



Kentucky Housing Corporation
Leading the way home...

2011-2012

QUALIFIED ALLOCATION PLAN



Effective for allocations made after December 31, 2010 until December 31, 2012, unless amended.

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INTRODUCTION

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 affordable 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 applicants 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.

For the 2011-2012 Qualified Allocation Plan (QAP), Kentucky Housing Corporation (KHC) encouraged suggestions and comments from the affordable housing industry. Housing professionals and experts representing a wide range of interests and specialties participated in these discussions and contributed to the development of the 2011-2012 QAP. KHC wishes to publicly acknowledge their contribution and to thank them for their time and effort.

In addition, as required by the Code, KHC presented the draft allocation plan for public review and comment at a public hearing held on October 6, 2010.

Demand for the housing credits often exceeds supply. In determining how and where to allocate the credit, KHC must consider the need for affordable housing throughout the state of Kentucky. The purpose of KHC’s Plan is to reserve the federal tax credits for the creation and maintenance of rental housing units for low and very low income households in the state of Kentucky in such a way as to further the following principles and priorities:

- Reserve credits in order to provide a balance between the need to create new affordable housing units and the need to preserve the existing affordable housing stock;
- Reserve credits in order to provide an equitable distribution throughout the state and provide a reasonable mix of affordable housing projects, both in regard to the number of units and the populations served (family, elderly, special needs);
- Reserve credits to as many rental housing projects as possible, considering cost, size, location, income mix of proposals, and environmental sustainability;
- Reserve credits in order to provide opportunities to a variety of qualified sponsors, both for-profit and nonprofit;
- Reserve only the amount of credit that KHC determines to be necessary for the financial feasibility of a project and its viability as a qualified low income housing project throughout the credit period.

NOTE: KHC may choose to modify or waive, on a case-by-case basis, any provision of this QAP that is not mandated by law, to effectuate the full implementation and utilization of the Housing Credit resource and for overall efficiency in the administration of the Low Income Housing Tax Credit program. All modifications or waivers of the QAP will be subject to written approval by the chief executive officer of Kentucky Housing Corporation.

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
- Historic 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 Andrew Hawes at ahawes@kyhousing.org.

The announcement for the public hearing will be published through KHC's eGram system, posted to KHC's Web site, and in accordance to the Kentucky open records law requirements.

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.

Open Records Act Request Applicants are advised that materials contained in the application are subject to the requirements of the Kentucky Open Records laws at KRS 61.870-61.884, and the application materials may be viewed and copied by any member of the public. Applicants seeking to claim a statutory exemption to disclosure from open records requests which may be made must place all documents viewed as confidential in a sealed envelope marked "Confidential." Applications should be aware that if an open records request is made for any of the application materials, KHC will make an independent determination of confidentiality and may or may not agree with the applicant's determination regarding the confidentiality of the materials.

KHC will provide a listing of all applications received for the 2011 and 2012 applications rounds. The listing will be available on our website and will contain a listing of the funds requested, development team and contact information, as well as project specific information.

Annual Credit Available

The total amount of Credit **available for Kentucky for 2011 is approximately \$9.059 Million; the 2012 available credit will be up dated in 2011 to reflect the actual amounts available.** The total is determined from the following:

- \$2.10 plus the cost of living adjustment specified in Section 42(h)(3)(H) x Kentucky's population;
- Any unallocated credit from previous years;
- Any returned credit from previous years; and
- Any amount allocated to Kentucky by the IRS from the National Pool.

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 to be substantially rehabilitated

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 building's 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 10 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 for 2011 – 2012 —Approximately \$9,059,000 available

Competitive Pools and Set-Asides	2011 Approximate Amount	Estimated 2012 Amount
A. Competitive Urban Pool	\$1,814,882	\$2,604,500
B. Competitive Rural Pool	\$1,814,882	\$2,604,500
C. Nonprofit Set-Aside	\$1,000,000	\$1,000,000
D. Rural Development / HUD Set-Aside	\$500,000	\$500,000
E. State Priority Set-Aside (964,000 SH + 600 for HOPE VI)	\$1,565,000	\$1,600,000
F. Maximizing Outcomes	\$500,000	\$750,000
F. 2010 Partial Awards	\$1,864,235	

☞ **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. Likewise, KHC may increase basis (not to exceed 130 percent) on any project for feasibility reasons as determined solely by KHC. KHC reserves the right to allocate resources to lower ranked proposals to achieve a better mix of resource usage or better geographical distribution of resources as described above, or for any other reason judged by KHC to be meritorious. Such actions will be made at the KHC's sole and absolute discretion. Any decision KHC makes, and any action or inaction by KHC in administering, managing, and operating the program, shall be final and conclusive.**

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/or 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. One application will be submitted and each pool that the project is applying under must be marked and application fees for each pool 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, page 33 in QAP.

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. All pools that a project is applying under must be identified on the application and separate application fees must be submitted.

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.

KHC will score the application, as submitted and will not contact the applicant for any type of clarification or additional information once the application is submitted unless KHC experiences difficulties downloading electronic attachments.

