

**LOUISIANA HOUSING FINANCE AGENCY  
LOW-INCOME HOUSING TAX CREDIT PROGRAM  
RESERVATIONS OF CREDIT CEILING FOR CALENDAR YEAR 2005**

**TABLE OF CONTENTS**

I.	GENERAL.....	2
II.	APPLICATION SUBMISSION .....	3
III.	TIMING OF 2005 CREDIT CEILING RESERVATIONS FOR COMPETITIVE APPLICATIONS.....	5
IV.	MAXIMUM TAX CREDITS.....	5
V.	AGGREGATE POOLS.....	7
VI.	PROGRAM REQUIREMENTS, INSTRUCTIONS AND PROCEDURES.....	10
VII.	NON-REFUNDABLE FEE SCHEDULE .....	19
VIII.	MODIFICATION OF PROGRAM INSTRUCTIONS, REQUIREMENTS AND PROCEDURES.....	20
IX.	EXTENDED USE AGREEMENT, COMPLIANCE MONITORING AND OTHER REQUIREMENTS.....	20
X.	GOVERNING LIHTC PROGRAM DOCUMENT .....	25
	GLOSSARY .....	25
	SELECTION CRITERIA AND EVIDENTIARY MATERIALS.....	42

**LOUISIANA HOUSING FINANCE AGENCY  
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**I. GENERAL**

A. Reservation of Tax Credits: The Louisiana Housing Finance Agency (the "Agency") will accept applications for the reservation of low income housing tax credits ("Tax Credits") from the credit ceiling for calendar year 2005 for qualifying rental residential housing projects located in Louisiana. At least 10% of the Tax Credit Ceiling will be set-aside for use by qualified nonprofit organizations which must materially participate in the development and operation of a qualified low-income housing project for at least the 15 year compliance period of the LIHTC Program in accordance with the requirement of Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"). Tax Credits under the LIHTC Program will be available only with respect to projects or buildings (including certain qualified rehabilitation expenditures incurred through the first taxable year of the credit period) for which an audit by an independent certified public accountant is submitted of sources and uses and eligible basis.

B. Carryover Allocation of Tax Credits: Projects may qualify for a carry-forward allocation of tax credits under the Ten Percent (10%) Basis Exception. A Taxpayer/Owner must deliver to the Agency all carry forward allocation documentation, including an appropriate attorney or CPA opinion in the format prescribed by the Agency, on or before October 1 of the calendar year of the credit ceiling from which the credits are to be allocated. This deadline may be extended by the Agency in order to assure the allocation of the State's credit ceiling for the calendar year.

C. Placed in Service and Annual Audit: (i) Placed in Service Audit: The Financing Certification, Syndication Cost Certification and GAAP Audit must be received by not later than the April 1st of the calendar year following the year in which the Project is placed in service. The carry forward allocation of credits is subject to recapture if required certifications and audit are not received by such date. The Taxpayer/Owner may request a one-year extension from the Agency only if the Taxpayer has elected to begin the first year of the credit period following the year in which the Project is placed in service. Payment to CHDO or non-profit partners partnering with a for-profit as a co-developer must be shown as fully paid in the placed-in-service audit.

(ii) Annual Audit: Following the placed in service date of a project, Taxpayers must submit annual hard copy and electronic audits to the Agency in a format using the standard chart of accounts prescribed by the HUD for projects with FHA issued loans. All cash distributions and withdrawals from operating reserves and/or reserves for replacement must be explained in footnotes to the audit. Annual audits must be received by not later than April 1<sup>st</sup> of each calendar year if the fiscal year is a calendar year or not later than ninety (90) days following the end of a fiscal year that is not a calendar year. All audits must be submitted to:

Louisiana Housing Finance Agency  
Attn: Internal Audit Department  
2415 Quail Drive  
Baton Rouge, Louisiana 70808

D. Compliance Training Requirements: Taxpayer/Owners will be required to evidence to the Agency at least ninety (90) days prior to a Project's Placed In Service Date that the proposed on-site manager or the Management Company has completed compliance training within the prior (12) twelve months in a program deemed acceptable to the Agency in accordance with industry recognized training standards. No Form 8609 will be issued without evidence of such training.

E. Fees to CHDO or Non-profit General Partner: Prior to delivery of Form 8609 a for-profit co-general partner with a CHDO or non-profit general partner must certify payment of the fee paid to the CHDO or non-profit general partner is consistent with Development Services Agreement submitted with the Tax Credit Application.

F. Certification of Architectural Plans and Specifications: At least 45 days prior to commencement of construction of a project, the owner must submit certification of architect that the unit configuration by bedroom size and square footage by bedroom size is consistent with the configuration in the project's Application.

## **II. APPLICATION SUBMISSION**

A. Competitive Applications: Applicants for a Tax Credit reservation from the Calendar Year 2005 Credit Ceiling must submit one original LIHTC Application with original signatures plus one copy, along with a non-refundable application fee and analysis fee (and the Subsidy Layering Review Fee, if applicable). A fee must be computed in accordance with the Non-Refundable Fee Schedule specified in Section VII.

Applications Must be Complete: Applications must be complete and be accompanied by the appropriate fees in order to be reviewed by the Agency. Fees must be paid only by cashier's check or money order. An application must be submitted on the official Agency approved application diskette. A hard copy of the Application as printed from the completed diskette must also be originally executed and transmitted to the Agency, along with one copy of the executed version. Both the original and copy of each application shall have every section and/or Appendix tabbed. The application should not be in a binder. Spiral binding is acceptable. Failure to tab the application will result in penalty points being assessed. An application submitted on the Agency's diskette is not complete if (i) a notarized signature page with original executions of the application is not submitted, (ii) any other certification required to be executed and/or notarized is not submitted by the application deadline or (iii) Required Exhibits are not submitted for each hard copy of the Application by the application deadline.

Failure to submit originally executed and/or notarized documents will result in the application being deemed incomplete and subject to disqualification. . **NOTWITHSTANDING THE USE OF THE AGENCY'S DISKETTE, APPLICANTS REMAIN RESPONSIBLE AND ACCOUNTABLE FOR THE ACCURACY OF INFORMATION SUBMITTED AND FOR COMPLIANCY WITH PRESCRIBED RULES BY IRS AND THE AGENCY.**

Required Exhibits: An application is not complete if Required Exhibits are not submitted with the application by the deadline date.

Application Deadline: The application deadline for delivering complete applications for review is:

4:30 p.m., Central Standard Time, Thursday, September 30, 2004

Applications not received at the Agency on or before the deadline date must be postmarked on or before the deadline date and must be received at the LOUISIANA HOUSING FINANCE AGENCY office no later than two (2) business days following the deadline date. Applications are not considered delivered if mailed or delivered to a location other than the offices of the Agency:

Louisiana Housing Finance Agency  
2415 Quail Drive  
Baton Rouge, Louisiana 70808  
Attention: LIHTC Program

Notice to Applicant and Rank Ordering of Applications: The Agency will notify the applicant upon receipt of an application. Information will not be provided as to the application's processing status during the review and selection process following the final application deadline. However, the Agency's staff will process the score of each Application and submit within sixty (60) days following the Application Deadline the processed score for review to the Board of Commissioners. Following the submission to the Agency's Board of Commissioners of the staff's scoring of each Application, each Applicant will receive a copy of its Application's score, a copy of its feasibility and viability analysis and the tentative rank order list of all Applications. For a ten (10) calendar day period following publication of the tentative rank order list of each Application, an Applicant may challenge in writing the staff's disqualification of a particular Selection Criteria point award. Written objections may be based only upon the interpretation of information submitted by the Application Deadline. No new or supplemental information will be considered by the Agency in the review process. Based upon such written challenges, the staff will submit a supplemental report at the next meeting of the Board of Commissioners concerning the scoring of each Application following the processing of written challenges and any revision to the tentative rank order of all Applications. The Board of Commissioners will approve the Final Rank Order of all Applications. No other information will be provided as to an Application's processing status during the review and selection process following the final application deadline. **THE FINAL RANK ORDER OF AN APPLICATION DOES NOT CONSTITUTE ANY ENTITLEMENT TO A RESERVATION OF TAX CREDITS IF A PROJECT IS OTHERWISE NOT FEASIBLE OR NOT VIABLE OR FAILS TO SATISFY THE MINIMUM SCORE UNDER THE QAP. NOTWITHSTANDING THE FOREGOING, THE ALLOCATION FOR THE ECONOMIC DEVELOPMENT PROJECT WILL BE PROCESSED ON AN EXPEDITED BASIS TO RESERVE CREDITS TO THIS PROJECT AS SOON AS PRACTICAL.**

Agency Requests for Supplemental Data and/or Clarification: The Agency retains the right to request supplemental data to support information contained in an application and/or information to explain or clarify data contained in an application.

Minimum Score: The qualified allocation plan for the Tax Credit Ceiling for calendar year 2005 requires that an application evidence a minimum score of **160 points** in accordance with the published selection criteria prior to receipt of a reservation of tax credits.

Tie-Breaking Procedures: Tax credits for Applications submitted for a competitive funding round will be reserved to projects in descending order of score until all tax credits available for reservation have been reserved. In the event of a tie between applications for which there are insufficient credits to reserve to each project, the Agency will use published tie-breaking procedures.

Communication with Contact Person: The Agency will communicate only with the contact person listed in the Application. Information received from persons other than the contact person will be disregarded by the Agency.

Noncompliance in Other Agency Programs: Developers cited for non-compliance in a project/program administered by the Agency shall not receive a reservation/allocation of credits unless or until such non-compliance is cleared.

Reservations Pursuant to Qualified Allocation Plan and Federal Regulations: The Agency reserves the right to make and revise reservations according to the Agency's qualified allocation plan and in accordance with published federal regulations, rulings, guidelines and notices.

B. Bond Financed Applications: Applications desiring to verify that a bond financed project satisfies the Qualified Allocation Plan must submit one original LIHTC Application plus one copy, along with the non-refundable application and analysis fees (and the Subsidy Layering Review Fee, if applicable) computed in accordance with the Non-Refundable Fee Schedule. Processing of bond financed projects must be submitted to the Agency 45 days in advance of the meeting at which such project will be approved by the Agency's Board of Commissioner's in accordance with the applicable Qualified Allocation Plan. Bond financed projects must satisfy all elements of the Qualified Allocation Plan. Cost and profit limitations and minimum score may be waived by the Governor in the executive order allocating private activity volume cap; however, Taxpayer/Owners of bond-financed projects must enter into an appropriate regulatory agreement and compliance monitoring agreement prior to receiving Forms 8609.

### **III. TIMING OF 2005 CREDIT CEILING RESERVATIONS FOR COMPETITIVE APPLICATIONS**

Except for a reservation for the Economic Development Project, the Agency will reserve tax credits with respect to the 2005 Credit Ceiling at the regularly scheduled meeting of the Agency's Board of Commissioners in the month of **December 2004**. Reservation for the Economic Development Project may be made as applications are processed.

### **IV. MAXIMUM TAX CREDITS**

A. Project and Developer Limits: No project will be reserved tax credits in excess of \$300,000.00 and no Developer, related persons thereof or agents thereof or any person having an

identity of interest with any Developer, related persons thereof or agents thereof shall be reserved tax credits in excess of ten percent (10%) of the State's Per Capita Authority.

