

This "Allocation Plan" constitutes the "qualified allocation plan" for the State of Indiana (the "State"), and is intended to comply with, the requirements set forth in Section 42 of the Internal Revenue Code of 1986, as amended, including all applicable rules and regulations promulgated there under (collectively, the "Code"). As used herein, "Applicant" shall include any owner, principal and participant, including any affiliates. This Allocation Plan applies to all allocations of rental housing tax credits (RHTCs) pursuant to Section 42 of the Code, multifamily private activity tax-exempt bonds ("Bonds"), ~~501(c)3 Bonds~~, HOME Investment Partnership funds ("HOME"), and the Low Income Housing Trust Fund ("LIHTF") in conjunction with RHTC's (collectively "Rental Housing Financing Programs") made in calendar year 20043 and sets forth: (1) the role of the Indiana Housing Finance Authority ("Authority") in administering the Rental Housing Financing Programs; (2) a description of how the Authority has assessed the housing needs in the State and how such needs should be adequately addressed; (3) housing goals of the Authority based on the perceived needs throughout the State; (4) "set aside" categories established by the Authority pursuant to the Code and Indiana law to further the accomplishment of the State's housing goals; (5) minimum requirements which all Applicants and housing Developments must satisfy in order to be considered by the Authority for Rental Housing Financing; and (6) evaluation factors which the Authority will consider in analyzing each application that satisfies all applicable minimum requirements.

A. Role of Authority

The Authority is empowered to act as the housing credit agency for the State to administer, operate and manage the allocation of RHTCs also known as the Low-Income Housing Tax Credit program pursuant to Section 42 of the Code and this Allocation Plan.

The actions, determinations, decisions or other rulings made by the Authority pursuant to this Allocation Plan shall not be construed to be a representation or warranty by the Authority as to a Development's compliance with applicable legal requirements, the feasibility or viability of any Development or of any other matter whatsoever, and no action of the Authority shall be relied upon by any person as a representation or warranty by the Authority in connection therewith.

The Authority reserves the right to resolve all conflicts, inconsistencies or ambiguities, if any, in this Allocation Plan or which may arise in administering, operating or managing the allocation of Rental Housing Financing Programs. The Authority in its sole discretion reserves the right to, and may from time to time, amend this Allocation Plan, pursuant to the Code, for any reason including to assure compliance with applicable federal, State or local law and regulations there under which may be amended and/or enacted and promulgated, from time to time and/or to terminate the Program.

The selection criteria set forth in this Allocation Plan includes, in part, consideration of: (1) Development location; (2) housing needs characteristics; (3) Development characteristics; including whether the Development includes the use of existing housing as part of a community revitalization plan, (4) sponsor characteristics; (5) tenant population with special housing needs, (6) the existence of a public housing waiting list, (7) tenant populations of individuals with children, and (8) Developments intended for eventual tenant ownership.

This Allocation Plan:

1. Has been established by the Authority utilizing the selection criteria required by the Code in determining housing priorities of the Authority, which are appropriate to local conditions;
2. Gives preference in allocating Rental Housing Financing among selected Developments which:

- a. Serve the lowest income tenants and will set-aside units for tenants at or below 30% of the area median income rent levels, and provide documentation that it has the financial and supportive capacity, in the opinion of the Authority, to make the Development financially viable for the compliance period;
 - b. Are obligated to serve qualified tenants for the longest period;
 - c. Minimize displacement of existing tenants;
 - d. Are located in qualified census tracts (“QCTs”) and/or difficult development areas (“DDAs”) (as designated by the Secretary of the Department of Housing and Urban Development (“HUD”), and/or Areas of Chronic Economic Distress as designated by the State and approved by the Secretary of the Treasury and the Secretary of HUD (See ~~Schedule C~~ Appendix F), and the development of which contributes to a concerted community revitalization plan;
 - e. Substantially upgrades and preserves existing low income housing and is a part of a published community revitalization plan;
 - f. Are obligated to serve tenant populations with special housing needs.
3. Provides procedures that the Authority (or an agent or other private contractor of the Authority) will follow in monitoring for noncompliance with the provisions of the Code and in notifying the Internal Revenue Service of such noncompliance when the Authority becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

B. Housing Needs Assessment

The Authority has utilized various sources of information available to it in assessing the State's low-income rental housing needs. The Authority has identified three principal demographic areas in the State: (1) "Large City Areas"-consisting of cities which are the State's largest populated cities; (2) "Small City Areas"-consisting of cities with a population of 10,000 or more, but not one of the largest populated cities in the State; and (3) "Rural Areas"-consisting of all other areas. The Authority has determined that the following housing needs and conditions should be addressed in this Allocation Plan:

1. Rental housing conditions related to lack of essential facilities, overcrowding and disproportionate costs exist across the State, although needs in Large City Areas may exceed those in Small City and Rural Areas.
2. There is an inadequate supply of affordable housing units for single-parent families, low-income persons generally and for low-income elderly, and persons with disabilities and families needing three or more bedroom units.
3. A need exists to provide transitional and permanent housing for homeless families with children, the homeless mentally ill and other homeless groups while they receive training and support services necessary for independent living.

C. Housing Goals

After considering the housing needs identified, the Authority has established certain housing priorities for the allocation of RHTCs to better enable the Authority to achieve its housing goals. In connection therewith, the Authority seeks to encourage and promote:

1. Developments which will require an allocation of Rental Housing Financing for the acquisition (if applicable), development and/or rehabilitation of such Development to become a reality.
2. Developments which will be of quality design, feasible financially and otherwise, and viable as a qualified low-income housing Development throughout the compliance period.
3. Distribution of Rental Housing Financing among Large Cities, Small Cities and Rural Areas, while emphasizing those areas identified as having greater housing needs.
4. Rehabilitation which substantially upgrades and preserves existing low-income housing and is part of a published community revitalization plan.
5. Developments, which meet special needs in a community or area such as transitional housing or permanent supportive housing for the homeless, larger families, or specially equipped Developments for the elderly and disabled including mixed income.
6. Developments, which provide housing for the lowest income households for the longest period of time possible and provide optional supportive services.

D. Private Activity Tax-Exempt Bond Financing

Pursuant to the Code, Developments that do not receive a direct allocation from the Authority because such Developments qualify for the four (4%) percent RHTCs pursuant to the Code, must satisfy and comply with all requirements for an allocation under this Allocation Plan and the Code. See Schedule D - Private Activity Tax-Exempt Bond Requirements.

[Note: A Development that has applied for and/or received an allocation of tax-exempt bond authority will not be eligible for an allocation of nine (9%) percent RHTCs for said Development.]

E. Set Aside Categories

The Authority believes it can best achieve its housing goals by establishing set aside categories based on: (i) development by qualified not-for-profit organizations; (ii) special housing needs, (iii) Development location, (iv) Preservation and (v) Developments which serve the lowest income. More than one (1) set aside category may be addressed by a Development, depending upon the location, characteristics and whether the owner is a qualified not-for-profit organization. **(Note: There are no set aside categories for Bond financed Developments.)**

The set aside categories, their respective requirements and amount of the annual RHTCs allocated to each are as follows:

1. Qualified Not-for-profit

- a. 10% of available annual RHTCs will be set aside for Developments in which the "qualified not-for-profit organization" owns 100% of the general partner interest and materially participates in its operations, as such terms are defined in and pursuant to Section 42 of the Code and this Allocation Plan. Refer to Section E(1)c Not-for-profit Organization Requirements. [Note: 100% general partner ownership interest is only required for consideration in this set-aside and does not preclude joint ventures in any other set-aside].

Qualified Not-for-profit Organization Requirements

A not-for-profit organization shall not constitute a "qualified not-for-profit organization" if the not-for-profit organization is affiliated with or is controlled by a for profit organization. To constitute a qualified not-for-profit organization, throughout the compliance period: (i) one of the not-for-profit organization's exempt purposes must include the fostering of low-income housing, (ii) the not-for-profit organization must own an interest in the Development, (iii) the not-for-profit organization must materially participate (as defined in Section 469(h) of the Code) in the development and operation of the Development, (iv) the not-for-profit organization must comply with all other Sections of the Code applicable to not-for-profit organizations and (v) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual. The not-for-profit must have been in existence at least one year, with affordable housing as one of its primary goals.

Joint ventures may compete in all other set asides, except the Not-for-Profit set aside. Joint venture is defined as a combination of one or more independent entities that combine to form a new legal entity for the purpose of this Development.

Required Documentation: At the time of application, Articles of Incorporation for the general partner interest or its formation documents, IRS documentation of not-for-profit status (e.g. §501(c)(3)) and a complete signed original Not-for-Profit Questionnaire (Form L) must be submitted by the Applicant and placed in tab B.

2. Special Housing Needs

- a. 10% of available annual RHTCs will be set aside for units that provide residential housing for persons with a disability, pursuant to *Indiana Code ("IC") 5-20-1-4.5*, which defines disabled as “a person with a disability who, by reason of physical, mental, or emotional defect or infirmity, whether congenital or acquired by accident, injury, or disease, is totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living.” The Authority shall allocate RHTCs under this section based on the proportionate number of set aside units of a qualified building that is used to provide residential housing for persons with disabilities.
- b. 15% of available annual RHTCs will be set aside for Developments specifically designed for use by elderly tenants. Elderly is defined, for the purpose of this Allocation Plan, as those persons 55 years of age or older on or before the date of initial occupancy. No less than eighty (80%) of the housing units shall be restricted for and solely occupied by at least one resident in each unit who is 55 years of age or older (Owners considering and/or receiving an allocation under this set aside should be familiar with the Housing For Older Persons Act (an amendment to the Fair Housing Act) and the Implementation of the Housing For Older Persons Act Final Rule.)

3. Development Location

All applications for RHTCs will compete in only one location set aside defined below:

- a. 20% of available annual RHTCs will be set aside for Developments located within a Large City. For purposes of this set aside Large City is defined as a city with a population of 25,000 or more (See Appendix D). The Development must be located within one mile of the zoning jurisdiction and/or use city utility services (water and sewer).
- b. 10% of available annual RHTCs will be set aside for Developments located within a Small City. For purposes of this set aside Small City is defined as a city with a population of 10,000 – 24,999



(See Appendix E). The Development must be located within one mile of the zoning jurisdiction and/or use city utility services (water and sewer).

- c. 10% of available annual RHTCs will be set aside for Developments located in areas designated as "rural", with a population of 9,999 or less, and/or for Developments utilizing Rural Development Funding.

4. Preservation

- a. 10% of available annual RHTCs will be set aside for Developments which involve the substantial rehabilitation of a currently occupied low income housing Development with a minimum 25% occupancy rate and/or a Development otherwise in danger of being lost as affordable housing. This includes Developments being removed by a federal agency (i.e. HUD, Rural Development (RD)), Developments utilizing HOPE VI funding, and the conversion of existing market rate housing to affordable housing. Rehabilitation costs must be in excess of \$10,000 per unit to be considered in this category. Otherwise, for Developments competing in all other set-asides, except Preservation, rehabilitation costs must be in excess of \$7,000.

5. Lowest Income

- a. 5% of available annual RHTCs will be set aside for Developments, which restrict ~~30%~~50% or more of its units for tenants whose incomes are at or ~~below the rent limits for those incomes equal to or~~ below 30% of the area median income. The Development must charge no more than the 30% area median income rent.

The Authority intends to make every effort to satisfy the requirements of such set-aside categories in ~~one~~^{two} (12) application and reservation cycles. If such set-aside categories are not completed through ~~one~~^{two} (12) application and reservation cycles for the applicable year, the Authority may allocate any RHTCs remaining available for allocation without regard to these set aside categories, so long as such allocation is made in accordance with the Code and the applicable requirements of the law of the State and the goals of this Allocation Plan; notwithstanding the foregoing to the contrary, upon completion of the scheduled reservation cycle (i.e., at such time as all or substantially all RHTCs available for allocation in a calendar year have been allocated, other than *de minimus* amounts of RHTCs not reasonably susceptible to allocation to a Development) the Authority, in its discretion, may either hold another application and reservation cycle or, alternatively, prepare a "waiting list" of Developments which have applied for, but which have not been awarded, RHTCs during the last scheduled cycle. If another application and reservation cycle will be held, the Authority will provide an announcement thereof. If a waiting list is prepared, the Authority shall notify each Applicant on the waiting list and, at the Authority's request, permit the Applicants to submit additional information to support the readiness of the applicable Applicant to proceed with ~~development of~~ the Development and to receive an award of next available RHTCs without undue risk of such RHTCs subsequently being returned to or rescinded by the Authority. Thereafter, if reasonably practicable, the Authority intends to make a final allocation of RHTCs for the applicable calendar year to Developments on the waiting list ranked according to its score and the amount of RHTC's then available. Provided, however, that: (i) the Authority shall hold if available the allocation to the set aside category for persons with a disability through October 31 of each calendar year and beginning November 1 of each such calendar year, any part of such allocation that remains unassigned shall be available for any other appropriate allocation; and (ii) the Authority may, in its sole discretion, elect in any reservation cycle not to allocate RHTCs to a Development that might otherwise qualify for an allocation of RHTCs set aside under paragraph D.1-5 above, if such Development scores ten (10) or more points less than any other Development which has received an allocation of RHTCs in such cycle without regard to such set aside categories.

Notwithstanding the point ranking system set forth in this Plan, the Authority reserves the right and shall have the power to allocate Rental Housing Financing to a Development irrespective of its point ranking, if such intended allocation is: (1) in compliance with Code Section 42; (2) in furtherance of the Housing Goals stated herein; and (3) determined to be



in the interests of the citizens of the State of Indiana. Additionally, the Authority will provide a written explanation to the general public for any allocation of RHTCs, which is not made in accordance with the established goals, priorities and selection criteria in this Allocation Plan.

F. Threshold Requirements

Each Development applying for an allocation of Rental Housing Financing shall satisfy the requirements of the Code, such additional requirements established by the Authority, the Program and those set forth in this Allocation Plan, and any additional requirements relating to the continued compliance of the Development after an allocation of Rental Housing Financing by the Authority. All material used in the Development must be new and of high quality, and all work must be performed in a good and workmanlike manner.

1. Federal Threshold Requirements

Each Development shall satisfy all requirements of Section 42 of the Code and such additional provisions of the Code and other federal laws applicable to each Development throughout the required compliance period and/or other applicable period. These requirements include, without limitation:

a. Development Feasibility

Amounts allocated pursuant to this Allocation Plan may not exceed an amount, which the Authority, in its sole discretion, determines is necessary for the financial feasibility of a Development and its viability as a qualified low-income housing Development throughout the compliance period. In making this determination, the Authority shall consider: (i) the sources and uses of funds and the total financing planned for the Development; (ii) any proceeds or receipts expected to be generated by reason of tax benefits; (iii) the percentage of the RHTCs used or to be used for Development costs other than the cost of intermediaries, unless such consideration would impede the process of developing in hard-to-develop areas; (iv) the reasonableness of the Developmental and operational costs of the Development; and (v) the Developmental and/or operational costs of the Development as compared to similar costs of other Applicants; (vi) such other factors it may consider applicable.

The Authority may establish such criteria and assumptions it deems reasonable for the purposes of its determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to projected occupancy, the amount of net syndication proceeds to be received, and increases in operating expenses and rental income. Any determination and/or allocation of Rental Housing Financing by the Authority shall not be construed to be a representation or warranty by the Authority as to the feasibility or viability of any Development.

Pursuant to the Code, the foregoing determination shall be made at: (a) the time of application for the Rental Housing Financing; (b) the time of allocation of the RHTC equity amount; (c) anytime there is a material change to the application and/or Development; and (d) the date the building is placed in service or at time of final application (but prior to the issuance of IRS Form 8609).

Required Documentation: The Authority will review the cost figures, sources, fees, etc. in the Application. Additionally, third party documentation of sources and costs will be reviewed along with other such documentation the Authority may consider applicable. The Application must be placed in tab A.

b. Local Jurisdiction Notification

No Development shall be entitled to apply for any Rental Housing Financing reservation or allocation until the highest elected official (or the equivalent) of the local jurisdiction is notified and provided with

a reasonable opportunity to comment on the Development. The Authority will consider the response of such official in determining any RHTC allocation for the Development.

Required Documentation: Prior to application submittal, the Developer must submit documentation **by certified mail with return receipt**, of its intent to develop affordable housing to the highest local elected official in the community where the proposed Development will be located. Copies of such information, the returned receipt from the certified mail or other acknowledgement of receipt of documentation, and any written response(s) from the local officials are a required part of the Rental Housing Finance Application and must be placed in tab C:

- c. All not-for-profits competing in any set aside and having an ownership interest in the proposed Development must submit to IHFA at the time of application a resolution from its Board of Directors that includes language that the Board approves 1) the application being made for specific Rental Housing Funding (i.e. private activity tax-exempt bonds, tax credits, HOME, Trust Fund, ~~501(c)(3) bonds~~); 2) the amount of ownership interest the not-for-profit has in the venture ; 3) the not-for-profit's specific liabilities in the Development.

Required Documentation: Resolution signed by the not-for-profit's Board of Directors must be placed in tab B. If the document is approved during a Board of Directors meeting, a quorum should pass and sign the resolution and such resolution shall be incorporated into the minutes of the meeting. However, IHFA will make an exception to this policy if the organization has an established protocol for dealing with resolutions and has provided a copy of the process to the Authority. A copy of the resolution in which this protocol was established must be submitted with your application.

- d. Market Study

See Schedule C - Market Study Requirements. The market study must be prepared at the developer's expense by a **disinterested** third party. Sufficient demand in the market area of the Development must exist and, based on reasonable predictions, will continue to exist during the term of the compliance period or other applicable period, for the number of units to be developed.

Required Documentation: All ~~Applicants/Developments~~ must submit a comprehensive market study of the housing needs of low-income individuals in the area to be served by the Development; satisfactory to the Authority at the time the initial Application is submitted. The market study must be addressed directly to IHFA from the third party preparing the market study with a sworn statement from the person who prepared the study certifying to IHFA the accuracy of the data reported in the study. The study must be submitted to IHFA offices by the application deadline and must state the name of the Development, the Owner, Development City, and Development County on the front cover.

2. Additional Threshold Requirements of the Authority

All information submitted to the Authority pursuant to this Allocation Plan must be satisfactory to the Authority in its sole and absolute discretion. If the Authority requests additional information from an Applicant, such information must promptly be submitted within timeline(s) determined by the Authority. **Additionally, all documentation (e.g. certifications, letters, market studies, etc.) must be issued/dated six months prior to the Application deadline date.**

For a Development to be evaluated for an allocation of RHTCs, each of the following requirements must also be satisfied:

- a. The Authority will not consider or review more than one Application for the same Development or for substantially the same or similar costs submitted by a related Applicant with respect to a particular reservation and application cycle. Submission of more than one Application shall cause the cancellation of any pending Application earlier awarded. Request for supplemental RHTCs will only be permitted after all available Developments have been funded. The Authority will notify the public if RHTCs are available for supplemental credits. However, supplemental credits will only be considered for allocations made in the same year.
- b. The Authority will not consider or review a second or subsequent Application for multi-family financing from an Applicant/Owner until the Applicant/Owner has successfully completed (issuance of IRS Form 8609) at least one (1) multi-family Development in Indiana.

Required Documentation: The Applicant must submit a list of all tax credit Developments where they have participated with an ownership interest or been part of the Development team (including on a consulting basis). The list must include the following information: 1) Name of the Development; 2) City and state of Development; 3) number of units in each Development; and 4) the role the Applicant played in each Development (e.g. developer, owner, consultant, etc.) Place in tab L.

- c. At the time an Applicant files an Application with the Authority, eligible development costs expended or incurred towards the Development and/or acquisition shall not exceed fifty percent (50%) of the total estimated eligible development costs, unless the Authority determines that:
 - 1) Rental Housing Financing is necessary for the Development to be completed; and
 - 2) The Development is located in either (a) a "qualified census tract" or (b) "difficult Development area", as designated by the U.S. Secretary of Housing and Urban Development ("HUD"). You may also view the information on HUD's website at: www.hud.gov; and
 - 3) Less than sixty-five percent (65%) of the estimated qualified eligible costs have been expended or incurred; and
 - 4) The Development will contribute to the accomplishment of the Authority's housing goals and priorities.

Required Documentation: Completed Application. See Form A. Place in tab A.

- d. The Development applicant/owner, developer, management agent and other members of the Development team as provided in the Rental Housing Finance Application must demonstrate sufficient financial, development and managerial capabilities to complete the Development and maintain them for the Compliance Period and other applicable period.

Required Documentation: The Applicant must provide documentation to demonstrate sufficient financial, development and managerial capabilities and place it in tab D. Examples of such documentation include, but are not limited to: 1) Financial statements, Income statement from an entity and Balance Sheets; and 2) Resumes showing adequate experience of developer and management company. This documentation must be placed in tab D.

e. The Development team must show their readiness to proceed as demonstrated by:

1) The Authority's receipt of a completed "Application" in the form required by the Authority and within the time period established and set forth in this Allocation Plan. Each Application must be type written and accompanied by the appropriate application fee and all exhibits. . **Additionally, the Applicant must provide a narrative summary of the Development. See Schedule I for Application Package Submission Guidelines.**

Required Documentation: The most current Application (See Form A) completed, narrative summary of Development, and a certified or cashier's check or money order made payable to IHFA for the appropriate Application Fee. The certified or cashier's check or money order should be attached to the application and placed in tab A with the narrative summary.

2) Submitting satisfactory evidence of site control.

Required Documentation: The Applicant must submit documentation evidencing site control, examples of which include: 1) Purchase Agreement or Option that does not expire until after the reservation date for RHTCs with title Insurance documentation (or attorney's opinion); 2) Warranty deed; 3) Long-term lease option (term of lease must be for a minimum term specified in the Declaration of Extended Rental Housing Commitment). When an Applicant intends to acquire a site and/or building through a government body, in the Authority's sole discretion exercised on a case-by-case basis, the Authority may accept the following documentation as sufficient evidence of site control: (i) duly adopted resolutions of the applicable commission designating the subject area; (ii) duly adopted resolutions of the applicable commission authorizing the acquisition of the land to comprise the Development; and (iii) a letter from the applicable governmental agency or development commission setting forth the acquisition schedule for such land on a time table consistent with the Applicant's readiness to proceed without undue risk of Rental Housing Financing being returned to or rescinded by the Authority. This documentation must be placed in tab E.

3) Development Site Information

Required Documentation: The Applicant must ~~Submitting~~ submitting satisfactory schematics, perimeter survey site plan, and floor plans for units of the Development which, to the sole satisfaction of the Authority, show the Development is of quality design providing decent, safe and sanitary housing. The Authority reserves the right to perform (through its own representatives or its agents) site visits and evaluations of the Development to determine the satisfaction of these requirements. Place this documentation in tab F.

4) The Applicant must demonstrate an ability to obtain financing(i.e. syndication proceeds, grants, other funds available for the Development).

Required Documentation: The following documentation must be submitted:

1) Lender letter of interest submitted to the Applicant in support of the Applicant's application must contain a representation and acknowledgment from the lender that: (i) such lender has reviewed the same application submitted or to be submitted by the Applicant to the Authority in support of the Rental Housing Financing for the Development to which such letter of interest relates; (ii) lender expressly acknowledges that the Development will be subject specifically to the "40-60" or "20-50" set-aside, and extended use

restriction elections made by the Applicant (iii) such lender has reviewed the Minimum Underwriting Criteria set forth in this Allocation Plan; and (iv) any other special use restriction elections made by the Applicant, which give rise to additional points in this Allocation Plan. Place in tab G; AND

2) For financing not yet applied for (i.e. FHLB funds, ect.), the Applicant must submit evidence of their eligibility for the source of funding (i.e. the proposed application for FHLB funds or a letter from FHLB stating the Applicant is eligible for funds). Place this documentation in tab G; AND

3) Equity letter of interest submitted by an Applicant in support of the Applicant's application must contain a representation and acknowledgment from the equity investor that: (i) such investor has reviewed the same application submitted or to be submitted by the Applicant to the Authority in support of the Rental Housing Financing for the Development to which such letter of interest relates; (ii) such investor expressly acknowledges that the Development will be subject specifically to the "40-60" or "20-50" set-aside, and extended use restriction elections made by the Applicant; (iii) such investor has reviewed the Minimum Underwriting Criteria set forth in this Allocation Plan; and (iv) any other special use restriction elections made by the Applicant, which give rise to additional points in this Allocation Plan. Place in tab H.

f. The Development team must provide documentation to the sole satisfaction of the Authority that shows:

- 1) The location of the Development is in an area suitable for the proposed Development and is not now, nor is it likely in the future to become, subject to uses or determinations, which could adversely affect its operation, marketability or economic feasibility.

Required Documentation: The Applicant must provide letters from developers, 1) the engineer; and/or(s); 2) architect(s), as appropriate; and 3) the market analyst detailing the above information. Place this documentation in tab F.

- 2) There are or will be accessible on or before the estimated completion date of the Development, such public and private facilities (i.e. schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) which will adequately serve the proposed Development and which are necessary or desirable for use and enjoyment by the contemplated residents.

Required Documentation: The Applicant must provide a map of the site area that shows clearly where the public and private facilities are in relation to the development. The map must be placed in tab I.

- 3) Required Documentation: Photographs of the site and existing structures shall be provided from all significant perspectives and show all significant nearby land uses. Photographs must be placed in tab I.

- 4) The real estate upon which the Development will be located is currently properly zoned to allow for its use as a multi-family housing Development.

Required Documentation: The Applicant must provide: 1) a letter from the appropriate authorized government official (i.e. zoning commission) that describes the Development location and certifies that the current zoning allows for construction and operation of the proposed Development without variance; and 2) If Planned Unit Development (PUD) a copy of the appropriate documentation. This documentation must be placed in tab J.

- 5) At the time of application, there will be access to water, sewer, gas and/or electric to the site with sufficient capacity to satisfy the requirements of the Development.

Required Documentation: The Development shall have received a letter (acceptable to the Authority) from the appropriate entity (i.e. each utility company) that utility facilities and capacities will be available to satisfy the needs of the Development. Place in tab K.

- 6) Compliance Monitoring and Evidence of Compliance with Other Program Requirements

Every Applicant, Principal, affiliates and/or Development Team member (collectively, “Development Team”) with any ownership interest in a rental housing Development which has received an allocation of RHTCs by the Authority since the inception of the RHTC program (January 1, 1987), must cooperate and comply with the Authority's compliance monitoring procedures. The Authority's monitoring procedures and requirements are set forth in the RHTC Compliance Manual, a copy of which is attached as Schedule ??? to this Allocation Plan and made a part hereof. If, in the sole discretion of the Authority, any Development Team member has materially failed to comply with the procedures and requirements of the Authority or any of its programs, the Code or any other governmental program, including, but not limited to, HUD and/or HUD funded programs: (i) the Authority may withhold or reduce, in whole or in part, Rental Housing Financing for which application is made, irrespective of whether the withheld or reduced funding relate to the Development to which the noncompliance relates as determined by the Authority in its sole discretion; and (ii) if the Applicant's noncompliance is chronic and/or egregious in nature, the Authority may refuse to accept for filing and/or otherwise refuse to consider all or any part of the Applicant's pending or future applications for funding until such time as the Authority decides otherwise.

The Development team must satisfactorily demonstrate that all prior findings and assessments against all Applicants and its principals, participants and affiliates have been satisfied.

Any Development found to be in violation of this Allocation Plan will be subject to a reduction or rescission in Rental Housing Financing, and all Development Team members may be subject to debarment from participating in all Authority programs for up to five (5) years.

Required Documentation: The following documentation must be submitted and placed in tab L:

1) All of the Development Team members with an ownership interest in any affordable housing Development must disclose any non-compliance issue(s) and/or loan defaults with any state or federal affordable housing program (including private activity tax-exempt bonds) in which it has participated in or received funds including those issues that have been corrected since RHTC program inception. Failure to disclose may result in the loss of RHF funding;

2) Each member of the Development Team must submit a written affidavit accurately disclosing his/her complete interest in and affiliations with the proposed Development. Additionally, the Development Team must include in the affidavit all other RHTC funded Developments located in Indiana where they own(ed) an interest. The management company named in the initial application **must add language to its affidavit certifying has signed a sworn statement certifying** that: **a1)** they have reviewed the application for Rental Housing Financing; and **b2)** they can effectively manage the property according to the requirements of Section 42, the Qualified Allocation Plan, and the elections made by the owner/applicant in the application for Rental Housing Financing. If at any time during the Compliance Period the management company changes, the new management company must also sign a similar certification.

- 7) The characteristics of the site (e.g. size, topography, terrain, soil and sub-soil conditions, environmental, vegetation and drainage conditions) must be suitable for the construction, rehabilitation and operation of the proposed Development. No Development will be considered if any of the buildings are or will be located in a 100-year flood plain or on a site which has unresolvable wetlands problems, or contains hazardous substances, or the like.

Required Documentation: Environmental Phase I completed by an experienced and credible disinterested third party hired by the Applicant. If wetlands exist on the site, the Applicant must submit evidence that the wetlands can be mitigated and a plan, that includes financing, of how the Applicants anticipates to mitigate the wetlands. Place in tab F.

- g. **Required Documentation:** Applicant(s) proposing Developments consisting of five (5) or more units must complete and submit HUD Form 935.2 Affirmative Fair Housing Marketing Plan ("Plan") (See ~~Schedule G~~ Form K) at the time of initial application. Applicant must obtain approval from HUD and/or Rural Development (RD) within one (1) year after the Placed in Service date. A copy of the approved Plan must be submitted to the Authority within thirty (30) days of receipt. **A copy of the completed form (See Form K) must be placed in tab N.**
- h. All applicable conditions and requirements of State and local laws, statutes, regulations, ordinances and other proper authorities in the State, including, without limitation, the requirements specified in the Application, the Indiana Handicapped Accessibility Code as amended, and such additional items which may be required by the Authority (collectively, "State Laws"), shall be satisfied.

