STATE ALLOCATION PLAN
FOR THE
HOUSING CREDIT PROGRAM

Kentucky Housing Corporation

Pathways Home

SUMMARY

STATUTORY AUTHORITY

• Section 42 of the Internal Revenue Code of 1986

STATE HOUSING CREDIT AGENCY

• Kentucky Housing Corporation (KHC)

ANNUAL CREDIT AVAILABLE

• $1.50 per capita or approximately $6 million in 2001

• $1.75 per capita or approximately $7 million in 2002, with annual adjustments for inflation thereafter

• Unused and returned Housing Credit from prior years, if any

SET-ASIDES

• Set-asides will be provided for:

✓ Projects with qualified nonprofit participants

✓ Projects financed by the Rural Housing Services (RHS) Section 515 Program

✓ Projects financed under KHC's rental housing production programs

✓ Park DuValle Neighborhood Revitalization Hope VI project (year 2001 only)

COMPLIANCE MONITORING

• KHC will monitor projects throughout the 15-year compliance period to ensure adherence to low-income restrictions, Housing Credit program regulations and project selection criteria.

INTRODUCTION

Legislative Background

The Low Income Housing Tax Credit (Housing Credit) Program was created by the Tax Reform Act of 1986. The Housing Credit is one of the last remaining tax incentives for the construction, rehabilitation and preservation of low-cost rental housing. Investors in low-cost housing can claim Housing Credit against their federal tax liability for ten years.

The 1986 Tax Act required that state Housing Credit agencies administer the Housing Credit Program. Kentucky Housing Corporation (KHC) administers the program for Kentucky.

In 1989, Congress passed the Omnibus Budget Reconciliation Act, which produced significant changes in the Housing Credit Program. Among the changes were the requirements that the Housing Credit agency provide only enough Housing Credit to make projects feasible and that Housing Credit be allocated according to a plan that addresses the rental housing needs of low-income households.

In 1993, Congress enacted legislation, which again brought change to the Housing Credit Program. Along with permanent extension of the program, the act included the use of the 70 percent present value credit with HOME funds, clarification of student tenancy rules, prohibition of discrimination against rental assistance recipients and the requirement that Housing Credit agencies consider the reasonableness of the developmental and operational costs in making determinations of the proper amount of Housing Credit to allocate to a project.

In 2001, Congress passed legislation which will increase the annual per capita credit to $1.50 in 2001, and $1.75 in 2002, with annual adjustments for inflation thereafter, in accordance with the Consumer Price Index (CPI).

The bill extends the credit to that portion of a building used as a community service facility, not in excess of 10 percent of the total eligible basis. This provision is limited to buildings located in Qualified Census Tracts (QCT). A community service facility is defined as any facility designed to serve primarily individuals whose income is 60 percent or less of area median income.

The bill also expands the definition of QCTs to include census tracts with a poverty rate of 25 percent of greater.

THE ALLOCATION PLAN

Tax Law Requirements for the Allocation Plan

Section 42(m) of the Internal Revenue Code (IRC) requires Kentucky Housing Corporation to allocate Housing Credit according to a plan. The following must be included in the plan.

- A description of the project selection criteria to be used in determining priorities.
- Criteria which give preference to projects:
  - serving the lowest-income tenants.
  - serving qualified tenants for the longest periods.
  - contributing to a concerted community revitalization development plan.
- A description of the procedure for notifying the Internal Revenue Service of noncompliance with the requirements of the program.
- Other elements to be considered in the selection criteria:
  - project location.
  - housing needs characteristics.
  - project characteristics.
  - sponsor characteristics.
  - tenant populations with special housing needs.
  - tenant populations of individuals with children.
  - projects intended for eventual tenant ownership.
  - public housing waiting lists.

Project Selection Process

Project Selection Criteria are established with consideration to the tax law requirements stipulated by Section 42 (m) of the Internal Revenue Code and the strategic objectives of Kentucky Housing Corporation, as set forth in Kentucky Revised Statutes 198 (A). These criteria are reviewed and amended as necessary during formulation of the Qualified Allocation Plan. Applications for allocation will be assigned a numerical score in accordance with the project selection criteria (Appendix A). All elements of the application that constitute project selection criteria must be specific. All proposals received during an application round will be ranked according to the score assigned. Projects with the greater number of points will receive priority in selection. The number of projects selected during an application round will be limited by the amount of Housing Credit available for that round. Projects that are not selected during an application round will be considered in any subsequent rounds conducted during the allocation year. If applicants would like to improve their score in subsequent rounds, they may do so by resubmitting a new application and application fee by the next application deadline.

