisting of the following criteria by which an Application will be underwritten and determined to be feasible: adequate reserve funding, fifteen year pro-forma based on reasonable expenses and operating increases, developer fee standard, general contractor requirements, utilization of current per unit cost caps and meeting a minimum debt coverage ratio.

"**Housing Credit**" means Low Income Housing Tax Credit (LIHTC). It is a Federal allocation to States of tax credits that are tied to a per capita amount set by Congress. The LIHTC program is governed by the IRS per Section 42 of the IRC.

"**Multifamily Housing Application Guidelines" or "Guidelines**" means these instructions and scoring criteria set forth below and to be considered part of the Multifamily Housing Application.

"**Qualified Allocation Plan" or "QAP"** is a public document that states ADFA's role in administering the Low Income Housing Tax Credit under IRC Section 42. The document sets priorities and criteria for using the credit along with these Multifamily Housing Guidelines.

"**Rural Area**" is:

a. Open country which is not part of or associated with an urban area.

b. Any town, village, city, or place including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

   (i) has a population not in excess of 10,000 if it is rural in character, or

   (ii) has a population in excess of 10,000 but not in excess of 20,000 and is not contained within a Metropolitan Statistical Area, and has a serious lack of mortgage credit for low and moderate income households as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development.

"**Scattered site**" means development that is any low income housing development whose buildings are at least 2000 feet away from each other. The development shall be so treated if all of the units in each building in the development are designated low income housing units and all of the buildings in the development are located within one jurisdiction (*i.e. city or county*) with the same highest elected official.

"**Supportive (Disabled) Housing**" is housing intended for the use of persons with a disability as defined by federal law, which contains all the physical design, construction, and on-site service provision components adequate to meet the needs of the disabled population targeted. Any market study submitted in support of an application for housing intended for the use of persons with disabilities shall address the housing needs of the targeted disabled population in the primary market area. The applicant shall also include a marketing plan designed to reach the targeted disabled population for which the proposed housing is to be developed. The applicant must submit its statement that the supportive services offered to the disabled population served will be optional as defined in *26 C.F.R § 1.42-11(b).*

B. <u>APPLICATION PROCESS FOR COMPETITIVE ALLOCATION</u>.

The closing deadline for submitting the Arkansas Development Finance Authority the Multifamily Housing Application ("MFHA") for the Low Income Housing Credit Cycle is as follows:

APPLICATION DEADLINE IS 4:30 P.M.,
THE FIRST MONDAY OF APRIL
("Application Deadline")

The applicant must use ADFA's MFHA, which is available on ADFA's website. An Adobe.PDF copy of the application and all attachments and exhibits appropriately bookmarked must be delivered to ADFA no later than 4:30 p.m., on the Application Deadline. <u>Two (2) items comprise the Application and are required on or before Application Deadline in order to be considered. If any of the following Application pieces are missing by the Deadline the application will be rejected:</u>

1) The applicant must electronically submit by the Application Deadline their MFHA as a saved MS Excel file, in the same format as the ADFA MFHA is posted, via email to:

"Multifamily.Housing@adfa.arkansas.gov"

2) The applicant shall submit an Adobe.PDF copy of the application and all exhibits, bookmarked to ADFA on a compact disk on or before Application Deadline.

Applications must score a minimum of 85 points, pursuant to Section II, A, to be considered for an allocation of tax credits. Applications with a score of 84 points or below will not be approved.

Applications are scored based solely upon that information and documentation submitted in and with the application by the Application Deadline.

If ADFA has questions or needs clarifications on any submitted documentation, ADFA will contact Applicant via email. If contacted by ADFA, the Applicant must respond within **ten (10) business days** or the application will be rejected. Any additional information provided by the Applicant to ADFA must be satisfactory to ADFA. A list of all ADFA requirements and explanations are provided herein.

The applicant's response during the Review and Response Period must be electronically transmitted unless otherwise stated. **If ADFA determines applicants failed to meet the Application Requirements after the Review and Response Period, the applicant will be notified and the application will be rejected and neither underwritten nor scored.**

<u>If ADFA has questions or needs clarification regarding discrepancies or documentation in an application when underwriting, ADFA will contact applicant prior to the end of the Review and Response Period on an as-needed basis</u>.

NOTE: If any Application Requirements are marked "N/A" on the application, the respective tab insert must provide the reason said item is not applicable.

During the Review and Response Period, the applicant may provide ADFA staff regarding any information or documentation requested by ADFA staff. During the Score Notification Period, the applicant will have an opportunity to submit electronically written comment on what the applicant considers a discrepancy in the score awarded by ADFA from the Scoring Criteria (Section II.A) based upon the application and the information and documentation submitted by the Application Deadline.

Dates For Review of Applications and Reservation Process	
Application Deadline	First Monday of April -- 4:30 p.m.
Review and Response Period Applications will be reviewed for all required documentation listed in Guidelines. Any applicant notified by ADFA between application submission and the end of the Review and Response Period of items that require explanation or clarification will have ten (10) business days to respond. **Applicants will be allowed the full 10 (ten) business days to respond if that time period extends past the Review and Response Period Deadline.**	Ends on the Last Friday of June—4:30 p.m.
Scoring Notification Applicant notified of application score. Any applicant who failed to meet the Minimum Score or submit all Application Requirements will be notified.	First Friday of July—4:30 p.m.
Scoring Response Period Applicant may provide ADFA with a response to the application score. **Applicant will be notified within ten (10) business days of the Scoring Response Period ONLY if there is a change in an application's score.**	Second Friday of July – 4:30 p.m.
Successful applicants approved for reservation of Housing Credits by ADFA Board of Directors	Third Thursday of August
Reservation letters mailed to successful applicants	Last Friday of August

ADFA may modify the dates set forth above if necessary. All such changes shall be posted on the ADFA website, under Publications and Forms, Multifamily, or other highly visible location on the ADFA website.

C. REQUIREMENTS FOR A COMPLETE APPLICATION

The following Application Requirements (the "Requirements") must be submitted by the Application Deadline. Failure to submit these Requirements as set forth herein by the Application Deadline will terminate the application from consideration for federal low income housing tax credits, and no score will be provided.

1. Application Fee. The application fee check, in the correct amount as set forth herein, should be made payable to "Arkansas Development Finance Authority."

2. Financial Commitment Letters. **All** sources of financial commitments, including but not limited to the following, as applicable:

a. Commitment letter from permanent finance lender with which the applicant has submitted an application for financing. The letter shall be dated within six (6) months of the Application Deadline and state that a formal application for permanent financing is under serious consideration. The letter must contain:

(i) the amount of the loan;
(ii) amortization period;
(iii) annual loan payment; and
(iv) interest rate.

b. A commitment letter, dated within six (6) months of the Application Deadline, from any syndicator or investor purchasing the Housing Credits, State Housing Credits, or Affordable Neighborhood Housing Tax Credits which will be utilized as a source of funds for the development.

(i) Because of the limited quantity of State Housing Credits and/or Affordable Neighborhood Housing Tax Credits, any applicant requesting either credit must provide alternate financing.

(ii) The financing commitment letter for requested federal housing credits must include at a minimum the following information:

(a) Price per credit;
(b) Amount of credits to be acquired;
(c) Total amount of equity to be paid in to the development and the proposed schedule of equity payments;
(d) Amount of rehabilitation expenditures per unit required by investor or syndicator, if proposed development is seeking rehabilitation credits;
(e) Debt coverage ratio required; and
(f) Reserve amount required.

