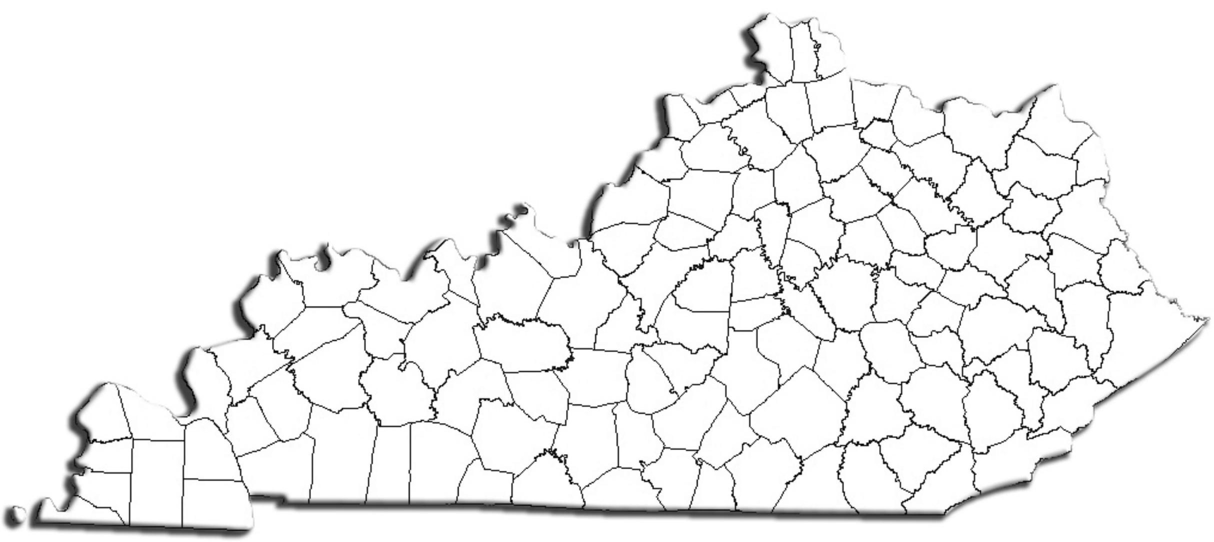
Kentucky Housing Corporation

Leading the way home...

Revised DRAFT 7/31/2008

2009 QUALIFIED ALLOCATION PLAN



Effective for allocations made after December 31, 2008 until December 31, 2009, unless amended.

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INTRODUCTION

Kentucky Housing Corporation (KHC) is the designated administrator of the federal Low Income Housing Tax Credit ("Housing Credits") for the State of Kentucky under Section ("§") 42 of the Internal Revenue Code (IRC) of 1986, as amended ("Code"), and all regulations promulgated thereunder.

The Housing Credit program was created by the Tax Reform Act of 1986. This program is one of the few remaining tax incentives for the construction, rehabilitation and preservation of low-cost rental housing. Investors in low-cost housing can claim Housing Credit against their federal income tax liability for ten years. The property must remain affordable for a minimum of thirty-three years.

The federal laws establishing the Housing Credit program are subject to change. Final interpretations of certain rules and regulations governing various facets of the program have not yet been issued by the U.S. Department of Treasury. Therefore, it is strongly suggested that applicant's interested in utilizing the program in their financing package contact their tax accountant and/or attorney prior to submitting an application. While KHC may respond to requests for technical assistance in applying for Housing Credits, applicants may not rely on KHC for tax advice.

Qualified Allocation Plan

Each year the state allocating agency for the Housing Credit program is required to publish a plan describing the process for the allocation of Housing Credits. This plan is called the Qualified Allocation Plan (QAP). The QAP establishes the administrative process governing the allocation of federal Housing Credits to qualifying developments that address low-income housing priorities throughout the state. This plan is intended to provide a fair and competitive means of utilizing the credits to the fullest extent possible each year for the creation and preservation of rental housing for lower-income households. The requirement that states develop a plan was established in the Omnibus Reconciliation Act of 1989.

Requirements of the Qualified Allocation Plan

Section 42 (m) of the Internal Revenue Code requires each state-allocating agency to adopt an allocation plan that sets forth certain selection criteria to be used in determining priorities, that include the following:

- Serving the lowest-income tenants
- Serving qualified tenants for the longest periods
- Contributing to a concerted community revitalization development plan

The code under Section 42(m) also states that the selection criteria must take into consideration the following:

- Project location
- Housing Needs characteristics

- Project Characteristics
- Sponsor Characteristics
- Tenant populations with special housing needs
- Tenant populations of individuals with children
- Projects intended for tenant ownership
- Public housing waiting lists
- Energy efficiency
- Historical properties

In addition to the above selection criteria and preferences, KHC, in its sole discretion, shall establish selection criteria and preferences that reflect the housing needs and trends as identified within the Commonwealth.

Public Hearing Requirements

The draft QAP is subject to a minimum seven-day public comment period. KHC will host a public hearing to receive comments or will accept written comments either by a formal letter or e-mail to the attention of Tammy Stansbury at tstansbury@kyhousing.org or Michele Huybers at mhuybers@kyhousing.org.

The announcement for the public hearing will be published through KHC's eGram system, posted to KHC's Web site, and published in the Louisville *Courier-Journal* and the *Lexington Herald Leader*.

Approval Process

After public comment, the QAP must receive final approval by KHC's Board of Directors and the governor of the Commonwealth of Kentucky.

Annual Credit Available

The total amount of credit ***available for Kentucky for 2009 is approximately $9.5 million***. The total is determined from the following:

- $2.00, plus the cost of living adjustment specified in Section 42(h)(3)(H) x Kentucky's population;
- Any unallocated credit from previous year;
- Any returned credit from previous years; and
- Any amount allocated to Kentucky by the IRS from the National Pool.
- 20-cent per capita increase for 2008 and 2009.

Types of Credit

- 9 percent credit
  Reflect 70 percent of the present value of the qualified basis for new construction or substantial rehabilitation of qualified low-income buildings.

- 4 Percent credit
  Reflect approximately 30 percent of the present value of the qualified basis of acquired buildings that are substantially rehabilitation.