B. Exceptions To Project and Developer Limits:

(i) CHDO Projects: The limitation of 10% of the State's Per Capita Authority per Developer shall not apply to Developers participating in a Project in which a Community Housing Development Organization ("CHDO") is the managing general partner of the Taxpayer and in which the CHDO executes an Agency-approved Purchase Option and Right of First Refusal Agreement. For-profit developers may partner with a CHDO as co-general partner provided that the total allocation to the for-profit partner does not exceed 15% of the State Ceiling.

(ii) HOPE VI and Other Projects Sponsored by Public Housing Authorities: The limitation of \$300,000 of tax credits per project shall not apply to Projects with an allocation of HOPE VI funds, or Capital Funds that will be used in the development of a Mixed Finance Project. Such Projects will be eligible for reservations not to exceed \$400,000. A reservation of tax credits under this exception shall not be used in calculating a Developer's maximum tax credit reservation; however, any such project must evidence compliance with Notice PIH 99-17 or its successor.

(iii) Bond Financed Projects: The limitation of \$300,000 of tax credits per project shall not apply to the tax credits which are generated from a bond financing if the total number of low income units in the project is approved by the local governmental unit in which the project is located after a public hearing. The public hearing must follow a Notice of Public Hearing published at least 14 days prior to the hearing. Such Public Notice must specify the number and percentage of low-income units in the project if the project contains fifty or more units or if not specified in the Public Notice, the number and percentage of low-income units in the Project must be approved by the governing authority of the jurisdiction within which the Project is located

(iv) Projects Submitting HUD Reconciliation Agreement: The limitation of \$300,000 per Project shall not apply to Projects which were re-allocated credits based on housing discrimination when such Projects compete for additional credits and submit a HUD Reconciliation Agreement. Such Projects are eligible for reservations not to exceed 125% of credits previously allocated to such Project; provided, however, that any additional credits allocated to a Project submitting a HUD Reconciliation Agreement shall not be taken into account in connection with the limitation per Developer of fifteen percent (15%) of the State's Per Capita Authority.

(v) Projects Eligible for Revitalization Pool or Homeownership Projects: The limitation of \$300,000 per project shall not apply to projects eligible for an allocation from the Revitalization Pool or Homeownership projects. Such projects will be eligible for reservations not to exceed \$400,000.

V. **AGGREGATE POOLS**

A. Reservation of Tax Credits by Designated Pools: Each of the seven (7) Congressional Districts has been allocated 11.613% of the State's Credit Ceiling. The Agency has established certain sub-pools in each Congressional District from which qualifying applications may request a reservation of tax credits. The balances remaining in each Congressional District sub-pool will be transferred to the Congressional District general pool for reservations to qualifying applications in their ranking order until all Tax Credits in the Congressional District sub-pool have been reserved. Balances remaining in a Congressional District's General Pool will be transferred to the Statewide General Pool for reservations to qualifying applications in the rank order.

Fifteen percent (15%) of the State's Credit Ceiling will be allocated to a Statewide Qualified Non-Profit/CHDO Pool for reservations to qualifying applications which evidence the material participation of a qualified non-profit organization. Balances remaining in a Statewide Qualified Non-Profit/CHDO Pool in excess of the ten percent (10%) required set-aside will be transferred to the Statewide General Pool. All sub-pools in each Congressional District and the Qualified Non-Profit/CHDO Pool will receive the percentage of the State's Credit Ceiling determined on or before the Application Deadline as specified below.

The Agency has established a special Economic Development Project to finance a project located in an area designated by the Department of Economic Development as an economic development area in which a substantial number of jobs will be retained if affordable housing opportunities are available.

B. Percentage of Credit Ceiling within each Congressional District by Designated Sub-pool. Sub-pool Percentages will be applied against the State's Credit Ceiling. An application may apply for credits from not more than two (2) sub-pools, including the Statewide Qualified Non-Profit/CHDO Pool and the Economic Development Project. The applicant must state which of the two sub-pools has priority preference for funding.

	<u>% of Ceiling</u>	Approximate Dollars Per Congressional District
(i) Revitalization Sub-pool	3.871%	\$313,304.29
(ii) Public Housing Authority Sub-pool	3.871%	\$ 313, 304.29
(iii) Rural Development Area Sub-pool	<u>3.871%</u>	<u>\$ 313, 304.29</u>
Congressional District SUBTOTAL	<u>11.613%</u>	<u>\$ 939,912.87</u>
	x 7 Districts	x 7 Districts
SUBTOTAL	<u>81.291</u>	<u>\$6,579,390.079</u>
Qualified Non-Profit / CHDO Sub-pool	15.00%	\$1,214,010.00
Economic Development Project	<u>3.71%</u>	<u>\$ 300,000.00</u>
TOTAL	<u>99.84%</u>	<u>\$8,093,400.00</u>

C. Documents and Evidence to Qualify for Pools. Each Application must specify the Congressional District and the Sub-pools from which the Applicant is seeking a reservation of tax credits.

(i) Qualified Nonprofit Pool or CHDO Pool: Applicants for reservations from either the Qualified Non-Profit Pool or the CHDO Pool must submit the following:

- IRS Determination Letter of 501(c)(3) or 501(c)(4) status
- Articles and Bylaws
- CHDO approval letter from participating jurisdiction if applying for CHDO Pool
- Nonprofit Participation Information as required by the Application

(ii) Revitalization Pool: Applicants for reservations from the Revitalization Pool must submit the following:

(a) For Distressed Property:

- Certification from RD or HUD

(b) For Redevelopment Property (New Construction or Existing):

- Map of Qualified Census Tract or Urban Redevelopment Area
- Evidence that Project is located in Qualified Census Tract or Urban Redevelopment Area
- Certified copy of ordinance or resolution of local governmental unit defining area subject to a Concerted Community Revitalization Plan
- Copy of Concerted Community Revitalization Plan and list of incentives and/or resources to be made available on priority basis to such area
- Letter from the local jurisdiction that states that the proposed development is in compliance with the established Plan.

(c) Mark-to-Market Project Restructuring:

- Confirmation from Mark-to-Market Staff of the Agency

(d) Owner-Occupied Property:

- Copy of Development Plan of Action

(iii) Public Housing Pool. Applicants for a reservation from the Public Housing Pool must submit a letter from the local public housing authority certifying that such local public housing authority sponsors the project. As the sponsor, the PHA or its subsidiary or affiliate must control or be the managing general partner or managing member of the Owner. Organizational documents must evidence this requirement.



(iv) Rural Development Pool: Applicants for a reservation from the Rural Development Pool must submit a letter from RD that project is within a Rural Development Priority Area. The office of Rural Development will only issue a letter stating that a project is within a Rural Development Priority Area if it is an existing RD project. Only projects submitting the RD letter can select the RD Sub-pool.

(v) Economic Development Project: The Department of Economic Development has identified the city of Farmerville, LA in Union Parish as an economic development area if affordable housing solutions are made available to the region for Credit Ceiling 2005. Only one Project in the designated area will be funded. For a definition of 'Economic Development Project', please refer to the Glossary. There will be a maximum of \$300,000 in tax credits awarded to this Project. **SELECTION CRITERIA POINTS GIVEN FOR THE ECONOMIC DEVELOPMENT PROJECT WILL BE COUNTED FOR THAT PROJECT ONLY.**

Applicants for a reservation from the Economic Development Project must evidence the following:

(a) The Project must be located in an area in which affordable housing is necessary in order to maintain the existing job market. Evidence from the employer must be provided that confirms the potential loss of jobs based upon the lack of affordable housing.

(b) The number of existing employees to be retained must not be less than one thousand (1000). A letter from the Department of Economic Development certifying this information must be submitted.

(c) Turnover and/or an insufficient expansion rate of a local industry must be due in part to a shortage of affordable housing. An independent market study must confirm this.

(d) The Project must have a commitment from industry to retain existing employees if affordable housing is made available.

(e) The Project has a letter from the highest local elected official that states specifically: (1) the community's economic goals and needs; and (2) how the proposed Project will contribute to the economic need of the community and further the community's economic goals.

(f) The Project Design must reflect the character of the community to encourage the integration of new construction/rehabilitation into the existing community, and to promote sustainable design. An affidavit from the Project Architect and local governing authority certifying compliance with the above requirement must be submitted.

D. General Pools by Congressional District. Any balance remaining in the Sub-pools of a Congressional District will be transferred to the Congressional District General Sub-pool to be reserved to applications in their rank order. The balances remaining in each Congressional District General Sub-pool and the Statewide Qualified Non-Profit/CHDO Pool will be transferred to the Agency's Statewide General Pool for reservation to qualifying applications in their ranking order until all Tax Credits have been reserved.

## VI. PROGRAM REQUIREMENTS, INSTRUCTIONS AND PROCEDURES

### A. Local Community Notification:

1. The Applicant must include in the Application evidence that a Public Notice was published in a local newspaper having general circulation in the development area prior to the application deadline. This notice must run for three (3) consecutive days and must include:

- The project owner;
- The project name;
- The project address;
- The maximum number of units;
- The nature of the project (i.e. new construction or rehabilitation, elderly or family, etc and construction type and occupancy type along with proposed community facility and supportive services); and
- Total development cost including funding sources and amounts.

The only accepted Proof of Publication is submission of newspaper tear sheet evidencing public notice published prior to the application deadline.

### B. Market Study and Appraisals.

(i) Market Study: A detailed Market Study dated as of a date no earlier than 90 days prior to the Application Deadline must be submitted by an Independent Qualified Housing Consultant approved by the Agency evidencing the housing needs of Targeted Households, Large Families, tenants with children, Special Needs Households (if project serves Special Needs Households) in the Market Area and the unmet needs of such individuals and families following the construction and/or development of the Project. **WARNING:** The Agency will conduct statistical sampling of the market studies submitted. If the market study is found to contain material misstatements or material omissions and clarification is not provided to the Agency within 7 days of request, the Application will be rejected and the Qualified Housing Consultant will be subject to debarment by the Agency. The Market Study must provide information under noted boldfaced captions with tabs and an index to locate the following within the Market Study:

\* **Executive Summary:** a statement summarizing the findings of the market study

\* **Credentials:** a statement of the experience and competence of the market analyst

\* **Independence and No Identity of Interest:** A certification that the market analyst is independent and has no identity of interest with the developer of the proposed or existing project and that the market analyst was retained to perform the market study without conditions, including compensation based upon finding market need.

\* **Property Site:** a description of the proposed property site along with a map site identifying area of the Project

\* **Demographic Analysis:** analysis of the Income Qualified Renter Demand in the market area.