Applications must evidence compliance with the investor's requirements, if stricter than ADFA's requirement.

c. A commitment letter dated within six (6) months of the Application Deadline, from any other sources providing funding for the development including, but not limited to:

(i) USDA Rural Development, including RD Form 3560-7;
(ii) HUD;
(iii) Project Reserves;
(iv) Deferred Developer Fee;

(v) Owner Equity; and
(vi) Participating Jurisdiction

ADFA reserves the right to contact Applicant regarding the financial commitments and to accept, only upon ADFA's request, supplemental or revised financial commitments.

3. Appraisal. For all applications for new construction, a certified land appraisal must be submitted with the application dated within one (1) year of the Application Deadline.

For all acquisition and rehabilitation applications, and all rehabilitation applications, applicant must submit an appraisal, dated within one (1) year of the Application Deadline, which supports the purchase price of the development.

a. The appraisal must separately identify the appraised value for the buildings in the development and the value of the land.
b. If the appraised value of the buildings is enhanced due to a federal rental subsidy attached to the buildings, the appraisal must separately identify the value of the federal rental subsidy.

In order to receive credit for the federal rental subsidy, the applicant will be required to submit a commitment letter from the federal agency stating the federal rental subsidy has been awarded to the applicant.

The purchase price must be equal to or less than the appraised value of the land and buildings.

4. Site Control Information. The applicant must have site control. Evidence of site control in **one** of the following forms shall be included:

i. Executed purchase option contract; or
ii. Executed long-term land lease or option on a long-term 99 year lease; or
iii. Evidence of executed assignment and assumption agreement with executed purchase option agreement, contract or land lease agreement attached.

a. The Option, Contract or Agreement must be in the name of an existing entity or person that is in a position of control over the applicant. The Option, Contract, or Agreement must indicate that the existing entity or person is in a position of control over applicant, and that such entity or person has the exclusive right to purchase or lease the property for a period not to expire prior to **December 6 of the year of MFHA.** ***The option or contract cannot be subject to extension fees in order for contract to reach required expiration date.***

NOTE: if one of the above, the applicant must also submit a copy of the recorded deed evidencing the Seller's or Lessor's ownership if site control is evidenced by any of the above.

b. Verification of Arm's-Length Transactions included in Tab 6 will be signed statement from Applicant verifying this is an Arm's-Length Agreement. **A statement in the market study or appraisal asserting the property value is based on an arm's length agreement WILL NOT suffice.** If the seller of land or buildings included in the application is an entity, applicant must obtain knowledge of and disclose the identity of all members, partners, or shareholders of the entity. Applicant is responsible for obtaining the consent of the seller entity to disclose this information in the application for housing tax credits.

For all acquisition/rehabilitation developments, the application shall include documentation for each building claiming acquisition credits that:

i. Satisfies the "purchase requirement" of *IRC Section 42(d)(2)(B)(i)* (submission of Purchase Option, Contract, or Agreement);

ii. Provides the seller's certification that the 10-year hold rule in *IRC Section 42(d)(2)(B)(ii)* has been satisfied for each building (including both placed in service and most recent nonqualified substantial improvement), or alternatively, applicant may provide sufficient documentation and information to support a finding that the requirement is not applicable under IRC Section 42; and

iii. Provides the applicant's certification that each building was not previously placed in service by the applicant or by any person related to the applicant in accordance with *IRC Section 42(d)(2)(B)(iii).*

c. The applicant must produce evidence of site ownership or a 99-year leasehold on the site at the earlier of:

i. Placement in Service Allocation; or

ii. The date the taxpayer will be required, pursuant to federal statute, to prove that its basis in the development exceeds ten percent (10%) of the reasonably expected basis in the development as of December 31 two years following reservation.

5. <u>Zoning and Planning Commission Information</u>. A signed letter, dated within six (6) months of the Application Deadline, from the appropriate zoning authority stating the proposed use of the property and that the property is properly zoned for such proposed use. If the development site is within the five (5) mile extra-territorial jurisdiction of a municipal planning commission, and planning commission approval is required for the development's construction, the applicant must submit written documentation that such approval has been granted by the planning commission. Planning commission approval documentation must be dated within six (6) months of the Application Deadline.

6. <u>Independent Market Study</u>. A comprehensive market feasibility study demonstrating that sufficient need for the affordable housing as proposed exists in the proposed geographic market area. The application will be rejected if the market study fails to show need for any bedroom size proposed based upon the targeted income group for that bedroom size. The market study shall be dated within six (6) months of the Application Deadline. The market feasibility study shall be conducted at the applicant's expense by a disinterested third party approved by ADFA. The market analyst shall be on ADFA's Approved Market Study Firm List and shall follow ADFA's "Market Study Guidelines for Affordable Rental Housing Programs". Market studies that: (a) do not meet the requirements of the Market Study Guidelines; (b) do not provide an index or table of contents indicating the page within the market study each requirement can be found; or (c) are performed by firms not approved by ADFA, will not be accepted.

<u>NOTE: All applications with rehabilitation projects shall include as an appendix to Market Study, a complete, detailed Tenant Income Audit that identifies all existing tenant households and their income. The audit must separately identify those tenant households whose income exceeds applicable income limits.</u>

ADFA reserves the right, for good cause, to independently evaluate the need for additional affordable rental housing in the proposed geographic market area and to not award credits to any development if, in ADFA's sole determination, the proposed location's market is weak, the proposed development will detrimentally affect other affordable housing in the area, or the proposed location is or nearly is saturated, or other negative impact or projection, even if the proposed development is otherwise eligible and even if the market study's conclusions do not indicate any negative impact or projection. If ADFA utilizes its right to independently evaluate the market area need, the Applicant will be notified at Final Response period.

ADFA shall have no liability for determinations of the presence or absence of a sufficient market. An award of tax credits by ADFA does not constitute a determination by ADFA that a sufficient market *exists for the proposed units so as to provide financial feasibility. ADFA shall not be liable for any costs incurred, profits lost, or other damages that may result from ADFA's determination of market conditions, award of tax credits or denial of tax credits.*

7. <u>Articles of Incorporation, IRS documentation, and Non-Profit Determination Statement</u>. To be considered for the "Non-Profit Set-Aside", the development shall involve a qualified non-profit organization that:

a. Owns an interest in the development;
b. Materially participates in the development;
c. Is not affiliated with or controlled by a for-profit organization; and
d. Has as one of its exempt purposes, in its Articles of Incorporation, the fostering of low-income housing.

In addition, to be considered for the "Non-Profit Set-Aside":

a. the non-profit organization's Articles of Incorporation and IRS documentation of its exemption from federal income tax must be included (pending requests with the IRS for exemption will not be accepted);
b. the Applicant must provide proof in the form of signed statements that all four (4) criteria listed above have been met.
c. the development must comply with Internal Revenue Service Revenue Procedure 96-32 in that at least seventy-five percent (75%) of the total number of residential units are designated for low-income residents.

8. <u>Capital Needs Assessment</u>. All rehabilitation developments shall include a capital needs assessment conducted by a firm on ADFA's "Capital Needs Assessment Firms – Approved List". The assessment shall include a physical inspection of the interior and exterior of each unit and structure, as well as, an interview with the development manager and maintenance personnel. At a minimum, the following components must be examined and analyzed in the assessment:

a. Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, gas and electric utility lines;
b. Structural systems, both substructure and superstructure, including exterior walls, balconies and stairways, exterior doors and windows, roofing system and drainage, including but not limited to termite, mold and water damage;
c. Interiors, including unit and common area finishes (carpeting, vinyl flooring, tile flooring, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors;
d. Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, fire protection and elevators; and
e. Buildings, facilities, common use areas, residential units, parking areas, curbs, ramps, railings to ensure compliance with applicable federal, state and local laws regarding accessibility for persons with disabilities.

