Arkansas Development Finance Authority

Housing Credit Program
2008 Qualified Allocation Plan

Adopted by the Board of Directors
July 19, 2007
Effective September 6, 2007

EQUAL HOUSING OPPORTUNITY

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I. DEVELOPMENT OF THE PLAN.

The Arkansas Development Finance Authority ("ADFA" or the "Authority") is charged with the responsibility of administering federal low-income housing tax credits ("Housing Credits") for the State of Arkansas (the "State"). ADFA is also charged with the responsibility of promulgating rules and regulations concerning the allocation of the Arkansas low-income housing tax credit (the "State Housing Credits") pursuant to ARK. CODE ANN. § 26-51-1701 *et seq*. The Tax Reform Act of 1986 created the Housing Credit to encourage the private sector to invest in the construction and rehabilitation of housing for low and moderate-income individuals and families. Section 42 of the Internal Revenue Code of 1986, as amended ("IRC" or the "Code"), mandates that housing credit agencies adopt a Qualified Allocation Plan for allocation of the Housing Credit to low-income rental developments throughout their respective states. Low-income housing tax credits shall be allocated in accordance with this plan or any amendments thereto.

II. LIMITS ON ALLOCATION OF CREDITS.

The Code requires that ADFA determine "the [Housing Credit] dollar amount allocated to the development will not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period." Housing Credits will be limited to the amount the Authority, in its sole discretion, deems necessary. Housing Credits are not intended to provide the primary or principal source of financing for a development, but are intended to provide financial incentives sufficient to fill "gaps" which would otherwise exist in developing affordable rental housing for low-income households.

III. HOUSING CREDIT ALLOCATION STANDARDS.

A. AMOUNT

The base amount of annual credit authority is currently calculated at $1.95 per capita. This per capita amount is based upon population estimates released each year by the Internal Revenue Service.

The maximum amount of Housing Credits that may be reserved for allocation to one individual development shall be no more than **$400,000** of the annual Housing Credits available in the calendar year. **HOWEVER,** the maximum amount of Housing Credits that may be reserved for allocation to one individual development that is: 1) located in a Designated Low-Income County as defined in the 2005-2009 State Consolidated Plan, or 2) a development with a commitment letter from USDA Rural Development, or 3) a qualified Assisted Living development shall be no more than **$425,000** of the annual Housing Credits available in the calendar year.

B. SET-ASIDES.

1. Non-Profit Set-Aside. Not less than ten percent (10%) of the Housing Credits will be set aside for developments involving any qualified non-profit organization that meets the standards set forth in IRC § 42(h)(5)(C). The organization shall be a qualified non-profit organization, as defined in IRC § 501(c)(3) or § 501(c)(4), which is not affiliated with or controlled by a for-profit organization and has included, as one of its tax-exempt purposes, the fostering of low-income housing. **Section XXVI of the Multi-Family Housing Application** (NON-PROFIT DETERMINATION) shall be completed and copies of the non-profit organization's Articles of Incorporation and Internal Revenue Service ("IRS") documentation determining the organization exempt from federal income tax under IRC § 501(a) shall be included with the application.

2. ADFA HOME and Rural Development Set-Aside. Approximately twenty percent (20%) of the Housing Credits will be set-aside for successful HOME and Rural Development ("RD") Program applicants. To be considered for HOME Program funds, applicants shall request HOME funds by completing the appropriate sections in the 2008 Multi-Family Housing Application when submitted by the APPLICATION DEADLINE. Rural Development applicants shall submit a copy of the Rural Development commitment letter with their Application. ADFA has entered into a Memorandum of Understanding ("MOU") with Rural Development, and has agreed to engage in cooperative efforts to enable ADFA and Rural Development to effectively evaluate Housing Credit requests of Rural Development applicants. The MOU will be considered by ADFA when reviewing Rural Development applications for Housing Credits.

3. Assisted Living Set-Aside. A maximum of $850,000 of the Housing Credits will be set aside for qualified assisted living developments. The applicant is required to submit a copy of the Certificate of Need or Permit of Approval from the State of Arkansas at the time the application is submitted to ADFA.

IV. **<u>ALLOCATION OF STATE HOUSING CREDITS</u>.**

ARK. CODE ANN. § 26-51-1702 provides that a taxpayer owning an interest in a low-income development qualifying for Housing Credits will be eligible for State Housing Credits equal to twenty percent (20%) of the allocated federal amount. The State statute limits the allocation of State Housing Credits to $250,000 in any one taxable year. Recognizing the limited availability of the State Housing Credits and with a desire to assign those credits where they are most needed, the applicant shall demonstrate need on the Housing Credit application. Based on demonstrated need in the application, the Authority will give a priority allocation of State Housing Credits to those developments that are in designated low-income counties under the State's Consolidated Plan submitted to the federal Department of Housing and Urban Development. The list of these counties is contained in Selection Criterion #1 of this Qualified Allocation Plan. The allocation of State Housing Credits will be as follows:

1. Developments receiving an allocation of Housing Credits that are to be located entirely in any one of the low-income counties designated in the State Consolidated Plan will be allocated State Housing Credits equal to twenty percent (20%) of the applicable Housing Credits.

2. In the event of a shortage of eligible developments in low-income counties designated in the Consolidated Plan, priority for State Housing Credits, equal to twenty percent (20%) of the applicable Housing Credits, will be given to those qualified developments located within Qualified Census Tracts, beginning with the highest score under the scoring system set forth in this Qualified Allocation Plan.

3. To the extent that there are remaining State Housing Credits, the State Housing Credits will be allocated, equal to twenty percent (20%) of the applicable Housing Credits, to remaining qualified developments until such time as the available State Housing Credits are exhausted, with priority given to those developments with the highest scores under the scoring system set forth in this Qualified Allocation Plan.

4. The Authority expects to allocate no less than ten percent (10%) of State Housing Credits to non-profit organizations.

The Authority will annually notify the Arkansas Department of Finance and Administration of those developments that have been allocated State Housing Credits. The Arkansas Department of Finance and Administration will be notified of any revocation of State Housing Credits.

V. ALLOCATION OF AFFORDABLE NEIGHBORHOOD HOUSING TAX CREDITS

The AFFORDABLE NEIGHBORHOOD HOUSING TAX CREDIT ACT OF 1997, (the "ANHTC Act"), codified at ARK. CODE ANN. § 15-5-1301 *et seq.,* provides that any business firm engaging in the provision of affordable housing assistance activities in the State of Arkansas may be entitled to receive Affordable Neighborhood Housing Tax Credits ("ANHTCs"). "Affordable housing assistance activities" is defined to include any "money, real, or personal property expended or devoted to the construction or rehabilitation of affordable housing units developed by or in conjunction with any governmental unit or not-for-profit corporation." The ANHTC Act limits the total allocation of ANHTCs to $750,000 in any taxable year.