\* **Market Area:** geographic definition and analysis of the primary and secondary market area which Project serves

\* **Operations and Development Comparisons:** a description of comparable developments in the market area served by Project, including the following information or analysis, labeled accordingly:

(a) Subsidy whether or not each comparable development is subsidized

(b) Rent Levels and Vacancy: a description of rent levels and vacancy rates of comparable properties, including subsidized and non-subsidized developments in market area served by Project

(c) Operating Comparisons: analysis of operating expenses using data from comparable properties in the market area served by Project, if available, or, if not available, using IREM or ULI data

(d) Project Operating Statement: projected operating funds and expenses of the subject Project

(e) Public Housing: a summary of (i) the number and quality of units in developments owned by the local public housing authority and a statement concerning vacancy rates and waiting lists and (ii) the number of vouchers administered by the local public housing authority and the estimate of the households on the waiting list for vouchers

(f) Absorption Analysis: expected market absorption of the proposed rental housing units in the subject Project each month following certificate of occupancy

\* **Federal Housing Agency Coordination:** The Independent Qualified Housing Consultant must identify all multifamily housing developments in the primary market area of the proposed project which are financed by HUD, RD and the Agency. The consultant must provide a table evidencing the following information for each such project:

(i) Name of Project

(ii) Number of Units in Project

(iii) Type of credit enhancement, eg. 515 loan, 202, 221(d)(4), etc.

(iv) Average vacancy rate in comparable projects in prior twelve month period

\* **Pipeline Analysis:** certification of the number of building permits for multifamily housing units issued over the preceding 24 months by the local jurisdiction within which the project is located and that such construction will not adversely affect the market's absorption of the units in the project

\* **Certification of Demand:** a Certification of Demand For New Units and Conversion executed by the Qualified Housing Consultant

\* **Statement of Housing Needs of Low-Income Individuals and Large Families:** A statement of housing needs of Large Families and tenant populations with children in the primary market area and the extent there will be unmet needs for such individuals and families following construction/rehab of the Project.

(ii) Appraisals: An Appraisal must be submitted establishing the fair market value of any existing property when the purchase price of such property exceeds \$500,000 and the Acquisition Costs are included in Eligible Basis.

(iii) Previously approved Applications on Waiting List: Projects currently on the Agency's Waiting List may supplement market studies and appraisals to incorporate all requirements of the QAP. Such supplement must be dated within 90 days of the Application Deadline.

C. Total Development Cost and Unit Size Limitations: No project will be reserved credits if the limits and other requirements by type and size of unit specified below are not satisfied.

(i) Minimum Square Footage and Full Bathrooms Per Unit Type:

<u>Unit Type</u>	<u>Bathrooms</u>	<u>Minimum Square Feet</u>
Efficiency	1	450
1 Bedroom	1	600
2 Bedroom	1	750
3 Bedroom	2	900
4 Bedroom	2	1100

(a) Waiver of Minimum Bathroom and Bedroom Size. The minimum bathrooms and bedroom size may be waived for an existing project which is being rehabilitated only if a federal program finances the unit and the federal agency administering the program which finances the unit requests a waiver of such limits.

(b) Reduction of Minimum Square Footage Per Unit. The minimum square feet per unit may be reduced by 10% for existing units if the local jurisdiction within which the units are located certifies that such units will comply with all applicable zoning and building codes.

(ii) Maximum Average TDC Per Unit by Development Type:

<u>Development Type</u>	<u>Max. TDC/ Unit</u>
Acquisition/Rehab	\$75,000
New Construction/Conversions	\$90,000
Elderly Projects	\$105,000
Historic Rehab	\$105,000
PHA Redevelop	PHA Limit
Scattered Site	FHA Limit

(iii) Maximum Average Dollar Per Square Foot: The Maximum Average Dollar Per Square Foot for all Development types shall not exceed \$85 per square foot unless Project is a Small Project, Scattered Site Project, Special Needs Project or Historic Rehabilitation Project, in which case, the square foot limit shall not exceed \$95 per square foot.

(iv) Exclusion of Governmental Grants and Historic Credit Syndication Proceeds from Cost Limits. The costs of a development funded by a governmental grant or with the proceeds from syndicating historic credits will be excluded from total development costs for the purposes of establishing the Maximum Average TDC Per Unit and Maximum Average Dollar Per Square Foot and for purpose of calculating maximum qualified basis of a building or Project.

(v) Exclusion of Costs of Community Facilities and Community Service Facilities from Cost Limits: The costs associated with Community Facilities and Community Service Facilities will be excluded from total development costs for purpose of establishing the Maximum Average TDC Per Unit and Maximum Average Dollar Per Square Foot. The costs of Community Facilities which are functionally related and subordinate to the residential units and the costs of Community Service Facilities not in excess of ten percent (10%) of the eligible basis of the qualified low-income housing project of which it is a part may be included in eligible basis of a building or Project.

(vi) SRO Projects: Single Room Occupancy Projects will not be subject to Maximum Average TDC Per Unit Limits or Maximum Average Dollar Per Square Foot Limits if the local governmental unit by resolution or ordinance endorses the SRO Project and certifies that the SRO Project will provide shelter to homeless persons or will receive Stewart-McKinney Act Funds.

(vii) Projects Reallocated Credits Based on Housing Discrimination: Notwithstanding any other calendar year Qualified Allocation Plan to the contrary, additional costs to projects which are delayed based upon housing discrimination and which are reallocated credits under Section VI-Q herein will not be subject to cost limits if the project is otherwise feasible and viable and the Agency's Board of Commissioners acknowledges that the increased costs were due to circumstances beyond the control of the Taxpayer.

(viii) New Construction Scattered Site Projects: Local city or parish zoning ordinances shall govern subjects such as minimum lot size, side yard, front yard and back yard setbacks. Each application must evidence the prevailing local ordinance with a letter stating that

the proposed development meets all zoning requirements. Applications regarding projects built in Parishes or jurisdictions without zoning ordinances must include a letter from the local governing authority stating as such. Where zoning laws or ordinances are absent, the following lot sizes and minimum setbacks will take precedent, if and only if the new development is connected to the city sewer system. Each residential unit shall have a setback of not less than twenty feet (20') from the front lot line, not less than twenty feet (20') from the rear lot line and not less than a ten feet (10') side yard setback on one side and twenty feet (20') on the other side. In rural areas, lot sizes shall be a minimum of one quarter (1/4) acre or 10,890 square feet. If the new project is not tied into the city sewer system and each site utilizes a well/septic system, then each lot must be one full acre in size. The same minimum setbacks would prevail.

Due to fire safety, there will be no exceptions to the setbacks required. Response time to fires in rural areas is critical and fire trucks must be able to traverse between buildings.

D. Project Amenities: All properties must include HVAC systems, refrigerators, stoves, an on-site laundry (1 washer and 1 dryer per every 10 units. If washers and dryers are installed and maintained in every unit at no additional cost to tenants, an on-site laundry is not required. All amenities, with the exception of the on-site laundry, must be available to the tenants at no additional charge. The requirement of an on-site laundry shall not apply to rehabilitation projects with 12 or fewer units.

E. Profit Limits:

(i) Developer Fees: Developer Fees for a project shall not exceed fifteen percent (15%) of the Developer Fee Base plus either (i) five percent (5%) of the Acquisition Cost Base or (ii) 8% of the Acquisition Cost Base in the case of RD or HUD Distressed Properties.

No Developer Fee, including payments to consultants, will be allowed unless a Development Services Agreement is submitted as an Exhibit to the Tax Credit Application Package. The Developer Fee Base will include only the amount of Builder Profit, Builder Overhead and General Requirements at the maximum limits permitted by the Agency and will exclude all payments to the Developer or persons related to or having an identify of interest with the Developer.

(ii) Builder Profit: Builder Profit shall not exceed six percent (6%) of the Builder Profit Fee Base.

(iii) Builder Overhead: Builder Overhead shall not exceed two percent (2%) of the Builder Profit Fee Base.

(iv) General Requirements: The actual costs associated with General Requirements shall not exceed six percent (6%) of the General Requirements Base. Bond Premium paid by the Developer or the Taxpayer/Owner will be excluded from the General Requirement Page.

(v) Syndication Costs: Syndication Costs in excess of ten percent (10%) and fifteen percent (15%) of Gross Equity for privately placed and publicly offered Syndications, respectively, will be treated as part of the Developer Fee.

F. Self-Owned Equipment Limitations: Costs deemed to lease self-owned equipment or to lease equipment owned by persons related to or having an identity of interest with the Developer or Builder will be considered as builder profit and overhead; provided, however, that certifications as to costs of fuel, lubrication, normal expenditures for such identified equipment, maintenance, repair and depreciation will be considered as a construction cost.

G. Subcontractor Limits Related to Builder Profit and Overhead: No overhead and builder profit will be allowed when (i) more than fifty percent (50%) of the contract sum in the construction contract is subcontracted to one subcontractor, material supplier or equipment lessor or (ii) seventy five percent (75%) or more with three or fewer subcontractors, material suppliers or equipment lessors.

H. Pro Forma Cash Flows: All projects must submit fifteen year pro forma cash flows complying with the following requirements:

(i) *Rate of Increase Assumptions for Revenues and Expenses*: Revenues may be projected to increase at a rate not in excess of two percent (2%) and expenses must be projected to increase at a rate of not less than three percent (3%).

(ii) *Required Debt Service Ratios*: Debt service ratios may not fall below 1.15 (1.10 for RHS Properties) unless the Taxpayer/Owner executes an appropriate escrow or acceptable guarantee in an amount equal to the maximum cumulative cash flow shortfall. If Debt Service Ratios during the compliance period with respect to all debt exceeds 1.4, the excess cash flow must be deposited to the Reserves for Replacement. The Minimum Reserve Balance shall be increased by such excess cash flow.

(iii) *Maximum Return on Taxpayer Capital for Projects with HOME Funds*: Any project which receives HOME Funds from the Agency and which evidences satisfaction of the Minimum Reserve Balance will be permitted an annual pre-tax return on Taxpayer Capital of 350 basis points above the ten year treasury bill yields as of the Application Deadline but not in excess of twelve percent (12%). Any cash flows in excess of a 12% return shall not be taken as a distribution but shall be used either to pay off debt incurred to develop or rehabilitate the Project or to fund additional reserves.

(iv) *Terms Required for Cash Flow Notes*: Any cash flow note associated with the acquisition of an existing project must be accompanied by a schedule establishing the imputed principal of the cash flow note under Section 1274(b) of the Internal Revenue Code and any basis adjustment of the note and project pursuant to Section 1.1275-4(c) of the Treasury Regulations. All cash flow notes must mature on or before the end of the economic life of the project which may not exceed 55 years unless such cash flow note is a Developer Fee Cash Flow Note, in which case such Developer Fee Cash Flow Note must mature by the end of the extended Use Period of 30 years.

(v) *Vacancy Rate Assumptions*: Assume a five percent (5%) vacancy rate and two percent (2%) bad debt unless all units in project are contracted to receive Section 8 project based assistance with a remaining term of at least 10 years in which case assume not less than a three percent (3%) vacancy rate and two percent (2%) bad debt.

(vi) *Required Deposit to Reserves for Replacement:* Minimum replacement reserves should equal \$250 per unit per year for new construction developments for seniors and \$300 per unit per year for new construction developments for families and developments involving rehabilitation. or the amount specified in Physical Needs Assessment required to be deposited to Reserves for Replacement. Notwithstanding the foregoing, if HUD and RD finances the first mortgage, the annual deposit to the Reserves for Replacement may be determined in accordance with HUD or RD policies or regulations. Deposits to the Reserves for Replacement will be regulated and monitored in accordance with the Tax Credit Regulatory Agreement.