Projects selected that receive a partial award of Housing Credit, due to limited availability, will have priority in subsequent rounds in order to fully fund such projects.

Ties in scoring will be resolved by considering additional project attributes in accordance with the following priorities:

1. Lower developer's fee
2. Lower project cost per unit (excluding land cost)
3. Smaller projects
4. County of lower median income

Set-Asides

Nonprofit Set-Aside: The IRC requires that 10 percent of the total Housing Credit ceiling amount be available only to projects with qualified nonprofit participants and owners. Kentucky Housing Corporation will allocate up to 15 percent of the total Housing Credit ceiling amount to nonprofit applicants. In addition to the requirements of IRC Section 42(h)(5), a nonprofit must be the developer, general partner and manager of the project. Applicants must indicate that they are applying for credit from the nonprofit set-aside.

RHS Section 515 Program: A Housing Credit amount of $180,000 at the 30 percent present value rate is reserved for projects that have received a funding obligation from RHS.

KHC Rental Housing Production Program: A Housing Credit amount of $850,000 is reserved for projects that are substantially financed under KHC's Rental Housing Production (RHP) Program, (excluding programs identified by the RHP Department) and HOME Investment Partnerships Program and have received a commitment for such financing.

Special Project Set-Aside: A Housing Credit amount of $720,000 for the Park DuValle Neighborhood Revitalization Hope VI project in Louisville for the year 2001.

All remaining Housing Credit, after set-asides described above, will be divided equally to establish urban and rural pools. Upon determination that any Housing Credit set-aside, other than nonprofit, is not needed for the intended category of projects, such amount of Housing Credit will be transferred to the urban and rural pools.

All projects eligible for set-asides (except the nonprofit set-aside) will first compete in their respective urban and rural pools before consideration under applicable set-asides.

Nonprofit applicants may submit an application to be considered in the nonprofit set-aside and/or an application that competes in their respective urban or rural pool for the same project. Two separate applications and application fees must be submitted if an applicant wants to be considered in the nonprofit set-aside and competitive pool.

For the Housing Credit Program, the following eleven counties are considered urban:

Boone	Henderson
Boyd	Jefferson
Campbell	Kenton
Christian	McCracken
Daviess	Warren
Fayette	

Kentucky's remaining 109 counties are classified as rural.

Annual Selection Schedule

At the beginning of the allocation year, KHC will schedule two competitive application rounds. This schedule will indicate the Housing Credit amounts available and submission and notification dates for each round.

Submission Deadline	**Award Notification**	**Credit Available (adjusted for previously mentioned set-asides)**
February 28, 2001 February 28, 2002	April 30, 2001 April 30, 2002	70% of Ceiling 50% Urban 50% Rural
July 16, 2001 July 16, 2002	August 31, 2001 August 30, 2002	30% of Ceiling 50% Urban 50% Rural

Recapture of Housing Credit Under Reservation

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

Recaptured Housing Credit will be made available during the next application round. Credit returned before September 30 will be divided between the urban and rural pools and allocated to the next highest scoring project(s) in each pool. Credit returned from two or more projects by the same developer/sponsor will be subject to penalty.

Minimum Requirements

All projects will be subject to the following threshold standards:

1. Demonstration of site control is required.

2. Applicants must provide evidence of construction and permanent financing commitments. Commitments may be contingent on receiving a reservation of Housing Credit. Projects financed under the RHS Section 515 Program must submit a Multiple Family Housing Obligation-Fund Analysis, Form FmHA 1944-51.

3. The Housing Credit subsidy allocated will be limited to a qualified basis not exceeding HUD 221(d)(3) multifamily or HUD 203(b) single-family mortgage limits in effect at the time of application submission. This provision is not applicable to KHC-financed Assisted Living or Hope VI projects which will be subject to cost analysis and limitation on a case-by-case basis.