The Authority and the Arkansas Department of Finance and Administration have determined that, in the best interest of affordable housing in Arkansas, "affordable housing assistance activities" must be devoted to those low-income housing developments which qualify for the allocation of housing tax credits pursuant to Section 42 of the Internal Revenue Code through the Authority's federal low-income housing tax credit program. Thus, any business firm seeking allocation of ANHTCs must do so in conjunction with an application for federal low-income housing tax credits to develop affordable housing units by or in conjunction with any governmental unit or not-for-profit corporation.

A proposal for ANHTCs must be submitted with a Multi-Family Housing Application for federal low-income housing tax credits. In its Multi-Family Housing Application for federal low-income housing tax credits, the applicant will include a commitment from each business firm providing "affordable housing assistance activities" to the proposed low-income housing development. Each such commitment must:

1. Be in writing and executed by an authorized representative of the business firm;

2. Identify the governmental unit or not-for-profit corporation to which the "affordable housing assistance activities" are committed;

3. Describe in detail the nature of the "affordable housing assistance activities" to be provided, *i.e.*, whether money, real or personal property, and how it to will be devoted to the construction or rehabilitation of affordable housing units.
   - ∗ The ANHTC Act limits the amount of tax credits allowable to a business firm to thirty percent (30%) of the total amount invested. If the affordable housing assistance activity is other than money, the business firm must provide an appraisal certifying the value of the property invested.

If the business firm commits its "affordable housing assistance activities" to a governmental unit, a not-for-profit organization, or a "neighborhood organization", as defined within the ANHTC Act, which is not the applicant on the Multi-Family Housing Application, the applicant must submit with its Multi-Family Housing Application the following from such governmental unit, nor-for-profit organization or "neighborhood organization":

1. Organizational documents including: a) Arkansas Articles of Incorporation; and b) Tax Exempt Status Determination Letter from the Internal Revenue Service;

2. A written statement describing its relationship with the applicant, *i.e.*, any ownership interest in the applicant or other relationship with the applicant;

3. A written statement describing in detail its commitment of the "affordable housing assistance activities" received from each business firm to the construction or rehabilitation of affordable housing units within the development proposed.

For each proposal of "affordable housing assistance activities" submitted with a Multi-Family Housing Application, the applicant must certify in writing that it will expend or devote the "affordable housing assistance activities" committed to the construction or rehabilitation of affordable housing units within the development.

Because of the limited availability of ANHTCs, the maximum amount of ANHTCs that may be reserved and allocated to any one development is $250,000. Based on demonstrated need in the Multi-Family Housing Application, the Authority will give a priority allocation of ANHTCs to those developments that are in designated low-income counties under the State's Consolidated Plan submitted to the federal Department of Housing and Urban Development. The list of these counties is contained in Selection Criterion #1 of this Qualified Allocation Plan. The allocation of ANHTCs will be as follows:

1. Developments receiving an allocation of federal low-income housing tax credits that are to be located in any one of the low-income counties designated in the State Consolidated Plan, beginning with the highest score under the scoring system set forth in this Qualified Allocation Plan;

2. In the event of a shortage of eligible developments in low-income counties designated in the Consolidated Plan, priority for ANHTCs will be given to those developments within Qualified Census Tracts, beginning with the highest score under the scoring system set forth in this Qualified Allocation Plan;

3. To the extent that there are remaining ANHTCs, the remaining ANHTCs will be allocated to remaining qualified developments until such time as exhausted, beginning with the highest score under the scoring system set forth in this Qualified Allocation Plan.

The Authority will reserve and allocate ANHTCs in conjunction with its reservation and allocation of federal low-income housing tax credits. With its issuance of IRS Forms 8609 for federal low-income housing tax credits, the Authority will issue a Certificate of Allocation certifying the amount of ANHTCs allocated to the business firm entitled to such allocation. The Authority will annually provide the Arkansas Department of Finance and Administration with a copy of each Certificate of Allocation for ANHTCs allocated that year.

VI. APPLICATION PROCEDURES, REQUIREMENTS, and REVIEW.

A. APPLICATION PROCESS.

ADFA will reserve all Housing Credits available for allocation in one eligibility cycle. Credits that are not reserved will carry forward to the next year. Applicants shall apply during the eligibility cycle to receive a credit allocation for that calendar year.

The closing deadline for submitting the 2008 Multi-Family Housing Application ("MFHA") for the 2008 Low-Income Housing Tax Credit ("LIHTC") Cycle is as follows:

APPLICATION DEADLINE IS FRIDAY, 4:30 P.M., FEBRUARY 1, 2008 ("APPLICATION DEADLINE")

The APPLICATION DEADLINE for submitting applications for the 2008 LIHTC cycle is set forth above. Facsimiles and e-mails will not be accepted. **All applications shall be submitted online as provided by ADFA (if available) and a tabbed, 3-ring bound hardcopy delivered to ADFA no later than 4:30 p.m., Friday, February 1, 2008. The tabbed, 3-ring bound hardcopy shall be delivered to ADFA at the following address:**

Arkansas Development Finance Authority
Attn: Multi-Family Housing Department
423 Main Street, Suite 500
Little Rock, AR 72201
Telephone Number: 501-682-5900

ADFA will not accept any applications submitted after the APPLICATION DEADLINE.

Applications. An applicant shall submit a **COMPLETE** application by the APPLICATION DEADLINE. ADFA staff will review and evaluate the application, and notify the applicant of deficiencies and scoring in accordance with the schedule below.

Cure Period. ADFA staff will provide the applicant with a written Notification of Deficiencies and Intial Score to the application. The Applicant will have an opportunity to cure those deficiencies cited in the Notification of Deficiencies through the submission of that information or documentation requested by ADFA staff. The opportunity to cure will not include those areas of the application which: 1) increase the point total from that presented in the Initial Score; and 2) increase the amount of credits originally requested by the Applicant. However, the Applicant will be allowed to submit written comment on what the Applicant considers to be a discrepancy in the Initial Score from the scoring provisions of this Qualified Allocation Plan.