(vii) *Maximum Rents:* Proforma Rents for application purposes may not exceed the lower of HUD's most recently published fair market rents (FMR) or the maximum rent permitted by Section 42 or any subsidy program which benefits the project. Actual rents may not exceed the maximum rent permitted by Section 4.2.

(viii) *Minimum Operating and Maintenance Expenses:* Shall not be less than \$2,500 per unit per year.

(ix) *Minimum Reserve Balance:* Minimum operating reserves should equal three months of projected operating expenses.

I. Capital Needs Assessment: A Capital Needs Assessment by an architect or engineer, dated no earlier than 90 days before the application deadline, is required for all projects involving acquisition and rehabilitation. For rehabilitation only Projects and notwithstanding the foregoing, if rehabilitation Hard Costs exceed \$6,500 a unit, a Capital Needs Assessment must be submitted.

J. Receipt of Cost Certifications and GAAP Audits: Prior to mailing a Form 8609 for a project, the Agency must receive (i) a GAAP Audit, (ii) a Financing Certification and (iii) a Syndication Certification. The GAAP audit and the Financing Certification must certify all sources and uses of funds through the Placed in Service Date of a project.

K. Subsidy Layering Review: A subsidy layering review will be conducted in connection with any project receiving Governmental Assistance from HUD or RD in addition to housing tax credits for each of acquisition, rehabilitation and new construction uses.

L. Processing Projects With Federal Funds or Insurance: Projects receiving Federal Funds or insurance under a Federal program will be reserved credits only after the federal agency advises the Agency in writing that the federal agency providing such funds or insurance has no objections to the reservation of tax credits to the Project.

M. Financing Commitments: Financing Commitments for all sources of funds must be included with the Application.

N. Debarred Participant: No Taxpayer utilizing a Debarred Participant in the development or operation of a project may be reserved or allocated tax credits.



O. Legal Description of Project Property Site:

Projects in Urban and Rural Areas: The legal description and cost of the portion of a site on which the Project is located must be submitted in the Application involving a Project in Urban and Rural Areas. The legal description shall include parish, municipality, subdivision, tracts, section, ranges, boundaries, directions and measurements.

Scattered Site Projects in Urban Areas: A Scattered Site Project located in an urban area may identify only the street addresses for each separate site.

Consistency of Project Description: The legal description and/or street addresses of the Property Site included with the application must be consistent with all subsequent documents submitted to the Agency during the development and operation of the Project. If a material inconsistency in the legal description of the Project Site between the Application Deadline and any reservation or allocation of credits is identified and such inconsistency constitutes a Site Change, the tax credits reserved and/or allocated to the Project will be subject to rescission and/or recapture.

Additional Sites: No additional sites may be included in a Scattered Site Project following the Application Deadline unless the Project is located in a Redevelopment Area and the local governmental unit requests the addition of new sites within the Redevelopment Area; however, no additional sites may be included in a Project following carryover allocation.

Map Requirement: A map identifying the Project Site must be included with all legal descriptions and/or street addresses. The map must show parish, municipality, subdivision, tracts, section, ranges, boundaries, directions and measurements.

P. Notification of Material Changes: It is the applicant's responsibility to notify the Agency, in writing, of any occurrence of a material change in a Project. Notwithstanding any provision of any other program requirements, no project which the Agency determines to have materially changed shall be deemed feasible or viable.

(i) Material Changes Prior to Final Application Deadline: The Agency may receive a new Application for a Project which has materially changed in advance of the final application deadline. A new application, along with the application and analysis fees must be received by the final application deadline. (This option is applicable only when a preliminary application review is offered by the Agency.)

(ii) Material Changes After Final Application Deadline: A material change occurring after the final application deadline cancels either the tax credit reservation or the carry-forward allocation of tax credits.

Q. Notification of Reprocessing Change: It is the applicant's responsibility to notify the Agency, in writing, of any occurrence of a reprocessing change in a Project. A reprocessing change may occur prior to delivery of Form 8609 to a Project; however, Form 8609 will be withheld until the Taxpayer submits a revised application and Reprocessing Fee. Following

receipt of the revised application and reprocessing fee, the Agency will complete a new legal, feasibility and viability review in order to determine any adjustment of maximum qualified basis and/or the tax credits to be allocated to the Project. Projects subject to reprocessing are at risk of credit loss if such Project fails to satisfy the minimum score or if other projects on the waiting list which are not reserved credits have higher scores.

R. Site Change: A Site Change in a Project following the final application deadline will automatically cancel any reservation, commitment or allocation of tax credits to such Project.

S. Re-Allocation of Recaptured Tax Credits Based Upon Housing Discrimination: Tax Credits which are recaptured from a Taxpayer will be reserved automatically to a project in an amount approved in a reprocessing of the Project Application (but not greater than the recaptured credits) upon receipt of all of the following:

(i) evidence that HUD or the Department of Justice has determined to proceed to process a complaint of housing discrimination because such a complaint has merit based upon evidence contained or certified in such complaint,

(ii) a revised Application,

(iii) an opinion of tax counsel to the Taxpayer that the project remains qualified for a Tax Credit reservation, and

(iv) a report that the project remains feasible and viable at the time of the reallocation.

T. Special Processing Instructions for Projects with more than forty (40) buildings: Projects with more than forty (40) buildings must contact the Agency at least thirty (30) days prior to the application deadline for special processing instructions.

**VII. NON-REFUNDABLE FEE SCHEDULE**

Tax Credit recipients will be required to pay a Credit Award Fee upon award of a Tax Credit reservation by the Agency. The following non-refundable fees govern the application, processing, reprocessing and reservation of Tax Credits and the fees to monitor and report non-compliance. All fees **must** be paid either with a money order or with a certified check. If any other form of payment is received, the unacceptable form of payment will be returned and the Application will be disqualified.

A. <u>Application Fee</u>	<u>Stand-Alone Non-Profit</u>	<u>All Others</u>
1 to 4 units	\$ 50.00	\$ 100.00
5 to 32 units	500.00	1,000.00
33 to 60 units	750.00	1,500.00
61 to 100 units	1,250.00	2,500.00
Over 100 units	2,500.00	5,000.00

B.	<u>Analysis Fee</u>	
	1 to 4 units	\$ 100.00
	5 to 32 units	1,000.00
	33 to 60 units	1,500.00
	61 to 100 units	2,500.00
	Over 100 units	5,000.00

C. Reprocessing Fee  
 The reprocessing fee established in the fee schedule of the application will be required whenever reprocessing changes occur. The applicant must receive approval of the Agency for any reprocessing change to a project and the fee will be required at the time the reprocessing changes are submitted to the Agency for approval ½ Analysis Fee

D. Credit Award Fee 5% of Credit Reserved

E. Annual Compliance/Monitoring Fee

The Minimum Fee by project size; provided that the Agency reserves the right to charge such additional amounts at any time as may be required to monitor compliance in accordance with the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

Minimum Fee is as follows:

<u>Project Size</u>	<u>Minimum Fee</u>
1-4 units	\$ 20.00
5-16 units	80.00
17-32 units	160.00
33 and over	Minimum fee is amount equal to 50% of units in Project times \$10.00

F. Subsidy Layering Review Fee  
 (If HUD or RD Housing Assistance or other Government Assistance is provided to Project) ½ Analysis Fee

ALL FEES COLLECTED BY THE AGENCY ARE NON-REFUNDABLE

**VIII. MODIFICATION OF PROGRAM INSTRUCTIONS, REQUIREMENTS AND PROCEDURES**

The Agency reserves the right to amend, modify or withdraw any of the program instructions, requirements or procedures contained herein that are inconsistent or in conflict with state and federal laws and/or regulations.

**IX. EXTENDED USE AGREEMENT, COMPLIANCE MONITORING AND OTHER REQUIREMENTS**

The Agency has approved the form of a Tax Credit Regulatory Agreement to be dated as of December 31 of the calendar year immediately preceding the first year of the Credit Period, pursuant to which the Agency requires the Applicant/Taxpayer to fulfill the commitments and representations made in this Application. An Extended Use Agreement in accordance with the Code and Tax Regulations has been incorporated into the Tax Credit Regulatory Agreement. Upon execution, the Tax Credit Regulatory Agreement must be filed in the mortgage/conveyance records of the Parish within which the Project is located. A separate Compliance Monitoring Agreement also has been approved by the Agency and must be executed and returned to the Agency when the Project is placed in service and prior to the Agency providing Form 8609. The Agency may impose reporting and record keeping requirements, nondiscrimination regulations, and any other special conditions considered desirable by the Agency or the U.S. Department of Treasury.

**X. GOVERNING LIHTC PROGRAM DOCUMENT**

The Qualified Allocation Plan is the governing document for the LIHTC Program. If any inconsistencies with other program documents, including the electronic application, are noted, the Qualified Allocation Plan is the controlling document and dictates the Agency's requirements for the LIHTC Program.

For more information on the LIHTC program, contact:

Louisiana Housing Finance Agency  
2415 Quail Drive  
Baton Rouge, Louisiana 70808  
Telephone: (225) 763-8700  
Fax: (225) 763-8710  
Attention: LIHTC Program  
Email: [lihtcinfo.lhfa.state.la.us](mailto:lihtcinfo.lhfa.state.la.us)

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## GLOSSARY

**ABANDONED UNIT:** A housing unit which has been certified by the Developer/Owner and the local jurisdiction within which the housing unit is located that the unit is Substandard and has not been occupied for at least six months. Evidence must be submitted with the Application that the local jurisdiction specifically identified the unit and stated that the unit is substandard and has been vacant for at least six months.

**ABANDONED PROJECT:** A project in which 100% of the housing units are Abandoned Units.

**ACCESSIBLE:** A site, building, facility or portion thereof that complies with the accessibility requirements of the Fair Housing Act and is handicap adaptable.

**ACQUISITION COSTS:** The actual costs of the buildings on the Property Site prior to rehabilitation of such buildings plus any additional indirect costs of acquiring the buildings.

**ACQUISITION COST BASE:** The Acquisition Costs exclusive of any Developer Fee or Acquisition Fee.

**ACQUISITION FEE:** Any fee, other than a broker fee to a professional broker listing the Project, for arranging the purchase of the building or Project for which tax credits are requested.

**ADAPTABLE:** The flexibility of certain building spaces to add features or adjust elements in a short time by unskilled labor without structural or material changes to accommodate the needs of persons with different types or degrees of disability. Examples of adaptable features include counter tops or closet rods that are supported by adjustable supports rather than built into the wall at a fixed level.

**AFFILIATE:** Any corporation, entity, partnership, venture, syndicate, or arrangement in which a local housing authority has an ownership or governance interest of less than a majority either directly or indirectly through one or more subsidiaries.

**ADVANCE RESERVATION (FORWARD COMMITMENT):** A reservation of credits from a credit ceiling in a calendar year following the competitive funding round in which a project has been evaluated.