A report, dated within six (6) months of the Application Deadline, of all components examined and analyzed in the assessment must be submitted with the application.

The report must include a physical inspection of the interior and exterior of EACH UNIT AND EACH BUILDING and must specifically identify the scope of work and estimated costs necessary to:

a. Rehabilitate all components examined and analyzed in the development to a new or "like-new" condition;

b. Correct all deficiencies in order for the development to comply with applicable federal, state and local laws and requirements regarding accessibility for persons with disabilities; and

c. Correct all deficiencies to ensure compliance with ADFA's Multifamily Minimum Design Standards.

Failure by the report to meet the requirements set forth herein will result in a rejection of the Capital Needs Assessment submitted, thereby terminating the application from further consideration for federal low-income housing tax credits.

All rehabilitation development applicants must submit a statement that the scope of rehabilitation will include all capital needs of the development as set forth in the Capital Needs Assessment.

9. Financial Feasibility. All applications through the competitive allocation cycle will be underwritten using the same criteria regardless of project type or location. At a minimum ADFA determines that a development is financially feasible based on the following criteria: a) the extent to which the development's sources of funds equals the development's uses of funds; b) the extent to which any proposed developer fee deferral can be paid within the time frame allowed by the Internal Revenue Service c) the reasonableness of total development costs, inclusive of ADFA predetermined cost caps; and d) repayment terms (including interest rates, total debt and loan terms) for all proposed debt in connection with the proposed development.

ADFA may incorporate terms and conditions required by the equity investor(s) and lender(s) into its underwriting of an application if ADFA determines it necessary to provide an accurate, complete analysis of the financial feasibility of a proposed development.

Operating Deficit Reserve and Replacement Reserve Funds. The total development budget shall include:

a. Operating Deficit Reserve Fund equal to the greater of:
For all rehabilitation developments that do not receive 100% project based rental assistance and all new construction developments:

(i) Six (6) months of: (a) projected annual operating expenses, (b) annual debt service payments and (c) annual replacement reserve deposits;

OR

(ii) The amount of operating reserves required by applicant's equity investor(s) or lender(s)

For all rehabilitation developments that receive or will receive 100% project based rental assistance:

(i) Three (3) months of: (a) projected annual operating expenses, (b) annual debt service payments and (c) annual replacement reserve deposits;

OR

(ii) The amount of operating reserves required by applicant's equity investor(s) or lender(s), and

b. The funding and maintenance of a Replacement Reserve Fund equal to the greater of:

(i) $250.00 per unit per year;

OR

(ii) The amount of replacement reserves required by applicant's equity investor(s) or lender(s).

The operating and replacement reserve accounts shall be incorporated into the MFHA. These amounts must be funded by the date the development is placed in service and evidenced in the final cost certification.

The Replacement Reserve shall be maintained, and yearly deposits shall be made equal to the above requirement, for the entirety of the affordability period. The applicant shall identify the name of the financial institution where each reserve will be held. A copy of the December bank statement for the Operating Reserve account and the replacement reserve account must be submitted by the Owner to ADFA's Compliance Department by February 1 of each year. If the December bank statements do not evidence a year-end summary of each month's balance, copies of bank statements for all twelve (12) months, for the Operating Reserve and the replacement reserve, shall be submitted to ADFA's Compliance Department by February 1 of each year. The ending balance of each reserve account must total the amounts required under (a) and (b) above, whether the accounts are replenished from operating income or by the general partner of owner or member, shareholder or partner of general partner, as deemed appropriate by ADFA.

ALL WITHDRAWALS FROM THE OPERATING DEFICIT RESERVES MUST BE APPROVED, IN WRITING, BY ADFA PRIOR TO WITHDRAWAL. Owner must submit with the withdrawal request supporting documentation evidencing the need for the funds, written evidence that insufficient funds exist in the primary operating account, and a written guaranty by the general partner of owner or member, shareholder or partner of general partner, as deemed appropriate by ADFA, will deposit sufficient funds into the Operating Deficit Reserve account so that at the end of the year the total funds in the Operating Deficit Reserve account equal the amount required under (a) as modified herein for Rural Development developments. ADFA will require notification from owner on any replacement reserve withdrawal and notice of approval from development's lender or investor as applicable.

Rural Development-funded developments:

In the event that Rural Development requires initial operating capital in an amount greater than ADFA's operating deficit reserve, ADFA's required Operating Deficit Reserve under (a) above must be funded. In the event that RD requires initial operating capital in an amount less than ADFA's Operating Deficit Reserve required under (a) above, ADFA will credit the amount of reserves required by Rural Development to the total amount of reserves required under (a) and (b) above, but in no event shall the **total** amount of reserves be less than that required under (a) above. (For example, if under (a) $50,000 is required and under (b), $10,000, and Rural Development requires $20,000 of initial operating capital, the owner must fund a separate Operating Deficit Reserve account, withdrawals from which must be approved by ADFA, in the amount of $30,000. Using the same amounts except that RD requires a $70,000 initial operating capital, the owner must fund a separate $50,000 Operating Deficit Reserve.)

A copy of the December bank statement for the Operating Reserve account and the Replacement Reserve account must be submitted by the Owner to ADFA's Compliance Department by February 1 of each year. If the December bank statements do not evidence a year-end summary of each month's balance, copies of bank statements for all twelve (12) months, for the Operating Reserve and the Replacement Reserve, shall be submitted to ADFA by February 1 of each year. The ending balance of the Operating Deficit Reserve account plus the development's ending cash balance per RD Form 3560-7, plus the balance of RD's initial capital outlay reserve must total the amounts required under (a) and (b); thus, general partner of owner or member, shareholder or partner of general partner of owner may have to deposit funds into the separate Operating Deficit Reserve account to total this amount.

ADFA acknowledges that RD shall have authority over the initial operating capital reserve account and that RD will review and approve or deny all withdrawal requests by owner from such account. ADFA shall have approval authority over the separate Operating Deficit Reserve account. Owner shall not make any withdrawals from the Operating Deficit Reserve account without providing the following items to ADFA: 1) Owner must submit with the withdrawal request supporting documentation evidencing the need for the funds, 2) Owner must provide written evidence from RD that the use of reserve funds is not an eligible expense from RD initial operating capital reserve account or that insufficient funds exist in the account, and 3) a written guaranty by the owner or general partner of owner, as deemed appropriate by ADFA, will deposit sufficient funds into the ADFA Operating Deficit Reserve account so that at the end of the year the total funds in the Operating Deficit Reserve account equal the amount required under (a) as modified herein for Rural Development developments.

<u>Pro Forma</u>. Each application must complete the Pro Forma document set forth in or as an exhibit to the MFHA**.** The pro forma for all applicants must be based on reasonable projections of increases in expenses and incomes. NOTE: Provide an **additional** pro forma and alternative list of sources if applying for State Housing Credits showing the alternative financing proposed.

<u>Developer Fee</u>.

a. Developer Fee Standard. The developer's fee, which is defined to include the developer fee plus developer’s overhead and profit plus consultant’s fee, must meet the following standards:

The developer fee cannot exceed fifteen percent (15%) of the "Net Development Costs".

"Net Development Costs" is defined as the total uses of funds, less syndication-related costs, developer’s fee and development reserves.

For purposes of applying the developer’s fee to eligible basis, eligible basis **must be proportioned separately reflecting that amount of the developer’s fee attributed to the acquisition of existing property from that amount attributed to the rehabilitation costs**. The amount attributed to the acquisition of existing property must be equal to or greater than the percentage that the total acquisition costs of existing property is to the total development costs.