DATES FOR REVIEW OF APPLICATIONS AND RESERVATION PROCESS	
APPLICATION DEADLINE	February 1, 2008 (4:30 p.m.)
Applicants sent Notification of Deficiencies and Initial Score	April 11, 2008
Deadline for Applicants to discuss scoring and provide written comment.	April 18, 2008 (4:30 p.m.)
Applicants notified of final score	April 30, 2008
Successful applicants approved for reservation of Housing Credits by ADFA Board of Directors	May 15, 2008
2008 Housing Credit reservation letters mailed to successful applicants.	June 2, 2008

B. APPLICATION THRESHOLD REQUIREMENTS.

The 2008 MFHA shall be submitted by the APPLICATION DEADLINE and SHALL BE COMPLETED in accordance with the instructions provided by ADFA. In addition, the following Threshold Requirements SHALL BE INCLUDED with the application:

1. **Narrative Description of the Development.** 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. **(MFHA, Tab #3)**

2. **Financial Commitment Letters**. The following, as applicable, must be submitted at **Tab #4 of the MFHA**:

   a. Evidence from all mortgage lenders that 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 construction and/or permanent financing is under serious consideration. The letter should contain the approximate amount of the loan, the loan's terms and 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, *see Sections IV and V, above,* any applicant requesting either credit must submit an alternative source commitment letter should the State Housing Credits or Affordable Neighborhood Housing Tax Credits not be awarded.

   c. Funding documentation (*e.g. HOME agreement, commitment letter)* from any Participating Jurisdiction providing HOME funds to the applicant.

   d. A firm commitment letter, dated within six (6) months of the Application Deadline, from RD if the development will receive RD funding or loan guarantee.

   e. A commitment letter, dated within six (6) months of the APPLICATION DEADLINE, from any other gap-financing source providing financing for the development, including a letter from the developer deferring its fee or committing other equity. In order for a deferral of the developer's fee to constitute an appropriate financing source, the deferred amount will be underwritten to ensure payment by the development with the 15-year compliance period.

3. **Utility Allowance Calculation.** Per 42 CFR § 1.42, documentation of utility calculations from one of the following entities shall be included:

a. Local Public Housing Authority
b. Housing & Urban Development (HUD)
c. USDA Rural Development Services (RD)
d. Utility Company

Applicant must submit written documentation from the utility allowance entity selected identifying the utility allowance for each type of unit to be constructed. 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. **(MFHA, Tab #5)**

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

a. Deed
b. Option
c. Purchase Contract

Verification of Arm's Length Transactions shall be included. ADFA reserves the right to require an appraisal of the property for all Arms' Length Transactions, at the applicant's expense.

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

a. the purchase requirement;
b. 10-year hold rule (including both placed in service and most recent nonqualified substantial improvement); and
c. related party requirement

of IRC Section 42(d)(2)(B).

In order to satisfy the "purchase requirement," the applicant must submit a copy of the purchase contract/option contract which sets forth the purchase price and the date of purchase. If the purchase contract/option contract does not delineate that part of the purchase price attributable to the cost of the residential buildings only, applicant must submit a certification from its Certified Public Accountant or Legal Counsel of that separate cost.

The applicant shall produce evidence of site ownership or a 99-year leasehold on the site no later than December 8, 2008, the Carryover Allocation documentation deadline date. *See Section VIII, below.*
(MFHA, Tab #6)

5. **<u>Zoning and Planning Commission Information</u>.** Documentation from the appropriate zoning authority that the development site is properly zoned must be submitted with the application. The zoning authorization letter shall be dated within six (6) months of the APPLICATION DEADLINE. 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. **(MFHA, Tab #7)**

6. **<u>Independent Market Study</u>.** A market study, prepared by a party unaffiliated with the developer, in the appropriate format outlined in the ADFA Market Study Guidelines. The study shall be dated within six (6) months of the APPLICATION DEADLINE. Only approved market analyst firms on the ADFA Approved Market Study Firm List will be allowed to perform market studies for this program. Market studies performed by firms not approved by ADFA will not be accepted. *See Section VII(A), below*. **(MFHA, Tab #8)**

7. **<u>Letter from highest elected local official supporting proposed development</u>.** A letter from the highest elected local official in the jurisdiction where the development will be located. A development located within a city's limits shall have a letter from its Mayor. A development located outside of a city's limits shall have a letter from the County Judge. The letter shall be dated within six (6) months of the APPLICATION DEADLINE. The letter, at a minimum, shall address the need for affordable housing in the area and support for the specific development. Should the highest elected official withdraw the letter of support at any time prior to the deadline for a Carryover Allocation, ADFA will revoke the reservation of Housing Credits for the development. Revocation of the letter of support after the deadline for Carryover Allocation will not affect the reservation of Housing Credits. ADFA will provide written notification to the State Representative and Senator for the location in which you plan to locate your development. **(MFHA, Tab #9)**

8. **<u>Letter to Public Housing Authority for use by Persons on Waiting List</u>.** The applicant shall provide written documentation to the local Public Housing Authority of its intent to develop a low-income multi-family rental development. The notice shall provide the PHA with:
    a. A copy of the Narrative description set forth at Item 1. 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)

    (MFHA, Tab #10)

9. **<u>Letter of Participation and Resume of Development Team Members</u>.** Each development team member shall submit 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 and telephone number. The General Contractor/Builder, Architect, and Engineer must be licensed to conduct business in Arkansas. If the applicant does not have the minimum required experience, a consultant or developer with the minimum required experience shall be a member of the development team. The consultant or developer's participation letter, resume and summary page specifically describing its role in the development shall be included.

"Minimum required experience" is met when either the applicant, consultant, or developer held that position on a previous development that received a reservation of Housing Credits from ADFA and whose owner was issued IRS Form 8609(s).

Capacity Standard. It is within ADFA's discretion to evaluate the capacity of any development team member to undertake performance on any development.
(MFHA, Tab #11)

10. **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 the Authority whether or not it has any existing contract or indebtedness with ADFA and identify any prior delinquent, defaulted, or foreclosed upon contract, loan or other indebtedness of the applicant, consultant, or development team member with ADFA. 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 Board Housing Review Committee, on previous developments or delinquencies in payments will result in disqualification of an application by the ADFA Board Housing Review Committee, regardless of scoring.

11. **Criminal Background and Disclosure.** Each applicant, consultant, and development team member on any application, as well as any public official affiliated with a HOME application, shall complete a Criminal Background Disclosure Form, Attachment A to the Application. Failure to submit, or correctly complete the Criminal Background Disclosure Form by any applicant, consultant, development team member on an application, or public official affiliated with a HOME application, shall disqualify the Application.

An application will be disqualified from consideration as provided for in Section VII(N), Criminal Background Check and Disclosure Requirements.
(MFHA, Tab #12)

12. **<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. whose exempt purposes include fostering low-income housing.

The non-profit organization's Articles of Incorporation and IRS documentation of its exemption from federal income tax shall be included. Section XXVII of the application shall be completed. Pending requests with the IRS for exemption will not be accepted as compliance. **(MFHA, Tab #13)**

Applicant must submit the statements required at **Tab #13 of the MFHA.**

13. **<u>Plans and Specifications</u>.** One set of plans and outline of specifications that conforms to ADFA's "Multi-Family Housing Minimum Design Standards" shall be included. Any significant changes must be submitted to Board Housing Review Committee for approval.