**AMENITIES:** Equipment and/or facilities which are for the exclusive benefit of the residents and which are not essential to constituting a residential rental unit and which are not being submitted as a Community Facility. Examples of such amenities are: 1) recreational facilities such as basketball or tennis courts, 2) swimming pools, 3) learning centers, 4) day care facilities, 5) family counseling facilities, 6) gates accessible only with ID or other device and 7) non-essential appliances, e.g.: built-in dishwashers, clothes washers and dryers and microwave ovens. (Air conditioning or heating systems are not considered an amenity). If a Project is one phase of a larger development, only the amenities identified on the Project Site of the phase which is being processed may qualify as an amenity for that phase only and such amenity shall not be qualified for any other phase.

**ANALYSIS FEE:** The fee by that name as calculated in accordance with the Non-Refundable Fee Schedule.

**APPLICATION CHECKLIST:** The form by that name contained in the Application for Tax Credits.

**APPLICATION FEE:** The fee by that name as calculated in accordance with the Non-Refundable Fee Schedule.

**BEDROOM:** An area of a unit to be used for sleeping and not primarily for family activities other than sleeping.

**BUILDER:** The licensed general contractor or any other entity executing a contract with the Developer/Owner to construct and/or rehabilitate a housing unit.

**BUILDER OVERHEAD:** Portion of a general contractor's expenses necessary to conduct business which directly concerns the Project and may include such items as office rent, fuel, lights, telephone and telegraph, stationery, office supplies, fire and liability insurance for the office, salaries of office employees such as a bookkeeper, social security taxes, public liability insurance, workmen's compensation insurance, and unemployment compensation taxes for office personnel. The allowance does not include salaries of the builder or executives of the builder.

**BUILDER PROFIT FEE BASE:** The construction hard costs specified in the Estimate and Certificate of Actual Cost which hard costs must be audited by an independent certified public accountant in accordance with generally accepted auditing standards utilizing generally accepted accounting principles and reduced by any General Overhead.

**BUILDING:** A discrete edifice or other man-made construction consisting of an independent foundation, outer walls and roof.

**CAPITAL FUNDS:** Funds appropriated to the Local PHA to carry out capital and management activities in accordance with the provisions of Section 9 of the United States Housing Act of 1937, as amended

**CAPITAL NEEDS ASSESSMENT:** An inspection report of an existing building or project by an architect or engineer conducted in accordance with Fannie Mae's Physical Needs Assessment Guidance to the Property Evaluation which (i) identifies the age and condition of the building or project and related major systems (including climate control equipment, plumbing and fixtures, cooking and other kitchen equipment, roofs, exterior siding and electrical systems), (ii) specifies the required repair and/or rehabilitation of the buildings and systems (including the estimated costs of each) over the Compliance Period (iii) estimates the useful remaining life of the project and related major systems following their repair and (iv) specifies the minimum amount which must be deposited to the repair and replacement reserve over twenty years to maintain property quality and habitability standards.

**CAPITALIZED COSTS:** The expenditures relating to the acquisition, rehabilitation or construction of a building and any facilities functionally related and subordinate thereto which may be included in the adjusted basis of the building for depreciation.

**CARRYOVER ALLOCATION:** A commitment by the Agency following receipt from the Taxpayer of the ten percent (10%) carryover certification of a portion of the current calendar year credit authority to a project that will not be placed in service by the end of the current calendar year. Projects receiving a carryover allocation must be completed and placed in service in accordance with the Project Schedule and not later than two years after receiving a carryover allocation.

**CASH FLOW NOTE:** Any evidence of indebtedness which is issued or assumed in connection with the acquisition of a building and which (i) is not payable in whole or in part in accordance with a fixed amortization schedule or (ii) is payable in whole or in part only to the extent of profit or the cash flows of the Project.

**CHDO:** A community housing development organization as defined at 24 CFR Part 92.2 of the Federal Regulations.

**CODE:** The Internal Revenue Code of 1986, as amended.

**COMMUNITY FACILITIES:** Facilities located on the Project Site which are functionally related and subordinate to a Project and which are intended to primarily (not exclusively) benefit tenants of a Project but which are available to neighborhood residents without charge or a fee. If a Project is a phase of a larger development, only the Community Facility identified on the Project Site of the phase may qualify as a Community Facility for that phase only and shall not be qualified for any other phase. Excluded from receiving Community Facility Selection Criteria points are Scattered Site Rental Projects on Non-Contiguous Land and all Homeownership Projects.

**COMMUNITY SERVICE FACILITY:** Any facility which is (i) located in a Qualified Census Tract and (ii) designed to serve primarily individuals whose income is sixty percent (60%) or less of area median income within the meaning of section 42(g)(1)(B) of the Code by satisfying the following conditions:

First, the facility must be used to provide services that will improve the quality of life for community residents.

Second, the taxpayer must demonstrate that the services provided at the facility will be appropriate and helpful to individuals in the area of the project whose income is 60 percent or less of area median income. This may, for example, be demonstrated in the market study required to be conducted under §42(m)(1)(A)(iii), or another similar study.

Third, the facility must be located on the same tract of land as one of the buildings that comprises the qualified low-income housing project.

Finally, if fees are charged for services provided, they must be affordable to individuals whose income is 60 percent or less of area median income.

**COMPLETION DATE:** The last date permitted in the Construction Contract for completing construction and /or rehabilitation.

**CONCERTED COMMUNITY REVITALIZATION PLAN:** A plan, including measurable and/or tangible objectives, approved by a local governmental unit following a public hearing which describes an area and the incentives and the measures to coordinate and target resources to the area for purposes of redeveloping or revitalizing the area and which identifies the strategies and organizations to implement revitalization.

**CONSTRUCTION CONTRACT:** Means the agreement between the Taxpayer and the Contractor for construction and/or rehabilitation of the Project.

**CONSTRUCTION START:** The date on which construction work pursuant to a construction contract may begin.

**CONTACT PERSON:** The person listed as the Contact Person by the Taxpayer in the Tax Credit Project Summary or such substitute individual specified in writing by the Managing General Partner. The Contact Person may not be a professional who will render any independent and/or unqualified professional opinion to the Agency.

**CONTRACTOR:** The person who is licensed as a general construction contractor by the state and who has executed a construction contract with the Taxpayer.

**CONTROL:** Having the capacity or the power to designate 25% or more of the board or management of an entity or general partner of a limited partnership.

**CONVERSION:** The process of rehabilitating a nonresidential building to residential rental use.

**CREDIT CEILING:** The dollar amount of credits available in a calendar year for allocation by the Agency.

**DEBARRED PARTICIPANT:** Any developer, person, company, firm, staff or development team member or employee thereof, who (i) is currently debarred, suspended, declared ineligible or is prohibited from participating in any housing program sponsored by any federal agency, local government or instrumentality thereof or (ii) is convicted or pleads guilty to any criminal offense related to the construction, development, ownership, management or operation of a housing development.

**DEBARMENT CAUSES:** Providing fraudulent documents or committing fraudulent acts, failing to fulfill reasonable Agency requests in a prescribed time period following expenditure or use of Agency resources, or having a controlling ownership interest in a project determined to be in material non-compliance with any federal, state or local requirement related to the development or operation of such project. Other causes may be determined by the Agency to constitute cause for debarment following an appropriate administrative hearing on the record which permits the person subject to sanction an opportunity to contest the facts specified as the debarment cause.

**DEBARMENT PROCEDURES:** The procedures established by the Agency pursuant to which the compliance division recommends debarment of a Developer to the Agency's General Counsel and upon the Agency's General Counsel's concurrence with such recommendation the Board of

Commissioners approve the debarment following an opportunity of the Developer to contest the recommended actions at a public meeting of the Board of Commissioners.

**DEBARMENT SANCTION:** Includes, but is not limited to, suspension from participation in Agency programs, cancellation of reservations or commitments, funding of additional escrows, etc. Agency applied sanctions will be reported to other state, federal or local governments, or instrumentalities thereof.

**DEBT SERVICE RATIO:** Payments on any amortizing mortgage secured debt divided by the sum of all operating expenses plus Required Reserve Deposit.

**DEVELOPER:** Any person or entity (including persons or entities which constitute Related Persons to such person or entities or have an identity of interest with such person or entity) which owns or develops a Project, including any general partner of a partnership, any Builder related to or having an identity of interest with the person or entity which owns or develops the project and any consultant receiving any fee or compensation to assist in the development of a Project.

**DEVELOPER FEE:** Any profit, fee or income realized by the Developer in connection with the development of the project as specified in a GAAP Audit and which satisfy the Developer Fee Terms.

**DEVELOPER FEE BASE:** The Development Costs of a Project reduced by (i) any Acquisition Costs, (ii) any Land Costs, (iii) any payments deemed lease payments for self-owned equipment, (iv) any payments to related persons or to persons with an identity of interest to the Developer, and (v) any Developer Fees (including Builder Profit and Overhead when there is an identity of interest between the Builder and the Developer).

**DEVELOPER FEE TERMS:** The fees and income of a Developer as may be specified in the Development Services Agreement between a Developer and the Taxpayer which must meet the following requirements and/or include the following information:

- (1) the fee is reasonable and does not exceed the limits on Developer Fees established by the Agency;
- (2) the taxpayer is legally obligated to pay the fee;
- (3) the portions of the fee, if any, allocable to Land Costs, Organizational Costs, Acquisition Costs and Syndication Costs;
- (4) the fee is not paid (or to be paid) by the taxpayer to itself; and
- (5) if the fee is paid (or to be paid) by the taxpayer to a related person, and the taxpayer used the cash method of accounting, the taxpayer could properly accrue the fee under the accrual method of accounting (considering, for example, the rules of section 461(h) of the Code).

**DEVELOPMENT COSTS:** The costs of acquiring land or buildings or constructing and/or rehabilitating buildings and facilities functionally related and subordinate to such buildings as certified in a GAAP Audit by an independent certified public accountant in accordance with generally accepted auditing standards utilizing generally accepted accounting principles as of the

placed in service date of the building or as of the end of the first year of the credit period for the building.

**DEVELOPMENT PLAN OF ACTION:** A plan of action to redevelop an area defined by a local governmental unit in accordance with the requirements of Section 42(i)(3)(E) of the Code.

**DEVELOPMENT SERVICES AGREEMENT:** The agreement(s) with a Developer, including any consultants, evidencing (i) the Developer Fee Terms, including the amount of the Developer Fee and how it's to be paid, (ii) how the Developer Fee will be determined, (iii) who is the Developer and the Developer's relationship to the Taxpayer or to the general partner of the Taxpayer, (iv) the individuals controlling the Developer who are primarily responsible for performing the services of the Developer and (v) the nature of the services to be performed by the Developer.

**DEVELOPMENT TEAM:** Any party identified in the application as such or any other party identified who advances funds to the Developer or Taxpayer prior to an allocation.

**DIFFICULT DEVELOPMENT AREAS:** Areas designated by HUD as an area which has high construction, land, and utility costs relative to area median gross income.

**DISTRESSED PROPERTY:** Any federally-assisted building for which a waiver of the ten year period described in Section 42(d)(2)(B)(ii) is obtained or a building which qualifies for such a waiver but for the building having been last placed in service more than ten years prior to the Application deadline or any project financed by RD and placed in service 15 years or earlier from the Application Deadline which project requires rehab (exclusive of soft and intermediary costs) of \$5,000 or more per unit.