A. Competitive Urban Pool

The urban pool of approximately \$1,814,882 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 2010 area median incomes above \$48,800 and 2009 populations of 20,000 or more:

Boone	Daviess	Jefferson	Marshall	Scott
Boyle	Fayette	Jessamine	McCracken	Shelby
Bullitt	Franklin	Kenton	Meade	Warren
Calloway	Grant	Larue	Mercer	Woodford

Campbell	Hardin	Livingston	Montgomery	
Christian	Henderson	Logan	Nelson	
Clark	Hopkins	Madison	Oldham	

B. Competitive Rural Pool

The rural pool of approximately \$1,814,882 is 50 percent of the remaining Housing Credit after set-asides and pools are deducted. Kentucky’s remaining 88 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 \$1,000,000 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) / Housing Urban Development (HUD) Set-Aside

Housing Credit in the amount of approximately \$500,000 at the 30 percent present value rate (4 percent) for acquisition and at the 70 percent value rate (9 percent) for rehabilitation is reserved for projects that have a pending application submitted to RD or HUD to receive funds. This set-aside is for projects financed by RD or HUD in need of rehabilitation in order to preserve affordable rental units, projects which have received letters from HUD or RD inviting the project to apply for assistance may apply under this pool. Projects must meet a minimum score as outlined in the scoring guidelines to be considered for funding. Final credit allocation (8609’s) can be conditional on receiving an obligation of United States Department of Agriculture Rural Development funds.

E. State Priority Set-Aside

KHC has established a State Priority Set-Aside to address specific housing needs in Kentucky. Projects eligible to apply in the State Priority Set-Aside are Scholar House Projects, HOPE VI projects, or Recovery Kentucky projects.

State Priority Set-Aside 2011	
Project	Housing Credit Award
Scholar House of Paducah	\$965,000
Covington HOPE VI	\$600,000
Total	\$1,565,000

State Priority Set-Aside 2012	
Project	Housing Credit Award
Scholar House Project	?
HOPE VI	?
Recovery Kentucky	?
Total	\$1,600,000

Projects requesting funds from the State Priority set-aside must obtain local public housing assistance (rental assistance) if it is needed to make the project successful. KHC does not have the ability to award project based rental assistance to support the projects.

Applicants for Scholar House must adhere to Scholar House Guidelines as found on KHC's Web site under Rental Production Programs and as well as program requirements outlined in the QAP.

- **2011 Partial Awards**

Approximately \$1,864,235 in Housing Credit will be used to complete the allocation of 2010 projects. Additional Credit may be awarded to these partials as determined solely by KHC on a case-by-case basis. Factors that will be considered include reductions in equity pricing, changes in eligible basis, etc.

- **Maximizing Outcomes Pool**

The remainder of the annual credit allocation (approximately \$500,000) will be awarded from the Maximizing Outcomes Pool at the discretion of KHC. KHC will use Maximizing Outcomes Pool to fully fund projects which are awarded funds in the designated pools, reducing the need for KHC to issue partial awards. If there is a remaining balance in the Maximizing Outcomes Pool sufficient to fund another project, a project will be selected at the discretion of the KHC.

Projects will be selected based on the criteria indicated below and other factors at the discretion of KHC in order to meet program policies and goals that were not achieved in the other pools.

- Consideration will be given to:
 - projects located in counties or submarkets that received the fewest number of credit awards in the target and geographic pools. The population and housing need in these areas will be considered.
 - projects in the target and geographic pools in which the total amount of credits awarded is significantly less than the maximum amount available in such pools.
 - proposals where a previous phase of the same multifamily development has been successfully constructed and placed-into-service and is operating at a high occupancy rate.
 - projects developed in a Qualified Census Tract, Difficult Development Area or contributing to a community revitalization plan.

KHC reserves the right to deviate from the ordinary guidelines to make awards to projects in the Maximizing Outcomes pool. The criteria for these awards may be based on changing market conditions, geographic need or other factors KHC deems significant.

Waiting List: KHC will not maintain a waiting list for the 2011 application round. Any returned credit after September 30, 2011 may be applied to the 2012 credit pool.

Beginning with the 2012 housing credit allocation round, KHC will establish a waiting list for projects that do not receive a reservation, due to the limited amount of available resources. Housing Credits that become available via returns or from the national pool later may be allocated to the projects on the waiting list.

If a project returns Housing Credits that were reserved during the 2012 in a target or geographic pool, then applications from that pool may receive first consideration for any award of credits. Any other available credits will be distributed according to the criteria of the Maximizing Outcomes pool. Please note that if a project returns credits that were awarded during the current year, then any other KHC funding award(s) must also be returned. Projects that receive credits from the waiting lists may then be considered for other KHC funding, although that funding cannot be assured.

KHC will contact representatives of the waiting list projects when Housing Credits become available. KHC will set a deadline for the applicant to respond to any offer.

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 requesting to finance projects with tax-exempt bonds must complete a separate application and will be scored separately.

Applications for tax-exempt bond financing are not eligible for HOME or AHTF gap financing.