<u>Multi-Family Housing Minimum Design Standards</u>. Construction of the development must be in accordance with ADFA's "Multi-Family Housing Minimum Design Standards", as well as, all applicable local, state and national building codes. The applicant's architect must complete and execute the "Multi-Family Housing Minimum Design Standards Checklist", Attachment G of the MFHA. Applicant must submit Attachment G at **Tab #14 of the MFHA.**

A certification from the design architect or licensed engineer must be submitted with the application confirming compliance with ADFA's "Multi-Family Housing Minimum Design Standards."

<u>For rehabilitation developments</u>, if structural constraints prohibit adherence to ADFA's "Multi-Family Housing Minimum Design Standards", applicant may seek a waiver from ADFA of the standard concerned. Such waiver request must be in writing and include the following:

  a. Certification by the design architect or licensed engineer that the standard concerned cannot be met due to structural constraints;
  b. 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 must be submitted confirming compliance with ADFA's "Multi-Family Housing Minimum Design Standards" prior to the issuance of IRS Form 8609. **(MFHA, Tab #14)**

14. **Environmental Checklist.** The Environmental Checklist included in the Application as Attachment B shall be completed. Any applicant that has a "Phase I Environmental Site Assessment (ESA)" of the development's site shall submit a copy of that ESA with its application. Any applicant receiving a reservation of Housing Credits will be required to submit an ESA on the development site by the earlier of: Carryover Allocation deadline of December 8, 2008 or placement in service allocation. **(MFHA, Tab #15)**

15. **Capital Needs Assessment.** All rehabilitation developments shall include a capital needs assessment conducted by a third party architect, engineer or contractor dated within six (6) months of the APPLICATION DEADLINE. 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 and balconies, exterior doors and windows, roofing system and drainage;
    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; and
    d. mechanical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, fire protection and elevators.

    The assessment should state the cost (labor and materials) for each item identified and the term of operability. The assessment should address the extent of future expenditures contemplated to ensure they will be addressed through operating and replacement reserves.

    All rehabilitation development applicants must submit a statement that the scope of rehabilitation will include all areas set forth in the Capital Needs Assessment. **(MFHA, Tab #16)**

16. **Tenant Income Audit**. All rehabilitation projects shall include a complete, detailed tenant income audit that identifies all existing tenants and their income. The audit shall separately identify those tenants whose income exceeds applicable income limits. **(MFHA, Tab #17)**

17. **Operating Reserve and Replacement Reserve Funds.** The total development budget shall include: (1) the one-time funding of an operating reserve equal to not less than four (4) months of: (a) projected annual operating expenses, (b) annual debt service payments and (c) annual replacement reserve deposits; and (2) the maintenance of a replacement reserve fund equal to not less than $250.00 per unit per year. These amounts

shall be incorporated into the 2008 Multi-Family Housing Application. The applicant shall identify the name of the financial institution where the funds will be held. ***(See MFHA, Section XIX)***

18. **Pro Forma.** Each application must include a completed Pro Forma document in the format set forth at Attachment C of the MFHA. **(MFHA, Tab #18)**

19. **Section 106 and Fish and Wildlife Services Clearance Letter.** 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 or, proof of application for such letters. Such letters shall be obtained by the earlier of: Carryover Allocation deadline of December 8, 2008 or placement in service allocation. *See Attachment D to the 2008 Multi-Family Housing Application for Instructions for Obtaining a Section 106 Clearance Letter and Wildlife Services Clearance Letter.* **(MFHA, Tab #19)**.

20. **Appraisal for acquisition/rehabilitation developments.** In order to receive acquisition credits, applicant must submit an appraisal, dated within one (1) year of the APPLICATION DEADLINE that supports the purchase price of the development.
    a. The appraisal must separately identify the appraised value for each residential building.
    b. If the appraised value of any residential building is enhanced due to a federal subsidy attached to the residential building, the appraisal must separately identify the value of the federal subsidy.
        (i) In order to receive credit for the subsidy, the applicant will be required to submit a commitment letter from the federal agency stating the subsidy will be awarded to the applicant.

    Acquisition credits will be based upon the lesser of the purchase price for the residential buildings or the appraised value of the residential buildings. (MFHA, Tab #20)

21. **Application Fee.** The application fee check should be made payable to "Arkansas Development Finance Authority." Refer to the 2008 Multi-Family Housing Application for all required fees. **(MFHA, Tab #2)**

C. PROCEDURES FOR SELECTING DEVELOPMENTS.

Each application will be awarded points according to the nature and character of the development. The maximum number of points which may be awarded for each set of criteria are indicated below:

	SELECTION CRITERIA	MAXIMUM POINTS
1.	**Location/RD/HUD.** a. Development is located in the following low-income counties designated in the 2005-2009 State Consolidated Plan: Bradley, Chicot, Crittenden, Desha, Fulton, Jackson, Lafayette, Lee, Monroe, Newton, Phillips, Polk, St. Francis, Searcy, Sharp, Stone, and Woodruff ………………………….……. (15 points) b. Development is located in a Qualified Census Tract (QCT) or a Difficult to Develop Area (DDA); a copy of QCT map for the development area shall be submitted with the application with complete census tract information submitted at **Tab #24 of the MFHA**. …………..……………….... (10 points) c. Development has a commitment letter for funding or assistance from USDA Rural Development or HUD. <u>USDA-RD</u> (i) USDA transfer funds commitment….. ……..……..…………… (5 points) (ii) USDA new construction or rehabilitation funds commitment…………………………..……………………………..(5 points) (iii) USDA rental assistance contract……………..…………….…... (5 points) (iv) USDA loan guarantee <u>with</u> interest credit buydown……….….. (5 points) <u>HUD</u> (i) HUD project based rental assistance contract 11-20 years…... (10 points) (ii) HUD project based rental assistance contract 6-10 years……... (7 points) (iii) HUD project based rental assistance contract 1-5 years.……... (3 points) (iv) HUD loan guarantee <u>with</u> interest reduction payments…..…… (5 points)	**15**