**ECONOMIC DEVELOPMENT PROJECT:** A project receiving a certification from the Department of Economic Development that such project will preserve at least one thousand (1000) jobs. This certification qualifies the project to participate as an Economic Development Project in an area designated by the Department of Economic Development. There will be one such project per designated area from the Credit Ceiling for Calendar Year 2005. All applications seeking points as an Economic Development Project will not have Economic Development points counted if the application is scored for any other pool.

**ECONOMIC LIFE:** The maturity of any debt funded by either HUD or RD; provided that economic life shall not exceed fifty-five (55) years or the period which may be reported for federal income tax purposes as the economic life of a building.

**ELDERLY HOUSEHOLD:** A household composed of Elderly Persons; provided that a non-Elderly Person may reside in the household only if such household qualifies pursuant to the Fair Housing Act.

**ELDERLY PERSON:** A person who is 62 years of age or more at the time of initial occupancy.

**ELDERLY PROJECT:** A project in which all units are occupied by Elderly Households and in which no unit contains more than two bedrooms and which satisfies the requirements of the Fair Housing Act.

**EQUITY:** Funds which are provided by investors in a project and which are contingent upon the value attributed to the tax benefits generated by ownership of the project.

**EXISTING HOUSING:** Housing units which have previously been occupied.

**EXPENDITURES EXCLUDED FROM ELIGIBLE BASIS:** (A) Items noted in the IRS Audit Guidelines, including Land Costs and the following enumerated items:

- Organization Costs
- Syndication Costs
- bridge loan interest and origination fees
- permanent loan credit enhancement, origination fees and closing costs
- reserves required by the lender
- marketing/advertising
- compliance fees

(B) Items noted in Internal Revenue Service National Office Technical Advice Memorandums Nos. 100727-00; 100740-00; 100743-00; 100745-00; and 100748-00; including the following:

- Developer Fees Allocated to Land
- Unused Construction Contingency
- Rent up Costs
- Local Impact Fees (See "C" below which reverses this treatment)
- Landscaping not affected by replacement of building and considered inextricably associated with the land
- Surveys not used to determine if improvements can be built on site
- Bond Issuance Costs
- Partnership Syndication and Formation

(C) Revenue Ruling 2002-9 now requires impact fees incurred by developer of residential rental building to be capitalized under Section 263A as indirect costs allocable to the building.

**FEDERAL HOUSING ACT:** The United States Housing Act of 1937, as amended through April 1, 2004.

**FHA LIMITS:** The 203(b) limits for FHA insurance of single family housing as published by HUD.

**FINAL ALLOCATION:** The mailing of Form 8609 to the Taxpayer. The Agency must adjust the amount of tax credits specified in a reservation or a carryover allocation based upon the feasibility/viability review and subsidy layering review as of the project's placed in service date.

**FINANCING CERTIFICATION:** A certification by the Taxpayer on the form provided by the Agency which specifies among other matters (a) Sources of Funds for a Project, (b)

Syndication Information, (c) Subsidies provided to a Project and (d) amounts allocated to various development costs as of application, reservation and placed in service dates.

**FOSTER PARENT HOUSEHOLD:** A household providing shelter to an unrelated child who was assigned for foster parenting to such household by the Department of Social Services.

**GAAP AUDIT:** An audit performed by an independent certified public accountant containing at a minimum:

- (a) an audit of the certificate of actual cost in accordance with generally accepted auditing standards utilizing generally accepted accounting principles evidencing no line item with a "to be paid" amount in excess of five percent (5%) of such line item;
- (b) an audit of the sources and uses through the Placed in Service Date of a project specifying separately (i) uses to be included in eligible basis, (ii) land costs and costs properly capitalizable to land, (iii) Acquisition Costs, (iv) Organizational Costs, (v) Syndication Cost paid by the Taxpayer and (vi) Developer Fees which are properly allocable to (iii), (iv) and (v); and
- (c) an identification of all identities of interest and related persons to the Taxpayer receiving payment from the Taxpayer; and
- (d) an identification of all subcontractors owned in whole or in part by employees of the developer or the contractor and a statement of the percentage of construction costs subcontracted to a subcontractor.

**GENERAL REQUIREMENT BASE:** Hard cost plus bond premium and miscellaneous fees paid by contractor.

**GENERAL REQUIREMENTS:** The actual costs for those items incurred in the construction of a Project and directly pertaining to the Project, excluding amounts paid to the Contractor or Developer which may be characterized as Overhead.

**GOVERNMENTAL ASSISTANCE:** Includes any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit tax benefit, or any other form of direct or indirect assistance from the Federal, State or local government for use in, or in connection with, a specific housing project.

**GROSS EQUITY:** Means the nominal dollar amount invested in the Taxpayer by the Syndicator.

**HABITABILITY STANDARDS:** The Physical Conditions Standards promulgated in HUD Regulations at 24 CFR 5.703, including the major areas of housing: the site, the building exterior, the building systems, the dwelling units, the common areas and health and safety conditions.

**HANDICAPPED EQUIPPED UNITS:** Units which satisfy Section 504 of the Rehabilitation Act of 1973 and fully meet the handicap accessibility requirements of the Uniform Federal Accessibility Standard.



**HANDICAPPED HOUSEHOLD:** A household composed of one or more persons at least one of whom is considered to have a physical, mental or emotional impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes the ability to live independently and (iii) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall be considered handicapped if (a) such person has a developmental disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 60001(7)) or (b) such person is infected with the human acquired immunodeficiency virus (HIV) who is disabled as a result of infection with the HIV or (c) such person has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently, and whose impairment could be improved by more suitable housing conditions.

**HARD COSTS:** Costs of constructing the project as evidenced in the Estimate and Certificate of Actual Costs reduced by any amount which reduces the Builder Fee Base. Hard Costs do not include Builder Profit, Builder Overhead, Developer Fees or Soft Costs (such as architectural, engineering, consultant, legal fees, etc).

**HISTORIC REHABILITATION CREDIT:** Tax Credits authorized to be taken by a Taxpayer for the rehabilitation of an historic property in accordance with the requirements of Section 38 of the Code.

**HOMELESS HOUSEHOLD:** A household in which all members are Homeless Persons.

**HOMELESS PERSON:** A person who lacks a fixed, regular nighttime residence and an individual whose primary nighttime residence is (i) a shelter for temporary accommodation, including welfare hotels, congregate shelters and transitional housing for the mentally ill, (ii) an institution providing temporary residence for individuals intended to be institutionalized or (iii) a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings.

**HOMEOWNERSHIP PROJECT:** Project consisting of townhouses, duplexes with firewalls or buildings with not more than one unit per building. Applicants for Homeownership Projects must execute the Agency's form of an Option to Purchase and Right of First Refusal Agreement which provides to an individual tenant the option to purchase a unit at the Minimum Purchase Price. No points will be awarded for Community Facilities located in a Homeownership Project.

**HUD:** The U.S. Department of Housing and Urban Development.

**IDENTITY OF INTEREST:** An identity of interest is construed to exist when:

- (i) There is any financial interest of the Developer or Taxpayer in the Builder or any financial interest of the Builder in the Developer or Taxpayer.
- (ii) Any officer, director or stockholder or partner of the Developer or Taxpayer who is also an officer, director or stockholder or partner of the Builder.

(iii) Any officer, director, stockholder or partner of the Developer or Taxpayer has any financial interest in the Builder; or any officer, director, stockholder or partner of the Builder has any financial interest in the Developer or Taxpayer.

(iv) The Developer or Taxpayer advances any funds to the Builder.

(v) The Developer or Taxpayer supplies and pays, on behalf of the Builder, the cost of any architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by a Developer or Taxpayer in connection with its obligations under the construction contract.

(vi) The Developer or Taxpayer takes stock or any interest in the Builder corporation as consideration of payment.

(vii) There exists or comes into being any side deals, arrangements, contracts or undertakings entered into or contemplated, thereby altering, amending, or canceling any of the required closing documents, except as approved by the Agency.

(viii) Any relationship (e.g., family) existing which would give the Builder or Developer or Taxpayer control or influence over the price of the contract or the price paid to any subcontractor, material supplier or lessor of equipment.

(ix) Any member of the Development Team advances any funds to the Developer or Taxpayer at any point prior to an allocation.

For purposes of determining an identity of interest between parties not identified in (i) through (ix), such parties will be identified as either the Developer and Taxpayer or the Contractor as appropriate to establish the identity of interest.

**INCOME QUALIFIED RENTER DEMAND:** Number of households projected to be at 60% or less of area median income which can afford to pay the rent proposed at subject project provided such rent does not exceed 35% of their household income.

**INDEPENDENT QUALIFIED HOUSING CONSULTANT:** A disinterested professional housing consultant who has been approved by the Agency and who has no identity of interest with any Builder or Developer participating in the Housing Tax Credit Program in any state and who by virtue of academic training, licensing and/or experience is a recognized expert skilled in the requirements of conducting a market survey and demand study.

**IREM:** Institute For Real Estate Management.

**LAND COSTS:** The purchase price related to the purchase of undeveloped land plus the following additional costs:

- excavating and earth-moving expenses
- finders/brokerage fees for assistance in acquiring title to land
- costs for excavation of water retention ponds
- cost of land surveys
- unpaid back real estate taxes and similar assumed costs

-legal and professional fees related to the acquisition of land  
-environmental impact tests and perk tests

**LARGE FAMILY HOUSEHOLD:** A household with at least five persons at initial occupancy of a unit.

**LOCAL GOVERNMENT:** Governing authority of the local governmental unit. A parish or municipality under the Louisiana Constitution of 1974.

**LOCAL NONPROFIT SPONSOR:** A 501(c)(3) or 501(c)(4) organization in which not more than fifteen percent (15%) of the members of the governing board are domiciled outside the service area of the nonprofit and at least seventy-five percent of the governing board are domiciled within the Market Area of the Project or is a State certified Community Housing Development Organization ("CHDO") with a service area encompassing the market area of the Project.

**LOCAL PARTICIPATING JURISDICTION (LOCAL PJ):** One of any governmental unit or consortium of governmental units receiving HOME Funds directly from HUD and which is not a state recipient.

**LOUISIANA DEVELOPER:** Any Managing General Partner or Sponsor who submits evidence of having filed Louisiana tax return (Form 990 in the case of a Non-profit) in the two calendar years preceding the year in which an application for tax credits is submitted.

**MANAGING GENERAL PARTNER:** The entity or individual(s) which controls or owns all of an entity which is designated in the Application as the managing general partner or the primary sponsor/operator of the Project.

**MARKET AREA:** An area referenced on a map included with the Market Study and certified by the Independent Qualified Housing Consultant to be an appropriate market area to be served by the project in view of geographic and other barriers and demographic and mobility factors for low income households at or below 60% of AMI.

**MARKET STUDY:** An analysis performed by an Independent Qualified Housing Consultant which evidences demand for the proposed market matrix of a project, including demand capture rate at the subject property by bedroom type and which further the housing needs of the Targeted Households, Large Families, tenants with children and Special Needs Households if the Project serves Special Needs Households.