The cost of acquiring, rehabilitating and constructing a building constitutes the buildings eligible basis. The portion of the eligible basis attributable to low-income units is the buildings qualified basis. In general, the qualified basis excludes the cost of land, obtaining permanent financing, rent reserves, syndication and marketing. The applicable percentage (that is the 9 percent and 4 percent approximations) of the qualified basis may be claimed annually for ten years as the Low-Income Housing Tax Credit. The amount of credit that may be awarded to a building is based upon the depreciable cost of the building and the portion of the project that low-income households will occupy and can be no more than needed to make the project financially feasible.

Overview of Available Credit

Competitive Pools and Set-Asides	Approximate Amount
Competitive Urban Pool	$2,987,000
Competitive Rural Pool	$2,987,000
Nonprofit Pool Set-Aside	$1,425,000
Rural Development Set-Aside	$500,000
New Scholar House Set-Aside	$1,600,000

☞ **Please Note: KHC reserves the right to redistribute Housing Credit into other pools or set-asides as it deems necessary. KHC also reserves the right to allocate Housing Credit to non-specified projects if the credit amount can preserve the long-term viability of a project. Additionally, KHC reserves the right to reduce eligible basis and the amount of Housing Credit if costs appear excessive.**

Nonprofit Participants

The IRC requires that a minimum of 10 percent of the total Housing Credit ceiling amount be available only to projects with qualified nonprofit participants and owners. In addition to the requirements of IRC Section 42(h)(5), a nonprofit must be the developer and general partner of the project. Applicants must indicate that they are applying for Housing Credit from the nonprofit set-aside. A nonprofit applicant may submit an application to be considered in the nonprofit set-aside and/or an application that competes in their respective urban/rural pool. Two separate applications and application fees must be submitted.

A qualified nonprofit organization is one which:

- Is described in §501(c)(3) or (4) of the code and is exempt from tax under §501(a) of the code,
- Is not controlled by a for-profit,
- Has as one of its exempt purposes the fostering of low-income housing,
- Has been in existence for at least one year and
- Owns 51 percent of the general partnership interest of the ownership entity of the development.

A project that is qualified as a nonprofit organization will own an interest and materially participates in the development, ownership and management of the project. Please refer to the Policy section for a full description of nonprofit participation.

Competitive Pools and Set-Asides

Any qualifying project can apply for Housing Credit through a competitive process and compete through either the urban or rural pool. Only two applications for the same project will be accepted in the competitive round. Allocation and compliance monitoring fees apply to all Housing Credit projects. Complete and accurate applications must be submitted for all pools and set-asides. All applications will be scored and ranked based on the application submission package.

A. Competitive Urban Pool

The urban pool of approximately $2,987,000 is 50 percent of the remaining Housing Credit after set-asides and other pools are deducted. Projects must meet a minimum score as outlined in the scoring guidelines in order to be considered for funding. For the Housing Credit program, the following counties are considered urban based upon 2007 area median incomes above $48,800 and 2007 populations of 20,000 or more:

Anderson	Clark	Henderson	McCracken	Warren
Boone	Daviess	Jefferson	Mercer	Woodford
Boyle	Fayette	Jessamine	Nelson	
Bullitt	Franklin	Kenton	Oldham	
Campbell	Grant	Madison	Scott	
Christian	Hardin	Marshall	Shelby	

B. Competitive Rural Pool

The rural pool of approximately $2,987,000 is 50 percent of the remaining Housing Credit after set-asides and pools are deducted. Kentucky's remaining 94 counties are classified as rural. Projects must meet a minimum score as outlined in the scoring guidelines in order to be considered for funding.

C. Nonprofit Pool Set-Aside
Approximately $1,425,000 will be available for qualified nonprofits who meet the requirements of IRC Section 42(h)(5) and are the developer and general partner in the project. Projects must meet a minimum score as outlined in the scoring guidelines in order to be considered for funding.

D. Rural Development RD Set-Aside
Housing Credit in the amount of approximately $500,000 is reserved for projects that have a pending application submitted to Rural Development to receive funds. This set-aside is for projects financed by RD in need of rehabilitation in order to preserve affordable rental units. Projects must meet a minimum score as outlined in the scoring guidelines to be considered for funding. Projects requesting acquisition only are limited to the 30 percent present value rate (4 percent).

E. Scholar House Set-Aside
Housing Credit in the amount of $1,600,000 will be set aside for approximately two additional Scholar House projects.

Applicants for Scholar House are required to submit the Scholar House application found on KHC's Web site under Rental Production Programs and must adhere to Scholar House Guidelines as well as program requirements outlined in the QAP. Scholar House is a separate competitive application and will be due January 6, 2009 or as adjusted by KHC's discretion.

KHC approved four Scholar House projects in 2006 and will possibly award two additional projects that will be geographically distributed in the western, eastern or northern areas of the state. KHC reserves the right to not fund any of the Scholar House projects if it is determined that submitted applications do not meet the expectations of the Scholar House program.

Tax-Exempt Bond Financing and 4 Percent Housing Credits
Credit for buildings financed by tax-exempt bonds subject to volume cap will be determined per Section 42(h)(4). If 50 percent or more of a project's aggregate basis of buildings and land are financed with tax-exempt bonds, the project may receive a maximum 30 percent present value credit calculated against the project's qualified basis without causing a reduction in the state's annual credit authority. Applicants wanting to finance projects with tax-exempt bonds must complete a separate application and will be scored separately. Applicants must also meet all non-competitive requirements outlined in the QAP with the exception of the $800,000 credit cap.

Applicable Program Fees

Application Fee: Fee amounts are $750 for exclusively nonprofit applicants and $1,250 for all other applicants. This nonrefundable fee must accompany each project application submitted for Housing Credit. If applying for two different pools with the same application, two fees will be required. Application fees will not be returned for incomplete applications or applications that do not meet minimum threshold requirements.

Housing Credit Reservation Fee: A nonrefundable reservation fee of 7 percent of the amount of Housing Credit reserved for a project will be charged. Payment of the 7 percent reservation fee is due within two weeks from notification of funding; this fee is not contingent upon a successful market study.

Exchange Credit Fee: If an exchange of credit is requested by the applicant for any given year, the applicant will have to submit a new Reservation Fee of 7 percent of the amount of Housing Credit reserved in addition to an Exchange of Credit Fee in the amount of 7 percent of the amount of Housing Credit reserved.

Market Study Fee: Within **two weeks** of receiving the conditional commitment/reservation notice, the applicant must submit their market study fee to KHC. Upon receipt of this fee, the market study will be ordered by KHC with one of our contract market analyst. The cost for a market study is $4,500 per project and the cost for a needs analysis for 11 units or less is $2,600 per project.