4. Demonstration of adequate capacity of the developer/development team to construct, maintain and manage the proposed project.

5. Project must demonstrate that energy-efficient design and construction practices will be utilized.

6. All projects must have a letter of support from the chief executive officer (or the equivalent) of the local jurisdiction within which the project is located. This letter must be a letter of support, not just a letter recognizing the project.

7. All projects with more than 12 units selected for an initial reservation of Housing Credit must submit a market study performed by an independent professional market study provider supporting the need for the proposed development. Applicants are responsible for fees for such studies. The market study should reflect adequate need for units for elderly, disabled, families with children and homeless residents when applicable. The market study for projects that elect the homeless set-aside must take into consideration the 24-month transition period. In the event the analysis does not support the proposed project, KHC reserves the right to reject or seek modification of the proposal.

8. All selected projects involving substantial rehabilitation of existing buildings must provide a capital needs assessment prior to final reservation. The needs assessment will be performed by a qualified architectural or engineering firm to determine whether the proposed rehabilitation activities are sufficient to ensure that the building improvements have a useful life of at least 30 years. 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.

9. Projects eligible for Housing Credit based on acquisition of existing buildings must provide an appraisal supporting the building basis for the Housing Credit requested.

10. All buildings must comply with all state and local building codes including accessibility standards, as well as applicable federal accessibility laws including Fair Housing Accessibility Guidelines and the Americans with Disabilities Act Accessibility Guidelines. Failure to comply may result in negative points.

11. Tax-exempt bond-financed projects eligible for Housing Credit outside of the state Housing Credit ceiling are subject to all provisions of this State Allocation Plan except the competitive selection process.

12. Prior to issuance of final allocation-IRS Form 8609(s), all owners must execute and record land use restrictive covenants (The Extended Use Agreement). The Extended Use Agreement will incorporate all project characteristics and attributes represented and pledged in the project application and considered in project selection.

13. Prior to issuance of IRS Form 8609, all projects will be subject to a site visit for the purpose of determining whether the completed improvements are consistent with representations made in the application.

14. Prior to issuance of IRS Form 8609, owners must submit a signed Form 8821, Tax Information Authorization to the IRS with a copy to KHC.

15. Within 30 days after the certificate of occupancy is issued for the last building in the project, the owner must notify KHC and submit a certificate of occupancy for each building in the project.

16. Cost certifications for all projects must be audited by a certified public accountant.

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 Manual and includes:

1. The record keeping and record retention provisions of Internal Revenue Service Final Regulation (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); and

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

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.

Fee Schedule

Allocation Fees

Application Fee: $500 for exclusively nonprofit applicants; $750 for all other applicants. This nonrefundable fee must accompany each project application submitted for Housing Credit.

Housing Credit Reservation Fee: A nonrefundable reservation fee of 5 percent of the amount of Housing Credit reserved for a project will be charged. Payment of the 5 percent reservation fee is due prior to the issuance of the reservation certificate.

Compliance Monitoring Fees

Annual Report Fee: An annual fee will be assessed for this monitoring program. Applicable fees must be submitted with the annual report. The annual fee for projects to be examined by KHC is $25 per low-income unit. Projects financed under the RHS Section 515 Program, pursuant to a Memorandum of Agreement between KHC and RHS, as long as such agreement exists, will be assessed a fee of $5 per low-income unit per year except for the first year when the fee will be $25 per low-income unit. A late filing fee will be assessed as specified in KHC’s Housing Credit Compliance Manual.

Recertification Waiver Fee: For eligible projects requesting the Waiver of Recertification in 100 percent low-income buildings, there will be a onetime additional charge of $25 per unit for each request.

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

Effective Date

This State Allocation Plan is effective for allocations of Housing Credit made after December 31, 2000 and will remain in effect until December 31, 2002, unless earlier amended. Amendments to the Internal Revenue Code and Regulations may necessitate conforming amendments to this plan.

NOTICE TO APPLICANTS

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, Kentucky Housing Corporation will evaluate and select projects to receive an allocation of Housing Credit pursuant to this State 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.