**MATERIAL CHANGE:** Notwithstanding the provisions of any prior Qualified Allocation Plan, a material change for any project, including projects receiving a reservation or allocation from a prior Calendar year credit Ceiling, shall mean any reprocessing change which results (i) in the project deemed not feasible or not viable or (ii) a reduction of points from the Selection Criteria below the minimum score or below the score of the highest ranked project on the waiting list for the year in which the credits were allocated. Any change caused by force majeure or circumstances beyond the control of an Owner will not be a material change if the Agency's Board of Commissioners concurs that such change was beyond the control of the Owner. The Agency also considers the following to be material changes:

removal of any managing general partner,  
bankruptcy of any managing general partner,  
site change, or  
change in unit design (increase or decrease in number of units, unit mix, square footage  
etc. greater than 10%).

**MATERIAL PARTICIPATION:** Having an ownership interest other than a passive ownership interest and which participation is regular, continuous and substantial.

**MINIMUM RESERVE BALANCE:** At least 1/6 of the largest annual deposit to Reserves for Replacement and Repair.

**MINIMUM PURCHASE PRICE:** An amount equal to the sum of (i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the five (5) year period ending on the date of the sale to the tenants) and (ii) all Federal, State and local taxes attributable to such sale. Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii).

**MIXED FINANCE PROJECT:** A project described in Section 35(d) of the Federal Housing Act that is financially assisted with private resources in addition to amounts provided under the Federal Housing Act.

**MIXED OCCUPANCY PROJECT:** A Project involving the occupancy of units by Special Needs Households and the occupancy of units by households which are not Special Needs Households.

**MIXED USE BUILDING:** A building consisting of units available for residential rental use and other property the use of which is not related to residential rental use, e.g., commercial office space, owner-occupied residences, etc.

**NET EQUITY:** The Gross Equity invested in the Taxpayer as discounted and compounded to the placed in service date.

**NEW CONSTRUCTION:** Housing units which have not previously been occupied.

**OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL AGREEMENT:** The Agreement by that name attached as an Appendix to the Application.

**ORGANIZATIONAL COSTS:** Costs of organizing the Taxpayer, including the legal and accounting costs necessary to organize the Taxpayer and facilitate the filings of the necessary legal and other regulatory paperwork at the state and national level are of a character which, if expended incident to the creation of the taxpayer having an ascertainable life, would (but for Section 709(a) of the Code) be amortized over such life.

**OWNER OCCUPIED BUILDING:** A Building containing more than one but less than five units in which one of the units is occupied by the owner of such unit and which is located in an area in which the local governmental unit has approved by a Development Plan of Action.

**PHA REFERRAL AGREEMENT:** The executed form of the PHA Referral Agreement attached as an Appendix to the Application.

**PHYSICAL CONDITION STANDARDS:** HUD Standards for housing which is decent, safe, sanitary and in good repair.

**PLACED IN SERVICE DATE:** The date on which the first unit in building of the Project is available for occupancy in accordance with the requirements of the Code and the local jurisdiction within which the Project is located. For rehabilitations which qualify as a separate new building, such date occurs at the end of the 24 month period over which such expenditures are aggregated.

**PROJECT:** At least one building together with any facilities functionally related and subordinate on a Project Site. Multiple buildings are part of the same project only if such buildings:

- (i) have similarly constructed units;
- (ii) are proximate, i.e., located on a single tract of land; and
- (iii) are owned by the same person and are financed pursuant to a common plan.

**PROJECT SCHEDULE:** The time frame within which certain activities must be completed with respect to the development of the Project.

**PROJECT SITE OR PROPERTY SITE:** The legal description of the land on which the Project is located as submitted in an application on or before the Application Deadline.

**QUALIFIED CENSUS TRACT:** Any census tract which is designated by HUD in which either 50% or more of the households have an income which is less than 60% of the area median gross income or which has a poverty rate of at least 25 percent (25%).

**QUALIFIED NON-PROFIT ORGANIZATION:** An organization (i) described in paragraph (3) or (4) of Section 501(c) of the Code, (ii) exempt from tax under Section 501(a) of the Code, (iii) determined by the Agency not to be affiliated with or controlled by a for-profit organization and (iv) one of the exempt purposes of such organization includes the fostering of low-income housing.

**QUALIFIED PURCHASE CONTRACT:** A contract defined in Section 42(h)(6)(F) of the Internal Revenue Code.

**QUALIFIED REHABILITATION EXPENDITURE:** Rehabilitation costs incurred within any 24 month period selected by the building owner and which are allocable to or substantially benefit one or more low-income units in a building and in which the hard costs of such

rehabilitation equal or exceed the greater of \$3,000 per low-income unit in the building or ten percent (10%) of the adjusted basis of the building.

**RD:** Means the Rural Development division of the U.S. Department of Agriculture.

**RD TARGET AREA:** An area designated in writing by Rural Development of the U.S. Department of Agriculture as a priority area for financing housing under the 515 housing program.

**REDEVELOPMENT AREA:** An area or areas within Qualified Census Tracts which is specified by a local governmental unit as requiring revitalization and within which the local governmental unit provides incentives and/or resources on a priority basis in order to promote redevelopment pursuant to a Concerted Community Revitalization Plan.

**REDEVELOPMENT PROJECT:** A Project which is (i) a Distressed Property, (ii) Redevelopment Property, (iii) Owner-Occupied Property covered by a Development Plan of Action, or (iv) Urban Redevelopment Property.

**REDEVELOPMENT PROPERTIES:** A Project located in a Redevelopment Area.

**RELATED PERSON:** Any person bearing a relationship to such person as specified in sections 267(b) or 707(b)(1) of the Code, or if the persons for whom a relationship is being determined are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52 of the Code.

**RENT UP/LEASE COSTS:** Costs, such as advertising, sample unit costs, on site rental managers and staff and initial rental costs, necessary to fully rent a low-income building which may be amortized over the period necessary to rent all units, (e.g. 24 or 36 months).

**REPROCESSING CHANGE:** Any change other than a material change relating to (i) adjustments of sources or uses of funds in excess of 5%, (ii) increases or decreases in the number of units, unit mix, square footage, etc. greater than 5%, (iii) an applicant's inability to comply with the project schedule proposed in the application by more than three months in any element of the Project and (iv) any increase in the interest rate of long term debt required to complete the Project.

**REPROCESSING FEE:** The fee by that name calculated in accordance with the Non-Refundable Fee Schedule.

**REQUIRED EXHIBITS:** The Exhibits and/or Appendices specified as Required Exhibits in the Application and does not include the Exhibits and/or Appendices to support Selection Criteria items

**REQUIRED RESERVE DEPOSIT:** For new construction, assume \$200 per unit per year. For projects other than new construction assume \$300 per unit per year or the amount specified in Physical Needs Assessment required to be deposited to Reserves for Replacement. Notwithstanding the foregoing, if HUD and RD finances the first mortgage, the annual deposit to the Reserves for Replacement may be determined in accordance with HUD or RD policies or

regulations. Deposits to the Reserves for Replacement will be regulated and monitored in accordance with the Tax Credit Regulatory Agreement.

**RESERVATION:** An agreement on the part of the Agency to allocate tax credits at a future date to a Taxpayer, subject to the Taxpayer satisfying the elements of the Qualified Allocation Plan and all conditions established by the Agency with respect to the submission of all documents and information required by the Agency prior to the delivery of Form 8609 to the Taxpayer.

**RESERVES FOR REPLACEMENT:** A special reserve to be established for each project from which the costs of replacement and repair of the project is to be funded.

**RESIDENT MANAGER UNIT:** The unit occupied by a full-time resident manager in the project.

**REVITALIZATION POOL:** Pool established to reserve tax credits exclusively for Redevelopment Projects.

**RURAL AREA:** Any area outside of a metropolitan statistical area (MSA).

**SCATTERED SITE PROJECT:** A project consisting of buildings containing housing units in which all such units are rent restricted provided that each building is located on a single lot which is subdivided by the local jurisdiction and for which an option to purchase separately may be executed and further provided that a single building may not contain more than two (2) housing units. Evidence of a Scattered Site Project must consist of a subdivision plot or proposed subdivision plot evidencing separate lots for each building. If a Scattered Site Project is located on non-contiguous land, no points will be awarded for Community Facilities.

**SERVICES:** Benefits made available to the tenants of a Project.

**SINGLE PARENT HOUSEHOLD:** A household with children in which the parent or guardian of such children resides in the household and in which no other adult resides in such household at initial occupancy.

**SITE CHANGE:** The addition of any noncontiguous land to the Property Site or the reduction of the Property Site by more than 25% or the addition of contiguous land to the Project Site exceeding 25% of the area of the original Property Site; provided, however, that a Scattered Site Project located in a Redevelopment Area may include additional new sites within the Redevelopment Area if the local governmental unit requests such additional sites prior to a Carryover Allocation of Tax Credits. .

**SMALL PROJECT:** A project in which the total number of units do not exceed thirty units.

**SPECIAL NEEDS HOUSEHOLD:** A household which constitutes a Single Parent Household, Large Family Household, a Foster Parent Household, an Elderly Household, a Handicapped Household or a Homeless Household.

**SPECIAL NEEDS PROJECTS:** A Project in which at least twenty-five percent (25%) of the units are set aside for Special Needs Households in accordance with the Tax Credit Regulatory Agreement; provided, however, that a Special Needs Project constituting an Elderly Project must satisfy the requirements of the Fair Housing Act.

**SPONSOR:** The person(s) owning one hundred percent (100%) of the interests in and who controls the Managing General Partner. A non-profit organization may sponsor another non-profit organization or a for-profit subsidiary entity only if such non-profit sponsor is legally entitled to designate all board members of the sponsored non-profit and/or owns 100% of the stock or ownership interest in the subsidiary as evidenced in the articles of incorporation of the sponsored non-profit or the subsidiary's articles of organization.

**SRO:** A Project of single room occupancy providing Supportive Services in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as Supportive Housing.

**STAND-ALONE NON-PROFIT:** A 501(c)(3) or 501(c)(4) organization or for-profit wholly-owned subsidiary of such organization which serves as the sole general partner of a limited partnership owning a project or the sole and exclusive manager of an LLC which owns the project. The managing agreement must be submitted with application for LLC-owned projects.

**SUBSIDIARY:** Any corporation, entity, partnership, venture, syndicate, or arrangement in which a local housing authority shall participate by holding an ownership interest or participating in its governance, in which commissioners, officers, employees, and agents of such authority constitute a majority of the governing body of such entity.

**SUBSTANDARD:** Any housing unit which does not satisfy the HQS Standards.

**SUBSTANTIAL REHABILITATION:** Any rehabilitation in which Hard Costs equal or exceed \$15,000 per unit.

**SUPPORTIVE HOUSING:** Housing designed to meet the special needs of the targeted special needs households occupying the housing and providing Supportive Services targeted to such special needs households.