Applicant must disclose in its application or an attachment thereto all persons and entities that will receive any portion of the developer fee proposed in the application. For all such entities, all members, partners and shareholders of such entities shall be disclosed and the respective portion of the amount of developer fee to be received by the entities shall be identified. If after time of application, there is any proposed change in the person(s) or entity/entities that shall receive any portion of the developer fee, all revised parties and amounts must be disclosed in writing to ADFA.

b. Developer Fee – Deferral. Any portion of the developer’s fee that is deferred and included as a source of funds will be underwritten to ensure payment by the end of the 15-year compliance period. Eligible basis will be reduced by that amount of deferred developer fee that is not payable within the 15-year compliance period. If any portion of the developer's fee is deferred in the form of a loan, then ADFA will consider any interest payable on such loan to the developer as part of the developer's fee for computing compliance with the developer fee standard(s) set forth above.

<u>General Requirements, Contractor’s Overhead and Contractor’s Profit</u>. The amount allocated to General Requirements of the development cannot exceed seven percent (7%) of its construction hard costs. General requirements include items that are required for the contractor to provide for the specific project including, but are not limited to, the following: Field supervision; field engineering such as field office, sheds, toilets, phone; performance and payment or latent defects bonds; building permits; site security; temporary utilities; property insurance; and cleaning or rubbish removal. Such items should not be accounted for as separate line items in the development budget.

ADFA will limit the Contractor’s Overhead to four percent (4%) of the development’s construction hard costs plus in general requirement’s costs. ADFA will limit the contractor’s profit to ten percent (10%) of the development’s hard costs plus its general requirements’ costs. ADFA reserves the right to determine whether costs included in the contractor’s overhead and contractor’s profit calculations are appropriate and reasonable.

Applicant must disclose in its application or an attachment thereto all persons and entities that will receive any portion of the contractor's profit proposed in the application. For all such entities, all members, partners and shareholders of such entities shall be disclosed and the respective portion of the amount of contractor's profit to be received by the entities shall be identified. If after time of application, there is any proposed change in the person(s) or entity/entities that shall receive any portion of the contractor's profit, all revised parties and amounts must be disclosed in writing to ADFA.

Per Unit Cost Cap. ADFA limits the per unit cost for developments to:

Assisted Living	\$179,000
Historic Rehabilitation	\$179,000
Single family – New construction	\$162,000
All other new Multifamily	\$151,000
Acquisition/Rehabilitation	\$131,000

"Per unit cost" is calculated by dividing the total development cost by the total number of units. Applications that represent on the face of the application a higher cost per unit than the allowable cost per unit stated herein may be rejected from further consideration for an award of federal or state housing tax credits. Applications that represent costs within the allowable costs stated herein but which ADFA reasonably determines to inaccurately reflect actual costs per unit are subject to rejection from further consideration for an award of federal or state housing tax credits.

ADFA shall have the discretion to determine reasonableness of all costs stated in the proposed development budget regardless of whether the costs per unit comply with the maximum costs per unit limitation set forth above. ADFA may, within its discretion, deny applications based upon the unreasonableness of costs, regardless of whether the costs per unit comply with the maximum costs per unit limitation set forth above. Upon request by ADFA staff, applicants may provide justification and supporting documentation of costs. ADFA will review the items submitted and make a final determination. ADFA's determination will be set forth in writing as to whether the application will be further considered or rejected.

Minimum Debt Coverage Ratio. The development will be required to establish a minimum debt coverage ratio ("DCR") that is the greater of: (1) 1.15 or (2) the minimum debt coverage ratio required by any lender or investor providing a financial commitment to the applicant.

"Debt coverage ratio" is defined as the ratio of a development's net operating income (rental income less operating expenses and reserve payments) to total debt service obligations ("DCR"). **Rural Development (RD) developments shall use the income, expenses and reserves as approved in the most recently executed Form 3560-7**. The applicable minimum debt coverage ratio must be evidenced by the MFHA and supporting documentation.

A development's DCR may not be projected to be below the DCR required herein at any time during the compliance period. If the application or ADFA's underwriting, evidences that the development will fail to meet the requisite DCR at any time during the compliance period, the application will be rejected from further consideration for an award of housing tax credits.

After a development is placed in service, the DCR will be monitored by ADFA's Compliance Department and/or ADFA's Multifamily Programs Department.

10. Rehabilitation Standard. Rehabilitation hard costs (labor and materials) on any rehabilitation development will be no less than \$15,000 per unit and no less than twenty percent (20%) of the development's total costs.

*Developments financed with 4% LIHTC / Tax-exempt bonds: Applicants for tax-exempt bond financing subject to private activity volume cap MUST elect to meet the Rehabilitation Standard set forth above.

11. **<u>Rental Assistance Contract</u>**. All applicants proposing a development that has been approved for project-based rental assistance shall submit with its application a copy of the executed rental assistance contract **<u>and if applicable Form RD 3560-7 or HUD-92458</u>**; if a rental assistance contract has not been executed at time of application submission, a commitment letter from the agency providing the rental assistance must be submitted. All such applicants must also submit documentation, if not set forth in the rental assistance contract or the commitment letter, or the most recently <u>approved amount of rent to be charged</u>. If an application proposing a development represented to have project-based rental assistance does not submit this required information, and complete all portions of the application relevant to project-based rental assistance, ADFA will underwrite on the assumption of no rental assistance. If such underwriting results in a determination that the development is not financially feasible, the application will be rejected from further consideration for an award of housing tax credits.

HUD Section 8 supported developments: In the event that the Department of Housing and Urban Development ("HUD") anticipates granting a waiver, or other process whereby HUD has agreed to underwrite an existing HUD-assisted development based on rents and rental assistance it has agreed to provide after rehabilitation, ADFA may also underwrite such proposed developments based upon such rent and rental assistance if substantiated by a letter from HUD and supported by the market study and/or appraisal. It is within ADFA's sole discretion, on an application by application basis, to determine whether utilization of such future rents and rental assistance in its underwriting is reasonable and appropriate.

Any award of tax credits under such circumstance is conditioned upon the development obtaining the waiver or approval. If the waiver or approval is not obtained by the carryover allocation Application Deadline, ADFA may terminate the tax credit award and no carryover allocation will be issued by ADFA for the development.

12. **<u>Fair Housing Training</u>**. Applicant must include with its application a copy of the certification evidencing completion of the Arkansas Fair Housing Commission training by a principal of the following members of the development team, or manager dealing with day-to-day operations, as appropriate under the circumstances: (a) Owner; (b) Developer; (c) Management Company; (d) Consultant, if applicable; and (e) Architect. Failure to submit the requisite evidence of completion by all required development team members shall result in rejection of the application from consideration for an award of housing tax credits. The certification is valid for the purpose herein for two (2) years from date of certification. Each development team member should attend the class most relevant to his or her development team role.

13. **<u>Identification of Applicant</u>**. Applicant must identify within its application the General Partner and Limited Partner(s), or all members as applicable, of the applicant entity. Applicant must also identify all members, partners, or shareholders of the General Partner; if any such members, partners, or shareholders are entities, Applicant must identify all members, partners, or shareholders of such entities.

14. **<u>Assisted Living Developments</u>.** Assisted Living development applicants shall submit an approved Certificate of Need or Permit of Approval from the State of Arkansas. *See,* definition of "Assisted Living" herein Section I(A).