Additionally, the Development has been designed to comply with the requirements of all applicable local, state and federal fair housing and disability-related laws. The Development design should consider at a minimum, the applicability of the local building codes, Federal Fair Housing Act, as amended the Americans with Disabilities Act, and the Rehabilitation Act of 1973, as amended. The Applicant and architect who has designed the Development will be required to submit an affidavit that certifies the Development complies with all applicable requirements.

Required Documentation: The Fair Housing Act Accessibility Checklist form must be completed and signed and notarized by the owner and the architect for the Development. See Form E. Place form in tab N.

- i. Applicants who perform rehabilitation work on pre-1978 Developments (i.e. buildings) are required to comply with the Lead Based Paint Pre-Renovation Rule (Lead PRE) **and the State of Indiana's Lead Based Paint Rules where applicable.** (For more information visit www.epa.gov/lead or contact your local Environmental Protection Agency (EPA) Regional Office.)

Required Documentation: The Applicant must certify that the Development will comply with these laws and rules. See Form J. Place certification in tab N.

- j. Developments proposing commercial areas within the building or on the property utilizing Rental Housing Financing will be given consideration. **Construction must be in strict compliance with plans and specifications that have been previously approved by the Authority and which strictly follow the initial layout. Finally, all commercial restrictions approved by the Authority must be included in the Declaration of Extended Rental Housing Commitment ("DERHC").**

Required Documentation: The Application must include the following additional information and documentation: (i) a detailed, square footage layout of the building and/or property identifying all

residential and commercial areas; and (ii) a time-line for complete construction showing that all commercial areas will be complete prior to the residential areas being occupied. Place this documentation in tab F.

- k. If any portion of the RHTCs are being used to acquire the development, RHTCs and/or acquisition eligible basis will be calculated based on the lesser of the actual amount paid for the building or the appraised value.

Required Documentation: The Applicant must submit the Development’s fair market appraisal (completed by a certified appraiser), which must be completed within six (6) months from the Application deadline. See Schedule C– Market Study and Fair Market Appraisal Requirements. Place in tab O.

- l. For Developments proposing rehabilitation, the rehabilitation cost must be in excess of \$7,000 per unit. However, if the Development is competing in the Preservation set aside the rehabilitation cost must be in excess of \$10,000 per unit.

Required Documentation: All Applicants applying for rehabilitation Developments requesting Rental Housing Financing must submit with their Rental Housing Finance Application a capital needs assessment in the format required by the Authority. See Schedule H and form C - Capital Needs Assessment. Place in tab O.

- ~~p. Applicants applying for Rental Housing Financing are required to complete and submit to the Authority an Intent to Submit Form at least 10 business days prior to the application deadline date. (The Intent to Submit Form may be provided via facsimile—Attention: Tax Credit Allocation Department.)~~

~~Applicants who do not submit the Intent to Submit Form by the appropriate due date will not be eligible to apply for funding in that round. Applicants may change the information provided in the notification of intent after it is submitted, but the letter should be a good faith estimate of the anticipated request.~~

- m. Upon request, the Applicant shall provide a completed IRS Form 8821, Tax Information Authorization for each owner/general partner and if applicable, the controlling entity of the general partner at least 10 business days prior to the application deadline date along with the Notification of Intent to Apply for Financing. The form must be signed by an individual authorized to sign on behalf of the owner.

- n. Underwriting Guidelines

The following are underwriting guidelines for all Developments. However, all applicants should be aware that these are averages and the numbers submitted should reflect the nature and **true cost** of the Development proposed. **IHFA will consider any underwriting outside of these guidelines if supporting documentation is provided.**

- 1) Operating Expenses - \$3000 – \$3500/unit or 35% of Gross Income whichever is greater

<u>• 1 bedroom units -</u>	<u>\$2800 - \$3000</u>
<u>• 2 bedroom units -</u>	<u>\$3000 - \$3500</u>
<u>• 3 bedroom units -</u>	<u>\$3500 - \$4000</u>
<u>• 4 bedroom and single family/duplex units-</u>	<u>\$4000 - \$4500</u>

- 2) Management Fee (including tax credit compliance consultant fee) – 5-7% of “effective gross income” (gross income for all units less Vacancy Rate).

1-50 units 7%,
51-100 units 6%, and
100+ units 5%



- 3) Vacancy Rate – 6% - 8%
- 4) –Rental Income Growth – 1-~~32~~%/year
- 5) Operating Reserves – four (4) – six (6) months (Operating Expenses plus debt service)
- 6) Replacement Reserves New Construction: \$250 - \$300 Rehabilitation: \$300 - \$350
- 7) Operating Expense Growth – 2-~~43~~%/year
- 8) Stabilized debt coverage ratio – 1.15 - 1.35
- 9) Developments structured with no hard debt - minimum cash flow before deferred developer fee must be at least \$300 per unit annually

NOTE: IHFA will require at least a 1% spread between operating expense growth and rental income growth.

Required Documentation: 1) Data supporting the operating expenses and replacement reserves stated in the proforma must be supported in the Development’s Market Study (e.g. comparable Development information, IREM statistics); AND 2) If the underwriting is outside of these guidelines the Applicant must provide a detailed explanation with third party documentation supporting the explanation. This documentation must be placed in tab A.

o. Grants/Federal Subsidies.

Those Tax Credit Developments that include “soft” loans (i.e. HOME dollars loaned to the Development with payments through available cash flow) must demonstrate the reasonableness that the loan will be repaid by the end of the Compliance Period. Even if a Development’s projections provide a basis for a reasonable expectation of repayment, the general partner or affiliate should guarantee payment at the end of the specified period but no later than the end of the Compliance Period. If the loan and any outstanding interest is not expected to be paid until the end of the Compliance Period, there must be reasonable expectation that the fair market value of the Development will be sufficient at that time to pay the accrued interest and debt.

For Developments with any type of grant funds or federal subsidies (i.e. HOME, CDBG, etc.):

Required Documentation: A third-party attorney’s opinion will be required at the time of Application with regard to the treatment of such funds relating to (1) their inclusion or exclusion from eligible basis; (2) the Development’s qualifications for the 9% Tax Credits; and/or (3) the reasonableness that the loan will be paid by the end of the Compliance Period. Place in tab G.

p. IHFA has established the following credit per unita maximums-:

Historic Rehabilitation = \$7,500
Single Family/Duplex (new construction & acquisition rehabilitation) = \$7,000
New Construction & Acquisition Rehabilitation (non-historic) = \$6,500



IHFA will consider Tax Credits per unit in excess of these amounts if the Authority determines:

- 1) The additional credits are necessary for financial feasibility of the Development; AND
- 2) The Development is located in either a) a “qualified census tract” or b) “difficult Development area” as designated by the U.S. Secretary of Housing and Urban Development (“HUD”). You may view the information at HUD’s website at www.hud.gov.; AND
- 3) The Applicant has provided documentation for why the Development needs the additional Credit and third-party documentation of efforts the Applicant has taken to obtain other financing. This documentation, if provided, must be placed in tab A.

~~per unit cost of \$95,000, for new construction and substantial rehabilitation. Single family and historic rehabilitation Development will be subject to a \$100,000 per unit maximum.~~

~~Additionally, IHFA will consider costs up to \$125,000 per unit in “high cost areas” as defined by HUD to be the following cities: Anderson, Indianapolis, Gary, South Bend, Fort Wayne, Kokomo, Lawrenceburg, New Albany, Columbus, Muncie, Bloomington, Washington, Evansville, Terre Haute, and Lafayette. The Development must be within the city boundaries to be considered in a “high cost area.” However, the applicant must provide convincing documentation supporting the costs.~~

~~If the applicant proposes a cost per unit in excess of these maximums, the application will nevertheless, be underwritten (and the amount of RHTC’s (if any) that may be allocated) using these maximum cost figures and not those in the application.~~

3. User Eligibility and Limitations

a. Applicant and Development Limitations

During any calendar year, the amount of RHTCs, which may be reserved for allocation (including any transfers of RHTCs during the applicable calendar year) to any person (including principles in organizations), entity, or Applicant, may not exceed \$1,500,000. Provided, however no Development shall receive more than \$750,000 of RHTCs in any calendar year. Such limitation shall be subject to review and modification by the Authority. [Excluding Developments financed with Bonds and 4% RHTCs.]

If the Authority determines that in its sole and absolute discretion it is in the interest of the State to allocate additional RHTCs to such person, entity or Development, then the Authority may waive such limitation.

b. Developer Fee Limitations

<u>No. of units in Development</u>	<u>Maximum combined total developer fee, developer overhead, and consultant fees</u>
40 Units or less	<u>20% of Total Development Costs excluding the developer fee, developer overhead, consultant fees, and the cost of the land but not to exceed \$1,000,000 for RHTC 9% Developments & not to exceed \$2,000,000 for bond volume 4% Developments</u>
Over 40 Units	<u>15% of Total Development Costs excluding the developer fee, developer overhead, consultant fees, and the cost of the land but not to exceed \$1,000,000 for RHTC 9% Developments & not to exceed \$2,000,000 for bond volume 4% Developments</u>

~~The amount of developer fees ("Developer Fees") allowable, for purposes of determining the amount of RHTCs to be allocated with respect to each Development, shall be limited to 15% of the total development costs, excluding the Developer Fee and the cost of land. Developments with 25 or fewer units, the maximum Developer Fee will be restricted to 20% of the total development costs excluding the Developer Fee and the cost of land. The Authority will monitor both hard and soft costs of the Development compared to Developments of similar size and location and in its sole discretion reduce the total Developer Fee, which may will reduce the amount of any RHTC allocation.~~

When determining the amount of Credit necessary to make a Development financially feasible, the Authority will include the deferred Developer Fee as a source of funding.

To be included in RHTC basis, deferred developer fee must be due and payable at a date certain. Fees may be paid as a cash flow loan if it can be demonstrated that the fee can and will be paid in a reasonable amount of time (generally considered to be ten (10) to fifteen (15) years). If fees are permanently contributed to the Development, they must be paid to the developer and then contributed to the Development if the fees are to be included in RHTC basis.

Additionally, at the time of initial Application, no more than 50% of the developer fee may be deferred for 9% RHTC Developments and no more than 70% of the developer fee may be deferred for bond volume 4% RHTC Developments. However, the Authority may on a case by case basis with convincing documentation acceptable to the Authority and for the financial feasibility of the Development allow a larger percentage of the developer fee to be deferred.

Required Documentation: Applicant must include a statement describing the terms of the deferred repayment obligation to the Development including any interest rate charged and the source of repayment with the application. Nonprofit organizations shall include a resolution from the Board of Directors allowing such a deferred payment and interest obligation to the Development. The Authority will require a Deferred Development Fee Agreement ~~note~~ evidencing the principal amount and terms of interest and repayment of any deferred repayment obligation be submitted at the time of final cost certification. Place this documentation in tab G.

c. Contractor Fee Limitations

Contractor fees ("Contractor Fees") shall also be limited, for purposes of determining the RHTC amount to be allocated, based on the amount of total costs incurred toward the construction or rehabilitation of the Development, excluding Developer and Contractor Fees. The Contractor Fee limitations are as follows:

Contractor Fees	Contractor Fee % Limitation
General Requirements	6% of total costs
General Overhead	2% of total costs
Builder's Profit	6% of total costs
Total	14 % of total costs

The Authority will permit savings in a particular Contractor Fee line item to offset overruns in other Contractor Fee line items; provided, however, that in any event the total Contractor Fees shall not exceed 14%.

No increase will be permitted higher than the above stated limitations.

4. Rental Housing Financing Returned by Applicant

If Authority funding (i.e. RHTC, HOME, Low-Income Housing Trust Fund, multifamily private activity tax-exempt bonds, ~~501(c)(3)-bonds~~) previously reserved and/or allocated to a Development is returned to or rescinded by the Authority, ten (10) points will be deducted by the Authority from the total points otherwise scored on the next application submitted by the Applicant (or its principals) that meets threshold requirements. However, if the funding is returned within 90 days of the approval date, no points will be deducted from the Applicant's next application.

The Authority, in its sole and absolute discretion, shall have the right to grant a waiver from the foregoing points deduction for factors determined by the Authority to be outside of the developer's control. No such waiver will be granted unless on or before October 1 the Applicant furnishes the Authority with a written request for such waiver at the time the Credits are returned and/or rescinded specifying therein with specificity satisfactory to the Authority the reasons thereof. All requests for return of fees paid to the Authority for said Development will be denied.

5. Receipt of Rental Housing Financing

Applicant(s) receiving Rental Housing Financing must satisfy at time of final application all scoring criteria they received points for unless otherwise approved by the Authority in writing.

G. Evaluation Factors

The Authority has developed six (6) categories of criteria, based on the needs assessment conducted and the housing goals established by the Authority. If an Application satisfies all applicable requirements, then it will be evaluated and scored based on: (1) Rents Charged by the Development being 25 possible points; (2) the constituency served by the Development (i.e. special needs population) being 10 possible points; ~~(32)~~ Development characteristics being ~~35~~ 34 possible points; ~~(43)~~ financing ~~and readiness to proceed~~ being ~~67~~ possible points; (4) market being 17 possible points; and (5) other being 7 possible points. Consequently, there are 100 possible points. Applicants seeking an RHTC allocation under Indiana's RHTC cap must score a total of forty (40) or more points under this Allocation Plan. Additionally, Applicants seeking Private Activity Tax Exempt Bonds, either in conjunction with 4% RHTCs or alone, must score a total of thirty-five ~~(350)~~ points or more. The Authority reserves the right not to allocate funding to a Development that scores ten (10) or more points less than the nearest Development receiving Rental Housing Financing. A written explanation will be made available to the general public for any funding of a housing credit dollar amount, which is not made in accordance with established priorities and selection criteria in this Allocation Plan.

1. Rents Charged

All Developments must meet the minimum set-aside requirement for Section 42 with election of the “40-60” or the “20-50” set-aside. In addition, the Authority will award points to those Developments that will target lower rents as follows:

a. Lower Rents Charged

If the Development intends to charge rents lower than the maximum allowable for the area median income (AMI) required by Section 42 of the Code and maintain rents for units at a level not to exceed the maximums as published in Appendix **BG** and **CH**, points will be awarded as follows:

<u>Percent of total units where rent is charged at or below the 30% AMI rent</u>	<u>Points</u>
5-10%	2
11%+	5

Maximum Number of Points	5
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<u>Percent of total units where rent is charged at or below the 40% AMI rent</u>	<u>Points</u>
15-20%	2
21%+	5

Maximum Number of Points	5
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<u>Percent of total units where rent is charged set-aside at or below the 50% AMI rent</u>	<u>Points</u>
20-30%	2
31%-50%	5
51% or more	10

Maximum Number of Points	10
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~~You Applicants-~~ will not be permitted to utilize the unit’s set-aside at one AMI rent to also be awarded points for another AMI rent category unless all units are designated at one set-aside (i.e., If all units are designated at 30% AMI rent, maximum points in the 30%, 40%, and 50% AMI categories will be awarded. If all units are designated at 40% AMI rent, maximum points in the 40% and 50% AMI rent categories will be awarded).

b. Market Rate Units

If the Development provides for a mixture of market-rate units (market rate units are those units that will not be reserved for Qualified Low Income Tenants) then points will be awarded in accordance as follows:

<u>Percent of Market-Rate Units</u>	<u>Points</u>
5-10%	2
11%+	5

Maximum Number of Points	5
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2. Constituency Served

a. Homeless Population

For purposes of this category “Homeless” is defined as an individual or family that, but for this housing, lacks a fixed, regular, and adequate nighttime residence; or an individual or family that has a primary nighttime residence that is: 1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill; 2) an institution that provides a temporary residence for individuals intended to be institutionalized; or 3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. This term does not include any individual imprisoned or otherwise detained by an appropriate governmental authority under an Act of Congress or State law.

Applicant has committed in writing to “set aside” a percentage of total units in the Development as permanent supportive housing for the homeless.¹ In some cases, supportive services may be needed to sustain permanence.

AND/OR

Applicant has committed in writing to “set aside” a percentage of total units in the Development as transitional housing for the homeless. Transitional housing is defined as housing which has the purpose of facilitating the movement of homeless individuals or families to independent living within a reasonable amount of time (usually 24 months).

Points will be awarded based on one (1) point for each percentage set aside up to a maximum of 5 points.

NOTE: Section 42 requires that a building not used primarily for the homeless must have a minimum six (6) month lease term.

Required Documentation: 1) A written referral agreement **signed and agreed to by all parties must be in place with a qualified organization that provides and has the capacity to carry out services to the homeless;** and 2) the resume of the organization providing the services. Place in tab R.

Maximum Number of Points

5

b. Persons with Disabilities

Applicant has committed in writing to “set-aside” a percentage of the total units in the Development to qualified tenants who meet the State definition of disabled as provided in IC 5-20-1-4.5 and must equip each unit to meet a particular person’s disability need at no cost to the tenant. Points will be awarded based on 1 point for each percentage set-aside up to a maximum of 5 points.¹

¹ The term “set aside” shall mean and require that units designated as “set aside” for a specific population may be used only for the identified population and for no other. IF qualified tenants in the designated population are not available, the units(s) must remain vacant. The Authority will not consider waiving or modifying any set-aside request until units have been placed in service for a minimum of eighteen months.

Required Documentation: 1) A written referral agreement **signed and agreed to by all parties** must be in place with a qualified organization that provides services for persons with disabilities; and ; and 2) the resume of the organization providing the services. Place in tab R.

Maximum Number of Points	5
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The Authority **encourages expects** - owners to disperse all low-income units evenly among buildings and units in a mixed income, multi-building Development.

3. Development Characteristics

a. Unit Types

1) A Development that has 30% or more of the RHTC units with two (2) bedrooms will receive 2 points.

Or

A Development that has ~~50~~45% or more of the RHTC units with two (2) bedrooms will receive ~~5~~45 points.

Maximum Number of Points	45
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2) A Development that has ~~15~~20% or more of the RHTC units with three (3) bedrooms will receive 2 points.

Or

A Development that has ~~25~~30% or more of the RHTC units with three (3) bedrooms will receive ~~5~~45 points.

Maximum Number of Points	45
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3) A Development that has 5% or more of the RHTC units with four (4) bedrooms will receive 2 points.

Or

A Development that has 10% or more of the RHTC units with four (4) bedrooms will receive 5 points.

Maximum Number of Points	5
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[Elderly Developments will not receive points for three (3) or four (4) bedroom units.]

4) A Development consisting entirely of Single-Family homes and/or duplexes will receive ~~3~~32 points.

Maximum Number of Points	32
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Microwave	Garbage Disposal	Intercom system for each building	
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Required Documentation: A certification (using specifically Form B) from the Architect on his/her letterhead certifying the existence such amenities. Place in tab F

Maximum Number of Points 32

c. Unit Size

As provided in the Rental Housing Finance Application the net square footage is defined for the purpose of this scoring criteria to be the total livable space within the interior walls of the unit (this excludes garages, balconies, exterior storage and Development common areas). Points will be awarded based on ALL of the proposed units that meet or exceed the minimum net square footage within a specific unit type.

Development Type	Eff./0 BR units minimum net sq. ft.	One BR units minimum net sq. ft.	Two BR units minimum net sq. ft.	Three BR units minimum net sq. ft.	Four + BR units minimum net sq. ft.
New Const.	375 sq. ft.	675 sq. ft.	875 sq. ft.	1075 sq. ft.	1275 sq. ft.
*Adaptive Reuse	375 sq. ft.	675 sq. ft.	875 sq. ft.	1075 sq. ft.	1275 sq. ft.
Rehab/existing housing	350 sq. ft.	550 sq. ft.	680 sq. ft.	900 sq. ft.	1075 sq. ft.
	1 point	1 point	1 point	1 point	1 point

*Adaptive Reuse is defined as a Development with building(s) that previously served a purpose other than housing.

NOTE: If all units meet or exceed the unit square footage minimums listed above, all 5 points in this category will be awarded.

Required Documentation: The architect and owner must certify to the square footage of all of the units. Form H is required to receive these points. Place in tab F

Maximum Number of Points **5**

d. Existing Structure

Development converts a percentage of total square footage in a 100% vacant structure (s) into affordable rental housing. Points will be awarded based on the percentage of the Development that is converted to affordable housing as follows:

- 25% of the total Development _____ | 1
- 50% of the total Development _____ | 2
- 75% of the total Development _____ | 3
- 100% of the total Development _____ | 4

If any space in the existing structure will be used for a purpose other than housing, the applicant must state what the intended use of the remainder of the vacant structure will be.

Required Documentation: The owner must certify to the percentage of the Development that is vacant and is being converted to affordable housing. Form I is required to receive these points. Place in tab O.

Maximum Number of Points	<u>44</u>
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e. Development will utilize Historic Tax Credits on the residential portion of the building(s). Must provide evidence the building is individually listed in the National Register of Historic Places or have submitted a Part 1 application and received a recommendation for approval by the Indiana Department of Natural Resources Division of Historic Preservation and Archaeology. At least 50% of the total units must be located in eligible historic buildings in order for a Development to receive points in this category.

Required Documentation: ~~(Must include a copy of historic application and “approved” Part I).~~ Place in tab U.

Maximum Number of Points	2
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f. Development is a federally assisted low-income housing Development with at least 50% of its units in- danger of being removed by a federal agency from the low-income housing market due to eligible prepayment, conversion or financial difficulty.

Such Developments must include, but are not limited to, as determined in the Authority’s sole discretion, the following:

- (1) Preservation-eligible Developments under Title II Emergency Low Income Housing Preservation Act of 1987 (“ELIHPA”) or Title VI Low Income Housing Preservation Act of 1990 (“LIHPRHA”),
- (2) Developments with expiring Section 8 contracts, regardless of whether the Owner has given notice of its intent to allow such contracts to expire,
- (3) Developments with HUD-held mortgages,
- (4) Troubled Developments that have received assistance through the USDA Rural Development (RD) office. Applicants must provide a letter from the RD office that details the current situation for the project, and explains the need for housing RHTCs,
- (5) Developments participating in the HUD Portfolio Reengineering Program. Applicants must provide a letter of eligibility from HUD and be assigned a Participating Administrative Entity (PAE); or
- (6) Development is part of the Revitalization Plan for a HOPE VI grant that has been awarded by the U.S. Department of Housing and Urban Development (HUD).

Required Documentation: Must include documentation from the federal agency that will no longer be assisting the Development, including why assistance is no longer available. Place in tab U

Maximum Number of Points	3
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g. Energy Efficiency Requirements

Two (2) ~~One (1)~~ points will be awarded for Applicants certifying the use of Energy Star rated materials and appliances. Points will be awarded points in this category based on 2+ points for a minimum of 5 Energy Star rated items. Energy Star rated items include: heating system, cooling system, windows, insulation, stove, refrigerator, dish washer, washer & dryer, and/or 30-year warranty roofing system.



Required Documentation: The Applicant must provide the information regarding the Energy Star rated items that will be used at the development. Once the Development is completed, IHFA will inspect the items to ensure they are energy star rated. Form G is required to receive these points. Place in tab F.

Maximum Number of Points	21
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4. Financing ~~and Readiness to Proceed~~

a. Development has received written approval for monetary **local** government (town, city, or county) funding that specifically enhances and/or creates significant cost savings for the Development. Including but not limited to tax abatement, infrastructure, grants, land, building(s), etc. Must disclose amount of monetary funding to receive points. Points will be awarded based on amount of funding/cost savings as follows:

- | | |
|--|-----------------|
| <u>1. ½% - 2% of total development costs</u> | <u>1 point</u> |
| <u>2. 3%-5% of total development costs</u> | <u>2 points</u> |
| <u>3. greater than 6% of total development costs</u> | <u>3 points</u> |

However, in Rural areas only(as defined by the QAP), the Authority reserves the right to award points in this category for Developments that do not meet the percentages listed above if the Authority, in its sole discretion, determines that the funding/cost savings is significant for the City/Town in which the Development is located.

For purposes of this category, local government funding (i.e. HOME, HOPE VI, etc.) that is **loaned** to a Development at the applicable federal interest rate will **NOT** be considered as enhancing or creating a significant cost savings for a Development and will not be considered when determining the amount of local government funding to receive points.

Required Documentation: A letter from the appropriate authorized official at the local government approving the monetary contribution. The letter must include: 1) the local unit of government has approved funding specifically for the proposed Development; and 2) the amount of monetary funding the local unit of government has approved (if tax abatement, the local unit of government must estimate the monetary amount). NOTE: An inducement resolution for bond volume will NOT be sufficient documentation to receive points. Place in tab C.

Maximum Number of Point	3
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b. The Applicant will utilize sources other than RHTCs as part of the overall financing structure. Points will be awarded based on the ratio of the 10 year amount of credits requested as follows:

- | | |
|--|-----------------|
| <u>1) 10 year amount of requested Credit is 71% - 80% of total development costs</u> | <u>1 point</u> |
| <u>2) 10 year amount of requested Credit is 61% - 70% of total development costs</u> | <u>2 points</u> |
| <u>3) 10 year amount of requested Credit is less than 60% of total development costs</u> | <u>3 points</u> |

Maximum Number of Point	3
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~~Cost per unit (defined as Total Development Cost from the Rental Housing Finance Application for RHTCs minus land cost and any historic tax credits and/or commercial costs, divided by the total number of units in the Development) is less than:~~



New Construction	\$70,000
Substantial Rehabilitation	\$75,000
Single family Scattered Site	\$90,000

~~Historic Rehabilitation Developments will not receive points in this category.~~

~~At Final Application, the Development must meet the same cost per unit as set forth in its initial application unless: (i) the Development received no points in the “cost per unit” category; and (ii) the Development has enlisted other resources to cover the increased costs. If not, the Development will, in the sole discretion of the Authority, be subject to a reduction of up to 50% of the initial conditional allocation of RHTCs.~~

~~**Maximum Number of Points** **1**~~

~~c. Readiness to Proceed~~

~~In the sole discretion of the Authority, Developments may be awarded 2 points for submission of the following at the time of initial application:~~

- ~~1) Firm commitment for construction financing; and~~
- ~~2) Firm commitment for permanent financing; and~~
- ~~3) Firm commitment of all federal, state, and local financing or contributions to the Development; and~~
- ~~5) For Rehabilitation Developments, a letter from the municipality indicating that the relevant board or commission has reviewed the proposal including the level of rehabilitation work to be completed; and~~
- ~~6) If a historic Development approval from State Historic Preservation Office (SHPO); and~~

~~To be considered a firm commitment, the document must contain the term(s), conditions, interest rate, disbursement conditions, security requirements, repayment provisions and be executed by the applicant and the lender. The commitment letter must contain the verbiage; “this is a firm commitment for construction/permanent financing of the referenced development”. Only conditions as noted above will be acceptable as conditions contained in the commitment letter. All other conditions must receive prior approval from the Authority at least ten (10) days before submission of tax credit application. The commitment letter must be effective for not less than the term of the application cycle plus the proposed construction period.~~

~~**Maximum Number of Points** **2**~~

~~d. The Development has completed an Environmental Phase I and has submitted the results with its application.~~

~~**Maximum Number of Points** **1**~~

5. Market

a. “Difficult to Develop Area”

Development is located in a "qualified census tract" of a metropolitan statistical area or a “difficult development area” as designated by the Secretary of HUD for the RHTC program, or an Area of Chronic Economic Distress as designated by the State and approved by the Secretary of the Treasury and the Secretary of HUD. (See [Appendix F Schedule C](#)).

Required Documentation: To receive points, the Applicant must provide census tract map. Place in tab I.

Maximum Number of Points	3
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b. Local Housing Needs

The total number of RHTC and/or Bond units (including those that have received funding, are under construction, and are placed in service) is between a half percent (1/2 %) and one and a half percent (1½ %) of the Town/City population (2000 Census Data) and does not exceed 1200 units will receive 2 points.

OR

The total number of RHTC and/or Bond units (including those that have received funding, are under construction, and are placed in service) is less than a half percent (1/2 %) of the Town/City population (2000 Census Data) and does not exceed 700 units will receive 4 points ~~Local Housing Needs~~

Required Documentation: The owner must certify to the amount of tax credit and bond units in the city/town. Form F and a listing of all of the tax credit and bond Developments with number of units in each in the city/town attached to the completed form is required to receive these points. (A listing of the units is available on IHFA’s website at www.indianahousing.org.) Place in tab C.

~~Town or city with an affordable housing shortage as provided in the market study that has less than the following total RHTC and/or Bond units including those under construction.~~

Development location	Number of units
Large City	700 units or less
Small city	300 units or less
Rural	100 units or less

Maximum Number of Points	4
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c. Subsidized Housing Waiting List

Owner/Applicant-executes and provides to the Authority a written agreement **signed and agreed to by all parties** with the local or regional public housing representative agreeing to give priority to households on waiting lists for subsidized or public housing.

Required Documentation: The Applicant and local or regional public housing representative must enter into an agreement whereby the owner agrees to: 1) give priority to households on waiting lists for

subsidized or public housing; and 2) notify the local or regional public housing representative when vacancies occur at the Development.

The local or regional public housing representative must agree to: 1) refer qualified households to the Development; and 2) notify households on the waiting list of vacancies and the priority given to such households at the Development.

The Agreement must be signed and agreed to by all parties (the owner and the appropriate official for the local or regional public housing representative). Place in tab R.

Maximum Number of Points	3
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d. Economic Development

Points will be awarded to Developments that specifically contribute to the economic need of a community, further the community's economic goals, and/or are part of a larger economic development plan.

Required Documentation: A Development that receives a letter from the highest local elected official that states specifically: 1) the community's economic goals and needs; and 2) how the proposed Development will contribute to the economic need of the community and further the community's economic goals. If the Development is part of a larger economic development plan, a copy of the community's economic development plan must be submitted with the letter. An inducement resolution for bond volume will NOT be sufficient to receive points in this category. Place in tab W.

Maximum Number of Points	2
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e. Community Rehabilitation Preservation

The Development's rehabilitation will support community preservation. The Development must be at least 75% rehabilitation, a HOPE VI transaction, or a scattered site infill housing that conforms to the existing neighborhood.