Development Team Characteristics

KHC values development teams with the ability to meet key responsibilities in a timely and efficient manner; Development team members include the **general partners, developers, consultants and property manager.**

KHC values development team members with successful experience in the location and type of housing being proposed.

KHC supports the endeavors of community-based non-profit housing organizations to develop housing in their service area.

KHC values development teams with a strong financial base.

Development teams will be evaluated on any prior and/or outstanding financial obligations with KHC. The staff will evaluate the repayment histories of all loans extended to previous projects as well as payments of all other fees and monies due to KHC.

Experience & Capacity Review

KHC will conduct a review of the experience and capacity of the development team members **prior** to submission of Housing Credit applications for individual properties. The result of this review will determine whether an organization may participate in the upcoming program year and/or if any scoring issues are present.

The following items must be submitted for KHC to conduct the experience and capacity review, along with their request for an ID and password to access the on line application:

- A brief narrative describing the experience of the organization with regard to development of subsidized affordable housing, including the number of projects and units that have been completed and placed into service.
- A spreadsheet summary of all projects under construction in any state (or stage of completion), including their present status and expected completion date.
- Full organizational chart, staff roster and resumes of key development staff within the organization, focusing on their affordable housing development experience.
- An expanded financial review system will be implemented. This review will require a higher level of external substantiation. These requirements may range from audited financial statements to recent internally prepared financial reports.
- A narrative that explains the proposed applications for the 2011 round, including:
 - The number of Housing Credit applications proposed for submission in 2011;
 - The allocation pools in which the applications will compete;
 - The roles that the organization will play in the projects;
 - Development and ownership partners that the organization may be working with on the projects.

Capacity Review Timeframe and Response Period 2011:

- Developers will identify the development team when they first access the on-line application. This system will be available on December 1, 2010 for the 2011 housing credit round.
- KHC will review and score the development team capacity based on the information in the application. KHC will provide developers with the score for the capacity review beginning on February 1, 2011.

- In order to ensure the highest possible standard of accuracy, thoroughness and service, applicants will have until February 10, 2011 to provide a written response to any factual discrepancies in the review.
- KHC will review the response, make any adjustments deemed necessary and appropriate, and provide a final experience and capacity evaluation on February 15, 2011.
- Applications entered after February 1, 2011 and before February 10, 2011 will receive the capacity review score and will have until the end of the business day on February 10, 2011 to submit their written response to any factual discrepancies.
- Applications entered after February 15, 2011 will be reviewed for capacity, but will not have the ability to submit a written response for consideration. All capacity scores after February 15, 2011 will be final.

Capacity Review Timeframe and Response Period 2012:

- Developers will identify the development team when they first access the on-line application. This system will be available on July 1, 2011 for the 2012 housing credit round.
- KHC will review and score the development team capacity based on the information in the application. KHC will provide developers with the score for the capacity review beginning on September 1, 2011.
- In order to ensure the highest possible standard of accuracy, thoroughness and service, applicants will have until September 10, 2011 to provide a written response to any factual discrepancies in the review.
- KHC will review the response, make any adjustments deemed necessary and appropriate, and provide a final experience and capacity evaluation on September 15, 2011.
- Applications entered after September 1, 2011 and before September 10, 2011 will receive the capacity review score and will have until the end of the business day on September 10, 2011 to submit their written response to any factual discrepancies.
- Applications entered after September 15, 2011 will be reviewed for capacity, but will not have the ability to submit a written response for consideration. All capacity scores after September 15, 2011 will be final.

All written responses to any factual discrepancies must be signed, identify the discrepancy and provide supporting documentation or a narrative justifying reconsideration. All responses must be submitted to Andrew Hawes by mail at Kentucky Housing Corporation, 1231 Louisville Rd., Frankfort, Kentucky, 40601, or by email at ahawes@kyhousing.org.

Applicable Program Fees

Application Fee: Fee amounts are \$1,000 for exclusively nonprofit applicants and \$1,500 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 non-refundable reservation fee of seven percent of the amount of Housing Credit reserved for a project will be charged. Payment of the seven percent reservation fee is due within two weeks from notification of funding.

Exchange Credit (Swap) Fee: If an exchange of credit is requested by the applicant for any reservation made after January 1, 2011, the applicant will be required to pay an Exchange of Credit fee of \$5,000 in addition to a new reservation fee equal to the reservation fee listed in the Qualified Allocation Plan for the year the exchange is requested.

Extension Fee: Applicants will have one hundred and eighty (180) days, from the date of their conditional commitment, to submit all final construction, fair housing and other closing documents to KHC and close with their equity investor. If the project does not close within the 180 day closing deadline, KHC's conditional commitment to the project shall expire and be null and void and of no further force and effect. However, KHC may approve a request for extension where the closing deadline may be extended an additional 45 days by payment of an extension fee equal to one half of one percent (0.50%) of the conditional credit award. The extension fee shall be payable to KHC on or before the 180th day closing deadline, in order to avoid expiration of the conditional credit award. Each applicant may request one (1) extension. If a project does not close within 180 days or 225 days with the extension, the conditional award will **automatically** expire and KHC **will** recapture the credit and all associated soft funding. Projects that receive extensions may be considered in future proposals of the development team.