All assisted living development applications must submit the following representations from the applicant:

a. All low-income housing units within the assisted living development contain separate and complete facilities for living, sleeping, eating, cooking and sanitation (See *26 C.F.R.§ 1.103-8(b)(8));*

b. All low-income housing units within the assisted living development are available for use by the general public (See *26 C.F.R. § 1.42-9);*

c. Supportive services available to tenants in low-income housing units within the assisted living development are optional (See *26 C.F.R. §1.42-11)*; and

d. Supportive services available for tenants in low-income housing units within the assisted living development do not include continual or frequent nursing, medical, or psychiatric services (See *26 C.F.R. § 1.42-11* and *IRS Revenue Ruling 98-47)*.

15. <u>Narrative Description of the Development</u>. A detailed narrative description of the development which includes the type of development; geographical description of the development site and surrounding area; types of financing; tenants served; bedroom mix; percentage of low-income units; involvement of non-profit support service organizations; amenities for the development; energy efficiency; rehabilitation work to be performed, if applicable; and any other relevant descriptive information.

16. <u>Letter to Public Housing Authority ("PHA") for use by Persons on Waiting List</u>. The applicant shall provide written documentation to the local PHA of its intent to develop a low-income Multifamily rental development. The notice shall provide the PHA with:

a. A copy of the Narrative description set forth above;

b. The development's proposed address/location; and

c. A description of the number, type, income limits and unit mix (by bedroom size and anticipated rents).

The applicant must submit a copy of the above notice with its application to ADFA.

17. <u>Utility Allowance Calculation</u>. Pursuant to *26 CFR § 1.42-10*, documentation of utility calculations from one of the following entities shall be included:

a. Local Public Housing Authority, unless the applicant is a Housing Authority, or affiliated therewith, then it must be from an unrelated third party;

b. HUD;

c. RD;

d. Utility company; or

e. Energy Consumption Model study, conducted by a licensed engineer or other professional (if other professional, must be approved by ADFA in advance of submission).

NOTE: ***<u>If applying for HOME</u>***: Effective January 2015, Applicant must use the HUD Utility Schedule Model or otherwise determine the utility allowance for the project based on the type of utilities used at the development.

Applicant must submit written documentation from the utility allowance entity selected which clearly marks the allowance for each type utility usage applicable for each type of unit to be constructed or rehabilitated. The supporting documentation must be signed and dated by an authorized representative of the utility allowance entity.

The utility allowance documentation must be dated within six (6) months prior to the Application Deadline, unless the application is for acquisition/rehabilitation of a HUD or RD development, then the current executed HUD or RD rent schedule forms are acceptable.

18. <u>Section 106 and Fish and Wildlife Service's Clearance Letter</u>. A Section 106 (National Historic Preservation Act, *16 U.S. C. § 470(f))* clearance letter from the Arkansas Department of

Heritage; and a Fish and Wildlife Clearance Letter from the U.S. Fish and Wildlife Services, must be submitted with the MFHA.

19. Letter of Participation and Resume of Development Team Members. Each development team member shall submit:

a. a cover letter describing its participation in the development along with a copy of its resume listing qualifications, experience, previous experience with the low-income housing tax credit program, address, telephone number and email address.

b. The General Contractor/Builder, Architect, and Engineer must be licensed to conduct business in Arkansas and a copy of such licenses must be submitted with the application.

c. Certification of Good Standing from Secretary of State for Applicant, Developer and Management Company.

It is within ADFA's sole discretion to evaluate the capacity of any development team member to undertake performance on any development. A determination by ADFA that any development team member does not have the capacity to undertake performance on any development may result in a disqualification of the application.

Any development team member, including the applicant, consultant, management agent or developer may be considered ineligible for an award of Tax Credits in scenarios whereby the documentation supports instances of nonperformance. Instances of poor or nonperformance may occur during construction, lease up, the Compliance Period, or the Extended Use Period. Below is a list of some possible performance issues. This is not an exclusive list.

a. Failure to meet and maintain minimum property standards;

b. Failure to meet and maintain any material aspect of a Development as represented in an Application;

c. Excessive late or incomplete reports to ADFA;

d. Failure to obtain prior approvals from ADFA;

e. Having been involved in uncured financing defaults, foreclosures, or placement on HUD's list of debarred contractors;

f. Events of material uncorrected noncompliance with any Federal or State assisted housing programs within the prior seven (7) year period.

g. Failure to comply with ADFA's request for information or documentation on any Development funded or administered by ADFA; or

h. Removal as a general partner.

20. Statement of Previous Performance. Utilizing the Criminal Background and Disclosure Form – Housing, Attachment A, the applicant, its consultant, and each development team member shall inform ADFA whether or not it has any existing contract or indebtedness with ADFA and identify any prior or currently delinquent, defaulted, or foreclosed upon contract, loan or other indebtedness of the applicant, consultant, or development team member with ADFA, or any judgments, proceedings or investigations or any pending or threatened litigation.

In addition, ADFA will review the previous performance of the applicant, its consultant and each development team member under all affordable housing programs with ADFA or other State Housing Finance Authorities, including the HOME Program, the Housing Credit program, Tax-Exempt Bond program, and any other affordable housing loan program, including disbursements, payment history, compliance history and any findings. Unsatisfactory performance, as determined by ADFA's Staff Housing Review Committee, on previous developments or delinquencies in payments will result in disqualification of an application by the ADFA Staff Housing Review Committee, regardless of scoring.

21. **<u>Criminal Background and Disclosure</u>.** Each applicant, developer, consultant, and other development team member on the application, and all principals of development team members as well as any public official affiliated with a tax credit, tax credit/HOME or bond program application, shall complete a Criminal Background and Disclosure Form – Housing, Attachment A to the Application. Failure to submit, or correctly complete the Criminal Background and Disclosure Form – Housing by each applicant, developer, consultant and development team member on the application or affiliated public official on a HOME program application may disqualify the Application for reservation of LIHTCs, Tax-Exempt Bonds subject to Private Activity Volume Cap ("Bonds") or HOME funds, or other ADFA Housing resources.

Each applicant or recipient of LIHTCs, Bonds, or HOME funds or other ADFA housing resources and any principal of such applicant or recipient, is subject to ADFA's Criminal Background Check Policies and Procedures and their requirements. Each consultant, developer, or other development team member or any principal of such consultant, developer, or other development team member, is subject to ADFA's Criminal Background Check Policies and Procedures and their requirements.

ADFA, in its sole discretion, shall determine whether the criminal background of an applicant, developer, consultant or other development team member or of a partner, member, or shareholder of the applicant, developer, consultant or other development team member disqualifies such person(s) or entity or entities. If such person(s) or entity or entities are determined to be disqualified to participate on the development team of the proposed development, the application may be rejected from further consideration for housing tax credits, which may necessarily result in rejection from further consideration for other ADFA resources. ADFA may allow, in its discretion, applicant to provide, after notice of such determination to applicant, a replacement development team member subject to approval of such replacement member by ADFA.

An application may be disqualified based upon the Criminal Background and Disclosure, within the discretion of the ADFA's Staff Housing Review Committee.

22. **<u>Environmental Checklist</u>.** The Environmental Checklist included in the Application as Attachment B must be completed, signed and dated.

23. **<u>Conflict of Interest Acknowledgment and Contract and Grant Disclosure and Certification Form</u>.** Each member of the development team as listed in the Development Team tab of the MFHA must complete the "Conflict of Interest Acknowledgment" and "Contract and Grant Disclosure and Certification Form", which will be available on ADFA's website as an attachment to the MFHA.

24. **<u>Attachment C – Identity of Interest</u>**. As appropriate for each entity listed on the Development list and the Limited Partnership, prepare an organizational chart for each member of the Development Team listing the entity, and all applicable stockholders, directors, officers, members, managers, trusts, trustees, etc. including full names and addresses and percentage of ownership and voting rights. If a sole proprietorship, state the same. Reference Attachment C as an example.