Pre-8609 Inspection Fee: Prior to issuing an 8609, an inspection must be conducted to ensure the owner adheres to Section 42 requirements and to all pledges and restrictions that were pledged in the application. This will be a one time fee of $100.

Compliance Annual Report Fee: An annual fee will be assessed for the compliance monitoring program. Applicable fees must be submitted with the compliance monitoring annual report. The annual fee for projects to be examined by KHC is determined by KHC's Compliance Monitoring Department. The schedule of compliance monitoring fees is contained on KHC's compliance Web site. A late filing fee will be assessed as specified in the guide.

Compliance Recertification Waiver Fee: For eligible projects requesting the Waiver of Recertification in 100 percent low-income buildings, there will be a one-time additional charge as specified.

Compliance monitoring fees are subject to periodic adjustment. Such adjustments will apply to all projects participating in the Housing Credit program.

Housing Credit Requirements

In addition to the Competitive Rental Housing application requirements, the following guidelines must be adhered to for all Housing Credit applicants when applying for and receiving Housing Credit. Projects requesting Housing Credit associated with multifamily tax-exempt bonds must meet these additional requirements as well. For additional programmatic and design guidelines, please refer to Rental Programmatic Guidelines.

Letter of Support
All projects must have a letter of support from the mayor or the county judge executive (or the equivalent) of the jurisdiction where the project is located. This letter must be a letter of support, not just a letter recognizing the project. It must be submitted as an attachment with the application. If a letter of support is not submitted, regardless of final score, the application will be rejected.

Housing Credit Limit

Urban Counties
(As listed on page 7 of the QAP)
The Housing Credit subsidy allocated will be limited to $10,800 per Housing Credit unit except for projects located in qualified census tracts (QCTs) or difficult to develop areas (DDAs) as designated by the secretary of the U.S. Department of Housing and Urban Development, Hope VI or adaptive reuse projects which will be limited to $12,100 per Housing Credit unit. Scholar House and other projects may be allowed an additional allocation of Housing Credit as determined solely by KHC.

Rural Counties
(Any county not listed on page 7 of the QAP is considered rural)

The Housing Credit subsidy allocated will be limited to $11,800 per Housing Credit unit except for projects located in qualified census tracts(OCT's) or difficult to develop areas (DDA's) as designated by the secretary of the U.S. Department of Housing and Urban Development or adaptive reuse projects will be limited to $13,400 per Housing Credit unit. Scholar House and other projects may be allowed an additional allocation of Housing Credit as determined solely by KHC.

Example: Subsidy limit:
$10,800
$12,100 (if in a DDA, QCT, adaptive reuse or Hope VI)
40 total units not in any of the bonus areas
40 * $10,700 = $432,000

The maximum annual Housing Credit allocation can not exceed this amount.

Modifications to Definition of Eligible Basis (130% Rule)
(Qualified Census Tract (QCT), Difficult Development Area (DDA), and Areas Defined by KHC)

The IRS stipulates certain areas as QCTs and DDAs. These areas are designated as areas that are difficult to develop or are defined as census tracts in which 50 percent or more of the households are at or below 60 percent of the area median income, as well as census tracts with a poverty rate of 25 percent or higher.

In addition to IRS designated QCTs and DDAs, counties meeting the following requirements will also be eligible for an increase in basis:

All counties with 2007 area median incomes below $41,000
All distressed counties in the Appalachian Regional Commission

Difficult to Develop Areas (Counties)

Butler	Lincoln	Powell
Carlisle	Montgomery	Rowan
Elliott	Nicholas	Simpson
Fulton	Owen	Whitley
Lincoln		

Distressed Appalachian Regional Commission (Counties)

Bell	Estill	Lawrence	McCreary	Russell
Breathitt	Floyd	Lee	Menifee	Wayne
Carter	Harlan	Leslie	Monroe	Whitley
Casey	Jackson	Letcher	Morgan	Wolfe
Clay	Johnson	Lewis	Owsley	
Clinton	Knott	Magoffin	Perry	
Elliott	Knox	Martin	Powell	

These areas allow developers to request 130 percent bonus of credits derived from the basis calculation. The award of the bonus will be made based upon the amount of credits required to make the project financially feasible. Eligible basis costs for new construction and rehabilitation only can qualify for this basis increase. Acquisition costs are specifically excluded by code from the 130 percent bonus.

Community Service Facility

A "Community Service Facility" (CSF) is a space that can be used for purposes, including but not limited to, child daycare, senior programs and job training. It is defined as facilities that are designed to primarily serve low-income individuals whose income is 60 percent or less of area median income. Project employees could also use the facilities.

Housing Credit projects utilizing a CSF described under IRS Revenue Ruling 2003-77 may be entitled to an additional allocation of Housing Credit. House Resolution 3221 – The Housing and Economic Recovery Act of 2008 expands the size of the CSF with respect to which the low-income housing credit may be claimed. Under the provision the size of the CSF may not exceed the sum of 25 percent of the eligible basis and total project cost does not exceed $15 million. However, the additional increase will be prorated based upon the square footage of the CSF as a percentage of the residential space per building.

Example: The residential building(s) "only" is 30,000 sq. ft.
The CSF sq. ft. is 1,500
(divide 1,500 ÷ 30,000), which calculates 0.05 percent.
This is the percentage of additional credit that can be requested for a CSF.

This provision is limited to buildings located in Difficult to Develop Areas (DDA) only.

Scholar House projects should refer to Scholar House guidelines for information on how to meet the CSF requirements.

Acquisition of Existing Buildings

Projects eligible for Housing Credit based on the acquisition of existing buildings must provide an appraisal supporting the building basis for purposes of determining the proper amount of Housing Credit reserved. The appraisal must provide, at a minimum, the "as-is" market value of the building and a separate site value for the underlying land. Eligible basis will be limited to the basis determined by the required final cost certification.

Projects requesting Housing Credit **only** and are not requesting other KHC funds but are requesting acquisition credit must provide an appraisal supporting the building basis for the Housing Credit funds requested at the technical submission stage. These appraisals do not need to meet KHC's appraisal guidelines or need to be ordered from KHC's contract appraisers.