Inspection Fee: KHC will charge a one time .2 percent inspection fee for all projects. The fee will be based on the credit allocation amount awarded to a 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 fee schedule.

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

Additional fees are outlined on page 29 under Deadlines.

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.

Duplicate Applications

Each application must consist of a legitimate, stand-alone development proposal. KHC does not consider projects that are artificially divided or duplicate projects on adjacent or nearby sites to be legitimate development proposals, because such applications may manipulate the selection process and circumvent allocation priorities. Therefore, KHC will reserve the right to combine or reject applications for projects located in close proximity and sharing similar attributes, such as project type, population served, construction style, and/or development team members.

If KHC elects to combine applications, the developer will then be required to demonstrate that the combined project will be financially feasible. The conclusions in the market study must be updated based on the total number of units, and items such as zoning documents, public notification letters and consolidated plan certification may also need to be updated. If KHC determines that it is appropriate to combine applications in this manner, the applicant(s) must then either submit the updated documents described above, or elect to withdraw one or more of the duplicate applications. An election to withdraw an application must be in writing and signed by all parties in the original application.

In addition to combining applications, KHC will prohibit applications that receive a reservation of Housing Credits from later adding land or sites from other projects proposed in the same year. KHC will permit a parcel of land or an existing building to be included in only one application (per developer) during a funding round.

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 8-9 of the QAP)

The Housing Credit subsidy allocated will be limited to \$15,000 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, historic/adaptive reuse projects or projects located in areas defined by KHC as needing an increase in basis which will be limited to \$19,500 per Housing Credit unit.

Rural Counties--(Any county not listed on page 8-9 of the QAP is considered rural)

The Housing Credit subsidy allocated will be limited to \$16,500 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, historic/adaptive reuse projects or projects located in areas defined by KHC as needing an increase in basis which will be limited to \$21,450 per Housing Credit unit.

Example:

Subsidy limit:

\$15,000

\$19,500 (if in a DDA, QCT, or other KHC defined area)

40 total units not in any of the bonus areas

40 * \$15,000 = \$600,000

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

**Modifications to Definition of Eligible Basis (130 Percent 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.

The Housing and Economic Recovery Act of 2008, H.R. 3221 (HERA), provides State housing credit agencies the ability to enhance the credit to any building needing the enhanced credit to be financially feasible

Due to the economic impact of the current market and the decline in equity pricing, projects are now seeking substantial amounts of soft money to be considered financially feasible. Because the supply of soft money is limited, few projects will be completed without other financial assistance. The additional equity provided by the enhanced credit reduces the amount of soft funding required by each project. Without the enhanced credit, projects will not be financially feasible. As a result, KHC has determined that all projects located in all areas of the State are eligible to receive the enhanced credit if they demonstrate a need, if the project does not demonstrate the need; KHC reserves the right to reduce the amount of credit requested to the maximum allowed without the boost.

Under the enhanced credit, the eligible basis of a building is increased from 100 to 130 percent. This allows 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.

Housing Credit Limit with 130 percent bonus

Urban Counties--(As listed on page 8-9 of the QAP)

The Housing Credit subsidy allocated with 130 percent basis boost will be limited to \$19,500 per Housing Credit unit.

Rural Counties--(Any county not listed on page 8-9 of the QAP is considered rural)

The Housing Credit subsidy allocated with 130 percent basis boost will be limited to \$21,450 per Housing Credit unit.

HUD Designated Difficult to Develop Areas (Counties) for 2011

Butler	Fulton	Nicholas	Powell
Carlisle	Lincoln	Owen	

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

All counties with 2009 area median incomes below \$41,000

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

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 number of square footage of the CSF as a percentage of the residential space per project. Projects with costs exceeding \$15 million have additional limitations.

Example: The residential building(s) “only” is 32,100 sq. ft.
The CSF sq. ft. is 4,500

CSF space to residential space -- $4500 \div 32,100 = 14.0$ percent.

This is the amount of additional credit that can be requested for a CSF.

This provision is limited to buildings located in Qualified Census Tracts (QCTs) only.

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.

For rehabilitation and preservation developments that qualify for acquisition Tax Credits, a developer’s fee will be allowed on a portion of the acquisition cost that is basis eligible. The fee is limited to 10 percent of the purchase price of the property less the cost of land. The maximum acquisition cost that will be recognized in determining the developer’s fee will be the lesser of the actual amount paid for the building or the MAI appraised value.

No acquisition credit may be requested if the seller and buyer are related parties, as well as the developers fee will be limited to 5 percent.

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. Applicants must choose an appraisal firm or individual that is listed on the approved Appraisal list located at www.kyhousing.org under Housing Production Rental Programs.

Projects requesting credit and other sources of KHC funds in the form of a loan are required to meet KHC’s appraisal guidelines and must also choose an appraisal firm or individual from the approved list.

Applicants/developers will enter into a contract for services directly with the appraiser and, with the exception of questions about KHC standards and/or requirements, the applicant/developer shall be responsible for handling all issues related to the appraisal. Applicants/developers contracting with appraisers for the benefit of KHC shall be responsible for negotiating the price of the contracted work.