	SELECTION CRITERIA	MAXIMUM POINTS
2.	**Development of housing for special needs or with special features including:** a. Single room occupancy housing; b. Transitional housing for the homeless; c. Elderly housing *(housing for older persons as defined at 42 USC 3607(b)(2) and Ark. Code Ann. § 16-123-307(d)(1)*; d. Supportive housing for disabled persons as defined in Section VII(I) of this QAP. (i) Applicant shall submit a statement describing the design, construction and on-site service provision components that will meet the needs of the disabled population targeted. (ii) The proposed service provider will submit a statement describing (a) the disabled population to be served; (b) the needs of the disabled population to be served; (c) the service, with the frequency of its provision, to be provided to the disabled population to be served. e. Assisted Living housing as defined in Section VII(H) of this QAP; f. Housing for large families (3 bedrooms or larger); g. Scattered site housing as defined in Section VII(G) of this QAP; h. Housing targeting a tenant population of single parent/single guardian with children; or i. Housing intended for eventual tenant ownership (single family detached houses only) Items a & b shall be operated by governmental or non-profit entity. <u>Points for Items a – g</u> all of tax credit units for special needs …………..…………….. (13 points) half of the tax credit units ……………………………………...… (8 points) 10% of the tax credit units (minimum of three units)…...……... (4 points) <u>Point for Item h</u> -- shall include housing with not less than 2 bedrooms and manner in which such population will be targeted…………..……..…….. (1 point) **(MFHA, Tab #23(a))** <u>Point for Item i</u> -- Pursuant to 26 U.S.C. § 42(i)(7), eventual tenant ownership when tenant exercises a right of first refusal after completion of Compliance Period. **<u>Applicant must submit proposed right of first refusal contract to be offered for eventual tenant ownership</u>**………………………..…….. (1 point) **(MFHA, Tab #23(b))**	**15**
3.	**Involves rehabilitation of existing structures.**	**10**
4.	**Involves preservation and rehabilitation of residential rental housing under an existing state or federal affordable housing program.** Points are awarded upon the percentage of units under the affordable housing program that become/remain LIHTC.	**10**

	SELECTION CRITERIA	MAXIMUM POINTS
5.	**Points will be available to applicants if their combined developer and consultant fees are 10% or less of net development cost as defined under developer fee standard.** ***See Section VII(B), below.*** Applicant must submit a statement of its election to limit its combined developer and consultant fees to 10% or less of net development costs and such limitation must be reflected in the MFHA's Development Costs, Section XXIV. **(MFHA, Tab #23(c))**	**5**
6.	**A minimum of 20% of the total housing units in the development is market rate units.** (Market rate units shall be integrated with the development's LIHTC units and designated on the development's plans.)	**5**
7.	**Owner provides amenities beyond those appropriate for the type of housing proposed**, *inter alia*, amenities employing "universal design" concepts; swimming pool; covered parking; individual garage parking; individual storage units; microwave; dishwasher; supplied in-unit washer and dryer; furnished exercise room; furnished in-unit, high-speed, internet access at no cost to the tenant as evidenced by architectural plans and specifications; furnished computer lab with high speed internet access at no cost to the tenants as evidenced by architectural plans and specifications that shall be included in the application. **Applicant must submit those amenities that will be included in the development at <u>Tab #27 of the MFHA</u> and they must be indicated on the plans and specifications**.	**10**
8.	**Advance energy efficiency features**. The applicant shall provide a statement that the design and/or components of the development promotes greater energy efficiency than required by ADFA's "Multi-Family Housing Minimum Design Standards." The statement shall be from a licensed engineer or architect certifying those energy-saving devices, beyond those required, that will be utilized in the construction of each Housing Credit unit. **The advanced energy-saving devices utilized shall be certified by a licensed engineer or architect as included in each unit upon placement in service**. **(MFHA, Tab #21)** a. Points will be awarded for those energy efficient features and systems that are "ENERGY STAR®" labeled. b. Points will be awarded for those energy components whose "R" or "U" rating exceeds that required under ADFA's "Multi-Family Housing Minimum Design Standards." A signed certification from the design architect or licensed engineer confirming the installation of the advanced energy saving devices will be required prior to the issuance of IRS Form 8609. The certification shall be included in the Allocation of Credits request made to the Authority.	**15**

	SELECTION CRITERIA	MAXIMUM POINTS
9.	**Support services provided by local-based, tax-exempt organizations.** a. An authorized official of each tax-exempt organization involved shall provide a signed acknowledgement of participation describing the supportive services offered. In addition, the acknowledgement shall: (i) state that the organization's charter or by-laws authorize the service(s) to be provided; (ii) describe how the services provided are appropriate for the development's tenants; (iii) state that the services will be provided at no cost to the tenants; (iv) state that the services will be provided at least quarterly (once every three (3) months) at the development site. b. The applicant will submit a statement that: (i) quarterly notice of the proposed services will be provided to the tenants; (ii) a verification of the provision of the services, signed by representatives of the development and the service provider, will be maintained by the development owner; c. The applicant will submit a copy of the Articles of Incorporation/Charter and By-Laws of the tax-exempt organization that will be providing the support services. "Local-based" means the non-profit service area (neighborhood, city or county) in which the development is to be located. . **(MFHA, Tab #22)**	**5**
10.	**Site Visit.** The site location will be evaluated for accessibility, proximity to services appropriate to the type of housing proposed (e.g. grocery stores, schools, medical facilities, recreational facilities, gas stations, banks, and public transportation); and environmental issues. Scoring consideration will also include, among other things, site suitability regarding topography (grade, low-lying area, flood plain, or wetlands) and proximity to nuisances (*e.g.*, railroad tracks, major highways/interstates, and manufacturing/production plants.)	**10**
11.	**Market Need.** A Market Feasibility Study shall be submitted with the application which adequately demonstrates a market need including, among other things, certification that comparable affordable housing developments in the subject market location are at least eighty-five percent (85%) occupied. ……………………………………………………………….... (15 points) The market study demonstrates that, for calendar year 2007, the primary market area experienced an increase over calendar year 2006 in the number of low-income households appropriate for the development's configuration…. (5 points) *(See Sections VI(B)(6) and VII(A) of this QAP for additional information and Market Study requirements.)* **(MFHA, Tab #8)**	**20**

	SELECTION CRITERIA	MAXIMUM POINTS
12.	**Requesting HOME Funds in addition to Housing Credits.** Points will be awarded, as set forth in the following table, according to the amount of HOME funds for which eligible and the applicant's election to extend the affordability period and restrict the income and rent limits on the HOME units for a period not less than the LIHTC period**:**	**10**

HOME Eligibility of **$100,000 - $200,000** Elect to extend affordability period no less than LIHTC period	**2** **2**
HOME Eligibility of **$200,000.01 - $300,000** Elect to extend affordability period no less than LIHTC period	**3** **3**
HOME Eligibility of **$300,000.01 - $400,000** Elect to extend affordability period no less than LIHTC period	**5** **5**

If the applicant elects to extend the affordability period and restrict the income and rent limits on the HOME units, it shall submit a signed statement indicating this election. (MFHA, Tab #23(d))