Projects requesting credit and other sources of KHC funds in the form of a loan are required to meet KHC's appraisal guidelines and these appraisals must be completed by an agency that KHC currently has under contract.

Maximum Credit Cap Requirements

All users/organizations are restricted to a maximum of **$800,000** in annual Housing Credit based on the determination made by KHC in the Capacity of Development Team Review. However, Tax Exempt Bonds and Scholar House projects are not restricted to this cap.

a. "Users" to which the credit cap applies are actual general partners and parent organizations of general partner entities or affiliates of the general partner or managing members of entities to which Housing Credits have been awarded. "Affiliate" is any entity that directly or indirectly owns another entity.

b. Organizations acting as users and developers are limited to a maximum in annual Housing Credits based on the determination made by KHC in the Experience & Capacity Review. An "organization" to which this cap applies is defined as the actual entity indicated in the application and any parent organizations or affiliates of such entity (see the preceding paragraph for definitions of affiliate and other applicable terms). This restriction includes any applications in which such organization is indicated as a general partner. If a developer enters any additional projects after reservation agreements are issued, these will count against their cap for the following year. Full disclosure of identity of interest between all development team members must be included in the application. At the time of reservation and allocation, each general partner and developer must execute a certification that their participation in Housing Credit projects is limited to the maximum credit cap amounts. If an entity does not fully disclose all participation, then such entity and all affiliated organizations will be banned from participating in the Housing Credit program for one year from the date of discovery by KHC.

Maximum Fees

Applications utilizing Housing Credit and any combination of Risk-Sharing, HOME and Project-Based Section 8 will require a subsidy layering/financial analysis and will be limited to the following fee structure, regardless of the total project costs.

General Requirement's	up to 6%
Overhead	up to 2%
Profit	up to 6%

Developer Fee

The allowable fees for developers are based on the total development cost (TDC) of the project. The developer fee on any Housing Credit project may not exceed 15 percent. Risk-Sharing projects are limited to 10 percent developer's fee unless approved by KHC's Board of Directors. At KHC's sole discretion, tax-exempt bond financed projects may be allowed an increase in developer's fee.

The developer fee (as a percentage) is calculated as follows:

M

Developer Fee + Consulting Fees + anything resembling consulting or developer fees
divided by
Total Project Costs – Developer Fee – Consulting Fees – anything resembling consulting or developer fees

M

Minimum Set-Aside

For a project to qualify for a Credit award, it must meet a minimum low income set-aside requirement. The minimum set-aside requirement must be met no later than the close of the first year of the Credit period for each building.

The owner of the project must irrevocably elect either the 20/50 or 40/60 minimum set-aside.

- ✓ **20 percent** of the rental residential units in the project will be rent restricted and are to be occupied by individuals whose incomes are **50 percent** or less of the area median income.

- ✓ **40 percent** of the rental residential units are rent-restricted and are to be occupied by individuals whose incomes are **60 percent** or less of the area median income.

The minimum set-aside is the election that commits the building owner to a specific income level that will serve to define low income for that building. Under a 20/50 election, an owner who claims 100 percent of the units eligible for Credit must rent all units to households at or below 50 percent area median income as adjusted for family size in order to claim 100 percent of the credit.

Cost Containment

While maintaining aesthetic and livable standards, it is KHC's objective to fund as many proposals as possible. Because funds are limited, costs per type of unit and construction costs per square foot are important factors in analyzing applications. KHC has adopted cost containment guidelines to evaluate the total development cost for all projects.

In the underwriting model, you will be requested to enter the cost containment limit for your project. You can find KHC's Cost Containment Guidelines on the Rental Production Programs page under Housing Production on KHC's Web site. See *Reference Materials.* For additional information as it pertains to cost containment, refer to the Rental Programmatic Guidelines.

Building Requirements

All buildings must comply with all state and local building codes including accessibility standards, applicable federal accessibility laws (including Fair Housing Accessibility Guidelines) and the Americans with Disabilities Act Accessibility Guidelines.

All new construction projects must implement KHC's Universal and Minimum Design Standards to ensure energy-efficient design and that construction practices are utilized. Rehabilitation projects are encouraged to incorporate KHC's universal design standards when it is feasible. For additional information as it pertains to building code requirements, please refer to Chapter 8 Architectural and Design Requirements in the Rental Production Guidelines.

KHC will review project plans and specifications for apparent compliance with applicable laws and guidelines. During the application stage, preliminary plans should be submitted; however, final plans will be required during the technical submission stage. Failure to comply with KHC's review shall be cause for project rejection. KHC also reserves the right to note such failure to cooperate in future applications.

Minimum Square Footage

The minimum square footage is outlined below, however, refer to Rental Production Guidelines for Architectural and Design standards for additional guidance.

The minimum heated and cooled net square footage for new construction projects are:

- Single Room Occupancy (SRO) unit – 150 net square feet
- Efficiency Apartment – 400 net square feet
- One-bedroom unit – 600 net square feet
- Two-bedroom unit – 800 net square feet
- Three-bedroom unit – 1,000 net square feet
- Four-bedroom unit – 1,100 net square feet

Rehabilitation projects are encouraged to meet the minimum heated and cooled net square footage if appropriate.

<u>Eligible Uses of Housing Credit</u>
Eligible properties include:

- One or more rent-restricted dwelling units available for long-term continuous rental use.

- Newly constructed buildings.

- Substantial building rehabilitation of at least $3,000 per low-income unit or 10 percent of adjusted basis, whichever is greater.

- Projects that include acquisition and substantial rehabilitation of existing buildings that were last placed in service or underwent a substantial rehabilitation (equals or exceeds 25 percent of basis) no less than ten years prior to acquisition (certain exceptions apply).

- Projects may consist of buildings on scattered sites within the same county or several counties if considered a special set-aside.

- Projects funded combining HOME funds and 9 percent Housing Credits, 40 percent of the units in every building must be occupied by households that the income certified at the time of the initial move-in is at or below 50 percent of the area median income.

<u>Financial Requirements</u> <u>(not all-inclusive)</u>

- Rents charged to low-income tenants cannot exceed 30 percent of the income limit applicable to the unit size less an allowance for tenant-paid utilities, if applicable. (Section 8 subsidy payments are not included in the tenant rent computation.)

- The construction contingency should not exceed 10 percent of total construction hard costs. Acquisition of the property should not be included as hard costs.