Although the applicant/developer is responsible for engaging the appraiser, the report shall identify KHC as the intended user for the purpose of providing KHC a basis for investment and loan underwriting decisions.

Maximum Credit Cap Requirements

All users are restricted to a maximum of **\$1,250,000** in annual Housing Credits based on the determination made by KHC in the Capacity of Development Team review.

“**Users**” to which the credit cap applies are general partners, parent organizations of general partner entities, 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 controls another entity or has a controlling interest in the entity. “**Controlling Interest**” is defined as the possession, direct or indirect, of the power to direct, or cause the direction of, the management and policies of an entity, whether through the means of ownership, position, contract, or otherwise. In addition, “**controlling**” means the possession, direct or indirect, of the power to direct, or cause the direction of, the management and policies of an entity, whether through the means of ownership, position, contract or otherwise.

- a) Organizations acting as users, developers and/or general contractors are limited to a maximum of \$1,250,000 in annual Housing Credits based on the determination made by KHC in the Capacity of Development Team review.

An “**organization**” to which this cap applies is defined as the actual entity indicated in the application, and any parent organization or affiliate 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 or as a consultant. If a developer or general contractor enters any additional projects after reservation agreements are issued, these will count against their cap for the following year. Full disclosure of relationships between all development team members must be included in the application. At the time of reservation and allocation, each general partner, developer and general contractor 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 may be banned from participating in the Housing Credit program for one year from the date of discovery by KHC.

KHC reserves the right to determine to which entities the maximum credit cap may apply. Any such determinations shall apply only to the applications received in 2011-2012 and shall not be bound or limited by any determinations made by KHC for any previous year. The annual credit amount for each project will be applied to each general partner, developer, or general contractor, regardless of ownership interest; thus, a 51 percent general partner will

have the entire project credit amount applied toward its cap, rather than 51 percent of the credit amount.

However, Tax-Exempt Bond projects are not restricted to this cap.

Maximum Fees

Applications utilizing Housing Credit will be limited to the following fee structure, regardless of the total project costs.

General Requirements	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, 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.

Projects where there is an identity of interest or the appearance of an identity of interest between the developer, consultant, contractor/builder, architect, attorney or non-profit agency the maximum developer fee will be limited to 10 percent.

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.

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

$$\frac{\text{Developer Fee} + \text{Consulting Fees} + \text{anything resembling consulting or developer fees}}{\text{Total Project Costs} - \text{Developer Fee} - \text{Consulting Fees} - \text{anything resembling consulting or developer fees}}$$

Minimum Set-Asides

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. The cost containment limits apply to all resources, including housing credit only projects. KHC may waive cost containment guidelines for projects which have federal resources (HOPE VI, HUD 202, or HUD 811) committed to the project. All requests for waivers must be made in writing and approved prior to application submission.

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 Production 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 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 2 Technical Submission Stage and Requirements in the Rental Production Guidelines.

KHC will review project plans and specifications for 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.

Capital/Physical Needs Assessment

All projects involving substantial rehabilitation of existing buildings must provide a capital/physical needs assessment at application stage. The capital/physical needs assessment must be performed by an independent qualified architectural or engineering

firm to determine whether the existing building(s) and rehabilitation activities are sufficient to ensure that the building(s) and improvements have a useful life of at least 30 years. All Capital/Physical Needs Assessments must contain a capital reserve replacement schedule which details scheduled maintenance, improvements and corresponding expenditures necessary to extend the life of the facility, a minimum of 30 years, project applying for Rural Development assistance may provide a 20 year needs assessment. Applicants are responsible for fees for such assessments. In the event the analysis does not support the proposed project, KHC reserves the right to reject or seek modification of the proposal. Variances in the work documented in the capital/physical needs assessment will require the approval of KHC staff. Please refer to Architectural Guidelines for additional information. KHC will require a subsequent Capital/Physical Needs Assessment in each eighth year of the projects operation and will require the project to adjust the capital reserve replacement schedule accordingly. This requirement is applicable for both new construction and rehabilitation projects.

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 is:

- 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.

Eligible Uses of Housing Credit

Eligible properties include:

- One or more rent-restricted dwelling units available for long-term continuous rental use.
- Newly constructed buildings.
- Adaptive reuse projects.
- Substantial building rehabilitation of at least \$20,000 per low-income unit or 20 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.
- Projects may consist of buildings on scattered sites within the same county; KHC will not allow scattered sites covering multiple counties.

Financial Requirements (not all-inclusive)

KHC has established financial underwriting guidelines for rents charged, debt coverage ratios, operating deficit reserves and reserve for replacement requirement. Please thoroughly review the requirements established in the underwriting model and KHC's rental guidelines. If KHC's requirements differ from a syndicator/investor or a federal program's requirement, then KHC may be willing to negotiate a modification to KHC's requirements.