25. **<u>Tax Abatement.</u>** ADFA will not consider the effect of lowered, abated, or deferred real estate taxes in its underwriting of the proposed development unless documentary evidence of the development's entitlement to tax abatement, reduction or deferral is submitted by Applicant with its application.

26. **<u>Attachment G.</u>**

Multifamily Housing Minimum Design Standards**:** Construction of the development must be in accordance with ADFA's "Multifamily Housing Minimum Design Standards", as well as all applicable local, state and national building codes. The applicant's architect must complete and execute the "Multifamily Housing Minimum Design Standards Checklist", Attachment G of the MFHA. Applicant must certify that all features, standards and specifications acknowledged in Attachment G, certified by the architect, will be incorporated and complied with in the construction or rehabilitation of the proposed development. The general contractor must execute an acknowledgment of Attachment G before a Notice to Proceed will be issued.

For rehabilitation developments: If structural constraints prohibit adherence to ADFA's "Multifamily Housing Minimum Design Standards", applicant may seek a waiver from ADFA for the standard concerned. Such waiver request must be in writing, must be included with the application (separate from Attachment G), but Attachment G must evidence the waiver request, and include the following:

a. Certification by the design architect or licensed engineer that the standard concerned cannot be met due to structural constraints and a description of the structural constraint;
b. Description of alternative design which will achieve the benefit of the required standard; or certification by the design architect or licensed engineer that no alternative design can be undertaken to achieve the benefit of the required standard due to structural constraints; and
c. Statement by applicant that it will implement any alternative identified by the design architect or licensed engineer.

A certification from the design architect or licensed engineer will be required to be submitted confirming compliance with ADFA's "Multifamily Housing Minimum Design Standards", as amended for the development by any approved waivers, prior to the issuance of IRS Form 8609.

27. Allocated Credit Limitation for Competitive Round. A Development Team member, whether an individual or entity, may not have an economic interest, as defined below, in more than 15% of the total amount of 9% housing tax credits that ADFA has available for allocation in that given year. The ADFA Board of Directors shall have the discretion to limit the number of developments under development at any one time by any developer or owner.

This section is not intended to prohibit any independent third-party professionals from rendering services on behalf of multiple proposed developments. However, this section will apply to such service provider if the service provider has an economic interest as defined below in addition to its provision of services to the proposed development.

ADFA retains the discretion to determine when this rule regarding economic interest should apply in circumstances other than those specifically referenced above. In addition to the Allocated Credit Limitation for any Development Team member among which ADFA determines an economic interest exists, ADFA may impose special conditions and limitations upon applications, applicants and development team members.

Applicant must identify all members, partners and shareholders of the applicant, contractor, architect, management company, consultant and developer of the proposed development. If any such identified members, partners or shareholders are entities, then all members, partners and shareholders of such entities must be identified. All development team members must be identified at time of application.

No changes can be made in the composition of the development team without ADFA's approval. Applicant must identify to ADFA all members, partners and shareholders of the proposed replacement member. If any such identified members, partners or shareholders are entities, all members, partners and shareholders of such entities must be identified. All policies regarding economic interest shall be applicable to the proposed replacement member. If the proposed replacement would cause a development team member or related person or entity to violate the Allocated Credit LImitation , such proposed replacement will be denied, or if the economic interest becomes known to ADFA at a later time, ADFA may terminate the reservation, terminate the carryover allocation, deny issuance of credits via IRS Form(s) 8609, suspend all responsible persons and entities from the tax credit program for a period of time determined by the ADFA Board of Directors, or take other action reasonable under the circumstances as determined by ADFA.

An economic interest exists in the context of tax credit applications and developments when:

a. There is any financial interest in the development, including but not limited to the lending of funds to a development team member or the owner of the development for the construction or operation of the development, the guaranteeing of a note on behalf of a development team member or owner of the development, or the making of any other guarantee that is contingent upon the construction or performance of the development; and/or

b. A development team member also has an economic interest in a development if the ownership entity or any portion thereof should be stated on the financial statements of the development team member or related entity according to Generally Accepted Accounting Standards.

Economic interest shall not include a contractual relationship whereby a development team member provides services that are within its ordinary course of business and receives reasonable payment for such services. For example, an architect contracting with a development owner to prepare plans for the rehabilitation of a development in exchange for a contractual sum shall not constitute an economic interest. Or, for example, an independent contractor providing a payment or performance bond or guarantee and warranty pertaining to their construction work and budget as outlined in an AIA A series contract shall not constitute an economic interest.

For the purposes stated herein, "development team member" shall include but not be limited to all persons and entities stated in the tax credit application as members of the development team.

Applicant must disclose all identities of interest that exist among all persons or entities acting as a development team member whether or not expressly named as a development team member.

Applicant shall include with its tax credit application a verified statement from all development team members in which each discloses all economic interests in the development. ADFA may deem a person or entity as a development team member if ADFA reasonably determines that such person or entity is acting as a development team member.

28. **<u>Multiple Phase Developments</u>**. ADFA will not consider for an award of federal or state housing tax credits an application for a proposed development that is a phase of another proposed development for which an application has been submitted in the same funding cycle.

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II. PROCEDURES FOR AWARDING POINTS AND RANKING APPLICATIONS.

A. POINTS CRITERIA

Each application will be awarded points based upon the Points Criteria outlined below. **To be awarded points, the applicant must submit the information and documentation EXACTLY as stated below by the Application Deadline.**

POINTS CRITERIA

2	**LOCATION**	**MAXIMUM __ Points**
	a. Development is located in the following low-income counties designated in the most recent State Consolidated Plan: Bradley, Chicot, Crittenden, Desha, Fulton, Jackson, Lafayette, Lawrence, Lee, Miller, Monroe, Newton, Phillips, St. Francis, Searcy and Woodruff.	**__ Points**
	b. Development is located in a Qualified Census Tract (QCT) or a Difficult to Develop Area (DDA**). ADFA will accept a QCT/DDA either designated in the year immediately preceding the application deadline <u>or</u> designated in the year of current application cycle.** A copy of the QCT map for the development must be submitted with the application and complete census tract information must be submitted with the MFHA.	**__ Points**

3	**TENANT NEEDS** a. __ **points** will be given to developments with 100% of the units in the development designed, equipped and set-aside for elderly defined at *42 USC 3607(b)(2)* and *Ark. Code Ann. §16-123-307(d)(1)* **OR** b. __ **points** will be given to developments targeting low-income families (or individuals with children) with a minimum of 20% of the units having three or more bedrooms. (***If an applicant chooses 100% elderly, the applicant will <u>not</u> receive points for three or more bedrooms***) **OR** c. __ **points** will be given for Supportive Housing for disabled persons (as defined in section I(A) above) with a minimum of 30% of units for such special needs tenants. Applicant must submit a statement: 1.Describing the design and construction of the development that will meet the needs of the disabled population served; 2.Describing the on-site support services that will meet the needs of the disabled population served; and 3.Stating the supportive services will be optional to the disabled population served (see *26 C.F.R. §1.42-11(b))* The proposed service provider must submit a statement describing: 1. The disabled population to be served; 2. The needs of the disabled population to be served; and 3. The service to be provided to the disabled population served, including the frequency of provision **OR** d**.** __ **points** will be given for 100% Assisted Living housing (as defined in Section I(A) above). e. __ **points** will be given to developments which have committed in writing to large households on the public housing waiting list f. __ **points** will be given to Housing intended for eventual tenant ownership. 1. Pursuant to *26 U.S.C. §42(i)(7),* eventual tenant ownership is when the tenant exercises a right of first refusal after completion of the Compliance Period. 2. Applicant must submit the proposed right of first refusal contract to be offered for eventual tenant ownership. *NOTE: NO POINTS WILL BE GIVEN FOR EXTENDED USE DURATION IF TENANT OWNERSHIP CHOSEN*	**MAXIMUM** **__ Points**
4	**REHABILITATION** Proposed development involves acquisition and/or rehabilitation of existing structures. Points awarded based on percentage of units rehabilitated in the development.	**__ Points**