- The required debt coverage ratio (DCR) in year one, for projects containing 12 units or more must be a minimum of 1.15 – 1.20 and should remain at or above 1.0 through year ten. For elderly projects with services and projects containing 11 units or less, the required DCR must be a minimum of 1.20 – 1.25 in year one and remain at or above a 1.0 through year ten. All projects that have a deferred loan and/or grant only, must have a positive cash flow through year ten.

If the DCR or cash flow becomes negative before year ten, an explanation must be given for how this shortfall will be funded. This document must be included with the application. If no documentation is submitted then the project will not meet the financial requirements and will not be approved for funding.

- All applicants will be required prior to closing to sign a certification stating that a separate account has been set up for an operating deficit reserve. The purpose of the reserve is to fund the day-to-day operating expenses and debt service until the project reaches stabilized occupancy.

  KHC calculates the minimum requirement as follows:

  Six months of projected operating expenses
  \+ Six months of debt service payments
  =Minimum Operation Deficit Reserve Required

  If the equity provider requires a different amount than KHC's minimum, KHC will negotiate a new ODR amount with the equity provider.

  If the project is receiving other KHC funding, the full amount is required to be drawn on the final draw.

  For purposes of KHC underwriting, the ODR is a total reserve which may include rent up reserves, lease up reserves, etc.

- If services are a requirement to live in the housing units, generally these service fees must be included in gross rent.

- The low-income occupancy and rent restrictions apply for a minimum of 30 years plus three-year vacancy de-control period. Noncompliance with the requirements can lead to credit recapture and substantial penalties from the Internal Revenue Service.

- Projects utilizing a tax-exempt source of debt financing are automatically eligible for 30 percent present value credit (4 percent credit) outside the credit ceiling.

- KHC will award the lesser of the Housing Credit amount determined by KHC or the amount requested by the applicant.

Please refer to the Housing Credit rent and income chart for the maximum rent and income limits for this program. This can be found on KHC's Web site on the Housing Production page under Rental Production Programs. *See reference materials.*

Technical Assistance

In order to submit an application, a member of the development team must have developed, operated or completed a project that is now in the affordability stage with compliance and has developed at least ten rental units with Kentucky Housing. **However**, if no member of the development team meets this qualification, then a member can request technical assistance through one of the rental program representatives/specialists. The applicant or member must request this technical assistance *at least* one month prior to the deadline date for submission.

There are certain guidelines associated with this type of technical assistance before the program representative/specialist will approve the member(s) to move forward with the application process.

The individual(s) who will be responsible for the day-to-day activities of the project, including application submission, construction, closing and ensuring the project remains in compliance after the project is completed, is who is required to attend this additional training. By attending this training does not guarantee the project will be awarded funds, but will ensure the applicant receives additional points of the scoring criteria.

Application Submission Requirements

One annual application round is scheduled for projects requesting competitive Housing Credit. The schedule below indicates the Housing Credit amount available and the submission/ notification dates for the round. A second competitive round will be held if KHC determines it is necessary. Applications will be formally accepted after the training workshop in September 2008.

Electronic Submission	Attachment Submission	Award Notification	Credit available (adjusted for set-asides and other pools)
Tentative October 20, 2008	October 20, 2008	December 19, 2008	**$5,974,000** 50% Urban 50% rural

All applicants must submit applications for funding electronically. The application is located at www.kyhousing.org. Applicants must also submit an underwriting model in KHC's format to the e-mail address of rentaluw@kyhousing.org. The underwriting model and attachments must be submitted no later than 5:00 p.m. EST on October 20, 2008 (tentative). An original and four copies of all attachments, as outlined on the checklist in the application, with the exception of one set of plans and specifications must be submitted to:

Housing, Finance and Construction
Rental Team
Kentucky Housing Corporation
1231 Louisville Rd.
Frankfort, KY 40601

All applications must obtain a minimum score of 140 as outlined in Scoring Criteria to be considered for funding. The core scoring components are Capacity of the Development Team, Targeting Plan, Project Design and Location, Ready to Proceed and Financial Design.

All applications for Housing Credits will need to complete the Rental Housing application on the Web and supply all required information and documentation in accordance with the guidelines. Please refer to the Rental Production Guidelines for additional guidance as it pertains to programmatic requirements and architectural and construction guidelines. All applicants will be required to submit the electronic application and attachments. However, the Scholar House set-aside projects are not required to meet the same scoring criteria for selection or submit the Web application. You can find this application and requirements at the Rental Production Web page under Scholar House Initiative.

Application Review Process

Although KHC will be awarding funds to the highest scoring projects within their respective pools, KHC will make every effort possible to ensure that funds are geographically distributed across the state. KHC has the discretion to award a lower scoring project located in a congressional district where no other funds have been allocated.

NOTE: Incomplete applications will be returned to the applicant. Additionally, KHC reserves the right to reject any application that does not meet the application requirements.

Projects that do not comply with all of the requirements and policies listed may be subject to having future applications scored lower due to noncompliance.

Review Process

Funding is based upon a three-phase process. Applications must pass the first two phases before funding can be determined. Failure to successfully meet the requirements of any phase will result in the rejection of the application.

Phase I Scoring Criteria – Applications will be scored based upon capacity of the development team, targeting plan, project design, location, ready to proceed and financial design. Applicants must receive a *minimum score of 140* in the scoring criteria in order to move to Phase II for all competitive applications. However, for the Lexington Hope VI set-aside, the minimum score is 120. Scholar House applicants will submit a different application and have different scoring criteria. Applications will be ranked according to their assigned score and those with the greater number of points receive priority in the Housing Credit award process. Projects will be reviewed on the basis of the documentation contained within the application and supporting documentation.

There are two separate checklists for application submission. The application checklist is for documents that are required to be submitted for review of the application. The scoring checklist is for documents required to be submitted for scoring purposes. If the applicant submits all required documentation on the application checklist but fails to submit documentation required to receive points for the scoring criteria, then points will not be awarded for that section of the scoring criteria. If an application is approved and items listed on the scoring checklist are not submitted during the application stage, they will be required during the technical submission stage.

Please refer to Scoring Guidelines as additional reference pertaining to the three phases of scoring.

Ties in scoring will be resolved in accordance with the following priorities:

1. Lower amount of resources from KHC per unit.
2. Smaller projects.
3. County of lower-median income.
4. Capacity of the development team.