- **Rents Charged:** The rents charged to low-income tenants cannot exceed 30 percent of the applicable income limit adjusted for unit and family size less an allowance for tenant-paid utilities, if applicable. (Section 8 subsidy payments are not included in the tenant rent computation.)
- **Construction Contingency:** The construction contingency should not exceed 10 percent of total construction hard costs. Acquisition of the property should not be included as hard cost. *All change orders must be submitted, reviewed and approved by KHC at the time the change is deemed necessary. KHC will not process change orders which do not follow these procedures. Failure to follow this policy may result in future reductions in scoring.
- **Debt Coverage Ratio (DCR):** The required DCR in year one must be at least 1.25 and should remain at or above 1.0 through year fifteen (15). Projects which do not have any debt associated with the project will satisfy KHC's debt coverage ratio requirements.
 - Projects requesting Housing Credit only must meet the DCR requirements established by an investor or governmental entity if the investor or governmental entity requires a lower DCR. All required DCR's if lower than KHC's limit must be reflected in either the syndication agreement or from the governmental entity. All projects must have positive cash flow through year fifteen (15).
- **Operating Deficit Reserve (ODR):** All applicants will be required, (prior to closing) to sign a certification stating that a separate account has been set up for an ODR. 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:

$$\begin{aligned} & \text{Six months of projected operating expenses} \\ & + \text{Six months of debt service payments} \\ & = \text{Minimum Operating Deficit Reserve Required} \end{aligned}$$

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

If KHC is funding the ODR account, 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. KHC will hold the ODR account unless otherwise indicated in a syndication agreement or by a federal program.

- Reserve for Replacement (R4R): All applicants are to establish a R4R account per the rental guidelines. KHC will hold the R4R account unless otherwise indicated in a syndication agreement or by a federal program. The R4R annual deposit shall increase at 3 percent annually, or as prescribed by KHC.

KHC calculates the minimum R4R as the greater of:

- \$275 per unit for new construction or \$325 per unit for rehabilitation developments as applicable.
- If services are a requirement to live in the housing units, generally these service fees must be included in gross rent.
- The income and rent restrictions apply for a minimum of 30 years plus, a three-year vacancy de-control period. Noncompliance with the restrictions can lead to Credit recapture and substantial penalties from the Internal Revenue Service.
- Projects utilizing a tax-exempt bond financed 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

Kentucky Housing has expanded its services to include additional technical assistance opportunities for developers to access to help ensure a projects success.

Developers and community officials are encouraged to contact KHC's business development officer to obtain assistance with projects throughout the development and application process. This assistance is offered to both new and seasoned developers. The business development officer will meet with partners and help identify additional resources that may be available to support multifamily developments, explore ideas on how a project is structured. Work with development teams in developing solutions to overcome problems with project development. Explore new financing options, including U.S. Department of Housing and Urban Development

(HUD) multifamily programs, Rural Development, Federal Home Loan Bank as well as other partners. The business development officer will also meet with local officials to review projects and to offer support to developers as well as work with developers as it pertains to questions about the rental application, guidelines, scoring and preparing the application prior to submission.

In order to submit an application, a member of the development team must have developed, operated and completed a project that is now in the affordability stage with compliance and has developed at least ten rental units with Kentucky Housing Corporation. However, if no member of the development team meets this qualification, then a member must request application process technical assistance. The individual(s) who will be responsible for the day-to-day activities of the project once approved is required to attend the Program Process Technical training.

This type of assistance takes new partners through the process of documentation requirements, scoring criteria, relocation requirements (if applicable), design and construction requirements, etc.

NOTE: By requesting or attending technical assistance training does not guarantee the project will be awarded funds.

Contact Tammy Stansbury, Business Development Officer, at (502) 546-7630 or toll free in Kentucky (800) 633-8896, extension 411, or by email tstanbury@kyhousing.org.

Site Reviews

KHC has established a pre-application site review requirement for all multifamily housing developments that will request funds for Housing Credit, Home Investment Partnerships (HOME) Program, Affordable Housing Trust Fund, and Small Multifamily Affordable Loan (SMAL) Program. **Applications will not be accepted without a pre-application site review.**

The review consists of KHC staff's initial professional recommendations about site and location, rather than set scoring criteria. Please note that while KHC will conduct the pre-approval site visit, this does **not** assure approval of an award of funds. Applications submitted to KHC for 2011 and 2012 application rounds will be reviewed and scored based solely on the projects qualifications.

Site reviews will be conducted between the spring and fall months, and must be completed by the end of January, 2011 for the 2011 application round and by the end of August for the 2012 application round. During the review, applicants must present a site plan outlining the layout of the rental buildings, community room (if applicable), recreational areas, and parking. The site plans do **not** have to be to scale during the pre-approval site visit and are not required to be completed by an architect.

Sites will be reviewed based upon Environmental/Compatibility, Visibility/Accessibility, Ingress/Egress, Public/Community Services and Site Design. KHC will also evaluate a

site location to KHC's existing portfolio of projects. If a site location will be in close proximity to an existing KHC project which is experiencing higher than normal vacancy rates, KHC may not approve the site for the current application round, or until the existing project obtains a sufficient occupancy rate.

Guidelines on the pre-application site review are available on KHC's web site under Housing Production/Rental Programs. Please contact the business development officer to schedule a review.