5	**PRESERVATION** Development has a rental assistance contract or a commitment for project based rental assistance from HUD or RD. Points for the above are allocated based upon percentage of rental assisted units to total number of units. **PUBLIC HOUSING** 1. Evidence of a public housing waiting list's need for affordable housing shall be in the form of a letter from the respective public housing authority..	**__ Points** **__ Points**
6	**HISTORIC DEVELOPMENTS** Proposed development involves rehabilitation of structures that are individually listed in the National Register of Historic Places ("NRHP") or have been determined to contribute to a Registered Historic District. Applicant must submit a letter from the Arkansas Historic Preservation Program dated within six (6) months from the date of the MFHA verifying the structures are individually listed in the NRHP or have been determined to contribute to a Registered Historic District.	**__ Points**
7	**DEVELOPER FEE** Developer Fee, including consultant fees, are 5% or less of net development costs. Applicant must submit a statement of its election to limit its combined developer and consultant fees to 5% or less of net development costs and such limitation must be evidenced in the MFHA's Development Budget.	**__ Points**
8	**MARKET RATE UNITS** To be eligible for market rate unit points, a minimum of 20% of the total residential units in the development must be market rate units. The market rate units must be evenly distributed throughout the buildings in the development, and if a single building, throughout the floor(s) of the building. The distribution of the market rate units must be reflected on the plans and Attachment E, the Building and Unit Designation submitted with the MFHA. **RENTAL RATE IMPACT OF TAX CREDITS** Proposed development will be awarded ___ Points for the percentage advantage of rents below the market rents of comparable multifamily rental developments in the area. The percentage advantage will be calculated by the average percentage below market rate of each type of unit (*i.e. one bedrooms and two bedrooms*) in the development	**__ Points** **__ Points**

10	**ADVANCED ENERGY EFFICIENCY FEATURES** Only items which exceed ADFA's Minimum Design Standards (see Attachment) or any applicable state or local building codes will be eligible for points. The following is an exclusive list of items for which ADFA may award points and each feature selected must be provided in 100% of the units in the Development. **This is an exclusive list.** a. __ **points** for shower head with a maximum flow rate of less than 2.5 gallons per minute b. __ **points** will be given for having more than 1/2" insulation wrap on hot water pipes (R-2 or higher) c. __ **points** will be given for having foundation insulation R-3 or better insulation installed around the exterior foundation of every building d. __ **points** will be given for having attic insulation of higher than R-38 installed in the attic of every building (provide specific R-Value) e. __ **points** will be given for having exterior wall insulation higher than R-16 installed in all exterior walls of every building (provide specific R-Value) f. __ **points** will be given for installation of Energy Star qualified appliances g. __ **points** will be given for having low emission windows that exceed ADFA MDS with less than U-factor of 0.35 and solar heat gain coefficient (SHGC) of 0.30 in every building. h. __ **points** will be given for having heat pump system with SEER greater than 15 and gas heated system with AFUE rating of better than 90%. i. __ **points** will be given to developments using low or no VOC paint. **Documentation Requirements:** The Applicant MUST provide **Attachment G** and specifically list the energy efficiency features for which points are claimed. This certification must be signed by owner, architect, and contractor. Furthermore the same features should be substantiated by plans submitted at time of application.	**MAXIMUM __ Points**
12	**SITE SELECTION** **POINTS GAINED FOR SITE SELECTION APPLIES ONLY TO APPLICATIONS FOR NEW CONSTRUCTION.** **POINTS DEDUCTED FOR SITE SELECTION APPLY TO ALL APPLICATIONS.** The site location will be evaluated for accessibility and proximity to services appropriate to the type of housing proposed (e.g. grocery stores, schools, medical facilities, and public parks). The application should identify the name, driving directions, and distance to the nearest grocery store, medical facility and pharmacy. Points **gained** on Site Selection (Maximum ___ Points) **APPLIES ONLY TO APPLICATIONS FOR NEW CONSTRUCTION**	**MAXIMUM ___ Points**

___ (__) points will be given for the following services located within 3 miles of the site. ***Site amenities must be appropriate for the population served.*** Distances will be measured by shortest available driving distance from the Development's address to the applicable address of the service as calculated by Google Maps.. **Points will ONLY be given for the services listed below**:

a. Grocery Store/Supermarket
b. Pharmacy/Drug Store
c. School, daycare or educational center (*cannot take if 100% elderly only property*)
d. Public Park (does NOT include school grounds)
e. Book lending public library
f. Daily operated senior center or facility offering daily services for seniors (*only take if 100% elderly property*)
g. Hospital/Health Clinic/Doctor's office (Doctor's office must be a General Practitioner.)

NOTE: All site amenities that are presented for scoring must be referenced in Market Study map (Market Study Guidelines Section V.B). All site amenities presented for scoring must list a contact person and a verifiable phone number in application.

APPLIES TO ALL APPLICATIONS

Points **deducted** for Site Selection (No Maximum Points)

There is **not a limit** on the amount of points that can be deducted for negative site and neighborhood services

____ (__) points each will be deducted if any of the following incompatible uses are directly adjacent to the site (adjacent is defined as nearby, but not necessarily touching).

____ (__) points will be deducted if any of the following incompatible uses are within 0.3 mi (approximately 500 yards) of the site. Distances are measured by lineal distance or "as the crow flies". The following is NOT an exclusive list:

a. Junk Yard/Public Dump/Solid Waste disposal
b. Pig Farm/Chicken Farm
c. Manufacturing Plant/Industrial Uses
d. Interstate hi-way or highly traveled road (*highly traveled means average daily traffic is over 10,000 as determined by recent State or local jurisdiction traffic maps published by the State Highway and Transportation Department*.)
e. Prison/Jail
f. Airport

Scoring considerations will also include, among other things, site suitability regarding topography (grade, low-lying area, flood plain, or wetlands)

13	**MARKET NEED** A Market Study shall be submitted which adequately demonstrates need for the rental housing units proposed. Fifteen (15) points will be awarded for capture rates of 20% and below. For capture rates exceeding 20%, points will be awarded based upon 5% increments of the capture rate, up to and including 90%. Points shall be weighted based upon number of units. Zero (0) points will be awarded when the capture rate is 91% to 100%. The application will be rejected if the market study fails to show need for any bedroom size proposed based upon the targeted income group for that bedroom size. ADFA may substitute its own market analysis, in its discretion, and may reject application as a result.	**MAXIMUM** **___ Points**
14	**SERVES LOWEST INCOME GROUP POSSIBLE** Special priority will be given to developments with units dedicated to serve households whose incomes are 30% or less of the area median income. Rents must be restricted accordingly. The number of units must be at least 5% of the total number of residential rental units in the development. **Applicants for developments that will receive, or do receive and is anticipated will continue to receive, project based rental assistance for more than 75% of units are not eligible for these points. These units cannot be used to satisfy low HOME requirements.** Applicant must submit a signed statement with the application stating the number of units to be set-aside for the extremely low-income tenants and such set-aside must be evidenced in the rent schedules of the application.	**___ Points**
15	**EXTEND DURATION OF LOW-INCOME USE** Applicant must submit a signed statement which indicates the number of years the period of affordability will be extended. To receive points the period of affordability must be at minimum 35 years.	**___ Points**
16	**COMMUNITY REVITALIZATION PLAN** Points are available to a development that is located in a Qualified Census Tract if it contributes to a concerted community revitalization plan. Applicant must submit with its application a copy of the Community Revitalization Plan approved by the appropriate planning authority and such Plan must specifically address a need for affordable housing. **Please highlight specific sections of the Revitalization Plan that reference affordable housing.**	**___ Points**