Phase II Financial Feasibility –This is the final phase of the application review process. A project's financial feasibility is when **all** (including federal, state, local and/or Kentucky Housing) programmatic guidelines are met and the project is still viable. Rents and expenses should be reasonable, the sources and uses must balance and the debt coverage ratio (DCR) must be appropriate for the size of the project. A review of the submitted underwriting model, along with information in the overall application, will be reviewed. **If a contradiction exists between the underwriting model and the application, the information in the underwriting model will be used to determine the financial feasibility.**

If a project is requesting Housing Credits only, they are not required to submit financial documentation to determine if the entity is financially feasible. However, if an applicant is requesting other KHC funds, then the applicant must submit documentation as outlined in the application checklist to determine this review.

For additional information pertaining to creditworthiness please see Scoring Guidelines.

Phase III Market Need – This phase will not occur until after funding announcements have been made, which is the market feasibility phase. The market feasibility phase of the application review process has been moved to the technical submission stage. Upon review of the market study, if it is found to have an acceptable market, then the project will continue to move forward. However, if the study is not acceptable, **funds will be recaptured**. Please refer to technical submission stage for additional information pertaining to market studies.

Partial Awards

Projects that receive partial awards of Housing Credit due to limited availability have priority in subsequent years in order to receive the amount of Housing Credit necessary to complete the project. If a project does not receive the full amount of award, they will not have to submit an additional application for the next year, but will be responsible for submitting an updated financial model and other pertinent information determined by KHC.

Final Approval Process

Funding recommendations are made by the application review team which consists of staff representatives/specialists of the program area within KHC's Housing Finance and Construction Department, underwriters and Design and Construction staff.

Staff recommendations are presented to the credit review committee for final project approval.

Once final approval is received, staff will present the funding awards to KHC's Board of Directors. These announcements will be posted on KHC's Web page under Housing Production and will also be sent through KHC's eGram system. Approved projects will receive a conditional commitment letter based upon an acceptable market study review and other technical submission requirements.

Technical Submission Stage

Reservation Notice

KHC will notify in writing each successful applicant of an initial reservation of Housing Credits as indicated on the conditional commitment letter. In determining the initial amount of credit to be reserved, KHC will use costs, incomes and expenses submitted in the application as determined by KHC to be reasonable. <u>The final amount of credit allocated to each successful applicant may be less than but will not be more than the amount requested in the application, the amount specified in the conditional commitment letter or the amount reflected in a carryover allocation.</u>

The applicant will then have 90 days from the date of the letter to submit all technical submission items to KHC. The applicant will receive a technical submission checklist that will outline all outstanding or additional documentation needed.

Please note that the initial and final reservations of credit are tentative and may differ in amount from the formal credit allocation to be made either upon placement in service of the project or request for a carryover allocation certificate.

Market Study

Market studies will be ordered once a project has received a conditional commitment. This commitment is subject to an approved market study. KHC will have a Personal Service Contract with multiple market study analysts and when the fee for the study is received from the applicant, *KHC* will order the study from the appropriate firm. The market study ordered by KHC will be the one used to determine market need.

Carryover Allocation Requirement

Carryover allocation requirement is for qualified projects that have not been placed in service within the year in which they received a Housing Credit reservation but have met certain minimum requirements set forth by IRC Section 42. Projects receiving carryover allocations must be placed in service not later than the close of the second calendar year following the calendar year in which the carryover allocation is issued.

A carryover allocation is issued for a specific amount of credit. The applicant is required to meet the 10 percent carryover allocation requirement, which means at least 10 percent of the total project cost must be incurred and a cost certification must be submitted to KHC on or before November 19, 2010

Costs may include 10 percent of the expected basis amount of the project owner's adjusted basis in land or depreciable real property that is reasonably expected to be part of the project. Also, direct and indirect costs of acquiring, constructing and/or rehabilitating the project may be included.

Application and compliance monitoring fees are not included in the 10 percent of expected cost basis amount. An amount is included in basis if it is treated as paid or incurred under the method of accounting used by the project owner.

Cost Certification

The code requires KHC to verify a project meeting the 10 percent requirement by obtaining a written certification from the project owner, under penalty of perjury, that the project owner has incurred more than 10 percent of the reasonably expected basis in the project.

The project owner 10 percent cost certification must be accompanied by a written certification and must be prepared by a Certified Public Accountant (CPA) who has examined all eligible costs incurred with respect to the project and that, based on this examination; it is the CPA's belief that the project owner has met this test.

Recapture of Carryover Allocation

KHC retains the right to recapture a carryover allocation of credit to a development prior to the end of the two-year carryover allocation period allowed under the code. Should the development or owner fail to comply with all such terms and conditions, KHC may in its discretion rescind the carryover allocation and make the recaptured credit available to other developments.

Placed In Service Stage

All projects are required to submit final close out documentation to include Certificates of Occupancy, etc. Applicants will receive a placed in service checklist that will outline additional documentation that is required at this stage.

Final Cost Certification

The final allocation amount will be influenced by such factors as certified project costs, credit market value, receipt of federal financial assistance and applicable credit percentages. To receive an IRS Form 8609, owners are required to submit a Final Cost Certification within 30 days after the last building in a project receives its Certificate of Occupancy or before December 1 of the current year, whichever is earlier.

Land Use Restriction Agreement (LURA)

Federal regulations state that no credit shall be allowed with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year. This commitment is an agreement between the taxpayer and the agency responsible for the program.

A Land Use Restriction Agreement (LURA) is to be executed by the project owner and KHC and recorded at the county recorder's office against the project's property committing the project to operate in accordance with the agreements (rent and income limits, special uses of units and extended use restrictions, etc.) made by the applicant and KHC as inducements for the Housing Credit allocation. The LURA is to be recorded at the time the project owner obtains an ownership interest or at the time of permanent closing and is superior to other items.

The LURA will incorporate all project characteristics and attributes represented and pledged in the application and considered in the scoring criteria. The LURA must contain a prohibition against evicting a tenant for other than good cause during the entire 33-year extended use period (this includes the three-year vacancy decontrol period). Additionally, rents cannot be increased during the three-year vacancy decontrol period for existing tenants.

To facilitate documentation preparation, the project owner will give KHC 30 days' notice before the project's closing takes place. A LURA is required for all projects receiving Housing Credit including bond projects. KHC will prepare the LURA.

