

**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.

**Agricultural Land:** Any land used or able to be used for the production of food for human and animal consumption, or agricultural activities that include the growing of plants for fiber and fuels (including wood), and for other organically derived products (pharmaceuticals, etc).

**Amortization Schedule:** A table showing the amounts of principal due on regular intervals and the unpaid balance of the loan after each payment is made.

**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 IHCD guidelines.

**Applicant:** Any owner, principal and participant, including any affiliates associated with a Development that is seeking an award of RHTCs.

**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 and Community Development Authority (IHCDA)

**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.

**Competitive Negotiation Procedure:** The procurer prepares a formal Request for Proposals (RFP) and requests proposals from at least two (2) or more qualified firms or individuals. Negotiations should be conducted with more than one of the responding sources.

The following requirements apply:

Preparation of Request for Proposals (RFP). The RFP should include these elements, at a minimum:

- (1) Scope of Services - detailed description of the extend and type of work to be performed.
  - (2) Time Requirements - performance period.
  - (3) Considerations for Bidding - any additional requirements not pertaining to the scope of services that would be considered when preparing a proposal.
  - (4) Proposal Instructions - the format of the proposal.
  - (5) Evaluation of Proposals - The tax credit applicant must identify all significant evaluation factors (and their relative importance), including price or cost where required, technical expertise, past experience, price, staffing, etc. and how the proposals received will be scored.
  - (6) Federal, state, and local regulations applicable to the award.
- b. **The RFP must not be prepared or solicited by those firms or individuals who will be submitting proposals.**
- c. Proposals must be solicited from at least two qualified sources to permit reasonable competition. Efforts must be made (and documented) to attract proposals from small businesses, minority-owned businesses, and women's business enterprises. You may get this directory from [www.in.gov/idoa/minority/mbdirectory.html](http://www.in.gov/idoa/minority/mbdirectory.html).
- d. The RFP must be publicized and reasonable requests by competing sources must be honored to the maximum extent possible. The award recipient must retain documentation of the RFP distribution process.
- e. Evaluation of Proposals. When proposals or statements of qualification are received, they should be evaluated by the tax credit applicant based upon pre-established criteria. Evaluation criteria commonly used include the following, at a minimum:

- (1) Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project.
  - (2) Past record of performance on such contracts within the State of Indiana, and a list of other clients served including type of work, timeliness, quality requirements, and cost control. References submitted by interested bidders should be contacted.
  - (3) Capacity of the firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm.
  - (4) Familiarity of the firm with the type of problems applicable to the project.
  - (5) Price.
- f. The review process for both statements of qualification and proposals in response to a Request for Proposal should be thorough, uniform, and well-documented. The review process is to be conducted by a committee or board which, to the greatest extent possible, includes persons with the appropriate technical skills. Reviewers must have no conflicts of interest with the firms or individuals under review, such as family relationship, close friendship or business partnerships.
- g. Negotiations should be conducted with more than one of the sources submitting proposals. Retain verifiable documentation recording the negotiations process.
- h. Award must be made to the responsible offer or whose proposal will be the most advantageous to the project, considering price and other factors. Unsuccessful bidders must be promptly notified. When the award is made to a responsible bidder not having the lowest price, the award recipient must document its reasons for not selecting the lowest proposed price.
- i. The award recipient must then establish a contract file that contains the following:
1. A description of the method used to select architect, engineer, or consultant.
  2. Qualification statements or proposals received.
  3. Negotiation methods.
  4. Cost and pricing data supporting the contract.
  5. Verification of contractor eligibility.
  6. Contract for services.
  7. Records of progress payments including retainage withheld.
  8. Contract change orders, if any.

**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 of the Internal Revenue Code and credits can be recaptured for noncompliance. The Developments first 15 taxable years.



**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 IHEDA and the Owner restricting the use of the Development during the term of the RHTC Extended Use Period.

**Developer:** Any individual and/or entity who develops or prepares a real estate site for residential use to be a RHTC Development.