Required Documentation: 1) A letter from the highest local elected official which specifically: a) describes the Development and the plans for its preservation b) defines the neighborhood or area; c) describes intended uses; and d) states the Development's rehabilitation compatibility to the area, and materially benefits the neighborhood or area; AND 2) A certification from the architect detailing how the Development will conform to the surrounding neighborhood; and 3) -If a HOPE VI transaction, a copy of the approval letter from HUD for the HOPE VI funds must be included. The Development must be 100% rehabilitation or a HOPE VI transaction. Place in tab U.

Maximum Number of Points	3
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f. Lease Purchase

Development that will offer homeownership opportunities to qualified tenants after initial 15-year compliance period (Please see IRS Rev. Ruling 95-49 and of Schedule A-Schedule D, attached). This option is not available for elderly Developments.

Required Documentation: The following must all be placed in tab S: 1) A detailed outline of the lease-purchase program; and 2) the lease-purchase agreement, **signed and agreed to by all parties, with the organization that will implement the lease-purchase program.**

Maximum Number of Points	2
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6. Other

a. Minority Business Enterprise (MBE) Participation and Women Business Enterprise (WBE) Participation

Minority Business Enterprise and Women Business Enterprise, including D/MBE (Disadvantaged Minority Business Enterprise), and (Disadvantaged Woman Business Enterprise) and DMWBE (Disadvantaged Minority Woman Business Enterprise), means as an individual, partnership, corporation, or joint venture of any kind that is owned and controlled by one or more persons who are: (a) United States Citizens and (b) Members of a racial minority group or female in gender as evidenced by certification from the Indiana Department of Administration, Office of Minority Development. (The Authority understands that this Department does not issue certifications for housing. However, the certification from this Department is acceptable.) “Owned and controlled” means having for: (i) owners and developers: (a) ownership of at least 51% of the enterprise (stock of a corporation; interest in a limited liability company; or general partner of a limited partnership); (b) control over the management and active in the day to day operation of the business; (c) an interest in the capital, assets and profits and losses of the business proportional to the percentage of ownership; and, (d) materially participates in the Development or management of the Development; or (ii) contractors and management entities: (a) ownership of at least 51% of the enterprise (stock of a corporation; interest in a limited liability company; or general partner of a limited partnership); (b) control over the management and active in the day to day operation of the business; and, (c) an interest in the capital, assets and profits and losses of the business proportional to the percentage of ownership. **Points will be awarded for one (1) point per certification submitted.** Points will be awarded as follows:

- | | | |
|----|---|---|
| 1) | Owner (controlling interest in general partner) | 1 |
| 2) | Developer | 1 |
| 3) | Management Entity (Minimum 2 year Contract)* | 1 |
| 4) | Contractor | 1 |

*Management Entity must have control over all management activities for the Development. The management agent listed on the application must be used by the owner of the Development for at least two years after Development’s completion unless the agent is guilty of material non-performance of duties. Upon notification to the Authority, a substitution of management agent prior to the 2 year period may be permitted in the sole discretion of the Authority.

Required Documentation: The following must be placed in tab T: ~~In support of the MBE/WBE categories, you must submit with your Rental Housing Finance Application~~ 1) a) All applicable Development, management and contractor agreements (complete with fee structure) and the names and addresses of all owners, principals and their respective affiliation; and 2) A copy of the entity’s certification from the Indiana Department of Administration.-

Maximum Number of Points	2
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b. Unique Features or Circumstances

~~Applicant has submitted written evidence that~~ The Development has unique features ~~that that go over and beyond and~~ contribute to the Development of affordable housing in the community where the Development is located. This would include the unit and common area amenities. Points are awarded relative to other Developments being scored during each Application cycle. (may be awarded ½ point increments)

Required Documentation: The Applicant must provide a detailed description of all unique aspects of the physical Development (i.e. design, amenities, services, etc.), the ownership/partnership structure, financing structure, etc. Place in tab P.

Maximum Number of Points	3
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c. Services

Services should be tailored to the needs of the targeted clients and preference will be given to those Applicants offering the services on-site and at no cost to tenants. Consideration will also be given to Applicants that provide a majority of services off-site due to special circumstances.

1) Applicants proposing moderate services with firm commitments for 3 years effective at the placed in service date (defined scope of services proposed, signed commitments by all parties, with some evidence of coordination, and a financing plan) will receive ~~1.5~~ 1 points.

or

2) Applicant proposes exceptional services with firm commitments for 4 or more years effective at the placed in service date (wider scope of services proposed, signed commitments by all parties, with some evidence of coordination, and a financing plan), will receive 2 points.

Required Documentation: Written agreements with qualified organizations evidencing types of optional services to be provided to the residents of the Development (e.g. on-site day care service, credit counseling, learning centers, access to computer hardware and software, transportation, health screening, meal service, etc.). To receive points, the agreement must be **signed and agreed to by all parties** and include: 1) the term of the agreement; 2) the defined scope of service; 3) cost, if any, to the tenants; 4) frequency of service; and 5) financing plan. Place in tab Q.

Maximum Number of Points	2
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H. Miscellaneous

1. For 2004, Rental Housing Tax "Credits" will be reserved in one (1) scheduled Application and Reservation cycle. The cycle is tentatively scheduled as follows:

Rental Housing Tax Credits

Application Deadline Date

Reservation Date



Note: The actual reservation date will correspond to the respective monthly meeting date of the Board of Directors of the Authority.

In addition to the above Application and reservation cycle, the Authority will prepare a waiting list of Developments which have applied for and have not been awarded RHTCs and Bonds during the scheduled round depending upon the remaining availability of RHTCs and Bonds to be allocated, including additional RHTCs which may be allocated to the State of Indiana from the Federal Government, and those rescinded or returned to the Authority, and to the extent practicable.

Private Activity Bonds

The Authority will hold an open round for bond volume. Applications must be submitted by the first business day of each month from February 2, 2004 through July 1, 2004 or until no volume is available to award. Awards will be made at the next scheduled Board of Directors meeting of that month (i.e. an Application submitted by March 1, 2004, will be presented to the Board at the February Board meeting if recommended for funding. Likewise, an application submitted on March 2, 2004, will be presented at the March Board of Director's meeting.)

Applications for RHTCs and bond volume must be received and date stamped by the Authority no later than 5:00 p.m. local time on or before the Application deadline dates noted above. **Applications received after such time and incomplete Applications will not be considered.**

The Authority will not provide verbal reports of the current status of a Development during the review process.

2. Fees

All fees paid to IHFA must be by cashier or certified check or money order. No exceptions.

- a. All Applicants must submit a non-refundable Application fee with each Application as a condition of having the Development considered. Application fees for 2004 are as follows:

\$1,000 for Developments with 25 or fewer units

\$1,500 for Developments with more than 25 units

\$1,500 for all Developments with tax-exempt financing

~~Any application fee returned for insufficient funds will disqualify the Application from competing for funding.~~

- b. Conditional Commitment Reservation Fee

Applicants receiving a reservation of RHTCs for a proposed Development from the Authority must pay a **non-refundable** reservation fee to the Authority within fifteen business (15) days after the date of a Conditional Commitment. **This fee is payable in addition to the Application fee and equals six percent (6%) of the annual amount of RHTCs for the**

Development. For example, if a Development is to receive \$10,000 of RHTCs annually, then the Applicant must pay a reservation fee of \$600.

~~Any reservation fee returned for insufficient funds will rescind any reservation of RHTCs.~~

c. Additional Fee(s)

The Authority will assess the Development and/or Applicant the reasonable costs (including any costs and fees it may incur) for additional or extraordinary services requested by or required of any Applicant, owner or Development. All such assessments must be paid prior to any final allocation of RHTCs (i.e. the issuance of IRS Form 8609) or before any subsequent application will be considered, whichever should first occur.

The following is a fee schedule for typical services, however, this schedule is not all inclusive:

\$500 for changes in the characteristics of the Development, such as unit type, distribution, or targeting, or for changes to scoring criteria.

\$1,500 for changes in the ownership structure or changes in the name of the ownership entity; or for requests for extensions for meeting special conditions set forth in the Reservation Letter.

\$1,000 for issuance of amended IRS Form(s) 8609 due to an error in the submission of final Allocation documentation.

\$1,000 for an amended Carryover Allocation resulting from a change in the building identification numbers or other modification (i.e. legal description errors, etc.).

The fee for these services should be included with the request and must be received before IHFA will proceed with its review/process.

4) Use of forms

The Authority **requires** the use of the forms included in the Forms section of this QAP. Any deviations from or changes to the language will revoke the Rental Housing Finance application and/or award. Owners who have received an allocation in prior years must use the most recent forms, irrespective of the year the allocation was received.

5) Conditional Commitments

If an Applicant receives a reservation of Rental Housing financing, the reservation is subject to the following conditions, which must be timely completed and satisfied:

- a. Payment to the Authority, in good funds, of the required **nonrefundable** reservation fee of 6% of the annual Credit amount reserved for the Development within 15 business days from the date of the Conditional Commitment.
- b. Pursuant to the Application, the items listed below must be timely submitted to and approved by the Authority within one hundred fifty (150) days after the letter notifying the Owner of conditional reservation:

- An ALTA (or ILTA) survey;
- Building Permit or Documentation of Status Approval;
- Site Plan Approval by Locality;
- Construction Contract;
- Documentation as to the Percent Completion of Plans and Specifications;
- State Approval of Plans & Specifications;
- Federal I.D. Number of Ownership Entity;
- Development Agreement with Fee Structure;
- IHFA name and logo prominently displayed on funding source signage;
- Monthly Development updates will be required as a condition of the Conditional Commitment;
- The Owner must demonstrate that an adequate amount of funds which, together with your financing, will be sufficient to complete the construction and/or rehabilitation of the Development.
- The Owner must demonstrate that the Development, Development Owner and all other members of the development team (including, without limitation, the construction contractor and management agent) are and shall continue to be in compliance with all federal, state and local laws, regulations, rules and other requirements applicable to the Development, Development Owner and the respective parties comprising the development team.
- Other documentation as required by the Authority

5. Change in Ownership

IHFA Board of Directors must approve any change in ownership or transfer request if made prior to the issuance of IRS Form 8609 for any Development that has received an allocation of Rental Housing Financing and/or Bonds.

Failure to notify the Authority of changes in ownership for RHTCs and/or Bonds after the issuance of IRS Form 8609 could result in the allocation being rescinded and/or possible non-compliance issues.

See Schedule B for IHFA's Ownership Change procedures.

6. Development and/or Applicant/Owner Modifications

Modifications to the Development that affect threshold requirements, and/or scoring items in the Allocation Plan in any way without prior written approval from the Authority may result in a reduction and/or rescission of the Authority funding (including private activity tax-exempt bonds).

7. Applying for RHTCs with other Rental Housing Financing

In the event that an Application is competitive for RHTCs but either (1) the Application fails the HOME and/or LIHTF threshold review; or (2) HOME and/or LIHTF funds are not available, IHFA will allow the Applicant to submit additional information to identify other means of filling the Development's financing gap. Upon timely receipt of satisfactory information, these applications will continue to be allowed to compete for an allocation of RHTCs.

8. Carryover Allocations

If the Applicant intends to request a carryforward allocation for 2004 Credits, all necessary requirements of the Carryover election must be met and the documentation submitted to the Authority no later than November 12, 2004.

The Applicant must certify that the reasonable expected basis in the development is more than 10% as of the later of the date, which is 6 months after the date the allocation was made or the close of the calendar year in which the allocation is made. The anticipated reasonably expected basis in the development, which is more than 10% is required at the time the carryforward election is made. See Carryover Agreement and Ten Percent (10% Letter), Form M.

The Authority requires the use of the forms provided with this QAP. Any deviations from or changes to the language will revoke the Rental Housing Finance Application and/or award.

9. Issuance of IRS Form 8609 (“8609”)

IRS Form 8609(s) will only be issued once. However, in exceptional circumstances the Authority may, in its sole discretion and upon receipt of additional fees (as determined by the Authority) elect to review additional circumstances that may allow for the issuance of amended IRS Form 8609(s). All documents requested shall be submitted to the Authority in a timely manner as defined by the Authority.

The entire Final Application and Final Cost Certification package to request IRS Form 8609 in a form acceptable to the Authority must be submitted as soon as possible after the Development has been placed in service but no later than six months following the issuance of the Certificate of Occupancy /Substantial Completion for the Development.

Within one year prior to a request for and issuance of IRS Form 8609 the property management staff assigned to the Development and the owner of the Development must receive an IHFA Rental Housing Tax Credit Compliance Seminar completion certificate. The Management Agreement between the owner and the management company must be for a minimum of two (2) years effective at the “placed in service date”, as evidenced in the management agreement. Upon notification to the Authority, a substitution of management agent prior to the expiration of the two (2) year period is permitted if the management agent is guilty of material nonperformance of its duties. However, if replacement of the management agent is warranted and the Development received points for Minority Owner Business Enterprise (MBE) or Woman Owned Business Enterprise (WBE), the new management must also satisfy these criteria.

~~Upon completion of the Development,;~~

~~The owner must submit at a minimum the following documentation to the Authority~~ within six (6) months from the time the Development is placed in service:

- Pre-8609 Physical Inspection Request Form – this form should be submitted as soon as possible after placed in service. IHFA will then conduct a physical inspection of the property. All items from the physical inspection must be addressed before IHFA will issue IRS Form 8609. See Form L.
- Completed Final Rental Housing Finance Application and Cost Certification (most current version);
- Certificate(s) of Occupancy for each building in the Development, or Certificate(s) of Substantial Completion for all rehabilitation Developments;
- All permanent (closing) financing documents ~~if available (if not must provide within ten business days of execution.);~~
- All construction financing documents;
- Current partnership agreement or limited liability company operating agreement, including all exhibits and schedules executed by the limited and general partners or managing member;
- Original executed recorded Declaration of Extended Low Income Housing Commitment, executed by owner, lender and the Authority;
- IHFA Rental Housing Tax Credit Compliance Seminar Certificate. Owner and management agent must have attended within the last year;
- Executed Development Agreement;

- Copy of deed showing partnership as owner;
- Executed Management Agreement;
- Photograph of completed Development (exterior and interior); and
- Any other documents that the Authority may require in determining the final amount of RHTCs to be allocated to the Development and the Development's conformance with the requirements of Section 42.

The Authority anticipates mailing out IRS Form 8609(s) up to 90 working days after the requested materials have been submitted to the Authority. Incomplete or insufficient documentation will result in a delay of the 8609 issuance.

10. Dissemination of Information

Any Applications of Developments which received an allocation of Rental Housing Tax Credits or Private Activity Tax Exempt bonds without attachments exhibits, are available for dissemination and publication to the general public.

To request a copy of a funded application for Rental Housing Tax Credits or Private Activity Tax Exempt bonds, you must:

- Submit your request in writing with a postage paid envelope for \$ 1.81 for each application request or your account number for FedEx or Airborne Express.
- The name(s) of each development.
- Include a check made payable to the Indiana Housing Finance Authority in the amount of \$ 4.40 (.10 per page) for each application. (If requesting multiple applications, multiply this amount times the number of applications you are requesting), to cover appropriate copying costs.
- Send your request to the IHFA – ATTN: Tax Credit Assistant, 30 South Meridian St., Suite 1000115 West Washington Street, South Tower, Suite 1350, Indianapolis, IN 46204

No request will be processed without the above information. Please allow a minimum of ten (10) days for processing for each request.

11. If the potential development has an open HOME, CDBG, or LIHTF award through the Housing from Shelters to Homeownership program, the applicant may request funding through the QAP; however IHFA must approve this action prior to the application deadline. Requests will be reviewed and underwritten on a case by case basis. If the application is re-underwritten, the applicant will be subject to an underwriting fee. Applicants may be required to deobligate, repay, or reduce the amount of their current award prior to the application deadline. Applicants must request approval at least 30 days prior to the application deadline.

List Of Schedules

- A** Rental Housing Tax Credit Compliance Manual
- B** Policies and Procedures Regarding Transferability of Rental Housing Tax Credits
- C** Market Study and Fair Market Appraisal Requirements
- D** Private Activity Tax-Exempt Bond Financing (“Bonds”) Requirements
- E** Procedures for Accessing HOME Funds
- F** Procedures for Accessing a Trust Fund Loan
- G** Glossary
- H** Capital Needs Assessment
- I** Application Package Submission Guidelines

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2004

Rental Housing Tax Credit Compliance Manual



Indiana Housing Finance Authority

Indiana Rental Housing Tax Credit Compliance Manual

Preface

This manual is a reference guide for the compliance monitoring of the Rental Housing Tax Credit Program (RHTC). It is designed to answer questions regarding procedures, rules, and regulations that govern RHTC Developments. This manual should be a useful resource for Owners, Developers, Management Companies, and on-site management personnel. It provides guidance with respect to Indiana Housing Finance Authority's (IHFA's) administration of monitoring for compliance under Section 42 of the Internal Revenue Code of 1986 and the Treasury Regulations thereunder (the "Code") (See Appendix A).

In order to realize the benefits afforded by the RHTC Program, it is essential that each building remain in compliance. An especially critical time to ensure compliance is at the time of initial lease-up. Errors made in the screening of applicants for eligibility may have serious implications on the future viability of that building.

IHFA and its monitoring staff are committed to working closely with Owners, management agents, and on-site personnel to assist them in meeting their compliance responsibilities.

Please note, however, that this manual is to be used only as a supplement to compliance with the Code and all other applicable laws and rules. This manual should not be considered a complete guide to RHTC compliance. The responsibility for compliance with Federal program regulations lies with the Owner of the building for which the Rental Housing Tax Credit is allowable.

Because of the complexity of RHTC regulations and the necessity to consider their applicability to specific circumstances, Owners are strongly encouraged to seek competent professional legal and accounting advice regarding compliance issues. **IHFA's obligation to monitor for compliance with the requirements of the Code does not make IHFA or its subcontractors liable for an Owner's noncompliance.**

Disclaimer

The publication of this Manual is for convenience only. Your use or reliance upon any of the provisions or forms contained herein does not, expressly or impliedly, directly or indirectly, suggest, represent or warrant that your Development will be in compliance with the requirements of the Internal Revenue Code of 1986, as amended. The Indiana Housing Finance Authority and contributing authors hereby disclaim any and all responsibility of liability which may be asserted or claimed arising from reliance upon the procedures and information or utilization of the forms in this manual. You are urged to consult with your own attorneys, accountants, and tax consultants.



Section 1 – Introduction

Part 1.1 Background of the RHTC Program

In 1986, Congress enacted the Rental Housing Tax Credit (RHTC) Program. This program provides incentives for the investment of private equity capital in the development of affordable rental housing. The RHTC reduces the Federal tax liability of Development Owners in exchange for the acquisition, rehabilitation, or construction of affordable rental housing units that will remain income and rent restricted over a long period. The amount of RHTC allocated is based on the number of qualified low-income units that meet Federal rent and income targeting requirements.

The RHTC is authorized and governed by Section 42 of the Internal Revenue Code of 1986, as amended (“Code”). The Indiana Housing Finance Authority (IHFA) is the designated “housing credit agency” to allocate and administer the RHTC Program for the entire state.

Each state develops a Qualified Allocation Plan (“QAP”), which establishes the guidelines and procedures for the acceptance, scoring, and competitive ranking of applications and for the administration of the RHTC Program. The Indiana QAP is developed to be relevant to state housing needs and consistent with state housing priorities. A copy of Indiana’s QAP is attached at Appendix C of this Manual. This Manual is part of the QAP.

Part 1.2 Contents and Summary

Section 42 of the Code requires that each state’s Qualified Allocation Plan provide a procedure that the agency will follow in notifying the Internal Revenue Service (IRS) of any noncompliance with the provisions of Section 42 of which it becomes aware. This provision became effective on January 1, 1992.

Final regulations developed by the IRS and published on September 2, 1992, and January 14, 2000, outline minimum requirements for Owner record keeping and reporting, state credit agency monitoring and inspecting, and reporting to the IRS instances of noncompliance (See Appendix A).

Indiana’s compliance monitoring plan follows the final regulations, as well as the recommendations of the National Council of State Housing Agencies (NCSHA), and is applicable to all Owners of all buildings which have ever claimed the Rental Housing Tax Credit since the inception of the program in 1987.

Part 1.3 Compliance Period

Once allocated by the housing credit agency, Rental Housing Tax Credits can be claimed annually over a ten (10) year period (“Credit Period”) beginning either with the year the building is placed in service or the following year, depending on which option is selected by the Owner. Developments must, however, remain in compliance for a minimum of fifteen (15) years. Additionally, Owners who agreed in their Final Applications to have longer Compliance Periods will be bound for the length of time specified.

A. Compliance Period For All RHTC Developments

All Developments receiving a Credit allocation since 1987 must comply with eligibility requirements for a period of 15 taxable years beginning with the first taxable year of a building’s Credit Period (the “Compliance Period”).

B. Compliance Period For Credit Allocations After December 31, 1989

Developments receiving a Credit allocation after December 31, 1989, will have entered into a Declaration of Extended Low-Income Housing Commitment with the Indiana Housing Finance Authority (IHFA) at the time a final allocation of Credit was issued (IRS Form 8609). These Developments must comply with eligibility requirements for an Extended Use Period. The Extended Use Period is either an additional 15 years beyond the 15-year Compliance Period (a total of 30 years), or the date specified in the Declaration of Extended Low-Income Housing Commitment, whichever is longer.

Earlier termination of the Extended Use Period is provided for under certain circumstances in the Code. However, if a Development received ranking points for delaying enactment of such earlier termination, the Owner will be bound by this election in the Declaration of Extended Low-Income Housing Commitment.

C. Compliance Period For Credit Allocations for 1987 through 1989 Only

As stated above, Developments receiving a credit allocation prior to January 1, 1990, have a 15-year Compliance Period. However, any building in such a Development that received an additional allocation of credit after December 31, 1989, must comply with eligibility requirements in effect beginning January 1, 1990, and will also be bound by a Declaration of Extended Low-Income Housing Commitment (Revenue Ruling 92-79).

The one exception to post 1989 eligibility requirements is in calculation of rents. The rent calculation is based on 1.5 persons per bedroom. However, eligibility for occupancy is still based on the number of people occupying that unit.

Section 2 – Responsibilities

The entities/persons involved in the compliance of the RHTC Program are IHFA, the Development Owner, and the Management Company. The various responsibilities for these entities/persons are set forth below.

Part 2.1 Responsibilities of the Indiana Housing Finance Authority

The Indiana Housing Finance Authority (IHFA) allocates and administers the RHTC program for the State of Indiana. The responsibilities of IHFA are as follows:

A. Issue IRS Form 8609 (Low-Income Housing Certification)

An IRS Form 8609 is prepared by IHFA for each building in the Development. Part I of the Form is completed by IHFA and then sent to the Owner when the Development is placed in service and all required documentation is received by IHFA.

The Owner must complete Part II of the Form in the first taxable year for which the credit is claimed. After completion of Part II, a copy of the Form is sent to the RHTC Compliance Department of IHFA. The original is sent to the IRS with the Owner's personal, partnership, or corporate tax returns in the first taxable year in which the Credit is claimed and each year thereafter in the Compliance Period. IHFA will not issue an IRS Form 8609 for each year of the Compliance Period. Therefore, before signing and dating Part II of the Form, the Owner should make copies of it.

Owners are strongly encouraged to consult with their legal and/or tax advisors for advice on completing and filing IRS tax forms. IHFA will not give legal or tax advice on the filing or completion of any tax forms.

The issuance of the IRS Form 8609 begins the compliance monitoring period. A sample copy of IRS Form 8609 is included in Appendix B.

B. Review Declaration of Extended Low-Income Housing Commitment

IHFA will review the Declaration of Extended Low-Income Housing Commitment prior to issuance of the IRS Form 8609 for each property. This document must be recorded before the end of the calendar year in which the Credit is first claimed. When the original recorded document is returned to IHFA with the Final Application and all fees have been paid, the IRS Form 8609 will be sent to the Owner if everything is appropriate and satisfactory to IHFA.

C. Review Annual Owner Certifications

For information on Annual Owner Certification, see Section 5, Part 5.4

D. Conduct File Monitoring and Physical Unit Inspections

IHFA will perform a file review for each development at least every three years.

Owners of the selected Developments will be required to provide detailed information on Tenant income and rent for at least 20% or more of the low-income units in the Development. Information to be reviewed will include, but is not limited to, the Annual Income Certifications, the documentation received to support those certifications, and rent records. Owners must provide **organized** tenant files to IHFA with documentation in chronological order. For more information on monitoring, see Section 5, Part 5.6.

IHFA also retains the right either by a third party inspector contracted by IHFA or by IHFA staff to perform a physical inspection of any low-income building and/or unit at any time during the Compliance and Extended Use Periods with or without notice to the owner.

E. Notify IRS of Noncompliance

IHFA will notify the IRS of instances of potential noncompliance. For information on noncompliance, see Section 6, Part 6.6.

F. Retain Records

IHFA will retain all Owner Certifications and records for not less than three years from the end of the calendar year in which they are received. IHFA will retain records of noncompliance or the failure to certify compliance for six years after its filing of an IRS Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance.

G. Conduct Training

IHFA will conduct or arrange compliance training seminars and will disseminate information regarding the dates and locations of such seminars. In addition, IHFA RHTC staff can be contacted at:

Rental Housing Tax Credit Compliance Department
Indiana Housing Finance Authority
30 South Meridian Street, Suite 1000115 W. Washington St.

~~South Tower, Suite 1350~~

Indianapolis, IN 46204

Telephone: (317) 232-7777

Fax: (317) 232-7778.

H. Possible Future Subcontracting of Functions

It is currently the intent of IHFA to perform all file reviews listed above and outlined in the Regulations governing this program. IHFA may, however, at some future time, decide to retain an agent or private contractor to perform some of the responsibilities listed above, in its sole discretion. Owners will be notified of the name and contact persons of the private contractor.

Part 2.2 Responsibilities of Development Owner

Each Owner has chosen to utilize the Rental Housing Tax Credit Program to take advantage of the available tax benefits. In exchange for these benefits, certain requirements must be met by the Owner that will benefit low-income Tenants.

Owners have provided comprehensive Development information with evidence of overall economic feasibility. Prior to issuance of a final Credit Allocation, the Owner must certify to the total development costs in such form, manner, and detail that IHFA may from time to time prescribe. The Owner must also certify that all RHTC Program requirements have been met. Any violation of RHTC Program requirements could result in the loss of Credit allocated.

Responsibilities of Development Owners also includes, but is not limited to:

- A. Leasing RHTC units to Section 42 eligible Tenants**
- B. Charging no more than the maximum RHTC rents (including utilities)**
- C. Maintaining the property in habitable condition**

The Owner is responsible for ensuring that the RHTC Development is maintained in a decent, safe, and sanitary condition in accordance with appropriate standards. Failure to do so is a reportable act of noncompliance.

- D. Complying with IRS & State record-keeping requirements**

The Owner of any building for which Credit has been or is intended to be claimed must keep records that include all of the information set forth below, on a building basis, for a minimum of six years after the due date (with extensions) for filing the Federal income tax return for that year. However, the records for the first year of the Credit Period must be kept for six years beyond the filing date of the Federal income tax return for the last year of the Compliance Period of the building.

The records must include the following:

- The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- The percentage of residential rental units in the buildings that are low-income units;
- The rent charged on each residential rental unit in the building and the applicable Utility Allowance;
- The number of occupants in each low-income unit;
- The low-income unit vacancies in the building and information that shows when and to whom the next available units were rented (this information must include the unit number, Tenant name, move-in dates, and move-out dates for all Tenants, including market rate Tenants);

- The income certification of each eligible person in the Household;
- Documentation to support each eligible Tenant's income certification;
- The Eligible Basis and Qualified Basis of the building at the end of the first year of the Credit Period; and
- The character and use of the nonresidential portion of any building included in the Development's Eligible Basis (for example, any community building, recreational facility, etc. available to all Tenants and for which no separate fee is charged).

E. Attending Indiana's RHTC Compliance Seminar or other RHTC training at least once during each calendar year.

F. Being knowledgeable about:

- The credit year of the Development;
- Placed-In-Service Dates;
- Relocation of existing Tenants, if applicable;
- The Minimum Set-Aside elected (20/50, 40/60, or 15/40);
- The percentage of the units that are RHTC eligible, or floor space that is RHTC eligible;
- The year that Credit was first claimed;
- The terms under which the RHTC reservation was made; and
- The Building Identification Number (BIN) of each building in the Development.

G. Complying with the terms of the Initial and Final Applications;

H. Remitting monitoring fees in a timely manner;

I. Reporting to IHFA any changes in ownership or management of the property;

If a change in ownership occurs, a detailed description of the change must be provided in writing to IHFA .

In addition, the Owner must notify IHFA immediately in writing of any changes in the ownership composition or in the management agent, such as name, address, and telephone number.

J. Preparing and submitting Annual Owner Certifications;

The Owner of any building(s)/Development which has claimed or plans to claim Rental Housing Tax Credits must certify to IHFA, under penalty of perjury, annually, for each year of the Compliance Period, on IHFA's Owner Certification form.

K. Training on-site personnel; and

The Owner must make certain that the on-site management knows, understands, and complies with all the Code applicable rules, regulations, and policies governing the Development.



L. Notifying IHFA of any noncompliance issues.

If the Owner and/or management agent determines that a building or an entire Development is not in compliance with RHTC Program requirements, IHFA should be notified immediately. The Owner and/or management agent must formulate a plan to bring the Development back into compliance and advise IHFA in writing of such a plan.

M. Provide all pertinent property information to the management company (i.e. Final Application for rental housing financing, Declaration of Rental Housing Tax Credit Commitment.

2.3 Responsibilities of the Management Company & On-site Personnel

The Management Company and all on-site personnel are responsible to the Owner for implementing the RHTC program requirements properly. Anyone who is authorized to lease apartment units to Tenants should be thoroughly familiar with all federal and state laws, rules, and regulations governing certification and leasing procedures. It is also important that the Management Company provide information, as needed, to IHFA and submit all required reports and documentation in a timely manner.

The Owner is ultimately responsible for compliance and proper administration of the RHTC Program.