IRS Form(s) 8609

A final allocation of Housing Credits will be made (by issuing Form 8609) at the time that an eligible building or project is placed in service (i.e., available for rental occupancy) as evidenced by a Certificate of Occupancy which is the last business day of the calendar year in which a qualified building is placed in service.

Prior to the issuance of the IRS Form(s) 8609, owners must submit a signed Form 8821, Tax Information Authorization, to the IRS with a copy to KHC, a completed Application for Issuance of Certification of Allocation (Form 8609) and the completed Final Cost Certification. Upon receipt, KHC will determine the best method by which to conduct a pre-8609 inspection. The purpose of this inspection is to review the various programmatic restrictions with the owner and/or property manager, as well as ensure that all amenities and provisions as pledged in the application are in place. KHC reserves the right to review these pledges and restrictions with the owner/manager by phone, email or by conducting an actual on-site inspection. If KHC determines that all such pledges are not in place, issuance of the Form 8609(s) may be denied.

If a project owner finds it necessary to change the project design during development (i.e., pledged amenities, number of affordable units, etc.), KHC must be notified in writing and request approval prior to making any changes. This includes the substitution of one pledged amenity for another.

Policies

Inspections

All projects will be required to participate in a pre-construction conference *before any construction activities begin*. This includes projects that are not requesting construction financing from KHC. The purpose of the pre-construction conference is to outline basic responsibilities and duties of the various parties throughout the construction and warranty periods. The pre-construction conference will be conducted by KHC's construction specialist and program representative/specialist assigned to the project.

Once the pre-construction conference has been conducted and all construction documents have been received, a Notification of Construction Start-up form must be submitted to KHC prior to the start of any construction. During construction, KHC's construction specialist will inspect the work progress and conduct monthly inspections. For Housing Credit "only" projects, the construction specialist may choose to only inspect the project at three different stages. The first stage is when footers are poured. The second stage will occur mid way through construction and the final stage at construction completion. The number of inspections conducted will be left to the discretion of KHC's Design and Construction Department. The construction specialist will also inspect for pledged amenities made at application submission.

If projects request other KHC funding during the monthly inspection, the construction specialist will approve the draw requests for construction costs. All other costs will be approved by the program representative/specialist and a multifamily underwriter. KHC will not pay for materials stored off-site. KHC will disburse funds for materials stored on-site if they are properly stored and secure. Draws are limited to one draw per month.

All change orders to the approved plans and specifications must be submitted to KHC for review and approval at the time the change is needed.

In addition, there could be a pre-8609 inspection that will be conducted by compliance monitoring staff to determine if pledged amenities and/or other non-construction related attributes pledged during the application process have been provided.

Subsidy Layering Review

A subsidy layering/financial review will be required on all projects which receive, either directly or indirectly, financial assistance from the U.S. Department of Agriculture Rural Department (RD) or the U.S. Department of Housing and Urban Development (HUD). Where there is a combination that includes any of the following funding sources: Risk-Sharing and Project-Based Section 8, projects will be limited to a 10 percent developer fee.

KHC is required to follow guidelines established by RD and HUD with respect to the review of the financial assistance provided to the project.

The subsidy layering review will include a review in the amount of equity capital contributed to a project by investors and a review of project costs including developer's fees, consultant fees, contractor's profit, syndication costs and rates, etc.

Identity of Interest

Projects where there is an identity of interest or the appearance of an identity of interest between the developer and contractor/builder, the maximum developer fee will be limited to 10 percent of total development costs.

> **Note:** Identity of interest exists where there is a financial, familial or business relationship that permits less than arm's length transactions. This includes, but is not limited to, the existence of a reimbursement program or exchange of funds; common financial interests; common officers, directors, or stockholders; or family relationships between officers, directors or stockholders.

KHC will evaluate the cumulative profit received in identity of interest cases and, based on industry standards and comparable projects may reduce profits considered excessive.

Material Participation by Nonprofit Organizations

For partnerships, turnkey or joint ventures that have as a general partner or co-general partner a local tax-exempt nonprofit organization, KHC expects material participation by the said local tax-exempt nonprofit organization to include, but not be limited to:

- Nonprofit participates in the activity for more than 500 hours during the tax year.
- Nonprofit's participation constitutes substantially all of the participation in the activity of all individuals (including nonowners) for the tax year.
- Nonprofit participates in the activity for more than 100 hours during the tax year, and its participation is not less than the participation of any other taxpayer for such year.
- Nonprofit activity is a significant participation activity for the tax year, and the taxpayer's participation in all significant participation activities during the year exceeds 500 hours. A significant participation activity is one in which the taxpayer has more than 100 hours of participation during the tax year but fails to satisfy any other test for material participation.
- The nonprofit materially participated in the activity for any five of the ten tax years immediately preceding the year in question.

Based on all facts and circumstances, the nonprofit participates in the activity on a regular, continuous and substantial basis during the tax year. To satisfy the facts-and-circumstances test, a nonprofit must participate in an activity for more than 100 hours. The nonprofit's management services are not taken into account unless no other individual is compensated for management services and no other individual performs management services exceeding the hourly total of such services.

Recapture of Housing Credit under Reservation

To ensure the efficient use of the Housing Credit in Kentucky, KHC will require all projects that receive Housing Credit reservations, including set-aside projects, to confirm that the Housing Credit will be eligible for allocation to the project (more than 10 percent of costs incurred) by the end of the calendar year or six months after the date of allocation, whichever is later.

Credit returned or unallocated before September 30, 2009, will be allocated to other pools or set-asides as determined by KHC. Credit returned after September 30, 2009, may be allocated to partial projects or carried into the next calendar year. Credit returned from two or more projects by the same entity will be subject to penalty.

Qualified Contract Process

The Omnibus Budget Reconciliation Act of 1989 required that all properties receiving an allocation of Housing Credit after December 31, 1989 are subject to an "extended use period," which lengthened the time Housing Credit properties were required to maintain affordability from 15 to 30 years. In efforts to ease concerns of program participants about the economic viability of maintaining affordability without additional subsidy, the 1989 Act also provided an option for owners to exit the program at the end of the initial 15-year compliance period by requesting that the state agency either purchase the property or assist in finding a buyer at a determined " Qualified Contract Price" (QCP).