17	**PAST PERFORMANCE POINT DEDUCTION** ADFA will **reduce** a development's score by no more than five (5) points if the applicant or any related party or development team member failed to meet program or ADFA requirements on a prior ADFA development. These points will be assessed and evaluated on a round-by-round basis, and **applicants will be notified at Final Response period when a situation necessitating the assessment of these points occurs.** **Some examples** that will result in point reduction include: a. Failure to follow through with representations made at the time of application on previous developments where points were awarded that resulted in the project being funded. b. Repeated and documented poor response or slow response in providing follow-up documentation or clarification requests made by ADFA staff. c. Failure to meet one or multiple deadlines on previous developments – including Form 8609/Cost Certification Packages. d. Failure to submit Final Cost Certification with Total Development Costs at or below applicable Cost Cap. e. Failure to submit inspection reports and draw requests on monthly basis during construction.	**MAXIMUM** **- ___ points**
18	**NEGATIVE POINTS FOR NON-COMPLIANCE** ADFA's Compliance Department will calculate a Non-Compliance Percentage for each applicant based upon non-compliance by existing developments of which members, partners or shareholders of the applicant, General Partner of applicant or members, partners, or shareholders of General Partner of applicant, or members of applicant or members, partners, or shareholders of members of applicant were or are part of the development team or otherwise involved in the operation of the development as determined by ADFA. NOTE: If Applicant or Management is new to Arkansas without previous experience or 8609s issued, the Applicant **must** send a request to any other State Housing Finance Agency where the applicant or any related entity has previous LIHTC experience requesting the Agency to send ADFA a report listing any issuance of IRS form 8823, any report of non-compliance and UPCS inspection standards within the last three (3) years. The Non Compliance Percentage is determined at the time of review as evidenced by the issuance of the IRS Form 8823, Report of Non Compliance and UPCS inspection standards. All percentages will be calculated as follows: total number of units non-compliant/total units reviewed = Non Compliance Percentage. The Non Compliance Percentage of all ADFA properties reviewed within a 3 year period of time will be averaged and given an average Non Compliance Percentage. Owners are subject to point deductions based on the average Non Compliance Percentage as follows: Average Non Compliance Percentage — Negative Points 51% or more — __ 41-50% — __ 31-40% — __ 16-30% — __ 0-15 — __	**- ___ Points**

TOTAL POINTS POSSIBLE: ____

B. RANKING AND AWARD DETERMINATION.

Each application will be ranked according to the score awarded. In the event that some applicants score the same and are ranked the same, ADFA will employ a tie-breaker methodology to determine the final ranking. All final staff recommendations are subject to ADFA Board of Director's final decision.

In the event there is a tie in the scoring amount for two or more applications, then a funding recommendation will be made for the application based on one of the following criteria. The following are probable tie breaker criteria ADFA would use, but not meant to be exclusive of others:

1. Funding recommendation will be based on maximum number of affordable rental units produced.

OR

2, Funding recommendation will be based on application who requested least amount of housing credits per unit.

OR

3. Funding recommendations will be based on application that has the least amount of aggregate participation by any one owner or development team member. Aggregate participation is defined as the total of all LIHTC and HOME applications recommended for funding in the current round.

OR

4. Funding recommendations will be based on equitable geographic distribution of awarded tax credits.

ADFA reserves the right to disapprove any development for an allocation of Housing Credits, regardless of the ranking under the priorities and point ranking outlined above. ADFA reserves the right, in its sole and absolute discretion, to suspend or bar any applicant from the Housing Credit program, which ADFA determines has acted improperly, illegally or inappropriately in the applicant's dealings with ADFA or in any way relative to the Housing Credit Program. ADFA reserves the right to reject any application from consideration for an award of federal or state housing tax credits if any member of its development team is determined by ADFA to be out of compliance in regard to any existing development financed with ADFA-awarded resources.

III. EQUAL OPPORTUNITY.

ADFA requires that occupancy of all housing financed or otherwise assisted by ADFA be open to all persons regardless of race, color, religion, sex, handicap, familial status or national origin. Contractors and subcontractors engaged in the construction or rehabilitation of such housing must provide equal opportunity for employment without discrimination as to race, color, religion, sex, handicap, familial status or national origin.

IV. ADFA FEES.

A. APPLICATION FEE.

The appropriate application fee (determined from the list below) shall be included with the application and be in the form of a check payable to the Arkansas Development Finance Authority. All fees are non-refundable. Overpayments will not be refunded.

For-profit applicants – developments with 50 units or less	**$_____**
For-profit applicants – developments with 51-100 units	**$_____**
For-profit applicants – developments with 101+ units	**$_____**
Non-profit applicants	**$_____**

B. <u>RESERVATION FEE</u>.

A non-refundable reservation fee of $_____ per low-income unit will be required to secure the reservation of Housing Credits. <u>Overpayments will not be refunded</u>.

C. <u>ISSUANCE OF IRS FORM 8609 FEE</u>.

A fee equal to $_____ per low-income unit will be required at the time the owner submits the final development cost certification requesting issuance of IRS Form 8609(s). <u>Overpayments will not be refunded</u>.

D. <u>MONITORING FEE</u>.

A monitoring fee equal to ______ percent (___%) of the total annual Housing Credits allocation, or total original housing credit allocation prior to return of such credits and award of Section 1602 Exchange funds, as applicable, will be required at the time the owner submits the final development cost certification requesting issuance of IRS Forms 8609(s). <u>Overpayments will not be refunded</u>.

V. <u>FINANCING WITH TAX-EXEMPT BONDS AND HOUSING CREDITS</u>.

Developments financed with tax-exempt bonds must apply to receive Housing Credits not allocated as part of the State's annual Housing Credit ceiling. *Section 42(m)(1)(D)* of the Code requires such developments to satisfy 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". Although these developments need not compete for an award through the competitive process, they will be evaluated for compliance with the Application Requirements.

In addition, each development financed with tax-exempt bonds shall be in compliance with the monitoring provisions of ADFA. Applicants shall comply with ADFA's Guidelines for Reserving Volume Cap for Tax-Exempt Private Activity Bonds for Residential Rental Housing and ADFA's Rules and Regulations Implementing the Law on the Allocation of the State Volume Cap for Private Activity Bonds Pursuant to Act 1004 of 2001 in effect at the time of the filing of the application.

CERTIFICATION ON FOLLOWING PAGE.
CERTIFICATION MUST BE TURNED IN WITH APPLICATION.

CERTIFICATION

By submitting this MFHA, I agree to:

1. Participate in, provide information for, and cooperate with ADFA in the creation and maintenance of a web-based housing registry of ADFA-assisted housing developments.

2. Consent to ADFA obtaining information regarding applicant's, or any member of applicant's development team or any other member, partner or shareholder of an entity development team member or having any interest, indirectly or directly, in a development team member, from the housing finance agencies in all states in which applicant and development team members as defined herein have applied for credits, or otherwise participated in the development of a housing development.

I hereby certify that I have read and am aware of all terms, conditions, and requirements of the above-referenced instructions, and I am aware of all consequences should I fail to complete the MFHA application as set forth in these instructions.

______________________________	______________________________
Date	Applicant
______________________________	______________________________
Date	Developer
______________________________	______________________________
Date	Applicant Preparer