Section 3 – Regulations

The following section highlights some of the statutory and regulatory provisions directly affecting Development compliance. **The following is not meant as an exhaustive listing of compliance regulations.**

Part 3.1 Calculating and Claiming the RHTC

A. The Annual RHTC Amount

The maximum amount of Credit that can be allocated is calculated by multiplying the “Eligible Basis” by an “Applicable Fraction” to ascertain the “Qualified Basis” and then multiply by the “Applicable Credit Percentage.”

QUALIFIED BASIS = Eligible Basis X Applicable Development Fraction

ANNUAL RHTC = Qualified Basis X Applicable Credit Percentage

The annual credit allocated may not exceed this amount; however, it may be less if IHFA determines that this maximum amount is not necessary.

(For definitions of Qualified Basis, Applicable Fraction, and Applicable RHTC Percentage, see the Glossary in Section 7.)

In addition, the Credit amount allocated to each building in a Development is partially calculated on the following criteria:

1. The Eligible Basis is assigned to a building at the time of final Credit allocation (issuance of IRS Form 8609). Although the Owner apportions the amount of Eligible Basis for each building on its Allocation Certification Request to IHFA, the total Eligible Basis of the Development will be limited by the total amount of Credit that IHFA actually allocated to the Development. In calculating the Credit amount for each building, IHFA may adjust the Owner’s Eligible Basis apportionment per building so as not to exceed the maximum Credit amount allocated to the Development.
2. The Applicable Fraction is assigned to a building at the time of final Credit allocation (issuance of IRS Form 8609). This fraction is defined by the Code as the lesser of:
 - a. low-income units to total units (whether or not occupied) in a building; or
 - b. total floor space of low-income units to total floor space of total units (whether or not occupied in a building).

B. Claiming RHTC in the Initial Year



The Credit is claimed annually for ten years and the Credit Period can begin in the year that the building is placed in service (or the following year if there is an election to defer the Credit Period). During the first year of the Credit Period, the low-income occupancy percentage is calculated on a monthly basis. The calculation begins with the first month in which the Development was placed in service even though the building may not be occupied during that month. Occupancy for each month is determined on the last day of the month.

An IRS Form 8609 is completed for each building in the Development receiving RHTCs and is filed with the taxpayer's return for the first year of the Credit Period. Owners can elect to defer the start of the Credit Period by checking the appropriate box on the IRS Form 8609. A sample copy of Form 8609 and its instructions are located in Appendix B.

C. Initial Year Prorate

A Development claiming Credit in the initial year of occupancy is subject to a special provision that limits the Credit to a proportionate amount based on average occupancy during the year.

For example: If one-half of the low-income units were occupied in November and the remaining one-half were occupied in December, the building would be treated as being in service for 1.5/12 (12.5% - all for December and half for November) of the year for a calendar year partnership. In the 11th year, the disallowed credit of 10.5/12 (87.5%) could be claimed.

If a qualified low-income Tenant becomes ineligible prior to the end of the initial RHTC year, that unit cannot be counted in the first year toward the Minimum Set-Aside for purposes of determining the Qualified Basis.

D. The Two-Thirds Rule

If an Owner decides to take the RHTC for a property in the initial year when, for example, only 80% of the units are rented to RHTC eligible Tenants, the maximum Qualified Basis for the entire Credit Period would be 80% with the remaining 20% eligible for two-thirds credit if later rented to eligible Tenants.

E. Claiming Credit in the Remaining Years of the Compliance Period

Owners must file an IRS Form 8586 (Low-Income Housing Credit) with the Internal Revenue Service every year in the Compliance Period. This Form indicates continuing compliance and the Qualified Basis of the Development each year of the compliance period. A sample copy of IRS Form 8586 is located in Appendix B.

Part 3.2 Minimum Set-Aside Requirements and Income Limits

A. Minimum Set-Aside Election

By the time Credit is allocated, the Owner has elected one of the following Minimum Set-Aside elections on a Development basis:



1. At least 20% of available rental units in the development must be rented to Households with incomes not exceeding 50% of Area Median Income adjusted for family size.
2. At least 40% of available rental units in the development must be rented to Households with incomes not exceeding 60% of Area Median Income adjusted for family size.
3. At least 15% of available rental units in the development must be rented to Households with incomes not exceeding 40% of Area Median Income adjusted for family size and gross rent for each low-income unit does not exceed 50% of the average gross rent for non low-income units (market units) of comparable size in the development.

The Minimum Set-Aside must be met on a development or building basis depending on the election made by the Owner on IRS Form 8609, Part II. **Once the election of the minimum set-aside is made on IRS Form 8609, it is irrevocable.** Thus, the applicable Minimum Set-Aside and the corresponding rent restrictions apply for the duration of the Compliance Period and Extended Use Period applicable to the Development.

The Owner may have also elected to target a percentage of the units to persons at lower income levels and/or to target a higher percentage (number) of units to low-income persons. These Development Owners must also comply with those elections.

B. Maximum Income Limits

Income Limits for qualifying Tenants depend on the minimum low-income set-aside election the Owner has chosen. Qualifying Tenants in Developments operating under the “20/50” election may not have incomes exceeding 50% of Area Median Income adjusted for family size. Qualifying Tenants in Developments operating under the “40/60” election may not have incomes exceeding 60% of county Median Income adjusted for family size.

The U.S. Department of Housing and Urban Development (HUD) publishes Median Income information for each Indiana county on an annual basis. Upon receipt of this information, IHFA will furnish the new Annual Income Limits and corresponding rent limits. This information is provided by IHFA only for the owner’s convenience as a courtesy. However, it is the responsibility of the Developer/Owner, and not the Indiana Housing Finance Authority (IHFA), to verify its accuracy.

Owners may not anticipate increases in Income Limits and corresponding rents. Limits remain in effect until new annual limits are officially published each year by HUD. Income and Rent Limits are provided in Appendix F.

When determining if a Household’s income is at or below the applicable limit, the income from each adult Household member 18 years or older that will be living in the unit must be included (See Appendix D).

If the Household income of a qualifying unit increases above 140% of the applicable income limitation and the unit initially met the qualifying income requirements, the unit

may continue to be counted as a qualifying unit as long as the unit continues to be rent restricted and the next available unit of comparable or smaller size is rented to a qualified low-income Tenant.

Part 3.3 Maximum Gross Rent

The maximum gross rent is the greatest amount of rent, including Tenant paid utilities except telephone and cable television, which can be charged for a RHTC unit. (See Section 3, Part 3.4 for Utility Allowance information)

A. Developments Allocated Credit After January 1, 1990

Developments receiving RHTC allocations after January 1, 1990, must be rent restricted based on an imputed, not actual, family size. Family size is imputed by number of bedrooms in the following manner:

1. An efficiency or a unit which does not have a separate bedroom – 1 individual; and
2. A unit which has 1 or more separate bedrooms – 1.5 individuals for each separate bedroom.

The maximum gross rent is calculated as 30% of the applicable Median Income for the imputed Household size (notwithstanding that the actual Household size may be different).

For Example:

Income Limits (by Household size)

<u>One Person</u>	<u>Two Persons</u>	<u>Three Persons</u>	<u>Four Persons</u>
\$10,000	\$15,000	\$20,000	\$25,000

The rent for a two-bedroom unit is calculated based on the imputed Household size of three persons (1.5 persons for each of the two bedrooms). Annual rent is 30% of the income limit for the imputed Household size [(\$20,000 x 30%) divided by 12 months equals \$500]. The \$500 amount would be the maximum allowable gross rent regardless of the number of persons actually occupying the two-bedroom unit.

B. Allowable Fees and Charges

Customary fees that are normally charged, such as damage deposits, cleaning deposits, pet deposits, and/or credit deposits are permissible. However, an eligible Tenant cannot be charged a fee for work involved in completing the additional forms of documentation required by the RHTC Program, such as the Certification of Tenant Eligibility.

If after occupying a unit, an eligible Tenant cannot pay the rent, the Owner has the same legal rights in dealing with the income-eligible Tenant as with any other Tenant.

C. Section 8 Rents

Gross rent does not include any payments made to the owner to subsidize the tenants' rent, including Section 8 or any comparable rental assistance program to a unit or its occupants.

D. Amenities and Services

Charges for any mandatory amenities and/or services, such as garages, carports, meals, laundry, rental insurance and housekeeping, must be counted as part of the gross rent for RHTC units. Charges for optional services other than housing do not have to be included in gross rent, but they truly must be optional. Additionally, any services the tenant chooses to pay for that are provided by the Development must be listed in the tenant's lease with the cost of each individual service clearly listed. (See IRS Notice 89-6 and IRS Revenue Ruling 91-38, Appendix A)

Moreover, charges for use of any facility that is in the property's eligible basis are not permitted. For example, a Development may not charge a tenant for the use of a clubhouse or swimming pool if it is included in eligible basis.

Part 3.4 Utility Allowances

The maximum gross rent includes the amount of Tenant paid utilities. Utilities include heat, electric, water, sewer, oil, gas, and trash, where applicable. Utilities do not include telephone or cable television.

When utilities are paid directly by the Tenant (as opposed to the Development), a Utility Allowance must be used to determine maximum eligible unit rent. The Utility Allowance (for utility costs paid by the Tenant) must be subtracted from the maximum gross-rent to determine the maximum amount of allowable Tenant-paid rent.

For example:

If the maximum gross rent on a unit is \$350 and the Tenant pays utilities with a Utility Allowance of \$66 per month, the maximum rent chargeable to the Tenant is \$284 (\$350 minus \$66).

If all utilities are included in the Household's gross rent payment, no Utility Allowance is required. The IRS requires that Utility Allowances be set according to IRS Notice 89-6 (Appendix A). IRS Notice 89-6 lists the different sources of Utility Allowances for RHTC developments, which include the following:

- A. Rural Development Financed Development– Use Rural Development Utility Allowances.
- B. HUD Development Based Subsidy Regulated Buildings – Use HUD approved Utility Allowances.

- C. Individual apartments occupied by residents who receive HUD assistance – Use the HUD Utility Allowance as given by the Public Housing Authority (PHA) administering the assistance for those Tenants only.
- D. Buildings without Rural Development or HUD assistance- Use the PHA Utility Allowance. An interested party may request the utility company estimation of actual utility consumption for each unit of similar size and construction in the building’s geographic area. Such an estimate must be in writing, signed by an appropriate local utility company official, prepared on the utility company’s letterhead, and maintained in the Development file for the Development. Use of the actual utility rates, whether higher or lower, is required once they have been requested.

***NOTE: The Owner must use the most current applicable utility allowance and provide documentation annually.**

Contact the appropriate agency to request current Utility Allowance information. **IHFA does not maintain Utility Allowances.**

To remain in compliance, Owners must utilize a correct Utility Allowance in order to properly determine unit rents. An increase in the Utility Allowance will increase the gross rent and may cause the rent to be greater than the maximum allowable rent, in which case the contract rent must be lowered. When a Utility Allowance changes, rents must be re-figured within ninety (90) days of the effective date of the change to avoid violating the gross rent limitations of Section 42. Utility Allowances need to be reviewed and updated as follows:

- When the rents for a Development or building are changed or there is a change in who pays the utilities;
- Within 90 days of an update by HUD, Rural Development, PHA, or local utility supplier;
- Within 90 days of a change in the applicable allowance (e.g., a new Tenant is receiving HUD Section 8 rental assistance); and/or
- Annually for Developments or buildings with documentation from a local utility supplier.

Part 3.5 Rules Governing the Eligibility of Particular Residential Units

A. Vacant Units

Units that have never been occupied cannot be counted as “low income,” but must be included in the “total units” figure for purposes of determining the applicable percentage. **The transfer of existing Tenants to never-occupied units is not allowed for purposes of meeting the Minimum Set-Aside or Applicable Fraction. ~~in the first credit year of the Development.~~**



When a unit that was occupied by a RHTC eligible Household becomes vacant, RHTC is still available and the unit may be counted toward the set-aside so long as reasonable attempts are made to rent the unit. Vacant units being held for eligible Tenants should be identified in the annual Tenant Income and Rent Report submitted to IHFA. Units cannot be left permanently vacant and still satisfy the requirements of the RHTC program. The Owner or manager must be able to document attempts to rent the vacant units to eligible Tenants.

Vacant units, formerly occupied by low-income individuals, may continue to be treated as occupied by a qualified low-income individual for purposes of the set-aside requirement (as well as for determining qualified basis). However, documented reasonable attempts (i.e. newspaper advertisements, marketing brochures, etc.) must be made to rent the unit and no other units of comparable or smaller size in the development may be rented to non-qualifying individuals until all RHTC units are rented to qualifying Households.

B. Unit Vacancy Rule

Vacant units, formerly occupied by low-income individuals, may continue to be treated as occupied by a qualified low-income Household for purposes of the Minimum Set-Aside requirement (as well as for determining qualified basis) provided reasonable attempts are made to rent the unit and no other units of comparable or smaller size in the project are rented to non-qualifying individuals.

C. 140% Rule/Next Available Unit Rule

If the income of the occupants of a qualifying unit increases to more than 140% of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the following criteria is met: 1) the unit continues to be rent-restricted, and 2) the next available unit of comparable or smaller size in the same building is occupied by a qualified Low-income Household. In Developments containing more than one low-income building, the available unit rule applies separately to each building in the Development.

Noncompliance with the Next Available Unit Rule can have significant consequences even in 100% RHTC buildings. If any comparable unit that is available or that subsequently becomes available is rented to a non-qualified resident, all over-income comparably-sized or larger units for which the available unit was a comparable unit within the same building lose their status as low-income units and are out of compliance with Section 42.

Additionally, should an RHTC property contain units that are set-aside for households at different income levels (i.e. 60% AMI units, 50% AMI units, 40% AMI units, and 30% AMI units), the Owner must apply the 140% rule for each unit type.

For example:

A property contains units set-aside for persons at 40% AMI and 50% AMI. A household of four (4) persons moves into a 40% unit.

40% Income Limit = \$15,000 50% Income Limit = \$16,500

140% Income Limit for 40% units = \$21,000 140% Income Limit for 50% units = 23,100

At re-certification the household's income is \$21,223. Because the household's income has risen 140% above the maximum income limit for their unit type, the next available unit of comparable or smaller size must be rented to a 40% household.

Once a comparable unit is rented to a 40% household, the unit that rose above the 140% income limit may fulfill another set-aside (i.e. the over-income household's rent may be increased to the 50% rent limit).

D. Unit Transfer of Existing Tenants

1. Unit Transfers Within the Same Building

Another issue that can potentially affect continued eligibility is unit transfers. Effective September 6, 1997, the Next Available Unit Rule was modified to allow residents of LIHTC units to transfer to other units ***within the same building*** without having to re-qualify for the program. Also, the vacated unit now assumes the status that the newly occupied unit had immediately before the transfer. This provision applies only to Households under Leases entered into or renewed after September 26, 1997, and is not retroactive. For prior Leases, all transfers, including those within the same building, must have been treated as new move-ins.

The main implication for this change in regulation is that households that are over-income at re-certification have the ability to move into a different unit without being disqualified from the program. However, the transfer must be well documented in the Tenant's file and the Tenant's eligibility must continue to be certified and verified annually as with all RHTC Households.

3. Unit Transfers Outside the Same Building

Should an existing Household desire to transfer to a different RHTC unit outside of the same building, the Household must be treated as a new move-in. All Application, Certification, and Verification procedures must be completed for the transferring of resident(s), including the execution of new income and asset Verifications to determine continued eligibility.

Management is not permitted to transfer qualifying Tenants to non-qualified vacant units in order for the Development to meet the Minimum Set-Aside requirements elected at the time of application. Such action is considered noncompliance with Section 42 of the Internal Revenue Code and will be reported to the Internal Revenue Service (IRS) via IRS Form 8823.

Part 3.6 Rules Governing the Eligibility of Particular Tenants and Uses

A. Household Composition

Household composition may change after the tenant moves into a unit. However, at the time of application the applicant should be asked if household composition will change at all in the next twelve months. If so, the change and any subsequent estimated income should be reflected on the tenant income certification.

Moreover, if all original members of a Household vacate a unit, the Household will no longer be treated as a Qualified Unit if the current Household's income is above the Section 42 limits. To determine if at least one of the original members of the Tenant Household still resides in the unit, Household composition information must include the size of the Tenant Household and the names of all individuals residing in the unit.

B. Student Status

Student status and Household composition must be monitored. A unit that becomes occupied entirely by full-time Students could turn such a unit into a non-qualified Household that is no longer eligible for RHTC's.

Most Households where all of the members are full-time Students are not eligible tenants and units occupied by these Households may not be counted as RHTC units, even if the Household has an income that would qualify under RHTC income limits. A full-time Student is defined by the number of credit hours and the definition of full-time instituted by the school the Student attends.

There are four exceptions to the full-time Student restriction. Full-time Student Households that are income eligible and at least one of the Household members satisfies one or more of the following conditions can be considered an eligible Tenant. A Household comprised entirely of full-time Students may not be counted as a qualified Household under the RHTC Program, unless the Household meets one of the following four exceptions:

1. All Household members are full-time Students, and such Students are married and file a joint tax return;
2. The Household consists of single parents and their children, and such parents and children are not dependents of another individual;
3. At least one member of the Household receives assistance under Title IV of the Social Security Act [Aide to Families with Dependant Children (AFDC) or Temporary Aide to Needy Families (TANF)]; or
4. At least one member of the Household is enrolled in a job training program receiving assistance under the Job Training Partnership Act or similar federal, state, or local laws.

For purposes of qualifying Households containing Students to live in RHTC Developments, IHFA will:

- Consider a single person Household ineligible if he or she is a full-time Student at the time of initial occupancy or will be at any time during the certification period (unless the individual meets one of the student exceptions described above);
- Consider a Household of Students eligible if it includes at least one part-time Student or one Household member meets one of the Student exceptions described above;
- Consider a Household containing full-time Students and at least one child (who is not a full-time Student) an eligible Household;
- Not consider enrollment in kindergarten through 12th grade to be full-time Students; and
- Consider TANF an acceptable Title IV program exception.

In addition, IHFA requires owners to utilize a lease provision in all RHTC units requiring tenants to notify management of any change in Student status.

C. Unborn Children and Child Custody

An owner can count an unborn child when determining Household size and applicable income limits. ~~However, the~~ owner must obtain documentation from the household certifying documentation verifying the pregnancy from a medical professional and **such documentation must exist in the Tenant's file.**

Additionally, when determining Household size, owners should include children subject to a joint custody agreement, who live in the unit at least 50 percent of the time.

D. Managers/Employees as Tenants

Resident manager or employee units may be considered in one of the following ways:

1. The manager/employee unit could be considered a common area or other special facility within the Development that supports and/or is reserved for the benefit of all the rental units provided the employee worked full-time for the Development in which he/she lives. Under this interpretation, the unit would be excluded from the low-income occupancy calculation and the unit could be used by the manager without concern as to the effective rent being charged or the income level of the manager.

OR

2. The manager's unit could be treated as rental unit and the unit could be included in the low-income occupancy percentage calculation for the RHTC building. Under this interpretation, the income level of the manager and the effective rent charged would effect the low-income occupancy percentage calculation for the building.

In Revenue Ruling 92-61, the Internal Revenue Service ruled to include the unit occupied by the resident manager in the building's Eligible Basis, but exclude the unit from the Applicable Fraction for purposes of determining the building's Qualified Basis.

However, the consideration of the resident manager's unit must be specified in the Development's Initial & Final Multifamily Housing Finance Application and must be approved by IHFA. IHFA must approve the use of all manager/employee units.

Additionally, IHFA will consider requests for additional manager/employee units during the Compliance Period for good cause. To request a manager/employee unit the Owner must submit the request in writing with documentation supporting the need for the manager/employee unit.

E. Live-in Care Attendants

A live-in care attendant for a RHTC Tenant should not be counted as a Household member for purposes of determining the eligible income and rent limits. The need for a live-in care attendant must be certified with documentation from a medical professional (i.e. a letter from the Tenant's doctor) included in the Tenant/Unit File. If the qualified Tenant vacates

the unit, the attendant must vacate as well. If an attendant would like to be certified as a qualified Tenant and remain in the unit, normal certification procedures must be performed and the individual must meet the applicable eligibility requirements of the program.

F. Non-Transient Occupancy

Under program requirements, a unit cannot be RHTC eligible if it is used on a transient basis. A unit is deemed to be transient if the initial Lease term is less than six months. There is an exception to this rule for single room occupancy (SRO) Development assisted under the Stewart B. McKinney Act.

SRO housing must have a minimum Lease term of one month. Federal rules allow for month-by-month Leases for the following types of housing:

1. SRO units in Developments receiving McKinney Act and Section 8 Moderate Rehabilitation Assistance;
2. SRO units intended as permanent housing and not receiving McKinney Act assistance; or
- ~~3.~~ 3.—Units that 1) contain sleeping accommodations and kitchen and bathroom facilities; 2) are located in a **building** which is used exclusively to facilitate the transition of homeless individuals to independent living within 24 months; and 3) for which a governmental entity or qualified nonprofit organization provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

G. Community Service Facilities

In Revenue Ruling 2003-77, the Internal Revenue Service ruled the Community Service Facilities can be included in a building's Eligible Basis if certain criteria are met. The services provided at the facilities can include, but are limited to, day care, career counseling, literacy training, education, recreation and outpatient clinical health care. This ruling is included in Appendix A of the Compliance Manual.

Part 3.7 Other Regulations

A. For Use by the General Public

The Owner or agents of the Owner shall not discriminate in the provision of housing on the basis of race, color, sex, national origin, religion, familial status, or handicap. Additionally, Owners cannot refuse to accept a prospective Tenant based solely on the fact that the applicant holds a Section 8 rental voucher or certificate. All Owners, managers, and staff members should be familiar with both state and federal civil rights and fair housing laws. In addition, all RHTC properties with five (5) or more units must have a HUD approved Affirmative Fair Housing Marketing Plan and a copy of the approved plan must be submitted to IHFA within one year of the first building placed in service. In addition, Fair Housing Marketing Plans must be updated according to the policies of the Fair Housing and Equal Opportunity Office of the Department of Housing and Urban Development (HUD). All updated Fair Housing Marketing Plans must also be submitted to IHFA upon approval by HUD.

Under program requirements, RHTC units must be available for use by the general public. Owners are allowed to establish preferences for certain population groups (i.e. homeless individuals, persons with disabilities, etc.). These preferences, however, must not violate HUD's anti-discrimination policies.

In addition, if a residential rental unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for Credit under Section 42. (See Section 1.42-9).

IHFA strongly encourages owners and management companies to provide Fair Housing and Equal Opportunity training for all staff, including maintenance staff, associated with any property. Staff should attend a Fair Housing and Equal Opportunity training at least once every calendar year.

IHFA has established procedures for processing Fair Housing complaints made to IHFA regarding RHTC properties. The procedures are as follows: 1) IHFA will forward all written Fair Housing complaints to the Fair Housing and Equal Opportunity Office at HUD and also to the Indiana Civil Rights Commission; 2) IHFA will notify the owner and management company of such complaint; and 3) if at any time during the Compliance Period it is found that a violation of the Fair Housing Act has occurred at any RHTC Development, the property is out of compliance with Section 42 of the Code and IHFA will report such noncompliance to the IRS via IRS Form 8823.

B. General Occupancy Guidelines/Household Size

There are no current RHTC requirements governing minimum or maximum Household size for a particular unit. However, Owners must comply with all applicable local laws, regulations, and/or financing requirements (i.e. . if Rural Development, use Rural Development regulations).

IHFA advises all Owners or agents to be consistent when accepting or rejecting Applications. Occupancy guidelines or requirements should be incorporated into the Development's management plan. Management should be aware of occupancy standards set by federal, state, HUD, PHA, civil rights laws, Tenant/landlord laws, and municipal code that may establish a maximum or minimum number of persons per unit.

Section 4 – Qualifying Tenants for RHTC Units

Potential Tenants of low-income, rent-restricted units should be advised early in the Application process that there are maximum Income Limits that apply to these units. Management should explain to potential Tenants that the anticipated income of all adult persons expecting to occupy the unit must be verified prior to occupancy and then annually re-certified for continued eligibility.

The Code states that determination of Annual Income of individuals and median Gross Income adjusted for family size must be made in a manner consistent with HUD Section 8 income definitions and guidelines. HUD Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs* should be used as a reference guide and HUD Handbook 4350.3 CHG-27 is included as Appendix D of this manual. A complete HUD Handbook 4350.3 may be obtained through the HUD Handbook clearinghouse by telephoning (800) 767-7468.

Part 4.1 Tenant Qualification & Certification Process

RHTC units are eligible for the RHTC Program if proper documentation verifying the Tenants' eligibility is placed in the Tenants' file. **At a minimum, the following items must be located in the Tenants' file and must be organized in chronological order for easy review:**

1. Initial Tenant Application for residency;
2. Tenant Eligibility Questionnaire signed by the Tenant for every year the Tenant resides at the property, including certification of assets and disposal of assets, if applicable;
3. Tenant Income Certification signed by the Tenant for every year the Tenant resides at the property with proper signature and effective dates clearly stated;
4. Verifications of Income and Assets for all income sources noted on the Tenant Eligibility Questionnaire for all years;
5. Any other documentation verifying the Tenants' eligibility (i.e. Student status verification, unborn child verification, joint custody of a child documentation, etc.); and
6. Initial and subsequent leases and lease addendum executed by the Tenant and Owner.

Part 4.2 Tenant Application & Tenant Eligibility Questionnaire

A fully completed Application and Tenant Eligibility Questionnaire is critical to an accurate determination of Tenant eligibility (See Appendix E for a sample Tenant Eligibility



Questionnaire). The information furnished on the Application and Tenant Eligibility Questionnaire should be used as a tool to determine all sources of income, including total Assets and income from Assets, and Student status.

Revised HUD 4350.3 ~~CHG-27~~ lists guidelines which the Owner may want to adopt for the Application process. The Application should include:

- A. The name, age, social security number, relationship, handicap (if units are set-aside for such tenants and are part of the development's Extended Use Agreement), and sex of each person that will occupy the unit (legal name should be given just as it will appear on the Lease and Tenant income certification);
- B. All sources and amounts of current and anticipated Annual Income expected to be derived during the twelve-month certification period. Include Assets now owned; indicate whether or not family members disposed of Assets for less than Fair Market Value during the previous two years;
- C. The current and anticipated Student status of each applicant during the twelve-month certification period;
- D. A screening process (i.e. previous landlords' credit information). Owners should ask applicants whether the family's assistance or tenancy in a subsidized housing program has ever been terminated for fraud, nonpayment of rent, or failure to cooperate with re-certification procedures;
- E. The signature of the applicant and the date the Application was completed. It may be necessary to explain to the applicant that all information provided is considered confidential and will be handled accordingly; and
- F. Collection of demographic data. Beginning January 1, 1999, all Owners of Developments were required to offer all applicants for housing in Credit units the opportunity to voluntarily disclose on his/her Application for an apartment or Credit unit the following information concerning the members of his/her Household that will be occupying the unit:

The following information is requested in order to help monitor and observe those impacted by and/or benefiting from the Rental Housing RHTC Program. The Tenant is not required to furnish this information, but is encouraged to do so. The Owner or property manager may not discriminate on the basis of this information or on whether or not the Tenant chooses to furnish it. However, if the Tenant chooses not to furnish it, the Owner or property manager must note race on the basis of visual observation and/or surname. If the Tenant does not wish to furnish the information, the Tenant's wishes should be indicated on the demographic data form completed by the Tenant.

As an additional requirement of the review process, each Owner will be required to annually submit a compilation of this information on the Rental Housing Tax Credit Development Compliance Report. Failure to submit this information will be considered an act of non-compliance and reported accordingly on IRS Form 8823.

At the time of Application, it is the management agent's responsibility to obtain sufficient information on all prospective Tenants to completely process the Application and complete the Certification of Tenant Eligibility. IHFA recommends that roommates complete separate Applications. The Tenant Application and Tenant Eligibility Questionnaire is the first step in the Tenant Certification process.

Part 4.3 Tenant Income Verification

The income of every prospective occupant of the unit must be verified. All regular sources of income including income from Assets must be verified. **Verifications must be received by the management agent prior to move-in. Verifications must be from a third party and contain complete and detailed information and include, at a minimum, direct written Verification from all sources of regular income and income of Assets.**

A. Effective Term of Verification

Thirdparty Verifications of income are valid for 90 days prior to move-in. If after 90 days, if the Tenant has not yet moved in, the information may be verbally updated from the source. This verbal Verification is valid for an additional 30 days, but only if documented (See Part 4.2(B)(3)). After this time, a new written third party Verification must be obtained.

B. Methods of Verification

Three methods of verification are permitted:

1. Written Verification

Reasonable efforts to obtain written third-party Verification is required. IHFA does not require that the Owner/Management Agent use particular forms for third-party Verifications; however, sample third-party Verification forms are included in Appendix E. All requests for income Verification must:

- a) State the reason for the request;
- b) Include a release statement signed and dated by the prospective Tenant;
- c) Provide a section for the employer or other third-party source to state the applicant's current anticipated gross Annual Income or rate of pay, number of hours worked, and frequency of pay. Bonuses, tips, and commissions must be included. Spaces should also be available for a signature, job title, phone number, and date; and
- d) Probability and effective date of any increase during the next twelve (12) months.

Owners must send Verification forms directly to the third party, not through the applicant.



2. Second party Verification & Electronic Verification

Owners may use documents submitted by the applicant or tenant only if:

- a) Information does not require third-party Verification (such as birth certificates or adoption papers verifying Household membership, divorce decrees, etc.); or
- b) Third-party verification is impossible or delayed beyond ~~two~~four weeks of the initial request. Owners must show efforts (i.e. phone logs, fax receipts, certified mail receipts, etc.) to obtain the third party Verifications before the use of second party Verifications will be permitted.
- c) There is a fee associated with receiving the third party verification. For example, if a bank will charge a fee for providing bank account information on a checking account, the Owner may verify the account by obtaining the most recent six months of bank statements from the tenant.