**Development:** Rental housing development receiving a RHTC allocation.

**Development Team:** Anyone associated with the development as listed in the Application (Form A) e.g. attorney, bond counsel {if applicable}, developer, accountant, consultant, management entity, general contractor and architect.

**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. 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 that 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 IHCD in the Declaration of Extended Low-Income Housing Commitment.

**Fair Market Value:** An amount that 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.

**Foreclosure:** A legal procedure in which property mortgaged as security for a loan is sold to pay the defaulting borrower’s debt.

**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.

**IHCDA:** Indiana Housing and Community Development Authority

**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.

**Infill housing:** Residential development on small parcels in previously established areas for replacement by brand new or refurbished housing that utilizes existing utilities and infrastructure.

**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 IHCD or its agent, which includes an examination of records, a review of operating procedures and a physical inspection of units.

**Joint Venture:** A combination of one or more independent entities that combine to form a new legal entity for the purpose of this Development.

**Large City:** A city with a population of 75,000 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).

**LIHTC:** Low Income Housing Tax Credit. Also known as Rental Housing Tax Credit (RHTC). Tax Credit as authorized by Section 42 of the Internal Revenue Code.

**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:** A 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.

**Narrative Summary:** A description written by the Applicant of 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:

1. Development and unit description
2. Amenities - in and around Development
3. Area's needs that Development will help meet
4. Community support and/or opposition for Development
5. The constituency served by the Development
6. Development quality
7. Development location
8. Effective use of resources
9. Unique features
10. Services to be offered
11. Address Allocation Plan points MUST include pages 3-9 of Form- A (the Application).

**Owner:** Any individual, association, corporation, joint venture, or partnership that has any ownership interest in a RHTC Development.

**Permanent Supportive Housing (PSH):** Permanent supportive housing is affordable rental housing with support services for low-income or homeless people with severe mental illness, substance abuse, or HIV/AIDS. The services can be offered within the development or off-site.

**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 IHEDA, which sets out the guidelines and selection criteria by which IHEDA 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:

1. the proportion of low-income units to all residential rental units; or

2. 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.

**Related Parties:**

- 1) the brothers, sisters, spouse, ancestors, and direct descendants of a person;
- 2) a person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
- 3) two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which
  - a. stock is held by the same persons or entities for at least 50% of the total combined voting power of all classes that can vote, or at least 50% of the total value of shares of all classes of stock of each of the corporations or at least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation;
  - b. concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;
  - c. concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;
  - d. concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.
- 4) a grantor and fiduciary of any trust;
- 5) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- 6) a fiduciary of a trust and a beneficiary of that trust; a fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;
- 7) a person or organization and an organization that is tax-exempt under Subsection 501(c)(3) or (4) of the IRC and that is affiliated with or controlled by that person or the person's family members or by that organization;
- 8) a corporation and a partnership or joint venture if the same persons own more than:



- a. 50% in value of the outstanding stock of the corporation; and
- b. 50% of the capital interest, or the profits' interest, in the partnership or joint venture;
- 9) one S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;
- 10) an S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;
- 11) a partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or
- 12) two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

**RHTC:** Rental Housing Tax Credit. Tax Credit as authorized by Section 42 of the Internal Revenue Code.

**Rural:** The Development is located in an unincorporated area of a county whereas;

- a. The Development is outside the 2-mile jurisdiction of either a Large City or Small City as defined in the QAP; and
- b. The Development does not have access to public water or public sewer from either the Large City or Small City as defined in the QAP.

**Section 8:** Section 8 of the United States Housing Act of 1937, as Amended.

**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 unit(s) must remain vacant.

**Small City:** A city with a population of 15,000 – 74,999 (See Appendix E). The Development must be located within one mile of the zoning jurisdiction and/or use city utility services (water and sewer).

**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 IHCD, 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 Recertification, utility schedules, rent records, Lease and Lease addendum. Any authorized representative of IHCD 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.