
**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

- \$1.25 per capita or approximately \$4.8 million
- 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
 - ✓ Local public housing authorities' Hope VI projects

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 Housing Credit 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.

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.
- A description of the procedure for notifying the Internal Revenue Service of noncompliance with the requirements of the program.
- Other elements to be used in the selection criteria:
 - ✓ project location.
 - ✓ housing needs characteristics.
 - ✓ project characteristics.
 - ✓ sponsor characteristics.
 - ✓ participation of local tax-exempt organizations.
 - ✓ tenant populations with special housing needs.
 - ✓ public housing waiting lists.

Project Selection Process

Applications for allocations 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 higher 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.

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

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. In addition to the requirements of IRC Section 42(h)(5), nonprofit participants must be the providers of all on-site property management services.

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 Programs: A Housing Credit amount of \$850,000 is reserved for projects that are substantially financed under KHC's Risk-Sharing (including Assisted Living) and HOME Investment Partnerships Programs and have received a firm commitment for such financing.

Special Project Set-Asides:

\$720,000 for the Park DuValle Neighborhood Revitalization Hope VI project in Louisville.

\$720,000 for the Charlotte Court Hope VI project in Lexington.

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 will first compete in their respective urban and rural pools before consideration under applicable set-asides.

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

Boone	Fayette
Boyd	Henderson
Campbell	Jefferson
Christian	Kenton
Daviess	McCracken

Kentucky's remaining 110 counties are classified as rural.

Annual Selection Schedule

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

Recapture of Housing Credit Under Reservation

To ensure the efficient use of the Housing Credit in Kentucky, KHC will survey 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. Recaptured Housing Credit will be made available during the next application round.

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 financing commitments. Commitments may be contingent on receiving an allocation 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. Adequate capacity of the developer/development team to construct, maintain and manage the proposed project must be demonstrated.
5. Project must demonstrate that energy-efficient design and construction practices will be utilized.
6. All projects located in an area subject to a plan for community or neighborhood revitalization or redevelopment must demonstrate that the project conforms with such plan.
7. 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.
8. All projects with more than 12 units selected for initial reservation of Housing Credit must obtain a market study that documents the need for the proposed development. A firm selected by KHC will perform the market analysis. Applicants are responsible for fees for such studies. In the event the analysis does not support the proposed project, KHC reserves the right to reject or seek modification of the proposal.

9. 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 firm selected by KHC 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.
10. Projects eligible for Housing Credit based on acquisition of existing buildings must provide an appraisal supporting the building basis for which the Housing Credit is requested.
11. All buildings must comply with the State Building Code including accessibility standards, as well as applicable federal accessibility laws including Fair Housing Accessibility Guidelines and the Americans with Disabilities Act Accessibility Guidelines.
12. Tax-exempt bond-financed projects eligible for Housing Credit outside of the state Housing Credit ceiling are subject to all provisions of this Allocation Plan except for the competitive selection process.
13. Prior to issuance of final allocation (IRS Form 8609), all owners must execute and record land use restrictive covenants (extended use agreement). The extended use agreement incorporates all project characteristics and attributes represented and pledged in the project application and considered in project selection.
14. 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.
15. Prior to issuance of IRS Form 8609, owners must submit a signed Form 8821, Tax Information Authorization.

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 agency review of certifications and support documentation for at least 20 percent of the low-income units in at least 20 percent of the low-income housing projects each year, in accordance with Regulation Section 1.42-5(c)(2)(ii)(B);
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: \$300 for projects of one to four units; \$500 for five units or more. A nonrefundable application fee must accompany each project application submitted for Housing Credit.

5 percent Housing Credit Reservation Fee: A nonrefundable reservation fee of 5 percent of the amount of Housing Credit reserved for a project following the project evaluation will be charged, less the application fee. 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. A late filing fee will be assessed as specified in KHC's Housing Credit Compliance Manual.

First-year Fee: In addition to the annual report fee, a fee of \$25 per unit will be assessed for examination of all projects for the first year of the credit period.

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 and become effective concurrent with the effective date of the Allocation Plan.

Effective Date

This Allocation Plan is effective for allocations of Housing Credit made after December 31, 1998 and will remain in effect until December 31, 2000, unless earlier amended. Amendments to the applicable Internal Revenue Code and Regulations may necessitate conforming amendments to this plan.

NOTICE TO APPLICANTS

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 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 the 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 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 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 units		
	24 or fewer	10	_____
	25-27	9	_____
	28-30	8	_____
	31-33	7	_____
	34-36	6	_____
	37-40	5	_____

NOTE: When 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 except in scattered-site projects.

2. Homeless Units			
a. Fifty percent or more of the 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. Requires minimum Lease term of six months 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	_____
3. Project consists entirely of single-family detached dwellings and involves a lease-purchase program for tenant acquisition after conclusion of the 15-year compliance period.		10	_____
4. Project involves construction or rehabilitation of rental units within a designated Renaissance Kentucky area located in a gold or silver Renaissance community.		25	_____
5. At least 25 percent of the units in each building are not rent- and income-restricted (market rate units).		10	_____

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

- | | | |
|---|----|-------|
| 1. Project is developed by a qualified minority-owned and managed for-profit development entity. | 15 | _____ |
| 2. Project is developed by a qualified nonprofit organization (as described in IRC Section 42(h)(5)(C)). | 15 | _____ |
| 3. Project is sponsored by a local public housing authority. | 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. The entire project will be restricted for use by the elderly or disabled and provides special amenities for the elderly or disabled. | 10 | _____ |
|---|----|-------|

OR

- | | | |
|---|--|--|
| 2. Ten percent or more of the units are available for large families (three bedrooms or larger) and provides special amenities for larger families. | | |
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E. Public Housing Waiting Lists

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

Developer, owner or general partner has identity of interest with other Housing Credit projects that have outstanding unresolved issues of noncompliance.	-10	_____
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