The Owner must be able to reasonably project expected income for the next twelve months from the second party Verification. For example, if third party verification of employment income is impossible and efforts to obtain the third party verification have been made and delayed ~~two~~four weeks, the Owner may obtain the three most current pay stubs from the Tenant. The Owner must place copies of the second party Verifications and the efforts to obtain a third party Verification in the tenant's file.

Additionally, if third party verification is impossible to get from the third party or is delayed, the Owner may use information obtained electronically from e-mail or the internet. For example, an Owner may receive the fair market value of a house from an internet site that provides that information from the comparable real estate in the area.

3. Verbal Verification

When written Verification is not possible prior to move-in, direct contact with the source will be acceptable to IHFA only as a last resort and should be followed by written Verification. The conversation should be documented in the applicant's Tenant File to include all information that would be contained in a written Verification. The information must include the name and title of the contact, the name of the on-site management representative accepting the information, and the date the information was obtained.

In addition, if the Owner receives third party Verifications that are not clear or are not complete, a documented verbal clarification may be accepted if it includes, the name and title of the contact, the name and signature of the on-site management representative accepting the information, and the date.

Furthermore, if after requesting a third-party verification, the third-party indicates that the information must be obtained from a automated telephone system, the Owner may document the information provided from the telephone system. The documentation must state the date the information is received, all of the information provided, and the name, signature, and title of the person receiving the information.

4. Public Housing Authority Verification



In the case of a Tenant receiving housing assistance payments under the Section 8 Program, the Income Verification requirement is satisfied if the public housing authority provides a statement to the building owner certifying that the tenant's income does not exceed the applicable income limit under Section 42(g) of the Internal Revenue Code.

The only documents that will be acceptable from the public housing authority are HUD Form 50058 or HUD Form 50059 (if provided by the local public housing authority). The Form must be completed in its entirety by a qualified representative of the public housing authority and list the members of the Household and the gross income of the Household before and any deductions that the Household may be eligible for under the Section 8 Program. These forms will not be considered valid Verifications if they are older than 90 days from the Tenant's move-in date or Certification date.

Once the Owner receives the HUD Form 50058 or 50059, no other Verifications of income are required. **However, Verifications for other Section 42 eligibility requirements such as Student status and the Tenant's Income Certification must still be completed and placed in the Tenant's file. Additionally, the Owner may not rely on the HUD Form 50058 or 50059 if a reasonable person in the Owner's position would conclude that the Tenant's income is higher than the Tenant's represented Annual Income.**

5. Verification Transmittal

Applicants should be asked to sign two copies of each Verification form. The second copy may be used if the first request has not been returned from the source in a timely manner.

Income Verification requests must be sent directly to the source by the Owner or management agent and returned by the source to the Owner or management agent. **Under no circumstances should the applicant or resident be allowed to send or deliver the Verification form to the third party source.** It is suggested that a self-addressed, stamped envelope be included with the request for Verification, to ensure a timely response. In addition, fax copies of Verifications are acceptable.

All Tenant income Verifications should be date stamped as they are received.

6. Acceptable Forms of Income Verification

For information concerning acceptable forms of income Verification for Employment Income, Self-employment Income, Social Security/Pensions/Supplemental Security Income (SSI)/Disability Income; Unemployment Compensations, Alimony or Child Support Payments; Recurring Contributions and Gifts; Scholarships, Grants, Veteran's Administration Benefits; etc., see HUD Handbook 4350.3 CHG-27, which is included as Appendix D.

Child Support Verification



As guidance to the owner regarding child support verification, IHFA requires the following documentation to verify income from child support:

- The tenant must be asked on the Application for tenancy and/or the Tenant Eligibility Questionnaire if anyone in the Household is **entitled** to receive child support;
- If the tenant is entitled and is currently receiving child support, a copy of the court order, divorce decree, or a verification from the agency administering the child support payments must be received;
- If the tenant is entitled to receive child support, but has not received a payment within the previous year, verification from the agency administering the child support payments in the county the person is moving from must be received by the owner. In addition, an affidavit from the tenant to the owner certifying that a) the tenant is not receiving child support payments; b) the reason the tenant is not receiving the payments; and c) the efforts made by the tenant to receive the payments must be obtained from the tenant;
- If the tenant is entitled to receive child support, but payments over the previous year have been sporadic (i.e. more than one third of the payments have not been paid), the owner may average the payments received over the previous year to project anticipated income for the next twelve months;

C. Differences in Reported Income

The management agent should give the applicant the opportunity to explain any significant differences between the amounts reported on the Application and amounts reported on third-party Verifications in order to determine actual income. The explanation of the difference should be documented in the Tenant File.

D. Annual Income

Annual Income is defined as the gross amount of anticipated income to be received by all adult members of the Household (18 years of age and older, including full-time and part-time Students) during the 12 months following the date of certification or re-certification. For information regarding what Annual Income includes, calculating Annual Income, and Annual Income exclusions, see HUD Handbook 4350.3 CHG-27, which is included as Appendix D. Note that RHTC Income Limits are based on gross Annual Income, not adjusted Annual Income. Allowances commonly used in some government programs, such as child care allowance, elderly Household allowance, dependent allowance, handicapped assistance allowance, etc., are not permitted to be subtracted from the Household's Gross Income to determine income eligibility for RHTC units.

E. Assets

Assets are items of value, other than necessary personal items. Income from Assets must be taken into consideration when determining the eligibility of a Household. Asset information (Asset value and income from Assets) should be obtained at the time of Application.

1. Net Family Assets Greater than \$5,000

Third-party Verification of the value of income from Assets is required when the combined value of the Assets held by all members of the Household exceeds \$5,000. Third-party Verification must be obtained for the initial certification of the Household and for each re-certification.

If net family Assets exceed \$5,000, Asset Income (which must be included as part of Household income) will be the greater of : a) actual Asset Income; or b) net family Assets times the HUD approved passbook rate for the area (the Imputed Income from Assets). Local HUD offices periodically publish the HUD approved passbook savings rate.

2. Net Family Assets Less than or Equal to \$5,000

Owners of RHTC Developments do not have to obtain third-party Verification(s) of the value of Assets if the Household submits to the Owner a signed, sworn statement that the combined value of the Assets of the Household is less than \$5,000. The sworn statement must include a listing of the Household's Assets, the cash value of each Asset, and the tenant's actual Annual Income from each Asset (i.e. annual interest rate). This form must be completed by the Household for the initial Tenant Income Certification and for each subsequent re-certification. **However, the Owner may not rely on the low-income Tenant's signed, sworn statement of annual income from Assets if a reasonable person in the Owner's position would conclude that the Tenant's income is higher than the Tenant's represented Annual Income.**

If net family Assets are less than or equal to \$5,000, Asset Income will equal actual yearly income from Assets. **The yearly income from Assets must be included as part of Household income.**

For more information regarding what net Household Assets include and do not include, and determining the value of and income from Assets, see HUD Handbook 4350.3-~~CHG-27~~ in Appendix D.

F. Computing the Total Household Income

After all income and asset information has been obtained and computed for a Household, all qualified sources of income are added together to derive the total Household income. In order for the Household to qualify for a RHTC unit, the total Household income must be less than or equal to the maximum allowable qualifying income in effect at the time of Tenant certification. If the total Household income is greater than the maximum allowable qualifying income, the Household cannot be certified for a RHTC unit.

Part 4.4 Move-In Dates

A. RHTC Developments Involving the Acquisition and Rehabilitation of a Building(s)

If a building is occupied at the time it is acquired and remains occupied throughout the period in which it is being rehabilitated, all existing Tenants (those who occupied the building when it was acquired) must be documented as having been income-eligible within

90 days **prior** to or on the acquisition Placed in Service Date. Tenants who moved into the unit after the acquisition Placed in Service Date must be documented as RHTC-eligible at the time of actual move-in to the unit. If the building is not occupied during rehabilitation, a Household must be RHTC-eligible at the time of actual move-in to the unit.

If tenants are eligible and proper documentation has been obtained for each tenant, the standard annual Tenant Income Re-certification requirement may be implemented, even if the rehabilitation Placed in Service date is after the acquisition Placed in Service date. Therefore, the Owner need not certify tenants at both the acquisition and the rehabilitation Placed in Service date.

B. RHTC Developments Involving Rehabilitation Only

If a building is occupied during rehabilitation, all existing Tenants (those who occupied the building while it was being rehabilitated) must be documented as having been RHTC-eligible within 90 days prior to or on the rehabilitation Placed in Service Date. Tenants who moved into the unit after the rehabilitation Placed in Service Date must be documented as RHTC-eligible at the time of actual move-in to the unit. If the building is not occupied during rehabilitation, a Household must be RHTC-eligible at the time of actual move-in to the unit.

C. RHTC Developments Involving New Construction

In newly constructed buildings, all Households must be documented as being RHTC-eligible at the time of actual move-in to the unit.

D. Mixed Income Developments

In Developments that have less than a 100% Applicable Fraction, if a Tenant is designated as market rate at the time of actual move-in to the unit, but later is re-designated as a RHTC Household, the Tenant must have been certified as a RHTC Household at the time of re-designation.

Part 4.5 Annual and Interim Income Re-certification Requirements

The Owner must perform, at least on an annual basis, an income certification for each Low-income Household and receive documentation to support that certification. IHFA monitors re-certification 365 days from the later of: the move-in date or the one-year anniversary of the effective date of the previous certification. Upon receipt of all Verification, Owners or managers should determine if the unit still qualifies for participation in the Rental Housing Tax Credit Program.

Owners may utilize effective dates when performing Tenant Certifications. Therefore, the Tenant may sign the Tenant Certification before the date the certification takes effect. **However, all Income and eligibility Verifications must be valid (not older than 90 days) on both the signature date and effective date of the Tenant Certification.** In addition, if the Owner chooses to utilize effective dates on Tenant Certifications, the Owner should have language in the Tenant Certification indicating that the Tenant must inform the Owner of any changes of income,

student status, or Household composition, that may occur between the date the Tenant signs the Certification and the effective date of the Certification.

Whenever a re-certification indicates that the composition of the Household has changed, RHTC-eligibility must be re-evaluated. Composition changes include a birth, a death, a new Tenant moving into the Household, and an existing Tenant vacating the Household. In the event a new member is added to a qualifying Household, the following steps must be taken:

1. The new Household member should complete an Application and Eligibility Questionnaire and Verification of income and Assets must be completed;
2. The new Household member's income must be included as part of the Household's certified income. The combined Household income must be compared to the maximum allowable income limit in effect at the time and based on actual Household size; and
3. If the combined Household's income is greater than 140% of the current maximum allowable income, a determination must be made as to whether the building or Development will be in violation of Section 42 requirements by adding the new Tenant.

Example: 1 person Household income limit = \$15,000
2 person Household income limit = \$17,000
140% of 2 person income limit = \$23,800

Tenant A is a qualified Tenant living alone in a one-bedroom unit. Her income at initial certification was \$10,500. Eight months after Tenant A moved into the Development, she informs management that she is getting married and that her new husband, Tenant B, will be moving into the unit in two months. At the time of re-certification, Tenant B is certified as earning \$12,900. The Household's combined income will be \$23,400. The Household will still qualify, since it is below 140% limit of \$23,800. If the combined income of Tenants A and B would exceed 140% of the current income limit, the next available unit rule may go into effect.

NOTE: Only the income and eligibility of the new resident is required to be verified when adding a member to a Household before the Annual Tenant Income Certification is due. Owners may verify the new resident's income and add it to the existing Household's certified income to determine if the Household's income has exceeded the 140% income limit. **However, the new resident should sign a Tenant Certification and annual re-certifications must occur at least one year from the effective date of the existing Household's Tenant Certification.**

Also, note the following in regard to re-certification requirements:

- A. If Tenants in a previously qualified Household become full-time Students at any time, the Household can only be considered as a qualified RHTC Household if at least one of the Student criteria is met as described in Part 3.6 of this manual. This eligibility determination must be made immediately upon the Tenant becoming a full-time Student and cannot be delayed until a re-certification of the Household is due.
- B. In the event that a Tenant moves into a building prior to the Placed-In-Service Date of the building (as shown on the Development's IRS Form(s) 8609), and the Verification of the Tenant's income was performed more than 90 days prior to the Placed-In-Service Date, the

Tenant must be re-certified on the Placed-In-Service Date. **All income Verifications must be valid (no older than 90 days) on the Placed-In-Service Date.**

- C. In the event Household composition changes in any way, i.e., birth, death, marriage, divorce, or a family member or roommate vacates the unit, the Household should notify management of the changes.
- D. See Part 3.5 for information regarding unit transfers.

Part 4.6 Annual Re-certification Waiver

IHFA will no longer accept requests for the Re-certification Waiver.

Part 4.7 Lease and Rent Requirements

All residents occupying RHTC units must be certified and under a Lease no later than the time a Tenant moves into the unit. Leasing guidelines are listed below.

A. Lease Requirements

At a minimum, the Lease should include (but is not limited to):

1. The legal name of all parties to the agreement and all other occupants;
2. A description of the unit to be rented;
3. The date the Lease becomes effective;
4. The term of the Lease;
5. The rental amount;
6. The use of the premises;
7. The rights and obligations of the parties, including the obligation of the Tenant to certify annual (or more frequently as required) to income as defined herein; and
8. Language which addresses income decreases, income increases, Utility Allowance increases/decreases, basic rent changes (in Rural Development or 236 Developments), family composition changes, or any other change and its impact on the Tenant's rent.

B. Rents

Rents on the RHTC units may not exceed the amounts allowed by Section 42 of the Code.

C. Initial Minimum Term of Lease

There must be an initial Lease term of at least six (6) months on all RHTC units. The six month requirement may include free rental periods. Succeeding Leases are not subject to a minimum Lease period.

Federal regulations do allow shorter Leases for certain types of housing for homeless individuals. The following types of housing are exempt from the six month minimum Lease period:



1. Single Room Occupancy (SRO) units in development receiving McKinney Act and Section 8 Moderate Rehabilitation assistance;
2. Single Room Occupancy (SRO) units intended as permanent housing and not receiving McKinney Act assistance;
3. Single Room Occupancy (SRO) units intended as transitional housing that are operated by a governmental or nonprofit entity and providing certain supportive services; or
4. Units that 1) contain sleeping accommodations and kitchen and bathroom facilities; 2) are located in a **building** which is used exclusively to facilitate the transition of homeless individuals to independent living within 24 months; and 3) for which a governmental entity or qualified nonprofit organization provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

*Note: If a Development has units set-aside in a building for homeless Households, those Tenants must have leases with at least six month terms, unless the building's primary use is described in number four (4) above. **Tax Credit units may never be used as emergency shelters.**

****Note: Leases must reflect the correct date of move-in, and/or the date the Tenant takes possession of the unit.**

D. Lease to Own Program/Lease Purchase Program

The goal of the Lease to Own Program ("Program") is to enable low income families to purchase a home – something that often would not be possible without the Program. The Development Owner also benefits from the program because the residents who opt for the Program agree to assist in maintaining the unit. Below are several of the minimum requirements for a Lease to Own Program to obtain IHFA approval:

- "Eligible Tenant" shall mean the current tenant of the unit, so long as that tenant is eligible to occupy the unit under the requirements of Section 42 of the Internal Revenue Code. This expressly includes a tenant whose income would not currently qualify under Section 42, but who was qualified at the time of the tenant's original occupancy of the unit.
- The Development Owner must partner with a non-profit organization dedicated to assisting low to moderate income families in obtaining clean, safe and affordable housing.
- The Development Owner and the non-profit organization must enter into a written Right of First Refusal whereby the Development Owner agrees not to sell the low-income housing unit to anyone else at the end of the fifteen year Compliance Period before offering it to the non-profit organization for a price equal to (i) the sum of all outstanding indebtedness secured by the Development (including capital improvement debt) plus any accrued interest and (ii) all federal, State, and local taxes attributable to the sale.

- The non-profit organization must enter into an agreement with IHFA regarding the release of the Declaration of Extended Rental Housing Commitment upon sale to an Eligible Tenant.
- The non-profit organization must enter into an option agreement, which is approved by IHFA, with the resident for the purchase of the unit.
- The Program must be structured so that the tenant's total monthly payments for principle, interest, insurance, taxes, utilities, and maintenance after purchase are equivalent to the tenant's monthly rent and utilities before purchase (the Equivalency Principle).
- The unit must be less than thirty (30) years old.
- The unit must meet I.R.C. §42 standards regarding the condition of the unit and habitability.
- The Program must provide for sale at the end of the fifteen year Compliance Period to an "eligible tenant" for a minimum purchase price (as defined in I.R.C. §42(i)(7)(B)).
- The Program must include a system whereby a resident is rewarded for long-term residency by obtaining a credit against the purchase price of the unit.
- After one year of responsible tenancy, the Development Owner must waive its right to not renew the Lease of a Resident without cause.
- The Program should include periodic workshops for residents enrolled in the Program on issues of property maintenance and financial counseling.
- The Program must address common tenant misconceptions including:
 - The misconception that the tenant will acquire the property free and clear after the Compliance Period;
 - The misconception that the tenant is an equity owner in the property rather than simply a tenant;
 - The misconception that the tenant will be compensated for any capital improvements made to the property by the tenant;
 - the misconception that the tenant's rent will never increase.

The Program must conform to and comply with any future Internal Revenue Service statutes, regulations and rulings regarding lease to own programs.



Section 5 – Compliance Monitoring Procedures

This section of the manual outlines IHFA’s procedures for monitoring all Developments receiving Credit. Monitoring is designed to assist the Owners with federal, state, and local regulations regarding IHFA’s compliance monitoring requirements and procedures in accordance with the IRS guidelines in Section 42 of the Internal Revenue Code. However, compliance is solely the responsibility of the Owner and is necessary to retain and use the Credit.

Monitoring each Development is an ongoing activity that extends throughout the Credit Compliance Period. IHFA is required by law to conduct this compliance monitoring and is required to inform the IRS of noncompliance, or the failure of an Owner to certify to compliance, no later than 45 days after the period of time allowed for correction. Notification to the IRS by IHFA is required whether or not the noncompliance has been corrected.

Part 5.1. Owner and Management Agent Contacts

Correspondence from IHFA to the Owner will be sent to the Owner contact person provided in the Development’s Final Application for RHTC. IHFA will copy the Management Agent contact person with owner approval, on any correspondence from IHFA to the Owner regarding file monitoring reviews and physical inspections. All other correspondence will be sent directly to the Owner contact person.

IHFA will allow no more than one Owner contact name and address and one Management contact name and address per Development. If at any time the contact person of the Owner or Management Agent change, it is the sole responsibility of the Owner to inform IHFA **in writing** of such change with supporting documentation.

If the designated Owner contact person requests extra copies of documentation (i.e. copies of Form 8823), the cost of such copies will be \$.10 per single sided page.

Part 5.2 The Compliance Manual



IHFA will provide this compliance manual to Owners of RHTC Developments when RHTCs are reserved for a Development. The manual describes the compliance monitoring procedures, which the Owner and management agent must follow.

Part 5.3 Compliance Training Seminars

IHFA will conduct periodic RHTC Compliance training seminars. All Development Owners and management agents are required to attend an IHFA RHTC Monitoring Compliance Seminar prior to the issuance of an IRS Form 8609. A Form 8609 will not be issued to a Development Owner who has not met the compliance training requirement. Training will be held periodically throughout the year and information regarding the times and dates of the training will be distributed by IHFA.

Owners and Property management staff assigned to the development must receive, prior to issuance of IRS Form 8609, an IHFA Rental Housing Tax Credit Compliance Seminar completion certificate within the last year.

Part 5.4 Initial Information

If the Owner chooses to defer claiming Credit until the year following the year in which the Development is placed in service, the Owner shall notify IHFA prior to the end of the year the building is placed in service. Failure to notify IHFA of a deferment will be considered noncompliance.

The year Credit is first claimed the Owner must submit to IHFA:

1. The Annual Owner Certification (See Appendix G);
2. A copy of the completed IRS Form 8609 and Schedule A (Form 8609);
3. Utility Allowance Documentation;
4. Authorized Signatory Form (Appendix G);
5. Property Directional Form (Appendix G); and
6. If the property has five (5) or more units, a copy of the Affirmative Fair Housing Marketing Plan submitted to HUD by the Owner. Once the Plan has been approved a copy of the approved plan must be submitted to IHFA (See Appendix G). The Affirmative Fair Housing Marketing Plan must be approved by HUD and is a requirement for all RHTC Developments regardless of the placed in date of the development. Therefore, all Developments that are in their Compliance Periods must have a HUD approved Affirmative Fair Housing Marketing Plan.

Part 5.5 Annual Owner Certification of Continuing Compliance

The Development Owner must annually certify to the Authority, on or before January 30 of each year (the "Owner Certification of Compliance") for the preceding twelve (12) month period. The Owner must certify:

1. The Development meets the requirements of the 20/50 test, the 40/60 test, or the 15/40 test under Section 42 of the Code.

2. There was no change in the Applicable Fraction as defined in the Code of any building in the Development; or there was a change, in the Applicable Fraction, and a description of that change is attached to this certification.
3. The Owner has received an Annual Income Certification form for each low-income Tenant in the Development and sufficient documentation to support that certification;

Or

In the case of a Tenant receiving Section 8 housing assistance payments, a statement from the applicable public housing authority to the Development Owner declaring that the Tenant's income does not exceed the applicable Income Limits under the Code have been received.

4. If a waiver of the requirement for Annual Income Re-certification has been received from the Internal Revenue Service, such waiver has not been revoked and remains valid. A true copy is attached to the certification.
5. Each Low-Income Unit in the Development was restricted as provided under the Code.
6. The Development is in continuing compliance with all promises, covenants, set-asides and agreed upon restrictions as set forth in the application for Credits for the Development.
7. If the Development has benefited from HOME funds, the amount of HOME funds received from IHFA and from other sources, the source of the HOME funds, and the affordability period associated with the HOME funds.
8. The unit types, gross rents, Utility Allowance, and actual rents.
9. All units in the Development are for use by the general public and no finding of discrimination under the Fair Housing Act occurred for the Development. All units are used on a non-transient basis (except for transitional housing units allowed for in the Code). NOTE: If such findings have occurred, documentation of such findings must be attached to the certification.
10. All units in the Development are suitable for occupancy, taking into account all federal, state, and local health, safety, and building codes and the State or local government unit responsible for making health, safety, or building code inspections did not issue a violation report for any building or low-income unit in the Development. If a violation report or notice was issued by the governmental unit, the owner must attach a statement summarizing the violation report or notice to the certification.
11. There has been no change in the Eligible Basis of any building in the Development (as defined in the Code); there has been a change in the Eligible Basis of the building in the Development (as defined in the Code). Documentation setting forth the nature and amount of such a change (i.e. a common area has become commercial space, or a fee is now charged for a Tenant facility formerly provided without charge) must be attached to the certification.

12. All Tenant facilities included in the Eligible Basis of the Development under the Code, such as swimming pools, recreational facilities, and parking areas, are provided on a comparable basis without charge to all Tenants of the Development.
13. No Low-Income Units in the Building became vacant during the applicable year; or one or more Low-Income Units in the building became vacant during the applicable year and reasonable efforts were or are being made to rent such units or the next available unit or units of comparable size in the building to Tenants having a qualifying income.
14. No Tenant of any low-income units in the Development experienced an increase in income above the limit allowed in the Code; or income of Tenants of a Low-Income Unit in the Development increased above the limit allowed in the Code, and the next available unit of comparable or smaller size in the Development was or will be rented to Tenants having a qualifying income.
15. The Development has at least one smoke detector on each level of the rental dwelling unit.
16. There have been no changes in entity ownership or if there have been, IHFA has been provided with all details and all necessary documentation.
17. The Development is in continuing compliance with the Declaration of Extended Low-Income Housing Commitment applicable to the Development and filed in the office of the Recorder of the Indiana County in which the property is located.
18. The Development is otherwise in compliance with the Code, including any Treasury Regulations pursuant thereto, and applicable laws, rules, regulations, and ordinances.
19. The Owner has attend an IHFA RHTC Compliance Seminar during the preceding calendar year.

In addition, the Owner must submit a Rental Housing Tax Credit Development Compliance Report (See Appendix G) for each building in the Development, which must present a detailing of all tenants living in the Building from January 1 through December 31 of the certifying year.

IHFA has developed a Compliance Reporting System whereby the Rental Housing Tax Credit Development Compliance Report Tenant information may be submitted to IHFA via its web site. For more information on this system, the owner may contact IHFA at (317) 232-7777 and ask for the RHTC Compliance Department.

All Annual Owner Certifications and Rental Housing Tax Credit Development Compliance Reports must be typed or computer generated in the same format provided by IHFA in Appendix G, or submitted via IHFA's web site reporting system. IHFA will not accept any Owner Certification or Development Compliance Report that is not in the same format as provided in Appendix G or is hand written. After IHFA reviews the Certification and the Report, and if it's found to be incomplete in any way, IHFA will notify the Owner in writing and give an appropriate Correction Period.

A copy of the Annual Certification of Compliance that must be used by all Owners is located in Appendix G.



Part 5.6 IHFA Tenant/Unit File Review and On-site Development Inspections

As provided in IRS compliance monitoring regulations, IHFA has the right to review a Development's Tenant/Unit files and record keeping and record retention files, in house (at IHFA offices) or on-site at the Development and/or to perform physical inspections of RHTC Developments as deemed necessary throughout the Compliance Period.

IHFA is required to monitor and physically inspect each Section 42 property every three (3) years. However, IHFA reserves the right to inspect the files and/or physical units of a Section 42 property at any time at its discretion.

A. When performing an on-site (at the Development or management office) review, IHFA will:

1. Notify the Owner and/or management agent ~~two~~ two weeks in advance of the intended site visit as a courtesy. However, IHFA reserves the right to inspect any RHTC Unit at any time at its discretion without prior notification. **NOTE:** Physical inspection is not limited to vacant units. Staff will ask to inspect specific units no matter if the unit is occupied or not.
2. Inform the management agent which unit files will be inspected.
- ~~3.~~ 3. Provide an Exit Interview Summary to management representative.
- ~~3.4.~~ 3.4. Inform the Owner of any findings of noncompliance with regard to such review. This notice will be provided by certified mail.
- ~~4.5.~~ 4.5. Allow the Owner 90 days to notify IHFA of any correction of noncompliance.
- ~~5.6.~~ 5.6. Report all instances of noncompliance to the IRS whether or not the noncompliance has been corrected.

NOTE: If files are not available or are in such an unorganized condition that an IHFA Monitor cannot effectively review the files, the 90 day Correction Period will begin immediately.

B. When performing an in-house (at IHFA offices) review, IHFA will:

1. Notify the Owner in writing which unit files have been selected for review.
2. Request that the Owner deliver the selected files and documentation to IHFA.
3. Give a time frame in which the Tenant File documentation must be submitted.
4. Inform the Owner of any findings of noncompliance with regard to such review.
5. Allow the Owner 90 days to notify IHFA of any correction of noncompliance.
6. Report all instances of noncompliance to the IRS whether or not the noncompliance has been corrected.

Part 5.7 Noncompliance

Noncompliance is defined as a period of time a Development, specific building, or unit is ineligible for RHTC because of failure to satisfy Program requirements.

For more information on noncompliance, see Section 6.



Part 5.8 Compliance Monitoring Fees

A. Annual Monitoring Fees

Beginning in the calendar year following the year a Development is placed in service, Development Owners shall be required to pay annual monitoring fees for the immediately preceding calendar year, which will be due with each Annual Owner Certification of Compliance on or before January 31. Every Development Owner shall be required to pay \$25 per RHTC unit with a minimum fee of \$200 per development and a maximum fee of \$6000 per development. However, Owners that utilize IHFA's Compliance Reporting Website shall only be required to remit \$20 per RHTC unit with a minimum fee of \$150 per development and a maximum fee of \$5000 per development.

If IHFA does not receive a **complete** Annual Owner Certification of Compliance, subsequent forms and documentation, and monitoring fees by January 31, a fee equal to double the property's annual monitoring fee will be due to IHFA by April 30. After April 30, failure to pay fees due to the Authority and submit the required documents shall constitute a violation by the Development and the Development Owner of the Authority's requirements and IHFA will report the violation to the IRS.

Additionally, if significant errors are found when the Owner Certification of Compliance and subsequent forms are reviewed by IHFA, the Owner will be charged double monitoring fees. Significant errors include, but are not limited to: 1) an unauthorized signatory signing the Owner Certification 2) the owner's signature not being notarized; 3) all required forms and documentation not being submitted by the Owner 4) incorrect tenants/units reported on the RHTC Development Information Report; 5) incorrect or no monitoring fees submitted with the Owner Certification, etc.

B. Correction Fee

A charge of one hundred dollars (\$100.00) per unit/common area will be imposed for any unit where documentation must be re-inspected after the issuance of IRS Form 8823 because of a finding of noncompliance as a result of a tenant file review or a physical inspection.

A charge of two hundred dollars (\$200.00) per unit will be imposed for any physical unit re-inspections required after the issuance of IRS Form 8823 because of a finding of noncompliance.

A charge of two hundred dollars (\$200.00) per common area will be imposed for any physical common area re-inspections required after the issuance of IRS Form 8823 because of a finding of noncompliance.

However, an Owner may request a waiver of the correction fee for good cause. To obtain such a waiver, the Owner must submit the request in writing **detailing and documenting** the reason for the request. Waiver of the correction fee is in IHFA's sole discretion.

Part 5.9 Procedures for the Transfer of RHTC and Developments

A. Transfer of Credits Prior to Issuance of Form 8609

As a condition of the Authority's consideration of a proposed transfer of Credits prior to the issuance of Form 8609, the following criteria must be met by the Owner:

1. The proposed transferee must submit a new Rental Housing Tax Credit application setting forth any and all information contemplated therein as if the proposed Transferee were the original applicant, sponsor, or Owner (the "new Application"). The new application must be filed and marked to show any and all changes in information from that which is set forth in the original application for RHTC.
2. The proposed transferee must also submit a schedule identifying all differences between the original application for RHTC and the new application with cross references to page numbers and sections which differ.
3. All applicable filing fees for the new application must be paid at the time of the filing of the new applications (See QAP in Schedule N for application fees). The Authority may, in its sole discretion, refund a portion of the fees to the applicant.
4. The proposed transferor and transferee of the Credits must certify that the information set forth in the new application or otherwise filed with the Authority is true, complete, and not misleading in any respect. The proposed transferee shall agree therein to complete the Development in the manner and within the time schedule set forth in the new application and assume all obligations of the transferor to the Authority.
5. The proposed transferor and transferee must submit such further documents, assurances, certificates, and other information and materials in support of the new application as the Authority shall require in its sole and absolute discretion.