	Legislated Priorities	Bonus Points
1.	**Serves the lowest income group possible.** Special priority will be given to developments with units for households with 30% (or less) of area median income. (The units set aside for very low-income households shall be occupied by households within the income limits set forth in a regulatory agreement.) The compliance period on the very low-income units is established by the compliance period on the low-income units. Rents are restricted accordingly. The number of units should be 5% of total number of units. **If the applicant elects to serve very low-income households, a signed statement, including the number of units to be set-aside for very low-income tenants, shall be included in the application and shall be reflected in the Development Income Section XVIII of the application. (MFHA, Tab #23(e))**	**3**
2.	**Extends the duration of low-income use.** Special priority will be given to developers who agree to maintain units for low-income occupancy for a period at least five years beyond the 30-year extended use period. **If applicant agrees to extend the duration of low-income use, a signed statement, indicating the number of years the affordability period will be extended, shall be included with the application. (MFHA, Tab #23(f))**	**4**
3.	**Developments Located in Qualified Census Tracts.** Special priority will be given to developments located in Qualified Census Tracts, which contributes to a concerted community revitalization plan. A copy of the Community Revitalization Plan which specifically addresses the need for the development at its location shall be included with the Application to be considered for this scoring. **(MFHA, Tab #24)**	**3**

D. SCORING and DEVELOPMENT 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, the Authority may use discretionary judgment in establishing a final award. The Authority reserves the right to disapprove or reduce the Housing Credits for an allocation during any stage, regardless of ranking under the priorities and point ranking outlined above. For any allocation not made in accordance with the established priorities and selection criteria of the Authority, a written explanation shall be made by the Authority to the general public.

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 the Authority or in any way relative to the Housing Credit Program.

It is the policy of ADFA to prohibit applicants from contacting ADFA staff in any manner regarding any application after the expiration of the APPLICATION DEADLINE. Violations of this policy will be brought to the attention of the Board Housing Review Committee and could result in a downgrade to the final scoring or disqualification from the program. No contact with ADFA board members is allowed and any such contact will be grounds for immediate rejection of an application.

E. DEVELOPMENT SITE REVIEW.

ADFA Staff will conduct a site review of the proposed location for the development. The site visit will take place during the application review period.

F. RESERVATION OF CREDITS.

Developments selected will be given preliminary approval for a reservation of Housing Credits. The required reservation fee of One Hundred and No/100 Dollars ($100.00) per low-income unit shall be submitted to ADFA within twenty-one (21) days of notification of reservation of Housing Credits. No later than sixty (60) days prior to completion of the development, the applicant shall submit all required documentation for the next stages of processing by ADFA. Developments that will not be placed in service in the tax year ADFA approves the Housing Credit reservation may be awarded a Carryover Allocation upon the satisfaction of requirements of IRC § 42 and the Authority. All developments with a valid reservation of Housing Credits will be required to obtain a placed-in-service or Carryover Allocation by **December 8, 2008** of the same calendar year.

The Owner of the development identified in the application shall utilize the allocation of Housing Credits. The transfer of credits is prohibited.

G. CHANGES TO THE ORIGINAL APPLICATION.

Any change to the original application shall be submitted to ADFA in writing at least thirty (30) days prior to the desired effective date of the change. All changes shall be reviewed and approved by ADFA's Multi-Family Housing Staff or ADFA's Board of Directors. Any change to the original application made without approval from ADFA will be null and void.

VII. ADDITIONAL PROGRAM REQUIREMENTS.

A. MARKET STUDY.

A comprehensive market feasibility study, which is required with all applications, shall demonstrate that sufficient demand for the affordable housing as proposed exists in the proposed geographic market area. 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 the Guidelines for Market Studies. Market studies that do not meet the requirements of the Guidelines for Market Studies, nor provide an index or table of contents indicating the page within the market study each requirement can be found, will not be accepted and will result in your application being denied for not meeting threshold requirements. The market study is an application threshold requirement and shall be complete and attached to the application.

ADFA reserves the right, in its sole and absolute discretion, to independently evaluate the demand for additional affordable rental housing in the geographic market area.

B. DEVELOPER FEE STANDARD.

1. **Developer Fee (New Construction).** The developer fee, which includes the developer's overhead and profit plus consultant fees and the owner's profit, cannot exceed fifteen percent (15%) of the "Net Development Costs".

2. **Developer Fee (Acquisition/Rehabilitation).** The developer fee for acquisition/ rehabilitation will be limited to ten percent (10%) of the cost of the land and building plus no more than fifteen percent (15%) of the remaining "Net Development Costs".

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

3. **Developer Fee – Deferral.** Any portion of the developer's fee that is deferred and included as a fund's source will be underwritten to ensure payment by the end of the 15-year compliance period. If underwriting indicates that the deferred amount of the developer's fee will not be paid within that time frame, it cannot be included as eligible basis. ∗ **If any of the developer fee is deferred in the form of a loan, then any interest payable on such loan to the developer will be included as part of the developer's fee.**

C. BUILDER'S PROFIT.

The amount allocated to the general requirements of the development cannot exceed six percent (6%) of its construction hard costs. The Authority will limit the builder's profit to ten percent (10%) of the development's hard costs plus its general requirements' costs. The Authority will limit the builder's overhead to four percent (4%) of the development's hard costs plus its general requirements' costs. ADFA reserves the right to determine whether costs included in the developer's fee and builder's profit calculations are appropriate and reasonable.

D. PER UNIT COST CAP.

The Authority limits the per unit cost for all developments, other than qualified Assisted Living developments, to $132,000 per unit. The per unit cost for qualified Assisted Living developments is limited to $158,400. "Per unit cost" is calculated by dividing the total development cost, excluding land cost and infrastructure costs, by the total number of units.

E. MINIMUM DEBT SERVICE COVERAGE.

The development will be required to establish minimum debt service coverage of 1.10. For this purpose, debt service coverage 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.

F. REHABILITATION STANDARD.

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

- **Developments financed with tax-exempt bonds.**
  Applicants for private activity, tax-exempt bond financing may:

  (1) elect to meet the Rehabilitation Standard set forth above;
  OR
  (2) elect to have a Capital Needs Assessment conducted by a third party contracted by the Authority. The applicant will be required to complete the scope of rehabilitation set forth in the Capital Needs Assessment which will encompass ADFA's "Multi-Family Housing Minimum Design Standards". The scope of rehabilitation must meet the minimum expenditure requirement of 26 U.S.C. § 42(e)(3). The applicant will be required to pay the Authority, in advance, the cost for the Capital Needs Assessment. The Capital Needs Assessment must be filed with the Multi-Family Housing Application for tax-exempt private activity volume cap.

G. DEFINITION OF SCATTERED SITE.

A scattered site development 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*.