PROJECT SELECTION CRITERIA

A. Housing Needs Characteristics	**% of applicable limit**	**Points**	**Score**
1. Project will charge rents less than the applicable rent limit	95-99%	3	_____
	90-94%	5	_____
	85-89%	7	_____
	84% or less	10	_____
2. Owner will elect 20/50 minimum set-aside requirement. If this election is made, all Housing Credit units must adhere to the 50 percent of area median income limit.		10	_____
3. Project will enter into a binding agreement for extended low-income use beyond the initial 15-year compliance and three-year vacancy decontrol periods. Project will receive one point for each additional year of low-income use commitment beyond year 18, up to and including 30 years.		12	_____

B. Project Characteristics

1. Small Project.	**Number of Housing Credit units**		
	14 or fewer	10	_____
	15-19	9	_____
	20-24	8	_____
	25-29	7	_____
	30-34	6	_____
	35-40	5	_____

NOTE: When any projects are a continuation or an expansion of other Housing Credit projects, the total of all units with the same developer on the same or adjacent sites will be considered in the above criteria. Small project points will only be awarded to one scattered-site project located in the same county and submitted by the same developer per round.

2. Project located in a distressed county as designated by the Appalachian Regional Commission.		15	_____

3. Homeless Units

   a. Fifty percent or more of the Housing Credit units will be restricted to facilitate the transition of homeless tenants within the meaning of Section 103 of the Stewart B. McKinney Homeless Assistance Act. A minimum lease term of six months is required except for single-room occupancy units. 10 _____

   OR

   b. Project is used exclusively for transitional housing for homeless in accordance with IRC Section 42(i)(3)(B)(iii). 15 _____

4. Project has commitment of funds from Federal Home Loan Bank's Affordable Housing Program. 10 _____

5. Project involves construction or rehabilitation of Housing Credit units within a designated Renaissance Kentucky area located in a gold/ silver Renaissance community. 25 _____

6. Project involves construction or rehabilitation of rental units within a designated HOPE VI project (excluding the Park DuValle HOPE VI project). 25 _____

7. At least 25 percent of the units in each building are not rent- and income-restricted (market rate units). 25 _____

C. Sponsor Characteristics/Participation of Tax Exempt Organizations and/or Governmental Entities

1. Project is developed by a qualified minority or female-owned and managed for-profit development entity. 15 _____

2. Project has tenant-based or management services provided by an experienced, qualified nonprofit organization (excluding applications from the nonprofit set-aside). 10 _____

3.	Project is sponsored by a local public housing authority (PHA). Sponsorship entails material participation throughout the development and compliance period. Documentation from PHA must be submitted and could include assistance with project design, tenant selection criteria and affirmative marketing plan.	15	_____
4.	Developer fee, to be included in eligible basis, is 10 percent or less of total project cost excluding developer fee.	10	_____
5.	Project involves the acquisition and/or rehabilitation of a project to prevent foreclosure and/or loss of the project for use by low-income households. Defined as those projects eligible for waiver under IRC Section 42(d)(6) or projects eligible for and participating in the HUD Mark-To-Market Program.	10	_____

D. Tenant Populations with Special Housing Needs

1.	a.	The entire project will be restricted for use by persons 62 or older. All occupants must be 62 or older even if they are the spouse of someone 62 or older.	20	_____
		OR		
	b.	Eighty percent of the Housing Credit units in the project are occupied by at least one person who is 55 years of age or older. The project must publish and adhere to a policy that demonstrates an intent to house persons who are 55 or older.		
		OR		
2.		Ten percent or more of the Housing Credit units are available for large families (three bedrooms or larger) and provide special amenities for larger families.	10	_____

OR

3. The entire project is restricted for use by persons with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. Tenants must have a record of such impairment and/or be regarded as having the impairment. 10 _____

E. Public Housing Waiting Lists

Project meets the local rental housing needs as indicated by public housing waiting lists. 5 _____

F. Compliance

1. Developer, owner or general partner has identity of interest with other Housing Credit projects that have outstanding unresolved issues of non-compliance and/or unresolved code violations. -10 _____

2. a. Developer, owner or general partner has returned credit on two projects in any year. Penalty will be imposed for 24 months beginning with date of application. -20 _____

OR

b. Developer, owner or general partner has returned credit on more than two projects in any year. Penalty will be imposed for 24 months beginning with date of application. -30 _____

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