Based on the Authority's review of the new application and other filings referred to herein, the Authority may approve or disapprove the proposed transfer in its sole and absolute discretion. No consent or approval of the Authority with respect to the proposed transfer shall be effective without the written consent of the Authority and any attempt to effect a transfer without such prior consent shall be void from inception. Such approval may be conditioned upon receipt by the Authority of any and all documents or instruments to be executed by the proposed transferor and transferee in order to effectuate the transfer contemplated hereby and such future conditions as the Authority may impose from time to time. Consent to a transfer shall not be deemed to be the consent to any subsequent transfer or waiver of the Authority's right to require the Authority's consent to any future transfers. Any consent, action, review, recommendation, approval, or other activity taken by or on behalf of the Authority shall not, expressly or impliedly, directly or indirectly, suggest, represent, or warrant that the sponsor, Owner, and/or Development qualify for the Credit, or that the Development complies with applicable statutes and regulations or that the Development is or will be economically feasible.

B. Transfer of Development After Issuance of Form 8609



Sale of a Building(s) or an interest therein

After the issuance of Form 8609, upon the sale, transfer or disposition of a Qualified Low-Income Building or an interest therein, the transferee shall immediately submit the following to IHFA:

1. A copy of all sale documents;
2. The newly amended and stated partnership agreement; and
3. Any other additional information the Authority may request.

Receivership Information and Foreclosure

If a building(s) is in the foreclosure process, the receivership documents must be submitted to IHFA immediately. Additionally, once final foreclosure occurs, the foreclosure documents must be submitted to IHFA immediately, so that proper reporting to the IRS may occur.

C. Bond for Dispositions of Qualified Low-Income Buildings

Under the Code a taxpayer that disposes of a Qualified Low-Income Building, or an interest therein can defer or avoid recapture by furnishing a bond to the Secretary in an amount satisfactory to and for the period prescribed by the Secretary.

The above bond posting only pertains to situations where it is reasonably expected that the building will continue to be operated as a Qualified Low-Income Building for the remainder of the building's Compliance Period.

The taxpayer's obligation under the bond must be secured by a surety holding a Certificate of Authority from the Department of the Treasury, Financial Management Service, and that surety must be listed in Treasury Department Circular 570. Taxpayers having problems obtaining a surety through the Circular 570 should call the Internal Revenue Service.

For specific guidance on the bond process, Revenue Ruling 90-60 (Appendix A) should be consulted. In the absence of a valid bond, Owners likely will recapture the accelerated portion of the Credit using Form 8611 (Appendix B).

The minimum required bond amount is generally the product of the total Credits of the taxpayer times the appropriate bond factor amount. Bond Factor Tables to calculate the above were initially published in Revenue Ruling 90-60, and subsequent updates have been provided via additional Revenue Rulings: 90-88, 91-67, 92-101, 93-83, 94-71, 95-83, 96-16, 96-33, 96-45, and 96-59.

Form 8693 (Appendix B) is the correct Form to file to post a Rental Housing Tax Credit disposition bond under Section 42 (o)(6). This Form includes applicable information regarding the building, the Owner, and the surety. This Form is signed by both the Owner and the surety, and should be sent to the IRS.

Alternatively, Revenue Procedure 99-11 establishes a collateral program as an alternative to providing a surety bond to avoid or defer recapture of low-income housing tax credits under Section 42(j)(6) of the Internal Revenue Code. Under this program, taxpayers may establish a Treasury Direct Account and pledge certain United States Treasury securities to the Internal Revenue Service as security. Procedures for establishing the Treasury Direct Account are provided in section 3 of Revenue Procedure 99-11.



Part 5.10 Amendments to Compliance Monitoring Procedures

The compliance monitoring procedures and requirements set forth herein are issued by IHFA pursuant to Treasury Regulations. These provisions may be amended by the Authority for purposes of conforming with the Treasury Regulations and/or may otherwise be appropriate, as determined by the Authority or the Internal Revenue Service. In the event of any inconsistency or conflict between the terms of these procedures and the monitoring procedures set forth in such Regulations, the provisions set forth in the Regulations shall control.

Part 5.11 Casualty Loss

An Owner that experiences a loss of unit due to fire, natural disaster, or other circumstance must:

1. Inform IHFA of the loss in writing within 10 days of the incident;
2. Submit a plan to IHFA within 30 days that sets a timeframe for reconstruction or replacement of lost units;
3. IHFA must report the loss and replacement of the units to the Internal Revenue Service (IRS) after 90 days. If the units have not been fully replaced, IHFA will attach a copy of the owner's plan and timeframe for replacement to its report. Once all units have been replaced, IHFA will then report the replacement of the lost units.

If an Owner fails to report a casualty loss to IHFA within 10 days, IHFA will report the incident as noncompliance to the IRS immediately with IRS Form 8823.

Section 6 - Noncompliance

Noncompliance is defined as a period of time a Development, specific building, or unit is ineligible for RHTC because of failure to satisfy RHTC Program requirements.

Part 6.1 Types on Noncompliance

Generally, during the Compliance Period, a Development is out of compliance and recapture may apply if:

- A. There has been a change in the Applicable Fraction or Eligible Basis that results in a decrease in the Qualified Basis of the building from one year to the next; or
- B. The building no longer meets the Minimum Set-Aside requirements of Section 42, the gross rent requirements of Section 42, or the other requirements for the units which are set-aside; or
- C. There is failure to submit the annual Utility Allowance documentation, Owner Certification, Tenant income, and rent report, or compliance monitoring fees, along with any applicable supporting documentation in a timely manner.
- D. An ineligible Tenant residing in a RHTC Unit.

Part 6.2 Consequences

If the Development is out of compliance, a penalty could apply to all units in the Development. Penalties include:



- A. Additional fees paid to IHFA
- B. Recapture of the accelerated portion of the RHTC for prior years;
- C. Disallowance of the credit for the entire year in which the noncompliance occurs;
- D. Assessment of interest for the recapture year and previous years;
- E. Notification to IRS via IRS Form 8823;
- E. Negative points on any subsequent RHTC reservation applications ;
- F. Rejection of future applications; and/or
- G. Repayment of rent overages.

Part 6.3 Notification of Noncompliance to Owner

IHFA is required to provide written notice of noncompliance to the Owner if:

- A. Any required submissions are not received by the due dates;
- B. Tenant income certification, supporting documentation, and rent records are not submitted when requested by IHFA; and/or
- C. The Development is found to be out of compliance through inspection, review, and/or other means with the provisions of Section 42 of the Internal Revenue Code.

IHFA will not provide documentation (i.e. copies of Form 8823, Form 8609, etc.) for specific Developments to more than one contact person in an ownership entity (usually the general partner) for each Development. If other individuals within an ownership entity wish to receive such documentation, they must obtain it from the contact person named in the Development’s Multi-family Housing Finance Application.

Part 6.4 Notification by Owner to IHFA

If the Owner or Management Company becomes aware of any noncompliance with the RHTC program requirements, the Rental Housing Tax Credit Monitoring staff must be notified immediately.

Part 6.5 Correction Period

Should IHFA discover, as a result of an inspection or review, or in any other manner, that the Development is not in compliance with Section 42, or that credit has been claimed or will be claimed for units which are ineligible, IHFA shall notify the Owner. The Owner is to commence appropriate action to cure such noncompliance.

The Owner shall have a **maximum** of 90 days from the date of notice to the Owner to cure the noncompliance. If IHFA determines that there is good cause, an extension of up to six months to complete the cure for noncompliance may be granted.

Part 6.6 Reporting Noncompliance to the Internal Revenue Service

Noncompliance will occur if noncompliance issues are not corrected within a “reasonable” time period. Potential noncompliance of which the Owner or management agent becomes aware must be reported to IHFA, who will in turn report it to the IRS. The IRS ultimately determines whether or not there is noncompliance.



IHFA is required to file IRS Form 8823 (Appendix B), “Low-Income Housing Credit Agencies Report of Non-Compliance,” with the IRS no later than 45 days after the end of the Correction Period (as described above, including extensions) and no earlier than the end of the Correction Period, whether or not the noncompliance or failure to certify is corrected.

IHFA must identify on IRS Form 8823 the nature of the noncompliance or failure to certify and indicate whether the Owner has corrected the noncompliance or failure to certify.

If a building is entirely out of compliance and will not be in compliance at any time in the future, IHFA will report it on an IRS Form 8823 one time and need not file IRS Form 8823 in subsequent years to report that building’s noncompliance.

Part 6.7 Recapture

Recapture is defined as an increase in the Owner’s tax liability because of a loss in RHTC due to noncompliance with program requirements.

The IRS will make the determination as to whether or not the Owner faces recapture of RHTC as a result of noncompliance.

IRS Form 8611 (Appendix B) is used by taxpayers who must recapture RHTC previously claimed. A copy of IRS Form 8611 must be sent to the IRS and IHFA upon completion by the Owner.

Part 6.8 Retention of Noncompliance Records by IHFA

IHFA will retain records of noncompliance or failure to certify for six years beyond IHFA’s filing of the respective IRS Form 8823. In all other cases, IHFA will retain the certifications and records for three years from the end of the calendar year IHFA received the certifications and records.

Policies and Procedures Regarding Transferability of Rental Housing Tax Credits

Background

The Allocation Plan provides that Applicants of Developments may not transfer RHTCs without the prior written consent of the Authority. Terms used herein, not otherwise defined, shall have the meanings ascribed to them in the Allocation Plan. The purpose of these policies and procedures is to provide guidance to sponsors and/or owners of Developments regarding the transferability of RHTCs.

As used herein, the term “transfer” or “transfer of RHTCs” refers to the proposed transfer of a direct or indirect ownership interest in a Development. For example, and not limitation, a transfer of a Development may be made directly by a transfer of the physical assets, or, indirectly, by a transfer of interests in an entity which owns the physical assets comprising the Development. The term “transfer” includes the transfer of a Development to or from a partnership or other entity, a substitution or change of the general partner of a partnership, or the direct or indirect transfer of any beneficial ownership in a general partner of a partnership or equity interest in any other entity. Notwithstanding, the term “transfer” shall not include the transfer of a limited partner interest in a limited partnership.

Procedures

As a condition precedent to the Authority’s consideration of a proposed transfer:

1. The proposed transferee shall submit a new application setting forth any and all information contemplated therein as if the proposed transferee were the original applicant, sponsor, or owner (the “New Application”). The New Application shall be filed and marked to show any and all changes in information from that which is set forth in the Original Application.
2. The proposed transferee shall also submit a schedule identifying all differences between the Original Application and New Application with cross-references to page numbers and sections, which differ.
3. All applicable filing fees for the New Application (See Schedule M) shall be paid at the time of the filing of the New Application. The Authority may, in its sole discretion, refund a portion of the fees to the Applicant.
4. The proposed transferor and transferee of the RHTCs shall certify that the information set forth in the New Application or otherwise filed with the Authority is true, complete and not misleading in any respect. The proposed transferee shall agree therein to complete the Development in the manner and within the time schedule set forth in the New Application and assume all obligations of the transferor to the Authority.
5. The proposed transferor and transferee shall submit such further documents, assurances, certificates and other information and materials in support of the New Application, as the Authority shall require in its sole and absolute discretion.

Approval and Documentation

Based upon the Authority's review of the New Application and other filings referred to herein, the Authority may approve or disapprove the proposed transfer in its sole and absolute discretion. No consent or approval of the Authority with respect to the proposed transfer shall be effective without the written consent of the Authority and any attempt to affect a transfer without such prior consent shall be void from inception. Such approval may be conditioned upon receipt by the Authority of any and all documents or instruments to be executed by the proposed transferor and transferee in order to effectuate the transfer contemplated hereby and such future conditions as the Authority may impose from time to time. Consent to a transfer shall not be deemed to be consent to any subsequent transfer or a waiver of the Authority's right to require the Authority's consent to any future transfers. Any consent, action, review, recommendation, approval, or other activity taken by or on behalf of the Authority shall not, expressly or impliedly, directly or indirectly, suggest, represent, or warrant that the sponsor, owner, and/or Development qualify for the RHTC, or that the Development complies with applicable statutes and regulations or that the Development is or will be economically feasible.

The Authority may waive any of the above requirements if the Authority determines, in its sole and absolute discretion, that compliance with the above procedures is not necessary for the Authority to achieve its housing goals.

A taxpayer that disposes of a qualified low-income building, or an interest therein, *after* the issuance of IRS Form 8609 shall submit to the Authority the following:

1. A copy of the completed Form 8693
2. A copy of the sale documents
3. Owner Certification completed by the new owner
4. A sum equal to the compliance-monitoring fee for one year

Surety Bonds for Dispositions of Qualified Low Income Buildings

After the issuance of IRS Form 8609 a taxpayer that disposes of a qualified low income building, or an interest therein can defer or avoid recapture by furnishing a bond to the Secretary in an amount satisfactory to, and for the period prescribed by the Secretary.

The obligation under the bond must be secured by a surety holding a Certificate of Authority from the Department of the Treasury, Financial Management Service, and that surety must be listed in Treasury Department Circular 570.

Taxpayers having problems obtaining a Surety through the Circular 570 should contact the Internal Revenue Service, Rental Housing Tax Credit Compliance Unit at 215-597-1976 x144.

For specific guidance on the Bond process consult Revenue Ruling 90-60.

The minimum required bond amount is generally the product of the total RHTCs of the taxpayer times the appropriate bond factor amount. Bond Factor Tables to calculate the above were initially published in Revenue Ruling 90-60, and subsequent updates have been provided via additional Revenue Rulings. See Below:

Revenue Ruling 90-88 Revenue Ruling 91-67 Revenue Ruling 92-101 Revenue Ruling 93-83
Revenue Ruling 94-71 Revenue Ruling 95-83 Revenue Ruling 96-16 Revenue Ruling 96-33
Revenue Ruling 96-45 Revenue Ruling 96-59

Form 8693 is the correct form to file to post a Rental Housing Tax Credit Disposition Bond under the Code. This form includes applicable information regarding the building, the owner, and the surety. This form should be sent to the Internal Revenue Service.

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Market Study and Fair Market Appraisal Requirements

An independent, experienced third party professional market analyst specifically qualified in affordable rental market with no financial interest in the Development must perform all market studies with up-to-date demographic data on the market area no more than six months old with the source clearly defined including those Developments in the construction stage. All studies must have been completed or updated within **six months** prior to the application for funding and include at a minimum:

- A one page executive summary;
- Source(s) for all information provided, including any assumptions, estimates, projections and models used in analysis;
- Be completed by a competent market professional with demonstrable experience in Indiana affordable housing markets. A resume outlining professional qualifications and specific competence must be included;
- Utility availability, water, sewer and heat source (i.e. gas or electric);
- Development amenities (see Allocation Plan);
- Occupancy type (i.e. elderly, special needs population, families)
- Competitive Rental Market (must provide Development name, age of Development, number of units, current occupancy, vacancy rate, square footage for comparable units, current rent for comparable units, amenities etc.)
- Description of proposed site, including the closest street boundaries and the number of acres in the site (include a map with the site configuration;
- Define the geographic effective market area (both primary and secondary);
- Give a demographic description of the census tract if any in which the Development will be located;
- Give a demographic description of the potential tenants and the market area;
- Identify the number of special needs households residing in target area (if applicable);
- Major current employers;
- Unemployment trends;
- Define the housing needs;
- Explain how the Development addresses these housing needs;
- Identify all other housing Developments located in the market area including number of RHTC units, the average occupancy rate, and provide an average rent and rent range by unit size for these Developments. Must include RHTC Developments both operating and not yet placed in service (under construction). Must include market rate Developments as well;
- Identify future housing demand and potential housing supply;
- Expected market absorption of proposed deal, including description of effect on market area;
- Projected operating funds and expenses;
- Analysis of households sizes and types;
- Estimates of affordable rents for low and moderate income populations;
- Absorption rate including the time required to reach 95% occupancy;
- Analysis of practically available operating expenses and turnover rates of comparable properties in the market area;
- Projected operating funds and expenses, when available at the time of the study;
- Recommendations and conclusions of the market analyst supported by data contained in the market study.

- A description of the effect on the market area, including the impact on Housing Credit and other existing rental housing.
- A site visit conducted by the Market Analyst.

Sufficient demand in the market area of the Development must exist and, based on reasonable predictions, will continue to exist during the term of the compliance period or other applicable period, for the number of units to be developed.

The fair market appraisal must be at a minimum an “As Is” appraisal and must be in compliance with the summary report for USPAP standards. USPAP standards can be found at www.appraisalfoundation.org

The market study must be addressed directly to IHFA from the third party preparing the market study with a sworn statement from the person who prepared the study certifying the accuracy of the data reported in the study.

The market study must be received by IHFA by the application deadline and must state the name of the Development, the Owner, Development City, and Development County on the front cover.

The market study review process will be contracted out to an independent third party market analyst. The analyst will receive a copy of the market study submitted to IHFA and a copy of the Rental Housing Finance Application.

Note: As a resource, the Authority’s Statewide Market Study is available online at www.indianahousing.org

Private Activity Tax-Exempt Bond Financing (“Bonds”) Requirements

Pursuant to the Code, Developments that do not receive a direct allocation from the Authority because such Developments qualify for the RHTC pursuant to the Code (by virtue of being 50% or more financed with tax-exempt obligations issued after December 31, 1989), must satisfy and comply with all requirements for an allocation under this Allocation Plan and the Code. All applicants will be required to meet the threshold and scoring criteria of the Allocation Plan including but not limited to the following:

- Applicant must submit the Multi-Family Housing Finance Application on the application date(s) stated in the Allocation Plan.
- Scoring threshold for bond Developments is 30 points.
- ~~Developments will be limited to a maximum of \$10,000,000 in bonds.~~ Developments will be limited to a maximum of \$20,000,000 in bonds.
- Applicants will be limited to a maximum of \$20,000,000 in bonds in a calendar year. If the Authority determines that in its sole and absolute discretion it is in the interest of the State to allocate additional bond volume to such person, entity, or Development, then the Authority, with approval from the Indiana Development Finance Authority (IDFA), may waive such limitation.
- Applicants who are awarded bonds must file a Notice of Issuance within ~~150 days~~ days from the date the application is approved by the Indiana Development Finance Authority (IDFA).
- There will be an Application Fee, payable by the developer. Due on or before the application deadline date to the Authority. See Schedule M.
- The Local Unit of Government is expected to be the Bond Issuer.
- Local Units of Government must pass a resolution prior to application submittal stating they will support and issue the Bonds.
- If the Development receives a reservation of RHTC's from the Authority, then, within fifteen (15) business ~~(10)~~ days after the date of the Determination Letter, the Applicant must pay a reservation fee to the Authority by certified or cashier's check or money. **This fee is payable in addition to the Application fee.**
- The Authority must approve all tax-exempt bond applications and any changes in ownership in accordance with Schedule ~~BE~~ of this Allocation Plan.
- Escrow closings will not be permitted under any circumstance.
- Any Development found to be in violation of the Allocation Plan will be subject to a reduction or rescission in funding, and all Development Team members may be subject to debarment from participating in all Authority financing programs for up to five (5) years.

THE AUTHORITY strongly encourages applicants to consider the amount of time and various parties required to complete a bond transaction.

[Note: A Development that has applied for and/or received an allocation of tax-exempt bonds from the Authority will not be eligible for an allocation of nine (9%) percent RHTC's for said Development]. Further, a private activity tax-exempt bond-financed Development will not be eligible for IHFA HOME or LIHTF funding



Procedures for Accessing HOME Funds

In an effort to streamline the multi-family application process, developers applying for Rental Housing Tax Credits (RHTCs) or Multifamily Private Activity Tax-Exempt Bonds (Bonds) may simultaneously request funds from the HOME Investment Partnerships Program (HOME). If you are applying for RHTCs or Bonds for any development and want to also access HOME funds, you must indicate the HOME funding request on the “Multi-Family Housing Finance Application” and submit additional documentation as instructed in the “Multi-Family Housing Finance Application – HOME Supplement.” Outside of this process, applications for HOME financing for a RHTC or Bond development will only be considered in accordance with IHFA’s Housing from Shelters to Homeownership application criteria.

In the event that an application is competitive for RHTCs or Bonds but either (1) the application fails the HOME threshold review; or (2) HOME funds are not available to award, IHFA will allow the applicant to submit additional information to identify other means of filling the development’s financing gap. Upon timely receipt of requested information, these applications will continue to be allowed to compete for an allocation of RHTCs or Bonds.

If the potential development has an open HOME, CDBG, or LIHTF award through the Housing from Shelters to Homeownership program, the applicant may request funding through the QAP; however, Applicants must request approval at least 30 days prior to the application deadline and IHFA must approve this action. Requests will be reviewed and underwritten on a case-by-case basis. If the application is re-underwritten, the applicant will be subject to an underwriting fee. Applicants may be required to deobligate, repay, or reduce the amount of their current award prior to the application deadline.

Applicants who receive HOME funds should be aware that additional Federal regulations and State requirements accompany this program. HOME regulations are found at 24 CFR Part 92. In particular, affordability requirements may be more stringent than the RHTC or Bond program. Applicants should carefully review these regulations when requesting HOME funding. IHFA strongly encourages applicants to consult with legal and accounting advisors due to the complexity of these programs.

Technical Assistance

IHFA’s Development Specialists/Allocation Analysts are available to answer questions you have about applying for HOME funds. The Specialist- Analyst for your county can be reached by calling (317) 232-7777 or toll-free at (800) 872-0371. A regional map of IHFA’s Community Development staff is available online at: www.in.gov/ihfa/comdev/newsfaqs/regions/regions.htm.

HOME Program Eligibility

Eligibility will be determined based on:

1. Whether the development demonstrates a need for HOME funds in order to make a greater number of units affordable to lower income households.
2. Whether the development meets State and Federal requirements of all programs for which it is applying.
3. If the development ranking is sufficient for it to be awarded RHTCs or Bonds pursuant to the ~~Tax Credit~~ RHTC or Bond process.



4. The availability of HOME funds.

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Eligible Applicants

The award of HOME funds will be made as follows:

1. State-Certified Community Housing Development Organization (CHDO) – HOME funds will be provided in the form of a forgivable loan to state-certified CHDOs that are the 100% general partner or managing member of the LP or LLC. The loan will be forgiven at the end of the affordability period if in compliance with all requirements.
2. Not-for-Profit Organizations or Public Housing Authorities – HOME funds will be provided in the form of a forgivable loan to not-for-profit organizations that are the 100% general partner or managing member of the LP or LLC. The loan will be forgiven at the end of the affordability period if in compliance with all requirements.
3. Limited Partnerships (LP) or Limited Liability Companies (LLC) – For developments where a state-certified CHDO or not-for-profit organization is not the 100% general partner or member, HOME funds will be loaned to the ownership entity. If the LP or LLC has not yet been formed, the applicant for HOME funds should be the general partner or member. If a HOME award is made to the development, the loan documents must be executed by the LP or LLC.

Eligible applicants do not include primarily religious organizations. HOME funds may not be provided to primarily religious organizations, such as churches, for any activity including secular activities. In addition, HOME funds may not be used to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing. However, HOME funds may be used by a secular entity to acquire housing from primarily religious organizations, and a primarily religious entity may transfer title to property to a wholly secular entity and the entity may participate in the HOME program in accordance with the requirements of this part. The entity may be an existing or newly established entity (which may be an entity established, but not controlled, by the religious organization). The completed housing activity must be used exclusively by the owner entity for secular purpose and available to all persons, regardless of religion. In particular, there must be no religious or membership criteria for tenants of the property.

HOME Award Limitation

The maximum HOME request is ~~\$300,000~~ \$500,000.

<u>HOME-Assisted Units</u>	<u>AMI</u>	<u>Maximum Funding</u>
<u>100 %</u>	<u>< or = 60 % *</u>	<u>\$300,000</u>
<u>75 %</u>	<u>< or = 50 %</u>	<u>\$400,000</u>
<u>50 %</u>	<u>< or = 40 %</u>	<u>\$500,000</u>

* Federal regulations require developments with 5 or more HOME-assisted units to have at least 20 % of the HOME units set-aside for tenants at or below 50 % AMI.

Maximum HOME Subsidy Limits

IHFA has established a per unit subsidy limitation for HOME-assisted units of \$35,000 for 0-bedroom units, \$40,000 for 1- and 2-bedroom units, and \$50,000 for units with 3 or more bedrooms.



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Development Location

HOME funds are available statewide for the development of transitional [or permanent supportive](#) housing. Otherwise, applications for developments located within the following participating jurisdictions are not eligible for [IHFA](#) HOME funds.

Anderson	Gary	St. Joseph County Consortium
Bloomington	Hammond	Terre Haute
East Chicago	Indianapolis*	Tippecanoe County Consortium
Evansville	Lake County	
Fort Wayne	Muncie	

*Developments located in the Cities of Beech Grove, Lawrence, Speedway, Southport, and the Town of Cumberland located in Hancock County are eligible for HOME funding from IHFA, even if it is not for transitional [or permanent supportive](#) housing.

Award Term

The HOME award must be fully expended within a 24-month term.

Uses of HOME Funds

HOME funds may be used for acquisition, construction [hard costs](#) or rehabilitation hard costs [of, and testing for lead hazards for](#) HOME-assisted units. [HOME funds may also be used to pay off a CHDO Predevelopment loan, CHDO Seed Money loan or Trust Fund Seed Money loan.](#) HOME funds may not be used toward the refinancing of existing permanent debt.

HOME funds may assist rental, transitional [or permanent supportive housing](#). These units can be in the form of traditional apartments or single-room-occupancy units (SROs). SRO housing consists of single room dwelling units that are the primary residence of the occupant(s). If the development consists of conversion of non-residential space or reconstruction, SRO units must contain either kitchen or bathroom facilities (they may contain both). For developments involving acquisition or rehabilitation of an existing residential structure, neither kitchen nor bathroom facilities are required to be in the unit. However, if individual units do not contain bathroom facilities, the building must contain bathroom facilities that are shared by tenants.

HOME funds are not available for units identified as part of an approved RHTC [or Bond](#) lease-purchase program, unless the purchase will occur after the termination of the HOME affordability period. In such case, the assisted units will be considered rental for purposes of the HOME award. Prior to the HOME affordability period expiration, IHFA will consider requests to permit tenants to purchase HOME-assisted rental units on a case-by-case basis only.

Form of Assistance

1. ~~HOME awards to state-certified CHDOs, or not-for-profit 501(c)(3) or (4) organizations will be in the form of a forgivable loan when the applicant is the 100% general partner or member of the LP or LLC.~~

If the CHDO, ~~or~~ not-for-profit, or PHA structures the HOME funds into the development as an amortized or deferred loan, they ~~will~~ may, at IHFA's discretion, be permitted to retain the repayments of principal and interest for use in other affordable housing developments. The CHDO, ~~or~~ not-for-profit, or PHA may use the repayment stream (both principal and interest): (1) to buy the property at the end of the partnership; (2) to pay the exit fees for other partners in the development at the end of the affordability period; (3) to provide services to the tenants of the particular development; (4) to exert influence over the conditions of sale of the property; or (5) for the organization's other affordable housing activities that benefit low-income families.

IHFA will subordinate to the point when the HOME loan plus other financing is at an amount not to exceed 100% of the cost of construction. Subordination beyond one hundred percent (100%) will be entertained on a case-by-case basis.

2. ~~Alternatively, for developments where a CHDO or not-for-profit organization is not the 100% general partner or managing member, IHFA will provide the HOME funds as an amortized or deferred loan to the LP or LLC. If such an entity has not yet been formed, the applicant for the HOME funds should be the general partner or managing member, but all award documents must be executed by the LP or LLC. Principal and interest payments on these awards may be either deferred or amortized. The applicant may propose a loan term for up to 17 years (up to 2 years as a construction loan and 15 years as permanent financing). The interest rate is proposed by the applicant. The applicant must demonstrate in their application that the interest rate proposed is necessary in order to make the HOME-assisted units affordable. The HOME loan must be fully secured. While it can may be subordinated to other financing, there must be sufficient collateral to fully cover the amount of the loan.~~

IHFA will subordinate to the point when the HOME loan plus other financing is at an amount not to exceed 100% of the costs of construction. Subordination beyond one hundred percent (100%) will be entertained on a case-by-case basis.