H. DEFINITION OF ASSISTED LIVING.

Assisted Living housing is 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. **(MFHA, Tab #25)**

ALL ASSISTED LIVING DEVELOPMENT APPLICATIONS MUST SUBMIT THE FOLLOWING REPRESENTATIONS FROM THE APPLICANT AT TAB #25 OF THE MFHA:

1. **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));***
2. **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)***
3. **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**
4. **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)*.**

I. DEFINITION OF SUPPORTIVE (DISABLED) HOUSING.

Housing intended for the use of persons with a disability (as defined by HUD), 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 person 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 specifically designed to reach the targeted disabled population for which the proposed housing is to be developed.

J. **<u>JUSTIFICATION EXPENDITURES STANDARD</u>.**

Applicants shall submit a final development cost certification supported by an audit report performed by a Certified Public Accountant prior to issuance of IRS Form 8609. *See Section IX below for additional requirements.*

K. **<u>UNIT ACCESSIBILITY FOR PERSONS WITH DISABILITIES</u>.**

Developments approved for Housing Credits shall comply with local and federal regulations pertaining to unit accessibility and construction standards to accommodate persons with physical disabilities. **The applicant's architect must submit a statement that the development will comply with all federal and state accessibility laws. (MFHA, Tab #14.)**

L. **<u>LEAD-BASED PAINT</u>.**

In a development with Housing Credits, the lead-based paint requirements apply to <u>all</u> units and common areas in the development.

M. **<u>EQUAL OPPORTUNITY</u>.**

The Authority 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 and contractors and subcontractors engaged in the construction or rehabilitation of such housing provide equal opportunity for employment without discrimination as to race, color, religion, sex, handicap, familial status or national origin.

N. **<u>CRIMINAL BACKGROUND CHECK and DISCLOSURE REQUIREMENTS</u>.**

Each applicant, consultant, development team member on the application, as well as any public official affiliated with a HOME 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, consultant, development team member on the application or affiliated public official on a HOME program application, shall disqualify the Application for reservation of LIHTCs, Tax-Exempt Private Activity Volume Cap Bonds ("Bonds") or HOME funds. **(MFHA, Tab #12)**

Each applicant or recipient of LIHTCs, Bonds, or HOME funds, 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, is subject to ADFA's Criminal Background Check Policies and Procedures and their requirements.

O. **<u>PRE-CONSTRUCTION CONFERENCE REQUIREMENT</u>.**

Applicants receiving reservations of federal low-income housing tax credits will be required to conduct a pre-construction conference with ADFA staff prior to submission of Carryover Allocation documentation. It will be the responsibility of the applicant to schedule the pre-construction conference.

P. INSPECTION REQUIREMENT.

Random inspections will be conducted on under construction and completed developments at ADFA's discretion to ensure compliance with ADFA requirements and representations made in the application. The inspection will be conducted by an ADFA selected inspector whose report will be submitted to ADFA. The developer/applicant will be responsible for the cost of the inspection which will be in accordance with ADFA's approved inspection fee schedule.

VIII. CARRYOVER ALLOCATION.

ADFA will follow the Code for Carryover Allocation requirements. In order to qualify for a Carryover Allocation, the owner's basis in the development, at the close of the calendar year in which the reservation is received, shall be more than ten percent (10%) of the owner's reasonably expected basis in the development at the close of the second calendar year following the year in which the allocation is made. The required documentation for a Carryover Allocation shall be submitted to the Authority by December 8, 2008.

The terms and conditions of the Multi-Family Housing Application will be incorporated into the Carryover Allocation documentation.

IX. FINAL COST CERTIFICATION.

A. REQUIRED DOCUMENTS.

In order to receive IRS Forms 8609, the development owner will be required to submit the following items to ADFA staff for review:

1. Proof of placement in service, as defined by IRS Notice 88-116, for each building in the Development by:
   - A. New Buildings: Certificate(s) of Completion (Occupancy) by proper state or local authority for each building in the Development.
   - B. Existing Buildings: (i) Date of transfer to taxpayer, if, on the date of transfer, the building or any unit in the building is ready and available for its intended purpose;

     OR

     (ii) Date first unit in the building is certified as being suitable for occupancy by the proper state or local authority.
   - C. Rehabilitation Expenditures: Proof that rehabilitation is complete and the minimum expenditure requirement of 26 USC § 42(e)(3)(A) has been met.
2. Original recorded copy of the Land Use Restrictive Covenants Agreement (LURA) (a copy should be submitted before recording for the Authority's review and approval);
3. A signed Certification from the design architect or licensed engineer confirming the installation of all energy saving devices (both required and advanced energy saving features and systems.)
4. Signed Architects' Certification of Compliance with Federal and State Accessibility Laws;
5. Cost Certification by a Certified Public Accountant which, at a minimum:
   - a. Utilizes pages 17 and 18 ("Section XXIV Development Costs") from the Multi-Family Housing Application to certify development costs;
   - b. Certifies, pursuant to 26 USC § 42, the eligible basis, applicable fraction, and

maximum qualified basis for each building in the Development; (Submit both calculations for the applicable fraction based upon the "unit fraction" method and the "floor space fraction" method);

c. For each building with rehabilitation expenditures, certifies that the expenditures' requirements of 26 USC § 42(e)(3)(A) have been met;

d. Certifies that the Per Unit Cost; Developer's Fee; General Requirements; Builder's Overhead; Builder's Profit; and Rehabilitation Costs Standard are within Program requirements and as represented in the Multi-Family Housing Application;

e. For each building financed with tax-exempt bond proceeds, certifies the percentage of aggregate basis of each building that is financed by tax-exempt bond proceeds; and

f. For each building with market rate units, certifies:
   (i) The cost of each such unit;
   (ii) The square footage of each such unit;
   (iii) The average cost per square foot of the low-income units in the Development; and
   (iv) Whether the market rate units are "above the average quality standard of the low-income units" as described in Section 42(d)(3)(B)(i) of the Internal Revenue Code and whether the Development owner elected to exclude the excess costs pursuant to Section 42(d)(3)(B)(ii) of the Internal Revenue Code

6. List showing full address for each building in the Development;
7. Full name, address, telephone number and Federal Tax ID number for the Development owner; and
8. Payment to cover allocation of credits fee - $100.00 per low-income unit in the Development; and payment to cover one-time monitoring fee - 6% of annual credit allocation for the Development.
9. Final Permanent Financing Agreement(s)/Commitment(s)
10. Final Site Purchase Agreement
11. Final Syndication Agreement(s)/Capital Contribution Agreement(s)
12. Final Partnership Agreement(s)

In addition, staff will underwrite the Final Cost Certification to ensure continued compliance with all THRESHOLD REQUIREMENTS, ADDITIONAL PROGRAM REQUIREMENTS, and SELECTION CRITERIA set forth in this QAP as reflected in the owner's Housing Application for Federal Low-Income Housing Tax Credits.