Owners are encouraged to review their copies of applications submitted to the agency when applying for an allocation of Credits, as well as deed restrictions (LURA), to determine if and when they are eligible to pursue the opt-out provision. Eligible owners must notify Kentucky Housing Corporation (KHC) of their desire to sell the property using the process outlined in this document. Once complete and proper notice has been received, KHC has one year to find a buyer for the project at a pre-determined price, not to exceed the QCP. The qualified purchaser can be a nonprofit or for-profit entity that agrees to maintain the affordable housing units and fulfill all requirements of the extended use agreement.

The project and owners should be in compliance with all programmatic requirements to be eligible to apply for the opt-out provision. The Qualified Contract may be suspended or terminated due to any mortgage defaults or encumbrances on the property or IRS audit or investigation that may adversely affect the sale of the property.

Owners will be allowed only one opportunity to request the Qualified Contract process per property. If KHC is unable to find a buyer pursuant to a Qualified Contract, the property may be converted to other uses.

Other Resources

If other local, state and/or federal resources were used in the development or operation of the Housing Credit property, the termination of the extended use agreement will only be valid for the Housing Credits. The current and/or future owner of the property will still be required to uphold the income, rent or restrictions that are required for the other funding sources for the remainder of the mortgage, note or deed restriction covering those funds.

If the owner does not get a qualified contract and the property has project-based Section 8 assistance, the project-based Section 8 assistance contract will be terminated.

Fees and Conditions for Qualified Contract Termination

There will be a $3,500 nonrefundable administration fee for processing a qualified contract request. In the event that additional third-party reports are required by a potential buyer or KHC, the qualified contract process will be suspended during the time needed to prepare the reports. The cost of the additional reports will be at the expense of the property owner. All payments for service must be made within a timely manner. Non-cooperation by the property owner in the participation of third-party reports will lead to the termination of the qualified contract process. Non-cooperation by the property owner on any issues of the qualified contract will also result in the termination of the process and will result in the owner being required to comply with the property low-income usage requirement for the remaining extended use period.

Owners who elect to exercise their option year must complete and submit all required documentation within 120 days of requesting a qualified contract. The application fee can be submitted at initial request or with the required documentation, but no later than the 120 days past the initial request. The initial request time period starts at the beginning of each calendar year in the 14th year of the compliance period. For example, if the property owner's 15th year compliance period ends on March 1, 2009, the property may request a qualified contract starting in January of 2008 through December 31, 2008. From the point that KHC and the property owner agree upon the contract sale price, the one-year time period starts to find a qualified contract. Please note: The owner may only request a qualified contract from KHC one time.

The required information that must be submitted by the property owner to notify KHC of intent to request qualified contract information is listed below and located on KHC's Web site through the following links:

- ♦ Qualified Contract Notification Letter
- ♦ Calculation of Qualified Contract Price Worksheets

The Housing Credit property should be in compliance with all regulatory agreement requirements. The qualified contract may be suspended or terminated due to any defaults, liens or encumbrances on the property or IRS audit or investigation that may adversely affect sale of the property.

KHC will review the owner's packet of materials. This will require staff and the owner to work closely together to ensure that all required information has been submitted and a QCP has been set. The one-year period begins once this step is complete. KHC will complete this initial review within 90 days after receipt of all required documentation.

For additional information pertaining to the qualified contract process and documentation, please refer to our Web page www.kyhousing.org under Housing Credit Program.

Compliance Monitoring Procedure

KHC has adopted a compliance monitoring procedure in accordance with IRC Section 42(m)(1)(B)(iii). The compliance monitoring procedure is detailed in KHC's Housing Credit Compliance Guide and includes:

1. The record keeping and record retention provisions of IRS Final Regulation Section 1.42-5(b).

2. The owner's annual certification requirement of Regulation Section 1.42-5(c)(1).

3. The on-site review of certifications and support documentation for at least 20 percent of the low-income units in each property at least once every three years in accordance with Regulation Section 1.42-5(c).

4. The on-site inspection provision of Regulation Section 1.42-5(d).

5. The notification of noncompliance provisions of Regulation Section 1.42-5(e), whereby notice is made to owners and the IRS regarding events of noncompliance.

6. The established programs of the projects serving special needs will be monitored on an ongoing basis to determine accordance with the original proposal. Homeless special needs groups will be expected to document program outcomes and results.

The compliance monitoring procedure applies to all projects that receive or have received an allocation of Housing Credit and will continue throughout the 15-year compliance period. During the extended use period, the Compliance Monitoring Department has established procedures with reduced fees for monitoring payments. Please refer to the compliance monitoring requirements after 15 years in the Compliance Guide.
Due to the complexities of the Housing Credit program in regard to long-term compliance, KHC strongly encourages the management company of each project to attend on-going training. KHC will periodically provide such training which may/may not have an associated fee. It is the responsibility of the owner to ensure that the selected management company remains adequately versed in the Housing Credit program.

Effective Date

This Qualified Allocation Plan is effective for allocations of Housing Credit made after December 31, 2008, and will remain in effect until December 31, 2009, unless amended. Amendments to the Internal Revenue Code and Treasury Regulations may necessitate conforming amendments to this plan.

NOTICE TO APPLICANTS

Incomplete applications will be returned to the applicant.

It is the applicant’s responsibility to submit adequate documentation to support their score. An applicant's consistent failure to provide complete and/or accurate information during the application process, failure to pay compliance fees, failure to live up to attributes pledged on the original applications or any other KHC programs may impact scoring or result in rejection of application and being barred from further participation in the Housing Credit program. Failure to follow all required procedures throughout the allocation process could jeopardize the final allocation or result in Housing Credit being recaptured. As a condition of receiving a Housing Credit allocation, an applicant agrees to furnish to KHC a copy of Form 8609 with Part II completed at the end of the first period for which Housing Credit is claimed for each building in the Housing Credit program. Additionally, any new applicant must receive compliance monitoring training by KHC staff prior to receiving Form 8609.

DISCLAIMER

As the state Housing Credit agency, KHC will evaluate and select projects to receive an allocation of Housing Credit pursuant to this Qualified Allocation Plan. KHC will determine the appropriate amount of Housing Credit required by each project through an underwriting process.

These decisions in no way warrant or represent to any sponsor, investor, lender or other that a project is, in fact, viable. KHC makes no representations to the owner or anyone else regarding adherence to the Internal Revenue Code, Treasury Regulations or any other laws or regulations governing the Housing Credit program.

No member, officer, agent or employee of KHC shall be held personally liable concerning any matters arising out of, or in relation to, the allocation of Housing Credit.