Threshold Criteria

~~1. The applicant must have indicated its intention to request HOME financing on an Intent to Submit Form submitted to IHFA by the published deadline. On or before the application deadline, the applicant must provide all documentation as instructed in the “Multi-Family Housing Finance Application – HOME Supplement.” If the Authority requests additional information from the applicant, all documents are due on or before the date provided by IHFA staff..~~

~~2. The Development must meet all the requirements of this Schedule and 24 CFR Part 92.~~

~~One hundred percent (100%) of the HOME-assisted units must benefit households at or below 60% of the area median income (AMI), adjusted for family size.~~

~~3.~~

~~If a balloon payment is proposed, the applicant must demonstrate that it has received a commitment from a third party lender for financing that will repay the HOME balloon amount. If the applicant has previously been involved with funds under any IHFA program, the applicant and any related party must not:~~

~~a. Be on any IHFA suspension list as of the application due date. In addition, the applicant or any related party will not be recommended for funding if placed on the suspension list at any point during the review period prior to IHFA’s Board award date.~~

~~b. Exceed the award cap in the 12 month period prior to the application deadline as applicant or subrecipient of HOME and CDBG funding through the Housing from Shelters to Homeownership program and HOME/RHTC/Bond awards. If IHFA receives more than one application in a single funding round where the requests would force the applicant to exceed the cap, the applications will not be considered for funding in that round. Not for profit and CHDO applicants are limited as give in the table below for their entire service area, and they may not exceed \$750,000 within any single county of their service area. The general partner(s) of LP and member(s) of LLC applicants are limited to \$1,250,000 within the 12 month period, and they may not exceed \$750,000 within a single county. For joint venture, the funding attributed to each partner or member will be proportionate with its share of ownership of the general partnership or membership. Applicants may not exceed \$1,500,000 in HOME and CDBG funding by IHFA within the previous 12 month period from application due date. Applicants may not exceed more than \$1,000,000 in funding for a single county during the 12 month period.~~

Not For Profit Organization or CHDO Service Area	12 Month Award Cap
1 community or 1 county	\$ 750,000
2-3 counties	\$1,000,000
4+ counties	\$1,500,000

~~5.4. The applicant, administrator, and any related party must pass IHFA’s performance evaluation of time elapsed versus funds drawn as of the application deadline for all non-expired HOME or CDBG Housing from Shelters to Homeownership or HOME/RHTC/Bond awards for which it serves as an applicant, subrecipient, or administrator. This is calculated by taking the percent of time that has expired on an award since the board award date and subtracting the percent of funds that have been expended. Funds expended will only count if the draw request is received by IHFA by the application deadline. Only whole months that have expired will be counted. Good (<0%) and acceptable (0-15%) ratings will pass threshold. Applicants with a poor (16-30%) rating will be carefully reviewed to determine performance capability. Applicants with unacceptable (>30%)~~

performance will fail threshold. A six-month grace period will be allowed for new awards (i.e., For 6 months after the board award date, awards will not be required to meet these same criteria).

8.5. IHFA reserves the right to disqualify from funding any application where the applicant or a related party has a history of disregarding the policies, procedures, or staff directives associated with administering any IHFA program or programs of other State, Federal, or affordable housing entities/funders, such as, but not limited to the Indiana Department of Commerce, U.S. Department of Housing and Urban Development (HUD), U.S. Department of Agriculture - Rural Development, or Federal Home Loan Bank.

Note: During funding rounds when award recommendations fall below IHFA's internal funding goals, IHFA may, in its sole discretion, request additional information to be submitted for applications identified as being incomplete, having technical errors in the resolution, or having technical errors in the assurances and certifications. Upon timely receipt of requested information, these applications may then be allowed to compete for HOME funding. However, they would only be recommended for funding and each item has been provided as required in the HOME Supplement Application Completeness Checklist.

Occupancy Restrictions/HOME Rent Limitations

One hundred percent (100%) of the HOME-assisted units must be occupied by households whose incomes are at or below 60% of the area median income, adjusted for household size, with rental rates (including tenant-paid utilities) that do not exceed the 60% AMI Rent Limit as published annually by IHFA's Community Development Department.

If an SRO unit does not have kitchen or bathroom facilities, or has either of these but not both, the maximum SRO rent will be the lesser of 75% of the Fair Market Rent or 100% of the applicable rent limit for an efficiency. For an SRO unit with both kitchen and bathroom facilities, the maximum SRO rent will be 100% of the applicable rent limit for an efficiency.

Rent limits do not include food or the costs of supportive services but do include the cost of any tenant-paid utilities. You must subtract from the published rent limit an approved utility allowance for all utilities for which the tenant will be responsible.

If the applicant proposes to receive all or a portion of the rent payment via a tenant based rental subsidy, the total tenant rent cannot exceed the published rent limits for the applicable income level. For example, a tenant residing in a unit set-aside for households at or below 60% of the area median income has a voucher that pays \$100 of his/her rent, and the published utility allowance for tenant paid utilities for the unit is \$50. If the published 60% Rent Limit is \$300, the tenant paid portion of rent cannot exceed \$150 (\$300 Rent Limit - \$100 Section 8 Voucher - \$50 Utility Allowance = \$150 Maximum Tenant Paid Portion).

If a development receives federal or state project-based rental subsidy and tenants at or below 50% AMI pay no more than 30 percent of his/her adjusted income for rent, the maximum rent may be the rent allowable under the project-based subsidy program. 24CFR Part 92.252 (b)(2).

All tenants who occupy HOME-assisted units must be income recertified on an annual basis. Section 8 definition of household income applies.

Tenant and Participant Protections



All leases between a tenant and an owner of HOME-assisted units must be for not less than one year, unless by mutual agreement between the tenant and the owner. In addition, 24 CFR 92.253 sets forth certain provisions that must be included in any rental agreement and other provisions that are prohibited.

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Minimum Periods of Affordability

The HOME-assisted units must meet affordability requirements for not less than the applicable period specified in the following table, beginning at development completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. The affordability requirements must be imposed by deed restrictions or covenants running with the land. Please note that the HOME affordability period may differ from that of the RHTC or Bond program.

Rental Housing Activity	Minimum Period of Affordability
Rehabilitation or acquisition of existing housing - Less than or equal to \$40,000 HOME funds per HOME-assisted unit	10 years
Rehabilitation or acquisition of existing housing - Greater than \$40,000 HOME funds per HOME-assisted unit	15 years
New construction or acquisition of newly constructed housing	20 years

~~The affordability period terminates only upon foreclosure or transfer in lieu of foreclosure.~~ IHFA may use purchase options, rights of first refusal, or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. Affordability requirements will be met if the new owner agrees to enter a written agreement subjecting the development to the HOME affordability requirements for the remainder of the affordability period.

The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project development or property.

Property Standards

- The completed development must meet the more stringent of the local rehabilitation standards or the Indiana State Building Code.
- The development must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973.
- Covered multi-family units, as defined at 24 CFR 100.201, must meet the design and construction requirements at 24 CFR 100.205, which implements the Federal Fair Housing Act Amendments of 1988.
- Newly constructed units must meet additional energy efficiency standards for new construction as described in 24 CFR 92.251. Namely newly constructed housing must meet, at the time of application, the current edition of the ~~Model Energy Code~~ Indiana Energy Conservation Code published by the ~~Council of American Building Officials~~ International Code Council.

Allocating Costs in Mixed-Income Developments

HOME funds may only pay actual costs related to HOME-assisted units. If the units in a development are comparable (in terms of size, features and number of bedrooms), then the actual costs can be determined



by pro-rating total development costs. HOME funds could pay the pro-rated share of the HOME-assisted units. When units are not comparable, the applicant must allocate the HOME costs on a unit-by-unit basis, charging only actual costs to the HOME program. Because units in rental developments with the "floating" HOME designation must be comparable, an applicant should always pro-rate costs in these developments. When units are generally comparable but vary slightly in size or amenities, a combination of the two approaches may be used.

Unit Size - Comparability in size is defined by the bedroom count and square footage of individual units. Not all units with the same number of bedrooms are comparable in size. If there is a substantial difference in the square footage of two units with the same number of bedrooms, the units are not considered comparable.

Amenities - Comparability in amenities means similar fixtures, appliances and other features. In many mixed-income developments, to receive varying rents, the quality and types of amenities may vary among units. For instance, a development might charge a higher rent for a unit with wall-to-wall carpeting, garbage disposal, dishwasher, and finer fixtures than for a unit without these amenities. This type of development does not typically have comparability of units, unless there is an equal distribution of assisted and non-assisted units that have these amenities.

Common Costs - Common costs are costs incurred for acquisition of improved or unimproved real property that benefits all residents of units in a development, rehabilitation or construction of shared systems (heating, plumbing, roofing) or shared facilities (community rooms, laundry facilities located in residential buildings); and on-site improvements. Costs associated with a development's on-site management office or the apartment of a resident manager may be counted as common costs. The manner in which the costs for common elements of a project/development may be charged is dictated by the method chosen for allocating costs.

For further guidance regarding allocating costs in mixed income developments, refer to HUD CPD Notice 98-02.

HOME Match Requirements

The HOME program requires a twenty-five percent (25%) match. Match is a requirement established by Federal regulation rather than State policy. Applicants are strongly encouraged to read 24 CFR 92.220 and HUD CPD Notice 97-03 for detailed regulatory information regarding HOME-eligible match before applying for HOME funds.

Eligibility of Contributions to HOME-Assisted and HOME Match-Eligible Housing

Form of Match	HOME-Assisted Housing	HOME Match-Eligible Housing
Cash	X	X
Foregone Taxes, Fees and Other Charges	X	
Donated Land or Other Real Property	X	X
On-site and Off-site Infrastructure	X	
Proceeds from Affordable Housing Bonds	X	X
Donated Site Preparation and Construction Equipment	X	X
Donated or Voluntary Labor and Professional Services	X	X

Form of Match	HOME-Assisted Housing	HOME Match-Eligible Housing
Sweat Equity	X	X
Supportive Services	X	
Homebuyer Counseling Services	X	
Donated Use of Site Preparation and Construction Equipment	X	X

HOME-Eligible Match

The types of match for HOME-assisted units include, but are not limited to:

- Cash contributions permanently dedicated to the HOME program from non-federal funds and not donated by the applicant or the designated property owner.
- Program income from a federal grant earned after the end of the award period if no federal requirements govern its disposition; i.e., program income generated from the Rental Rehab Program.
- Grant equivalent of the present discounted value of the yield foregone in a below-interest rate loan. *(Please note: Match from Federal Home Loan Bank (FHLB) Affordable Housing Program (AHP) funds that are loaned to the RHTC or Bond development will be calculated as the grant equivalent of the present discounted value of the yield foregone in a below-interest rate loan.)*
- The present discounted, cash value, based on customary and reasonable means for establishing value, of foregone State or local taxes, fees, or other charges that are normally and customarily imposed or charged.
- The appraised value of donated land or buildings, except those already owned by the applicant or a principal in the development, less any debt that remains as a lien against the property. Property may also be eligible as a partial donation if it is offered to the applicant at below market value and if the offeror submits a written declaration that the difference between market value and the sale price is intended as a contribution to affordable housing.
- The cost, not paid with federal resources, of on-site or off-site infrastructure improvements that are directly required for the HOME-assisted development. The infrastructure must have been completed no earlier than 12 months before HOME funds are committed to the projectdevelopment.
- Donated site-preparation or construction materials, not acquired with federal funds, or the reasonable rental value of the donated use of site preparation or construction equipment.
- Volunteer skilled or unskilled labor and donated professional services. Unskilled labor is currently calculated at the rate of \$10 per hour.
- The direct cost of supportive services provided to families residing in HOME-assisted units during the affordability period. The supportive services must be necessary to facilitate independent living or be required as part of a self-sufficiency program.
- Contributions to non-HOME-assisted but HOME-eligible developments, if certain federal requirements are met (income eligibility of occupants, property standards, rent limits, project occupancy requirements, affordability period, and tenant protections).
- Neighborhood Assistance Program (NAP) Tax Credits.
- Build Indiana Fund grants.

Ineligible Forms of Match

- Contributions made from federal resources, including Community Development Block Grant and Community Services Block Grant funds.
- The interest rate subsidy attributable to federal tax-exemption on financing or the value attributable to RHTCs or Bonds.
- Owner equity or investment in a development.
- Cash or other forms of contributions from applicants or recipients of HOME assistance or contracts, or investors who own, are working on, or propose to apply for assistance for a HOME-assisted development.
- Funds used for award administration or environmental review expenses.

Contributions to HOME Match-Eligible Housing

Contributions to housing that is not assisted with HOME funds, but which would otherwise qualify as affordable under the HOME Program, may be counted as match. The table below summarizes the HOME match-eligible housing requirements.

**HOME Program Requirements Applicable
to Affordable Housing Counted as Match**

Rental Housing	Income determinations	24 CFR 92.203
	Property standards	24 CFR 92.251
	HOME rents	24 CFR 92.252
	Development occupancy requirements	24 CFR 92.252
	Periods of affordability	24 CFR 92.252(e)
	Tenant protections	24 CFR 92.253(a) & (b)

Contributions to nonaffordable units or to commercial space in HOME-match eligible developments are not eligible match. 24 CFR 92.219(b) lists the HOME requirements that the housing or rental assistance must meet if contributions are to be eligible match.

IHFA will execute a written agreement with the owner of the housing that enumerates and imposes the applicable requirements. IHFA has established procedures to monitor these HOME match-eligible developments to ensure continued compliance with the requirements throughout the period of affordability.

Examples of Match Contributions in Partially HOME-Assisted and Mixed-Use Developments

1. A building consists of 100 units. Sixty of the units will be HOME-assisted. Because more than 50% of the units in the development will be HOME-assisted, the applicant can count its contribution to the 40 non-assisted units as match. The contribution to these 40 non-assisted units can be counted as match regardless of whether the units qualify as affordable.
2. A building consists of 100 units. Forty of the units will be HOME-assisted. Because less than 50% of the units in the development are HOME-assisted, the applicant cannot count contributions to the non-assisted units as match.
3. A building consists of 100 units. Forty of the units will be HOME- assisted. Twenty-five of the non-HOME units will be assisted under a non-Federal housing program and will qualify as affordable housing for purposes of the HOME Program (HOME match-eligible). The remaining 15 units will not qualify as affordable housing. Although less than 50% of the units in the development are

HOME-assisted, the applicant can count HOME eligible contributions to the 25 non-HOME units that will qualify as affordable as match.

4. The floor space of a mixed use building is 60% residential and 40% commercial. The residential portion of the building consists of 10 units that will all be assisted with HOME funds. Because at least 51% of the floor space is residential, HOME eligible contributions to the commercial portion of the building can be counted as match.
- ~~5.~~The floor space of a mixed use building is 60% residential and 40% commercial. The residential portion of the building consists of 10 units. Six of the units will be assisted with HOME funds. The remaining 4 units will not meet the HOME affordability requirements. Because at least 51% of the floor space is residential, the applicant's contribution to the commercial portion of the building can be counted as match. In addition, because more than 50% of the residential units will be HOME-assisted, HOME eligible contributions to the nonaffordable units can be counted as match.
- ~~5.~~
- ~~6-6.~~The floor space of a mixed use building is 60% residential and 40% commercial. The residential portion of the building consists of 10 units. Three of the units will be assisted with HOME funds. The remaining 7 units will not meet the HOME affordability requirements. Although more than 51% of the floor space is residential, contributions to the commercial portion of the building cannot be counted as match because less than 50% of the residential units will be HOME-assisted.

Banked Match

If the applicant is proposing to utilize banked match for this activity, and it is the applicant's own banked match, the match liability on the award for which the match was generated must already be met and documented with IHFA for the match to be eligible. Only HOME-eligible match generated on IHFA awards made in 1999 or later is eligible to be banked.

Shared Banked Match

If match is from another recipient, the applicant must provide an executed agreement verifying that the recipient is willing to share the match. The agreement must contain specific language which is outlined in the HOME Supplement. Only banked match from closed awards made in 1999 or later is eligible for sharing with another applicant. The award must be **closed by IHFA** before the agreement to share match is executed. Match cannot be sold or purchased and is provided purely at the discretion of the recipient that generated it. Only banked match generated on a HOME award can be used on a future HOME award.

Underwriting Criteria

IHFA is required to complete a subsidy layering review any time a development receives HOME funds along with other governmental subsidies to assure that the development is not being overly subsidized. In reviewing requests for HOME funds in conjunction with RHTCs or Bonds, IHFA will utilize the underwriting analysis completed in accordance with criteria as given in the current Rental Housing Tax Credit Qualified Allocation Plan for the State of Indiana.

Recipients of IHFA HOME funds will be required to resubmit their 15-year proforma and operating expense projections to the Community Development Department with their completion reports and close-out documents. IHFA will compare this information with the original application. If there are any

changes that would have originally resulted in a lower award amount, the applicant may be required to repay a portion of the award.

Resolution Requirements

Applicants of HOME funds must submit an original borrowing resolution adopted by their governing body or board of directors (see sample resolution provided in the Multi-Family Housing Finance Application – HOME Supplement). ~~The resolution must be signed by the chief elected officer of the applicant's governing body or board of directors.~~

The recipient's Board of Directors must sign the borrowing resolution. If the resolution is approved during a Board of Directors meeting, a quorum should pass and sign the resolution and such resolution shall be incorporated into the minutes of the meeting. Minutes of the board meeting in which the borrowing resolution was passed will be checked at the award monitoring. However, IHFA will make an exception to this policy if the organization has an established protocol for dealing with resolutions and has provided a copy of the process to the Authority. A copy of the resolution in which this protocol was established must be submitted with your application.

Additionally, if approved outside of a Board of Directors meeting, all board members must sign the borrowing resolution or sign in counterpart.

The resolution must address the current HOME request. If an applicant applies during a funding round but receives no funding, a new resolution must be adopted by the applicant's governing body for any subsequent application submittals. The resolution must:

- State the application due date;
- State the maximum amount of the HOME request;
- Authorize submission of the HOME ~~loan~~ application to IHFA;
- State the amount of matching funds being committed to the development;
- Commit the applicant to provide the required match amount, even if match is to be provided through an outside source. The legal applicant is ultimately responsible for the match liability and must commit to the liability through this resolution; and
- State the anticipated source of the match.

HOME Assurances and Certifications

Applicants are required to submit an original, fully executed HOME Assurances and Certifications form. Applicants that receive HOME funding are bound by the content of the form. Applicants should seek the guidance of their legal counsel. The Assurances and Certifications form must be signed by the applicant's chief executive officer and must be ~~notarized~~attested.

Environmental Review

A complete environmental review must be performed to meet the requirements of the National Environmental Policy Act (NEPA) prior to application submission. The applicant is required to complete the environmental review process and submit the environmental review record to the appropriate IHFA ~~Development Specialist~~Allocation Analyst on or before the application deadline. Applicants for single site activities must also submit documentation demonstrating they have completed the Section 106 review on or before the application deadline. On average, an environmental review takes ~~60 to~~ 90 days or more to complete. If the development involves an historic structure or construction on a site of known archaeological significance, approval may take much longer or construction may be prohibited entirely. The environmental review procedures and forms may be downloaded from IHFA's website at www.indianahousing.org.

Davis-Bacon Labor Standards

Any contract for the construction or rehabilitation of affordable housing with 12 or more HOME-assisted units must contain a provision requiring that wages paid to all laborers and mechanics be not less than the prevailing wage of the locality, as predetermined by the Secretary of Labor. In addition, such contracts are subject to the overtime provisions of the Contract Work Hours and Safety Act.

Davis-Bacon developments of five or more stories are subject to commercial wage rates. Davis-Bacon developments of less than five stories that involve significant commercial development may also be subject to the commercial wages. All other Davis-Bacon developments will be subject to residential wage rates, which may be significantly lower than commercial wage rates.

Any development that is subject to Davis-Bacon wage rates is required to get an initial wage decision from IHFA prior to application submission. For further instruction, contact your ~~Development Specialist~~Compliance Monitor.

Section 3 Requirements

Any recipient receiving in excess of \$200,000 in HOME funds or any contractor with an individual contract in excess of \$100,000 in HOME funds is subject to the Section 3 provisions of the National Affordable Housing Act. These provisions require the recipient or contractor to take steps to hire low-income individuals from the development area for open positions.

Equal Opportunity and Fair Housing

Recipients of HOME funds must comply with all Federal fair housing laws and regulations, including affirmative marketing and anti-discrimination policies. In addition, recipients must make a ~~an~~ documented effort to solicit minority contractors and subcontractors for any work that will be contracted.

Affirmative Marketing

Rental developments consisting of 5 or more HOME-assisted units under common ownership or developed by a single entity must utilize IHFA's HOME Affirmative Marketing Procedures in soliciting renters, determining their eligibility, and concluding all transactions. IHFA's procedures have been established to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability.

HOME applicants must identify the market that is least likely to apply for the HOME-assisted units. Upon receipt of an award, the organization must implement marketing procedures to reach those persons least likely to apply. Additionally, HOME recipients, must annually re-evaluate the market least likely to apply and target marketing efforts appropriately.

Examples of marketing outreach efforts include: advertising in local media or placing flyers in community centers, houses of worships, social service offices, etc.

Applicants that are developing 5 or more HOME-assisted units must complete the Affirmative Marketing Procedures and Certification form located in the HOME Supplement and include an original signature.

Site and Neighborhood Standards

IHFA administers the HOME program in a manner that promotes housing opportunities and provides housing that is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, E.O. 11063, and HUD regulations issued pursuant thereto. For new construction of HOME-assisted rental units, the applicant must demonstrate that the proposed development meets the site and neighborhood standards as given at 24 CFR 983.6(b) by completing the appropriate form in the HOME Supplement.

Additional CHDO Requirements

Community Housing Development Organization (CHDO) applicants must certify that they continue to meet the requirements of 24 CFR 92.2.

Applications received from CHDOs must demonstrate that low- and moderate-income people have had the opportunity to advise the CHDO in its decisions regarding the design, siting, development, and management of the affordable housing undertaking.

Additionally, CHDOs that receive a HOME award must adhere to a fair lease and grievance procedure approved by IHFA and provide a plan for and follow a program of tenant participation in management decisions. The applicant must complete the CHDO Status and CHDO Requirements Certification located in the HOME Supplement and include an original signature.

Lead Based Paint Requirements

Recipients of an IHFA HOME award are subject to the HUD lead based paint requirements found in 24 CFR Part 35. The chart below summarizes the requirement based on the amount of HOME funds subsidizing each HOME-assisted unit. For additional instructions, contact your IHFA [Development Specialist/Allocation Analyst](#).

	<u>Rehabilitation</u>			<u>Acquisition without Rehabilitation</u>
HOME Amount Per Unit:	≤\$5,000	\$5,000-\$25,000	>\$25,000	
Approach # to Lead Hazard Evaluation & Reduction (see detail in following chart)	Approach #1 Do no harm	Approach #3 Identify & control lead hazards	Approach #4 Identify & abate lead hazards	Approach #2 Identify & stabilize deteriorated paint
Notification of Tenants	Yes	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing of surface to be disturbed by rehabilitation	Paint Testing of surface to be disturbed by rehabilitation & Risk Assessment	Paint Testing of surface to be disturbed by rehabilitation & Risk Assessment	Visual Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation. Safe work practices & clearance of work site	Interim controls Safe work practices & clearance of unit	Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation) Safe work practices & clearance of unit	Paint Stabilization Safe work practices & clearance of unit
Ongoing Maintenance	For HOME rental only	For HOME rental only	For HOME rental only	Yes (if ongoing relationship)
EIBLL Requirements	No	No	No	No
<u>Options</u>	Presume lead-based paint & use safe work practices on all surfaces	Presume lead-based paint &/or hazards & use standard treatments	Presume lead-based paint &/or hazards & abate all applicable surfaces	Test deteriorated paint. Use safe work practices only on lead-based paint surfaces.

Four Approaches To Implementing Lead Hazard Evaluation & Reduction:

Approach 1. Do No Harm		
Lead Hazard Evaluation Paint testing performed on surfaces to be disturbed	Lead Hazard Reduction Repair surfaces disturbed during work. Safe work practices used when working on areas identified as lead-based paint. Clearance performed on work site.	Options Presume lead-based paint is present and use safe work practices on all surfaces being disturbed.
Approach 2. Identify and Stabilize Deteriorated Paint		
Lead Hazard Evaluation Visual assessment performed to identify deteriorated paint.	Lead Hazard Reduction Paint stabilization of identified deteriorated paint. Safe work practices used. Clearance performed unit-wide.	Options Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead-based paint.
Approach 3. Identify and Control Lead Hazards		
Lead Hazard Evaluation Paint testing performed on surfaces to be disturbed. Risk assessment performed on entire dwelling.	Lead Hazard Reduction Interim controls performed on identified hazards. Safe work practices used. Clearance performed unit-wide.	Options Presume lead based paint &/or lead based paint hazards are present & perform standard treatments .
Approach 4. Identify and Abate Lead Hazards		
Lead Hazard Evaluation Paint testing performed on surfaces to be disturbed. Risk assessment performed on entire dwelling.	Lead Hazard Reduction Abatement performed on identified hazards. Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation. Safe work practices used. Clearance performed unit wide.	Options Presume lead-based paint &/or lead-based paint hazards are present & perform abatement on all applicable surfaces -deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.

Uniform Relocation and Real Property Acquisition Act of 1970 (URA) and Section 104(d) Requirements

IHFA’s goal is to minimize displacement of existing residents when federal and state funds are used for rehabilitation or acquisition. URA provisions apply to any person (including corporations, partnerships, proprietorships, and nonprofit organizations) who is involuntarily displaced because of a federally assisted development. Eligibility for URA coverage begins at the time that an offer to acquire is made for property in anticipation of a development planning to use federal funds. Tenants and owners at the time the offer to acquire is made are eligible to receive reimbursement for moving expenses as such, notices



are required to be sent and verification included with the application. Residential tenants may also receive a housing cost allowance for up to 42 months.

For further detailed information, including sample letters, please review the URA and Section 104(d) Chapter of the Community Development Implementation Manual at www.in.gov/ihfa/comdev/comp/manuals/im/im.htm. Additionally, applicants anticipating that URA or Section 104(d) requirements apply to their development are strongly encouraged to seek technical assistance through their Compliance Monitor.

Accessibility

The Federal Fair Housing Act Amendments of 1988 establishes the following seven design standards for all newly constructed multi-family housing of four or more units ready for first occupancy on or after March 13, 1991 (See 24 CFR 100.205). The housing is not covered if the last building permit was issued prior to June 15, 1990, or if the site is determined to be impractical.

- At least one building entrance must be on an accessible route.
- All public and common areas must be readily accessible to and usable by people with disabilities.
- All doors providing passage into and within all premises must be sufficiently wide for use by persons in wheelchairs.

Additionally, all ground floor units and all units on floors served by elevators must have:

- An accessible route into and through the dwelling.
- Accessible light switches, electrical outlets, thermostats, and other environmental controls.
- Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, and shower, when needed.
- Kitchens and bathrooms configured so that a person using a wheelchair can maneuver about the space.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities in the operation of programs receiving Federal financial assistance. HUD regulations implementing Section 504 contain accessibility requirements for new construction and rehabilitation of housing as well as requirements for ensuring that the programs themselves are operated in a manner that is accessible to and usable by persons with disabilities. (See 24 CFR Part 8). Multifamily housing developments are defined at 24 CFR 8.3 as developments “containing five or more dwelling units.”

New Construction - HUD regulations implementing Section 504 at 24 CFR 8.22(a) require that new construction of multifamily developments be designed and constructed to be readily accessible to and usable by persons with disabilities. Both the individual units and the common areas in the building must be accessible. For new construction of multifamily rental developments, a minimum of five percent (5%) of the dwelling units in the development (but not less than one unit) must be accessible to individuals with mobility impairments. An additional two percent (2%) of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e. hearing or vision impairments), unless HUD prescribes a higher number pursuant to 24 CFR 8.22(c).

Rehabilitation - Substantial Alterations - Section 504 requires that if alterations are undertaken to a housing development that has 15 or more units, and the rehabilitation costs will be 75 percent or more of the replacement cost of the completed facility, then such developments are considered to have undergone "substantial alterations" (24 CFR 8.23 (a)). For substantial alterations of multifamily rental housing, the

accessibility requirements contained in 24 CFR 8.22 must be followed -- a minimum of five percent (5%) of the dwelling units in the development (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional two percent (2%), at a minimum (but not less than one unit), must be accessible to individuals with sensory impairments.

Rehabilitation - Other Alterations - When other alterations that do not meet the regulatory definition of substantial alterations are undertaken in multifamily rental housing developments of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of five percent (5%) of the dwelling units (but not less than one unit) are accessible to people with mobility impairments, unless HUD prescribes a higher number pursuant to 24 CFR 8.23(b)(2). If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible. For this category of rehabilitation the additional two percent (2%) of the dwelling units requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible. A recipient is not required to make a dwelling unit, common area, facility or element accessible, if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing development. (24 CFR 8.23(b)) Therefore, recipients are required to provide access in covered alterations up to the point of being infeasible or an undue financial and administrative burden.

Accessibility Standards - Dwelling units designed and constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) will be deemed to comply with the Section 504 regulation. For copies of UFAS, contact the HUD Distribution Center at 1-800-767-7468; hearing or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339. Accessible units must be, to the maximum extent feasible, distributed throughout the development and sites, and must be available in a sufficient range of sizes and amenities so as not to limit choice. For further guidance regarding accessibility requirements, refer to HUD CPD Notice 00-09.

Program Guideline Requirements

The program guidelines section of the HOME Supplement must be completed when submitting an application for funding. Program guidelines will be used in the management and leasing of the newly constructed or rehabilitated housing. They must clearly outline the requirements for the development and will be used to ensure that all applicants are treated in a fair and consistent manner. A copy of the current program guidelines must be available at the management office of the development throughout the affordability period.

Certificate of Existence

All incorporated applicants must provide evidence that they validly exist according to the laws of the State of Indiana. A copy of the Certificate of Existence that is less than 6 months old must be provided with the application. This certificate can be ordered through the Secretary of State at the following website: <http://www.in.gov/sos/business/corporations.html>.

Homeless Information Management System

The State of Indiana's Continuum of Care is in the process of implementing a Homeless Management Information System (HMIS). It is anticipated that the new system will more accurately reflect point-in-time counts of homeless persons over a greater period of time. HMIS will provide the State with much needed data about the number of persons who are homeless, the services they seek and need, and their housing patterns and needs.



For applicants that are proposing to develop either transitional housing or permanent supportive housing, you will be required to participate in HMIS as it becomes available in the State of Indiana. An original certification of this is required as part of the HOME Supplement.

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Procedures for Accessing a Trust Fund Loan

The Indiana Housing Trust Fund (HTF) was established in 1989 to provide short-term financing options for the development of safe, decent, and affordable housing in Indiana communities. In an effort to streamline the multi-family application process, developers applying for Rental Housing Tax Credits (RHTCs) or Multifamily Private Activity Tax-Exempt Bonds (Bonds) may simultaneously request a HTF loan. If you are applying for RHTCs or Bonds for any development and want to also access a HTF loan, you must indicate the HTF request on the “Multi-Family Housing Finance Application” and submit additional documentation as instructed in the “Multi-Family Housing Finance Application – Trust Fund Supplement.” Outside of this process, applications for HTF financing for a RHTC or Bond development will only be considered in accordance with IHFA’s Housing from Shelters to Homeownership application criteria.