B. <u>LAND USE RESTRICTION AGREEMENT ("LURA").</u>

The owner of the development will be required to execute and record a Land Use Restriction Agreement ("LURA") that sets forth those covenants that will restrict the development property for a minimum of thirty (30) years ("the extended use period"). The owner is required to submit a "DRAFT" copy of the LURA for review and approval by ADFA <u>prior to</u> recording the LURA in accordance with Arkansas law. ADFA will not issue IRS Form 8609 until the LURA has been reviewed and approved by ADFA.

The LURA will state that the owner will comply with all applicable requirements under the Code, this Qualified Allocation Plan, other relevant statutes and regulations and all representations made in the Multi-Family Housing Application. Among other things, the LURA will:

1. State that the owner will not apply for relief under Sections 42(h)(6)(E)(i)(II) and 42(h)(6)(I) of the Code;
2. Identify:
    a. each building in the development,;
    b. the income limit for each low-income unit in the development;
    c. the applicable fraction for each building; and will state that the applicable fraction for any building will not be reduced during the extended use period;
3. State that during the term of the LURA, the owner will covenant, agree, and warrant:
    a. each low-income unit will remain suitable for occupancy;
    b. any existing tenant in any low-income unit will not be evicted or have her/his occupancy terminated for other than good cause; and
    c. the gross rent of any low-income unit will not be increased except as permitted under Section 42 of the Code;
4. State that, notwithstanding the termination of the "extended use period," per Section 42(h)(6)(E)(ii) of the Code, for a period of three years following such termination existing tenants in low-income units in the development cannot be evicted (other than for good cause) and the gross rent of such units will not increase other than permitted by Section 42;
5. Authorize individuals who meet the income and rent limitations applicable to the building the right to enforce those limitations in Arkansas courts;
6. Prohibit the disposition of a portion of any building identified in the LURA to any person unless the entire building is so disposed;
7. State that the owner will not refuse to lease any residential unit in the development to a holder of a voucher or certificate of eligibility under Section 8 of the Housing Act of 1937 (42 USC § 1437f) because of the status of the prospective tenant as such a holder; and
8. State that the LURA is binding on all successors of the owner.

X. <u>COMPLIANCE</u>.

Applicants shall comply with all applicable federal, state and local laws, including Section 42 of the Code. ADFA's Compliance Monitoring Policies and Procedures Manual for the Low-Income Housing Tax Credit Program may be obtained from ADFA's office, and may also be accessed at ADFA's website (www.arkansas.gov/adfa). Fair Housing manuals may be obtained from HUD's Little Rock office, and the Fair Housing Accessibility Guidelines may be accessed at HUD's website (www.hud.gov). Use the following link to the information needed:

Under the heading "Information For … Other Partners"
    Click on "Fair housing"
Under the heading "General Info"
    Click on "Fair housing accessibility guidelines"

The owner will be required to prepare and submit to the Authority, no later than February 1 of each year following the first taxable year of the owner's credit period, an Owner's Certificate of Continuing Program Compliance which, among other certifications, certifies that for the preceding 12-month period no tenants in low-income units were evicted or had their tenancies terminated other than for good cause and that no tenants has an increase in the gross rent with respect to a low-income unit other than as permitted under Section 42 of the Internal Revenue Code. The owner will also be required to prepare and submit to the Authority, no later than February 1 of each year following the first taxable year of the owner's credit period, the LIHTC Compliance Monitoring Status Report. Both the

Certificate of Continuing Program Compliance and the LIHTC Status Report shall be submitted under penalty of perjury to the Authority in accordance with Internal Revenue Service procedures for monitoring compliance. The compliance monitoring procedures apply to all buildings placed in service in Arkansas that have received an allocation of Housing Credits as determined by Section 42 of the Code. Regular site inspections to monitor compliance with habitability standards applicable to the project will be carried out by the Authority at least once every three (3) years.

In the event the Authority becomes aware of non-compliance or upon the failure to submit a Certificate of Continuing Program Compliance, the Authority will notify the owner of the areas of non-compliance and the required timeframe to correct the deficiencies. There is a maximum of sixty (60) days to correct such non-compliance. Additionally, the Authority will notify the IRS, as required, of any non-compliance or failure to certify no later than forty-five (45) days after the end of the allowed time for correction.

XI. 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.

Any development with four (4) or less units	$300.00
Non-Profit Owner (more than four (4) units)	$300.00
For Profit Owner (more than four (4) units)	$500.00

B. RESERVATION FEE.

A non-refundable reservation fee of $100.00 per low-income unit will be required to secure the reservation of Housing Credits.

C. ALLOCATION FEE.

An allocation fee equal to $100.00 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).

D. MONITORING FEE.

A monitoring fee equal to six percent (6%) of the total annual Housing Credits allocation will be required at the time the owner submits the final development cost certification requesting issuance of IRS Form 8609(s). In addition, an annual monitoring fee of $50 per low-income housing tax credit unit will be required to be submitted with the Owner's Certificate of Continuing Compliance during the 15-year period following the close of the compliance period.

XII. FINANCING WITH TAX-EXEMPT BONDS and HOUSING CREDITS.

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 THRESHOLD REQUIREMENTS set forth in Section VI(B) of this Qualified Allocation Plan and the ADDITIONAL PROGRAM REQUIREMENTS set forth in Section VII of this Qualified Allocation Plan. In addition, each development financed with tax-exempt bonds shall be in compliance with the monitoring provisions of this Qualified Allocation Plan. Applicants shall comply with the Guidelines for Allocating Multi-Family Tax Exempt Private Activity Volume Cap and the Arkansas Development Finance Authority Rules and Regulations Implementing the Law on the Allocation of the State Volume Cap for Private Activity Bonds Pursuant to Act1004 of 2001in effect at the time of the filing of the application.

XIII. CLARIFICATIONS.

The Authority is charged with allocating no more Housing Credits to any given development than is required to make that development economically feasible. This decision shall be made solely at the discretion of the Authority, but in no way represents or warrants to any sponsor, investor, lender or any one else that the project is, in fact, feasible or viable.

ADFA's review of documents submitted in connection with the allocation is for its own purposes. ADFA makes no representations to the owner or anyone else as to compliance with the Code, Treasury regulations, or any other laws or regulations governing Housing Credits. The applicant and owner of the development are responsible for understanding and following all applicable tax law requirements for the development.

No director, officer, agent or employee of ADFA shall be personally liable concerning any matters arising out of, or in relation to, the allocation of Housing Credits.

Adopted by the Board of Directors of the Arkansas Development Finance Authority this 19th day of July 2007.

By:______________________________
Charley Baxter, Chair

ATTEST:

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Mac Dodson, President/Secretary