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.

<u>Housing Credit Submission Dates</u>				
	<u>Capacity Review</u>	<u>Electronic Submission</u>	<u>Attachment Submission</u>	<u>Award Notification</u>
<u>2011</u>	<u>February 15, 2011</u>	<u>March 1, 2011</u>	<u>March 2, 2011</u>	<u>June/July, 2011</u>
<u>2012</u>	<u>September 2011</u>	<u>October 2011</u>	<u>October 2011</u>	<u>January/February 2012</u>

All applicants must submit applications for funding electronically. The application is located at www.kyhousing.org under Online Rental Application. 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 March 2, 2011. 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
Multifamily Finance Department
Kentucky Housing Corporation
1231 Louisville Rd.
Frankfort, KY 40601**

KHC has enhanced the on-line application to allow developers the ability to upload the required attachments. Each item must be individually attached in the section provided. If a developer can upload all required attachments, then no papers copies are required.

All applications must obtain a minimum score of TBD 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.

Application Review Process

Although KHC will award 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 reserves the right to allocate credits to lower scoring applications to ensure equitable allocation of resources throughout the state.**

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 may be subject to reduced scores on future applications due to noncompliance.

Review Process

Funding is based upon a three-stage process: scoring criteria, financial feasibility and market need. Applications must pass the first two stages before funding can be determined. Failure to successfully meet the requirements of any stage will result in the rejection of the application.

Stage I Scoring Criteria – Applications will be scored based upon capacity of the development team, targeting plan, project design, location, readiness to proceed and financial design. Applicants must receive a *minimum score of TBD* in the scoring criteria in order to move to Phase II for all competitive applications. 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. KHC will review and score each application based on the information presented and will not contact developers for clarification, or to obtain missing information. If KHC experiences a problem retrieving attachments which were up loaded into KHC's system, contact with the developer will be made to have paper copies provided.

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

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

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

Stage II Financial Feasibility – A project is financially feasible if **all** (including federal,

state, local and/or KHC program guidelines are met and the project is still viable. Rents and expenses must be reasonable, the sources and uses must balance and the debt coverage ratio (DCR) must adhere to KHC's requirements. A review of the submitted underwriting model, along with information in the application and attachments, will be reviewed. The application, underwriting model and supporting documentation must all be in agreement. **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, financial documentation is not required to determine if the entity is financially feasible. However, if an applicant is requesting HOME or AHTF 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.

Stage III Market Need – Market studies will be required to be submitted at time of application and will be reviewed in accordance with KHC's guidelines. 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 not be allocated and the application will be denied.** Market studies will only be accepted by firms that are on KHC's approved list. Please refer to technical submission stage of the QAP for additional information pertaining to market studies.

Partial Awards

KHC will limit partial awards in 2011, if any, to a de minimums amount. Any housing credits recaptured after September 30, 2011 will be applied to the 2012 available credit pool.

Projects that receive partial award of Housing Credit in 2012 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. Projects which receive a partial award will be awarded credit recaptured in the current funding year prior to receiving the remaining credit allocation from the proceeding allocation year.

Conditional Approval Process

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

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

Once conditional 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 technical submission requirements.

KHC reserves the right to terminate its obligations regarding any commitment or award if the terms of the application or any part of the transaction are changed in any material respect, if any material information submitted to KHC proves to have been inaccurate or incomplete in any material respect, or if any material adverse change occurs, or any additional information is disclosed to or discovered by KHC which KHC deems materially adverse in respect of the condition, financial or otherwise, business, operations, assets, nature of assets, liabilities or prospects of applicant or the proposed project.

Technical Submission Stage

Reservation Notice

KHC will send each successful applicant a conditional commitment letter which indicates the initial reservation of Housing Credits and other KHC resources awarded. 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. The final amount of credit allocated to each successful applicant may be less than, but may 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.

Deadlines

Housing Credit Reservation Fee

The Housing Credit reservation fee is due to KHC within two weeks of the date of the conditional awards letter. Failure to pay the reservation fee within the timeframe will result in the housing credit award being recaptured.

Firm Commitment Letters

If a conditional award has been made, the applicant must provide to KHC, no later than sixty (60) days after the conditional housing credit award, binding final firm commitment letters from the equity investor and non-KHC subsidy sources which provide:

- 1) the estimated dollar amount of the equity investment or loan amount to be provided to the Project;
- 2) the interest rate and term, if loan proceeds are involved;
- 3) the collateral for the project, if a loan is involved; and
- 4) the anticipated pay-in schedule for the equity contributions, subject to final underwriting of the Project and other reasonable adjustment prior to closing.

The firm commitment letters shall contain normal and customary contingencies for equity and loan commitments, including, without limitation, approval of appraisal, closing of other sources of financing, environmental and title review and financial condition of the developer and satisfactory negotiation of partnership and/or loan documents. If the firm commitment letters have not been submitted within the sixty (60) day timeframe, the conditional award of credit will expire **automatically** and KHC will recapture the credit and all associated funding. **No extensions of the 60 day timeframe will be granted.** Time is of the essence with respect to the conditional commitment and the award of credits to be made, and all time limitations therein or thereunder. KHC may strictly enforce requirements imposed upon applicants. Applicants must agree to proceed diligently to closing.