In the event that an application is competitive for RHTCs or Bonds but either (1) the application fails the HTF threshold review; or (2) HTF funds are not available to loan, IHFA will allow the applicant to submit additional information to identify other means of filling the development’s financing gap. Upon timely receipt of requested information, these applications will continue to be allowed to compete for an allocation of RHTCs or Bonds.

If the potential development has an open HOME, CDBG, or HTF award through the Housing from Shelters to Homeownership program, the applicant may request funding through the QAP; however, Applicants must request approval at least 30 days prior to the application deadline and IHFA must approve this action. Requests will be reviewed and underwritten on a case-by-case basis. If the application is re-underwritten, the applicant will be subject to an underwriting fee. Applicants may be required to deobligate, repay, or reduce the amount of their current award prior to the application deadline.

Applicants who receive a HTF loan should be aware that additional regulations and requirements accompany this program. HTF regulations may be found in the Indiana Code at I.C. 5-20-4. In particular, affordability requirements may be more stringent than under the RHTC or Bond program. Applicants should carefully review these regulations when requesting an HTF loan. IHFA strongly encourages applicants to consult with legal and accounting advisors due to the complexity of these programs.

Technical Assistance

IHFA’s Development Specialists Allocation Analysts are available to answer questions you have about applying for a Trust Fund loan. The Specialist Analyst for your county can be reached by calling (317) 232-7777 or toll-free at (800) 872-0371. A regional map of IHFA’s Community Development staff is available online at: www.in.gov/ihfa/comdev/newsfaqs/regions/regions.htm.

HTF Program Eligibility

Eligibility will be determined based on:

1. Whether the development demonstrates a need for a HTF loan in order to make a greater number of rental units affordable to lower income households.

2. Whether the development meets State and Federal requirements of all programs for which it is applying.
3. If the development ranking is sufficient for it to be awarded RHTCs or Bonds pursuant to the RHTC or Bond process.
4. The availability of HTF funds.

Eligible Applicants

The HTF applicant must be a Limited Partnership (LP), Limited Liability Company (LLC), Community Housing Development Organization (CHDO), or Not-for-Profit (NFP) organized under Indiana law. If the LP or LLC has not yet been formed, the applicant must be the general partner or member. If a loan is made to such an applicant, all subsequent loan documents must be executed by the LP or the LLC.

The Indiana Code establishing the HTF requires that at least fifty percent (50%) of the resources of the fund will be allocated to nonprofit corporations under Section 501 (c) of the Internal Revenue Code. As such, loans may be awarded or denied based on this requirement.

HTF Loan Limitation

The maximum HTF loan request is ~~\$300,000~~ 500,000.

Maximum HTF Subsidy Limits

~~The maximum subsidy is \$75,000 HTF loan funds per unit.~~

Development Location

The development must be in Indiana.

Uses of HTF Loan

A HTF loan may be used for construction financing (acquisition, construction ~~hard costs~~ or rehabilitation hard costs) of HTF-assisted units, and testing of lead hazards or to pay off a HOME CHDO Predevelopment loan, a HOME CHDO Seed Money loan, or a Trust Fund Seed Money loan. The loan is available for construction and/or short-term permanent financing and may be used to refinance existing permanent debt.

The HTF may assist rental, transitional or permanent supportive housing.

Loan Term

The applicant may propose a loan term of up to two (2) years of construction financing, seven (7)

Interest Rate

~~The applicant may propose the interest rate for the loan; however, a~~ Applicants are strongly encouraged ~~must propose to consider an~~ interest rate of ~~at least four-three~~ percent (3%). ~~In order to obtain maximum consideration for funding, applicants must be able to demonstrate that HTF financing at the rate proposed is necessary to make units affordable. Lower interest rates will be reviewed and considered; however, justification as to why this rate is necessary is required.~~

Security or Collateral

The HTF loan must be secured. In most instances, this will be met by a mortgage on the assisted property. The HTF loan ~~can~~ may be subordinated to other financing, but there must be sufficient collateral to fully cover the amount of the loan. ~~For the HTF assisted development, IHFA will subordinate to the point when the HTF loan plus other financing is at an amount not to exceed 100% of the cost of construction. If financing is requested beyond this amount, IHFA may~~ also accept liens on personal property, ~~or~~ liens on other real estate, ~~and in some instances, personal guarantees~~. The security pledge should reflect the degree of risk inherent to the ~~project development~~ and must be proportionate to the level of funding requested. The appropriateness of the security offered will be an element of the funding decision.

Threshold Criteria

~~1. The applicant must have indicated its intention to request HTF financing on an Intent to Submit Form submitted to IHFA by the published deadline.~~

~~1.~~ On or before the application deadline, the applicant must provide all documentation as instructed in the “Multi-Family Housing Finance Application – Trust Fund Supplement.” ~~If the Authority requests additional information from the applicant, all documents are due on or before the date provided by IHFA staff.~~

~~3.2.~~ The Development must meet all the requirements of this Schedule and the Indiana Code at I.C. ~~5-20-4.~~

~~3.~~ All HTF assisted units must benefit households at or below 80% of area median income (AMI), adjusted for family size. However, at least fifty percent (50%) of the HTF-assisted units must benefit households at or below 50% of the area median income (AMI), adjusted for family size.

~~4.4.~~ The applicant must demonstrate that the HTF loan is not being used for bridge financing of the equity contribution. ~~IHFA will consider several factors including, but not limited to: the timing of equity payments, the amount of permanent debt once all equity is contributed, the amount of the construction loan, etc.~~

~~5.~~ If a balloon payment is proposed, the applicant must demonstrate that it has received a commitment from a third party lender for financing that will repay the HTF balloon amount. ~~4.~~

~~6.~~ If the applicant has previously been involved with funds under any IHFA program, the applicant and any related party must not:

- a. Be ~~out of compliance and or on~~ any IHFA suspension list ~~as of the application due date. In addition, the applicant or any related party will not be recommended for funding if placed on the suspension list at any point during the review period prior to IHFA’s Board award date.~~
- b. Have an outstanding loan balance (including current loan request) that exceeds ~~\$1,75000,000.~~

7.5. IHFA reserves the right to disqualify from funding any applicant that has a history of disregarding the policies, procedures, or staff directives associated with administering any IHFA program or programs of other State, Federal, or affordable housing entities/funders, such as, but not limited to the U.S. Department of Housing and Urban Development (HUD), Indiana Department of Commerce, U.S. Department of Agriculture - Rural Development, or Federal Home Loan Bank.

Note: During funding rounds when loan recommendations fall below IHFA's internal funding goals, IHFA may, in its sole discretion, request additional information to be submitted for applications identified as being incomplete, having technical errors in the resolution, or having technical errors in the assurances and certifications. Upon timely receipt of requested information, these applications may then be allowed to compete for a HTF loan. However, they would only be recommended for funding after all complete applications have been recommended for funding and each item has been provided as required in the HTF Supplement Application Completeness Checklist.

Determining HTF Assisted Units

The percentage of which the HTF can be attributed to the total development costs represents the percentage of units that will be considered HTF assisted.

For example, if development costs are \$2,000,000 and the applicant is requesting \$500,000 in HTF financing, then twenty-five percent (25%) of the construction financing is via the HTF. As such, 25% of the units will be assisted with the HTF and must meet the requirements of the HTF program.

Occupancy Restrictions and Rent Limits

One hundredFifty percent (4050%) of the HTF assisted units must be occupied by households whose incomes are at or below 50% of the area median income adjusted for household size, and the additional HTF units must be for incomes at or below 80% of the area median income adjusted for household size, with rental rates (including tenant-paid utilities) that do must not exceed the 50% AMI HOME Rent Limit as published annually by IHFA's Community Development Department the limits of the Rental Housing Tax Credit (RHTC) Program and/or the HOME Investment Partnerships (HOME) Program as appropriate. In instances when HTF units are not developed with the assistance of RHTC or HOME funding, the HOME rent and income limits will apply.

If an SRO unit does not have kitchen or bathroom facilities, or has either of these but not both, the maximum SRO rent will be the lesser of 75% of the Fair Market Rent or 100% of the applicable rent limit for an efficiency. For an SRO unit with both kitchen and bathroom facilities, the maximum SRO rent will be 100% of the applicable rent limit for an efficiency.

Rent limits do not include food or the costs of supportive services but do include the cost of any tenant-paid utilities. You must subtract from the published rent limit an approved utility allowance for all utilities for which the tenant will be responsible.

If the applicant proposes to receive all or a portion of the rent payment via a tenant based rental subsidy, the total tenant rent cannot exceed the published rent limits for the applicable income level. For example, a tenant residing in a unit set aside for households at or below 40% of the area median income has a voucher that pays \$100 of his/her rent, and the published utility allowance for tenant paid utilities for the unit is \$50. If the published 50% Rent Limit is \$300, the tenant paid portion of rent cannot exceed \$150

~~(\$300 Rent Limit – \$100 Section 8 Voucher – \$50 Utility Allowance = \$150 Maximum Tenant Paid Portion).~~

All tenants who occupy HTF-assisted units must be income recertified according to the requirements of the RHTC or HOME program ~~on an annual basis. Section 8 definition of household income applies.~~

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Minimum Period of Affordability

The HTF-assisted units must meet affordability requirements for not less than fifteen years, beginning at development completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. The affordability requirements must be imposed by deed restrictions or covenants running with the land. Please note that the HTF affordability period may differ from that of the RHTC, HOME, or Bond program.

~~The affordability period terminates only upon foreclosure, transfer in lieu of foreclosure, or sale of the assisted unit to an income-eligible participant of an approved RHTC or Bond lease-purchase program. IHFA may use purchase options, rights of first refusal, or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project development or property.~~

Property Standards

- The completed development must meet the more stringent of the local rehabilitation standards or the Indiana State Building Code.
- The development must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973.
- Multi-family units, as defined at 24 CFR 100.201, must meet the design and construction requirements at 24 CFR 100.205, which implements the Federal Fair Housing Act Amendments of 1988.
- ~~Newly constructed units must meet additional energy efficiency standards for new construction as described in 24 CFR 92.251.~~ Newly constructed housing must meet, at the time of application, the current edition of the Indiana Energy Conservation Code published by the International Code Council.
~~current Model Energy Code published by the Council of American Building Officials.~~

HTF Match Requirements

The HTF program requires a ~~ten~~five percent (~~510~~50) match. This match may be provided by donated land, buildings, material, cash, and grants or loans from sources ~~such as other than~~ IHFA's CDBG, HOPWA or HOME programs. Other sources of match may also qualify. Contact your IHFA Development Specialist Allocation Analyst if you have questions about a specific source.

Underwriting Criteria

In reviewing requests for a HTF loan in conjunction with RHTCs or Bonds, IHFA will utilize the underwriting analysis completed in accordance with criteria as given in the current Rental Housing Tax Credit Qualified Allocation Plan for the State of Indiana. **Applicants awarded a HTF loan in conjunction with RHTCs or Bonds may receive an offer of assistance (i.e., loan amount, loan term, interest rate, etc.) that is different from that requested. Applicants shall be notified if changes should occur.**



Borrowing Resolution Requirements

Applicants of HTF funds must submit an original borrowing resolution adopted by their governing body or board of directors. (See sample resolution provided in the Multi-Family Housing Finance Application – Trust Fund Supplement). ~~The resolution must be signed by the chief elected officer of the applicant’s governing body or board of directors.~~

The recipient’s Board of Directors must sign the borrowing resolution. If the resolution is approved during a Board of Directors meeting, a quorum should pass and sign the resolution and such resolution shall be incorporated into the minutes of the meeting. Minutes of the board meeting in which the borrowing resolution was passed will be checked at the award monitoring. However, IHFA will make an exception to this policy if the organization has an established protocol for dealing with resolutions and has provided a copy of the process to the Authority. A copy of the resolution in which this protocol was established must be submitted with your application.

Additionally, if approved outside of a Board of Directors meeting, all board members must sign the borrowing resolution or sign in counterpart.

The resolution must address the current HTF request. If an applicant applies during a funding round but receives no funding, a new resolution must be adopted by the applicant’s governing body for any subsequent application submittals. The resolution must:

- State the application due date;
- State the maximum amount of the HTF request;
- Authorize submission of the HTF loan application to IHFA;
- State the amount of matching funds being committed to the development;
- Commit the applicant to provide the required match amount, even if match is to be provided through an outside source. The legal applicant is ultimately responsible for the match liability and must commit to the liability through this resolution; and
- State the anticipated source of the match.

HTF Assurances and Certifications

Applicants are required to submit an original, fully executed HTF Assurances and Certifications form. Applicants that receive HTF funding are bound by the content of the form. Applicants should seek the guidance of their legal counsel. The Assurances and Certifications form must be signed by the applicant’s chief executive officer and must be ~~attested~~notarized.

Accessibility

The Federal Fair Housing Act Amendments of 1988 establishes the following seven design standards for all newly constructed multi-family housing of four or more units ready for first occupancy on or after March 13, 1991 (See 24 CFR 100.205). The housing is not covered if the last building permit was issued prior to June 15, 1990, or if the site is determined to be impractical.

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HTF Amount Per Unit:	<u>Rehabilitation</u>			<u>Acquisition without Rehabilitation</u>
	≤\$5,000	\$5,000-\$25,000	>\$25,000	
Approach # to Lead Hazard Evaluation & Reduction (see detail in following chart)	<u>Approach 1</u> - Do no harm	<u>Approach 3</u> - Identify & control lead hazards	<u>Approach 4</u> - Identify & abate lead hazards	<u>Approach 2</u> - Identify & stabilize deteriorated paint
Notification of Tenants	Yes	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing of surface to be disturbed by rehabilitation	Paint Testing of surface to be disturbed by rehabilitation & Risk Assessment	Paint Testing of surface to be disturbed by rehabilitation & Risk Assessment	Visual Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation. Safe work practices & clearance of work site	Interim controls Safe work practices & clearance of unit	Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation) Safe work practices & clearance of unit	Paint Stabilization Safe work practices & clearance of unit
Ongoing Maintenance	For HOME rental only	For HOME rental only	For HOME rental only	Yes (if ongoing relationship)
EIBLL Requirements	No	No	No	No
<u>Options</u>	Presume lead-based paint & use safe work practices on all surfaces	Presume lead-based paint &/or hazards & use standard treatments	Presume lead-based paint &/or hazards & abate all applicable surfaces	Test deteriorated paint. Use safe work practices only on lead-based paint surfaces.

Four Approaches To Implementing Lead Hazard Evaluation & Reduction:

Approach 1. Do No Harm		
<p><u>Lead Hazard Evaluation</u></p> <p>Paint testing performed on surfaces to be disturbed</p>	<p>Lead Hazard Reduction</p> <p>Repair surfaces disturbed during work. Safe work practices used when working on areas identified as lead-based paint. Clearance performed on work site.</p>	<p>Options</p> <p>Presume lead-based paint is present and use safe work practices on all surfaces being disturbed.</p>
Approach 2. Identify and Stabilize Deteriorated Paint		
<p>Lead Hazard Evaluation</p> <p>Visual assessment performed to identify deteriorated paint.</p>	<p>Lead Hazard Reduction</p> <p>Paint stabilization of identified deteriorated paint. Safe work practices used. Clearance performed unit-wide.</p>	<p>Options</p> <p>Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead-based paint.</p>
Approach 3. Identify and Control Lead Hazards		
<p>Lead Hazard Evaluation</p> <p>Paint testing performed on surfaces to be disturbed. Risk assessment performed on entire dwelling.</p>	<p>Lead Hazard Reduction</p> <p>Interim controls performed on identified hazards. Safe work practices used. Clearance performed unit-wide.</p>	<p>Options</p> <p>Presume lead based paint &/or lead based paint hazards are present & perform standard treatments.</p>
Approach 4. Identify and Abate Lead Hazards		
<p>Lead Hazard Evaluation</p> <p>Paint testing performed on surfaces to be disturbed. Risk assessment performed on entire dwelling.</p>	<p>Lead Hazard Reduction</p> <p>Abatement performed on identified hazards. Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation. Safe work practices used. Clearance performed unit wide.</p>	<p>Options</p> <p>Presume lead-based paint &/or lead-based paint hazards are present & perform abatement on all applicable surfaces-deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.</p>

Glossary

140% Rule: If upon re-certification, a low-income Tenant's income is greater than 140% of the applicable income limit adjusted for family size, the unit will continue to be counted toward satisfaction of the required set-aside, providing that unit continues to be rent-restricted and the next available unit of comparable or smaller size in the Development is rented to a qualified Low-income Household.

20%/50% Test: 20% or more of the residential units must be rented to Households with aggregate Gross Income of 50% or less of the area median Gross Income adjusted for family size.

40%/60% Test: 40% or more of the units must be rented to Households with aggregate Gross Income of 60% or less of the area median Gross Income adjusted for family size.

15%/40% Test: 15% or more of the residential units must be rented to Households with aggregate Gross Income of 40% or less of the area median Gross Income adjusted for family size.

Annual Household Income: Annual Income of all persons who intend to permanently reside in a unit.

Annual Income: Total Current Anticipated Income to be received by a Tenant from all sources including Assets for the next twelve (12) months.

Annual Income Re-certification: Document by which the Tenant re-certifies his/her income for the purpose of determining whether the Tenant will be considered low-income according to the provisions of the RHTC Program.

Applicable Fraction: The Applicable Fraction is the lesser of a) the ratio of the number of low-income units to the total number of units in the building or b) the ratio of the total floor space of the low-income units to the total floor space of all units in the building.

Applicable Credit Percentage: Although the Credits are commonly described as 9% and 4% credits, the percentages are approximate figures. The U.S. Department of the Treasury publishes the exact credit percentages each month.

Application: Form completed by a person or family seeking rental of a unit in a Development. An Application should solicit sufficient information to determine the applicant's eligibility and compliance with federal and IHFA guidelines.

Assets: Items of value, other than necessary and personal items, which are considered in determining the eligibility of a Household.

Asset Income: The amount of money received by a Household from items of value as defined in HUD Handbook 4350.3.

Authority: Indiana Housing Finance Authority



Certification Year: The twelve (12) month time period beginning on the date the unit is first occupied and each twelve (12) month period commencing on the same date thereafter.

Compliance: The act of meeting the requirements and conditions specified under the law and the RHTC Program requirements.

Compliance Period: The time period for which a building must comply with the requirements set forth in Section 42 and the Declaration of Extended Low-Income Housing Commitment.

Correction Period: A reasonable time as determined by the Authority for an Owner to correct any violation as a result of noncompliance.

Credit: Tax Credit as authorized by Section 42 of the Internal Revenue Code.

Credit Period: The period of ten (10) taxable years during which credit may be claimed, beginning with:

- 1) the taxable year the building is placed in service; or
- 2) at the election of the taxpayer, the succeeding year, but only if the building is a Qualified Low-Income Building as of the close of the first year of such building, and remains qualified throughout succeeding years.

Current Anticipated Income: Gross anticipated income for the next twelve (12) months as of the date of occupancy that is expected to be received by the Tenant(s) including Imputed Income.

Declaration of Extended Low-Income Housing Commitment: The agreement between IHFA and the Owner restricting the use of the Development during the term of the RHTC Extended Use Period.

Development: Rental housing development receiving a RHTC allocation.

Effective Date of Tenant Certification: The date the Tenant Income Certification becomes applicable. For initial Certifications, this date must be the move-in date of the Tenant. For annual Re-certifications, this date must be no later than one year from the Effective Date of the previous (re) certification.

Effective Term of Verification: A period of time not to exceed one hundred twenty (120) days. A Verification is valid for ninety (90) days, and may be updated orally for an additional thirty (30) days. A Verification must be within the effective term at time of Tenant's Income Certification.

Eligible Basis: The Eligible Basis of a qualifying Development generally includes those capital assets incurred with respect to the construction, rehabilitation, or acquisition in certain circumstances, of the property, minus non-depreciable costs such as land and certain other items such as financing fees. While it may not include any parts of the property used for commercial purposes, it may include the cost of facilities for use by Tenants to the extent there is no separate fee for their use and they are available to all Tenants. It may also

include the cost of amenities if the amenities are comparable to the cost of amenities in other units.

Eligible Basis is reduced by an amount equal to the portion of a building's adjusted basis which is attributable to non low-income units which exceed the average quality standard of the low-income units unless the cost of building the market rate units does not exceed the cost of the average low-income units by more than 15% and the excess cost is excluded from Eligible Basis.

Eligible Basis is further reduced by the amount of any federal grants applied towards the Development, and, should the Owner so elect, it may be reduced by "federal subsidies" to take advantage of the higher applicable RHTC percentage. It is determined without regard to depreciation.

Eligible Tenant: The current tenant of the unit, so long as that tenant is eligible to occupy the unit under the requirements of Section 42 of the Internal Revenue Code. This expressly includes a tenant whose income would not currently qualify under Section 42, but who was qualified at the time of tenant's original occupancy of the unit.

Employment Income: Wages, salaries, tips, bonuses, overtime pay, or other compensation for personal services from a job.

Extended Use Period: The time frame which begins the first day of the initial 15 year compliance period, on which such building is part of a qualified low-income housing Development and ends 15 years after the close of the Initial Compliance Period, or the date specified by IHFA in the Declaration of Extended Low-Income Housing Commitment.

Fair Market Value: An amount which represents the true value at which property could be sold on the open market.

First Year of the Credit Period: Either the year a building is placed in service, or, at the Owner's option, the following year.

Gross Income: See Annual Household Income.

Gross Rent: Maximum amount that a Tenant can pay for rent before deducting a utility allowance. **Note:** The Owner must be aware of the year in which the RHTC allocation was made and the specific guidelines that refer to the calculation of gross rent for those years, i.e. 1987, 1988, and 1989 RHTC allocations base gross rent on the actual number of persons residing in the unit.

Household: The individual, family, or group of individuals living in the unit.

Imputed Income: The estimated earnings of Assets held by a Tenant using the potential earning rate established by HUD.

Income Limits: Maximum incomes as published by HUD for Developments giving the maximum Income Limits per unit for Low-Income (40%, 50% or 60% of median) Units.

Initial Compliance: The 12 month period commencing with the date the building is placed in



service. Note: Developments consisting of multiple buildings with phased completion must meet the set-aside requirements on a building by building basis with the 12 months commencing with the individual date each building is placed in service.

Initial Compliance Period: A fifteen (15) year period, beginning with the first taxable year in which Credit is claimed, during which the appropriate number of units must be marketed and rented to RHTC eligible Households, at restricted rents.

Inspection: A review of a Development which may be made annually by IHFA or its agent, which includes an examination of records, a review of operating procedures and a physical inspection of units.

Lease: The legal agreement between the Tenant and the Owner which delineates the terms and conditions of the rental of a unit.

Low-Income Household/Tenant: Households whose incomes are not more than either 50% or 60% of the median family income for the local area adjusted for family size.

Low-Income Unit: An unit in a building if:

1. Such unit is rent-restricted (as defined in subsection (g)(2) of IRS Section 42 of the Code);
2. The individuals occupying such unit meet the income limitation applicable under subsection 42(g)(1) to the Development of which such building is part;
3. The unit is suitable for occupancy, available to the general public, and used other than on a transient basis.

Management Company: A firm authorized by the Owner to oversee the operation and management of the Development and who accepts compliance responsibility.

Maximum Allowable Rent Calculation: The Maximum Allowable Rent Calculation includes costs to be paid by the Tenant for utilities inclusive of heat, electricity, air conditioning, water, sewer, oil, or gas where applicable (does not include cable television or telephone).

Maximum Chargeable Rent (Net Rent): Gross Rent less Utility Allowance paid by the Tenant.

Median Income: A determination made through statistical methods establishing a middle point for determining Income Limits. Median is the amount that divides the distribution into two equal groups, one group having income above the median and one group having income below the median.

Minimum Set-Aside: The minimum number of units that the Owner has elected and set forth in the Declaration of Low-Income Housing Commitment to be income and rent-restricted.

Owner or Developer: Any individual, association, corporation, joint venture, or partnership that owns a RHTC Development.

Placed in Service Date: For buildings, this is the date on which the building is ready and available for its specifically assigned function, as set forth on IRS Form 8609.

Qualified Allocation Plan: The plan developed and promulgated from time to time by IHFA,



which sets out the guidelines and selection criteria by which IHFA allocates RHTC.

Qualified Basis: The portion of the Eligible Basis attributable to low-income rental units. It is equal to the Eligible Basis multiplied by the Applicable Fraction. The amount of Qualified Basis is determined annually on the last day of each taxable year.

Note: This is the lesser of the Applicable Fraction/Occupancy Percentage:

- a. the proportion of low-income units to all residential rental units; or
- b. the proportion of floor space of the low-income units to the floor space of all residential rental units.

Qualified Low-Income Building: Any building that is part of a qualified low-income housing Development at all times during the period beginning on the first day in the compliance period on which such building is part of such a Development and ending on the last day of the compliance period with respect to such building (Section 42(c)(2)(A) of the Code).

Qualified Unit: A unit in a Qualified Low-Income Building occupied by qualified persons at a qualified rent.

Section 8: Section 8 of the United States Housing Act of 1937, as Amended.

Student: Any individual who is, or will be, a full-time Student (as defined by the institution) at an educational institution with regular facilities and Students, other than correspondence school.

Tax Credit: The Tax Credit amount is calculated by multiplying the Qualified Basis by the Applicable Credit Percentage. The credit percentage, determined monthly, changes so as to yield over a 10 year period, a credit equal to either 30% or 70% of the present value of the Qualified Basis of the building. An Owner may elect to lock in the Applicable Credit Percentage either at the time a Commitment is made by IHFA, or at the time the allocation is made.

Tenant: Any person occupying the unit.

Tenant/ Unit File: Complete and accurate records pertaining to each dwelling unit, containing the Application for each Tenant, Verification of income and Assets of each Tenant, Annual Income Re-certification, utility schedules, rent records, Lease and Lease addendum. Any authorized representative of IHFA or the Department of Treasury shall be permitted access to these files upon receipt by Development Owner or Management Company of prior written notice of not less than two calendar days.

Utility Allowance: The amount of utilities, for a particular unit, set by a Utility Allowance schedule which is published by HUD, Rural Development, or PHA, or a letter from the utility company which states the rates (see IRS Notice 89-6).

Verification: Information from a third-party which is collected in order to corroborate the accuracy of information about income provided by applicants to a Development.

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Capital Needs Assessment

A capital needs assessment represents a third party qualified professional's opinion of a property's current overall physical condition and identifies significant deferred maintenance, existing deficiencies, and material building code violations that affect the property's use and its structural and mechanical integrity.

The assessment should include a site visit and physical inspection of the interior and exterior of units and structures, as well as an interview with available on-site property management and maintenance personnel to inquire about past repairs/improvements, pending repairs, and existing or chronic physical deficiencies. The assessment should include an opinion as to the proposed budget for recommended improvements and should identify critical building systems or components that have reached or exceeded their expected useful lives. The assessment should also include recurring probable expenditures for significant systems and components impacting use and tenancy, which are not considered operation or maintenance expenses, in order to determine the appropriate replacement reserve deposits on a per unit per year basis. The following components should be examined and analyzed for a capital needs assessment:

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



Application Package Submission Guidelines

1. No Application will be considered without the Applicant's submission of a brief narrative summary (limit 3 pages) describing the need for the Development within the community and the Development itself. This narrative should give an accurate depiction of how this Development will benefit the particular community. Generally, the summary should include the following points:

Development and unit description

Amenities - in and around Development

Area's needs that Development will help meet

Community support and/or opposition for Development

The constituency served by the Development

Development quality

Development location

Effective use of resources

Unique features

Services to be offered

Address Allocation Plan points **MUST** include pages 3-9 of Form- A (the Application).

2. Your assistance in organizing your submissions in the following order will facilitate the review of your Application for a "Conditional" Reservation of Rental Housing Financing. Documentation included with the Application must be submitted in the order set forth on the Development Submission Checklist. Documentation for each applicable tabbed section of the application for which it applies should be placed in a legal size 1/3 tab cut manila file folder. Each file folder should be labeled with typewritten 1/3 cut file folder labels accordingly. A template to use to print labels for manila file folders is attached. File folders should then be inserted in a 14 3/4" x 9 1/2" red file pocket with 5 1/4" expansion.
3. The Application form must be signed by the Applicant, duly notarized and submitted in **triplicate originals** (Form- A (the Application) only - **DO NOT SUBMIT TRIPLICATE ORIGINALS OF ANY OTHER PAGES**), together with the required application fee. Inclusion of the items on the Development Submission Checklist in support of the Application is strongly encouraged and will likely impact the number of points for which you are eligible under the IHFA's evaluation system of ranking applications, and may assist the IHFA in its determination of the appropriate amount of credits that it may reserve for the development.
4. Applicants applying for IHFA HOME Funds and/or Trust Fund loan must submit each of the following in addition to the requirements noted above:
 - One (1) copy of the entire Rental Housing Finance Application (application and all supporting documents)
 - One (1) original of the Trust Fund and/or HOME Funds Supplement application
 - Five (5) copies of the Trust Fund and /or HOME Funds Supplement application



Application (A)

Not-for-Profit Questionnaire (B)

Local Needs and Support (C)

Financials/Resumes (D)

Site Control (E)

Plans and Specs (F)

Loan and Grant Commitments (G)

Equity Commitment (H)

Maps (I)

Zoning (J)

Utilities (K)

Monitoring Report/Development Team (L)

Market Study (M)

AFHMP (N)

Existing Structure (O)

Unique Features (P)

Services (Q)

Subsidy Agreements (R)

Lease Purchase (S)

Minority Participation (T)

Historic and Preservation (U)

Referral Agreement (V)

Economic Development (W)

Attorney's Opinion Letter (X)

Previous Application (Y)

Other (Z)



Application(s) for other funding (AA)

Local Unit of Government Notification (BB)

Conditional Commitment Letter (CC)

Financial Analysis (DD)

Correspondence (EE)

Carry-Over Agreement (FF)

Declaration of Extended Rental Housing
Commitment (GG)

Final Application (HH)

8609(s) (II)

Lock-In Agreement (JJ)

RHTC Administrative Notes (KK)

Organizational Documents (LL)

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