Applicants applying to Rural Development (RD) for resources or assistance must provide a complete application and all required documents to the RD office within one month of receiving the conditional commitment. Applicants who do not provide a complete application to RD in a timely manner will risk not meeting the closing timeframe. No extension will be provided due to an applicants delay in providing RD with the required application and supporting documentation.

Applications applying for Housing and Urban Development (HUD) resources need to complete the pre-approval application process within the technical submission deadlines. KHC will accept a pre-approval for scoring purposes.

Technical Submission

All technical submission items must be received by KHC within 90 days of the conditional commitment award. Projects may request a 30 day extension for \$500. No more than three extensions will be granted. Extension fees must be paid prior to the expiration of the deadline.

Project Closing

Applicants will have one hundred and twenty (180) days to submit all final construction, fair housing and other closing documents to KHC and close with their equity investor. The applicant will receive a checklist that will outline all outstanding or additional documentation needed. If the project does not close within the 180 day closing deadline, KHC's conditional commitment to the project shall expire and be null and void and of no further force and effect. A request for an extension may be made, and if KHC so approves, the closing deadline may be extended an additional 45 days by payment of an extension fee equal to one half of one percent (0.50%) of the conditional credit award. The extension fee shall be payable to KHC on or before the 180th day closing deadline, in order to avoid expiration of the conditional credit award. Each applicant may request one (1) extension. If a project does not close within 180 days or 225 days with the extension, the conditional award will **automatically** expire and KHC **will** recapture the credit and all associated soft funding.

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

KHC maintains an approved Market Analyst List from which developers may select an appropriate firm or individual. This list will be valid for at least one year. KHC will update the list in 2011 through a Request For Qualification (RFQ)'s. However, KHC reserves the right to remove individuals/firms from this list for any reason. Market analysts submitting a report that materially fails to comply with KHC's requirements or is otherwise unacceptable may, in the sole discretion of KHC, be removed from the list. If reports are received that are not acceptable, the applicant/developer will be informed by KHC if such report is unacceptable. Applicants/developers will enter into a contract for services directly with the market analyst and, with the exception of questions about KHC standards and/or requirements, the applicant/developer shall be responsible for handling all issues related to the market analysis. Applicants/developers contracting with market analysts for the benefit of KHC shall be responsible for negotiating the price of the contracted work.

Although the applicant/developer is responsible for engaging the market analyst, the report shall identify KHC as the intended user for the purpose of providing KHC a basis for investment and loan underwriting decisions.

Carryover Allocation Requirement

The Code requires KHC to verify that a project meets 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 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 §42. Projects receiving carryover allocations must be placed in service not later than the close of the end of the 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 must 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 the Friday before Thanksgiving each year. The project owner's 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.

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.

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 developer or owner fail to comply with all such terms and conditions, KHC may, at 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. Applicants will receive a placed in service checklist that will outline the documentation that is required at this stage.

Pre-8609

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.

Final Cost Certification

The final allocation amount will be determined 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 restriction is in effect as of the end of such taxable year. (A LURA is required for all projects receiving Housing Credit including bond projects. KHC will prepare the LURA.)

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.

KHC requires a minimum of 30 days to prepare the LURA and form 8609 after the submission of the pre-8609 inspection packet. To facilitate documentation preparation, the project owner will give KHC 30 days' notice before the project's closing takes place.

IRS Form(s) 8609

A final allocation of Housing Credits will be made (by issuing Form 8609) based on the date that an eligible building or project is placed in service (i.e., available for rental occupancy) as evidenced by a Certificate of Occupancy.

Policies

Changes to Project Design

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.

Inspections

All projects will be required to participate in a pre-construction conference *before any construction activities begin, unless waived by KHC due to significant prior experience*. 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. **For credit only projects, it may, at KHC's sole discretion, require and accept an alternative verification of inspection for the three stages of construction, either by accepting a copy of an inspection performed on behalf of the investor, or other lender.**

For projects requesting to draw other KHC funds 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 and must be signed by a KHC inspector.

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. Change orders submitted after the completion of the work to be changed will not be approved, unless prior authorization is given by KHC in writing.

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, HOME, and/or 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, consultant, contractor/builder, architect, attorney or non-profit agency 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, and apply for housing credits through

the nonprofit set-aside, 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 non-owners) 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. A 12 month extension may be granted upon request.

Credit returned or unallocated before September 30, in the allocation year, will be allocated to other pools or set-asides as determined by KHC. Credit returned after September 30, in the allocation year, 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 any deed restrictions including the LURA, to determine if and when they are eligible to pursue the opt-out provision. Eligible owners must notify 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 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 as noted on KHC's website.

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, 2010, and will remain in effect until December 31, 2012, unless amended. Amendments to the Internal Revenue Code and Treasury Regulations may necessitate conforming amendments to this plan.

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NOTICE TO APPLICANTS AND DISCLAIMER ON FOLLOWING PAGE

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.