**SUPPORTIVE SERVICES:** The range of services tailored to the needs of the category or categories of persons with special needs occupying the housing in which such services are provided. The costs of Supportive Services must be specified in the Application and separately identified as an expense item in the operating pro-formas or must be provided by a governmental or nonprofit agency which evidences in writing a commitment to provide supportive services to special needs households in the Project without charge. For purposes of this definition, Supportive Services are presumed to be provided if such services qualify under HUD Regulations and if HUD informs the Agency in writing that services evidenced in the Application qualify under HUD regulations. Supportive Services must be provided for a period commencing at the placed in service date of a project and ending not earlier than the end of the tax credit compliance period for a project. A description of Supportive Services must contain minimum supportive services required under HUD regulations for such special needs group and may include:

- Daycare
- After-school programs



- Financial and budgeting seminars
- Job training
- Homebuyer training and seminars
- Supervised recreational activities for children
- Transportation to seminars
- Preventive health care programs/health screening on a regular basis
- Transportation to facilitate access to social services, doctors, shopping
- Computer labs/internet hookup and/or tutors
- Library
- Dry-cleaning and/or laundry
- Grocery pickup and/or delivery
- Continuing education
- Information and senior counseling
- Homemaker/housekeeping
- Meals
- 24 hour security/neighborhood watch programs
- Community pets (cost of care provided by project)
- Community gardening
- Weekly exercise class
- Grandparent mentoring programs
- Weekly "day trips" to shopping centers/specialty shopping
- Reading service and library
- Social and recreational programs planned and overseen by the project manager. (Monthly birthday parties/holiday dinners and/or parties/potluck dinners, movie nights, bingo)

**SYNDICATION:** The process of acquiring an ownership interest in the Taxpayer by the Syndicator and investing equity in the Taxpayer by the Syndicator.

**SYNDICATION COSTS:** Costs which are not includable in the tax credit basis for either the low income housing credit or the rehabilitation tax credit nor are allowable for depreciation purposes and which are the costs of syndicating a partnership and its related investment units.

**SYNDICATION COST CERTIFICATION:** A certification by the Taxpayer and Syndicator on the form provided by the Agency which specified among other information costs or items incurred for the packaging of the investment units and the promotion as an investment, including any marketing of the actual units, the production of any marketing memorandums or promotional materials, the mobilization of any broker/dealers who will sell the investment units and the actual sales commissions paid to the sellers of the partnership (whether they are unrelated third parties or the individuals who promoted the investment), including due diligence related aspects of the syndication and legal costs associated with the offering, opinions, inquiries as to certain aspects of the syndication, etc.

**SYNDICATION PROCEEDS:** The funds generated by the Syndicator from investors seeking to acquire tax benefits in Projects through the Syndicator.

**SYNDICATOR:** The person or agent involved in directly providing equity to the Taxpayer or the person which owns or controls the person providing such equity Syndication Costs.

**TARGETED HOUSEHOLDS:** The households identified in a Market Study for which the Project will provide housing.

**TAX CREDIT REGULATORY AGREEMENT:** The form of Tax Credit Regulatory Agreement provided by the Agency pursuant to which the requirements of Section 42 of the Code are satisfied and pursuant to which the Agency enforces the commitments and representations made by the Taxpayer in the Application.

**TAXPAYER:** The legal entity which will own and operate a project and which will be identified on Form 8609 as the Taxpayer.

**TAXPAYER CAPITAL:** The greater of (i) \$100,000 or (ii) value of assets or amounts other than equity evidenced in the audit of the Taxpayer as of the Placed-in-Service Date of the Project as paid-in capital.

**TOTAL DEVELOPMENT COSTS:** Development Costs plus the cost of land.

**ULI:** Urban Land Institute.

**UNIT:** Any accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation. Such accommodations may be served by centrally located equipment, such as air conditioning and heating.

**URBAN REDEVELOPMENT AREA:** An area or areas (i) which are within a city of 20,000 or more but which are outside of a Qualified Census Tract, (ii) which do not exceed in the aggregate 5% of the geographic area of the city and, (iii) which are specified by a local governmental unit as requiring redevelopment or revitalization pursuant to a Concerted Community Revitalization Plan.

**URBAN REDEVELOPMENT PROPERTY:** A project which is located within an Urban Redevelopment Area.

**VACANT UNIT:** A housing unit which is certified by the Developer/Owner and the local jurisdiction to have not been occupied for a period of at least 90 days and which is reasonably expected to remain vacant for an indefinite duration because the unit is substandard.

**SELECTION CRITERIA AND EVIDENTIARY MATERIALS**

PLEASE NOTE THAT THE CRITERIA SELECTED BY APPLICANT WILL BE ENFORCED IN THE TAX CREDIT REGULATORY AGREEMENT. CRITERIA SELECTED BY APPLICATION DEADLINE CONSTITUTES AN IRREVOCABLE COMMITMENT WITH RESPECT TO THE CONSTRUCTION AND OPERATION OF A PROJECT. EVIDENCE TO SUPPORT QUALIFICATION FOR SELECTION CRITERIA MUST BE ATTACHED AS AN EXHIBIT TO THE APPLICATION "EVIDENTIARY MATERIALS FOR SELECTION CRITERIA".

	<u>Points</u>
A. <i>Local Nonprofit is Sponsor of Project</i>	10 ____
* Must complete Non-Profit Participation Information - form in Application evidencing non-profit as managing general partner of Taxpayer.	
B. <i>Project Located in Qualified Census Tract/ Difficult Development Area / RD Target Area</i>	10 ____
* Specify:	
(i) Census Tract Number: _____	
(ii) Parish Location: _____	
(iii) RD Target Area: _____	
C. <i>Redevelopment Project (Not Qualified for Selection Criteria in D)</i>	25 ____
* Provide written certification from HUD or RD if property is Distressed Property	
* Provide copy of Concerted Community Revitalization Plan or Development Plan of Action if not Distressed Property	
D. <i>Project Receives Historic Tax Credits or involves Substantial Rehabilitation</i>	25 ____
* Specify:	
(i) Historic Tax Credit syndication proceeds: \$ _____	
(ii) Rehabilitation Hard Costs Per Unit: \$ _____	
E. <i>Project located in historic district as evidenced by letter from local jurisdiction but does not qualify for historic credits and is not Substantial Rehabilitation</i>	15 ____
* Submit map of historic district with evidence from local jurisdiction or State of historic district designation	
F. <i>Project is an Abandoned Project. (Not Qualified for Selection Criteria in G)</i>	50 ____
* Submit letter from local governmental unit that all units in the Project are substandard and have been vacant for at least six months	
G. <i>Vacant Units in Project as Percentage of Total Units</i>	
(i) Minimum of 25% but less than 50%	10 ____
(ii) Minimum of 51% but less than 75%	20 ____
(iii) 75% or above	30 ____

\* Submit letter from local jurisdiction that unit has been vacant for at least 90 days and is likely to remain vacant because unit is substandard.

H. Deconcentration Projects:

(1) Project Diversity - Percentage of Low Income Units in Project does not exceed:

(Not Qualified for Selection Criteria in O and P)

- (a) 60% of the Total Project units 10 \_\_\_\_
- (b) 50% of the Total Project units 15 \_\_\_\_
- (c) 40% of the Total Project units 20 \_\_\_\_

(2) Geographic Diversity: Project is located in census tract in which the median income of the census tract exceeds 120% of the area median income 30 \_\_\_\_

I. *Twenty-Five percent or more of project units serve households whose incomes satisfy the following percentages of median income*

- (i) less than 20% 25 \_\_\_\_
- (ii) more than 20% but less than 30% 20 \_\_\_\_
- (iii) more than 30% but less than 40% 15 \_\_\_\_
- (iv) more than 40% but less than 45% 10 \_\_\_\_

\* Cash flows must use maximum rent at 30% of imputed income at 50% AMI for all units in Project

J. *Percentage of Units having Four or more Bedrooms*

- (i) 5% but less than 10% 5 \_\_\_\_
- (ii) 10% but less than 15% 10 \_\_\_\_
- (iii) 15% but less than 20% 15 \_\_\_\_
- (iv) Scattered Site Project exceeding 20% 20 \_\_\_\_

K. *Project Serves Special Needs Households other than Elderly Households and provides Supportive Services [Check one or more]*

(Economic Development Projects can select Single Parent and/or Large Family Households only. **PLEASE NOTE: Points awarded for the state's Economic Development Project are for one Project only and will be withdrawn once Tax Credits for this one Project have been reserved )**

- (i) Homeless Households \_\_\_\_\_
- (ii) Handicapped Households \_\_\_\_\_
- (iii) Single Parent Households \_\_\_\_\_
- (iv) Large Family Households \_\_\_\_\_
- (v) Foster Parent Households \_\_\_\_\_

- (a) One Hundred Percent serve such households 50 \_\_\_\_
- (b) Fifty Percent serve such households 30 \_\_\_\_
- (c) Twenty-Five Percent serve such households 20 \_\_\_\_

\* Application must include the following:

- (i) description of Supportive Services tailored to each Special Needs Household ( See Supportive Services Definitions)
- (ii) Costs per annum of Supportive Services per Special Needs Household or written commitment from governmental or non-profit agency that Supportive Services will be provided to Project without cost
- (iii) experience of Taxpayer/Owner in developing Projects servicing Special Needs Households
- (iv) evidence in market study that demand for Special Needs Households Units may be satisfied by Project

L. *Project is Elderly Project and provides Supportive Services* 50 \_\_\_\_  
(Not Qualified for Selection Criteria P)

\* Application must include the following:

- (i) description of Supportive Services tailored to each Elderly Household (See Supportive Services Definitions)
- (ii) Costs per annum of Supportive Services per Elderly Household or written commitment from governmental or non-profit agency that Supportive Services will be provided to Project without cost
- (iii) experience of Taxpayer/Owner in developing Projects servicing Elderly Households
- (iv) evidence in market study that demand for Elderly Households Units may be satisfied by Project

M. *Project contains Handicapped Equipped Units in excess of Section 504 of Rehabilitation Act of 1973 (Assume Section 504 applies to all Projects, ie., 5% of units must be Accessible for people with mobility impairments and 2% for people with hearing or vision impairments)*

- (i) more than 7% of the total units  
but less than or equal to 10% of the total units 5 \_\_\_\_
- (ii) more than 10% of the total units  
but less than or equal to 15% of the total units 10 \_\_\_\_
- (iii) more than 15% of the total units 15 \_\_\_\_

\* Submit number, percentage and description of construction and/or equipment provided for each Handicapped Equipped Unit.

N. *Project is Single Room Occupancy* 10 \_\_\_\_

\* Submit evidence from local governmental unit or appropriate continuum of care district that project satisfies need for homeless shelter.

O. *Project is Scattered Site* (Not Qualified for Selection Criteria P) 10 \_\_\_\_

\* Submit list of each separate address and square footage and costs of each separate building.

- P. *Project Involves Lease-to-Own of townhouses, duplexes with firewalls or buildings with not more than one unit per building with Owner executing Agency's Option to Purchase and Right of First Refusal Agreement form with Tenants (Not Qualified for Selection Criteria L or Selection Criteria O)* 15 \_\_\_\_
- \* Owner must agree to sell units at Minimum Purchase Price.
- Q. *Optional Amenities (maximum 25 points)*
- (i) Washers and dryers are installed and maintained in every unit at no additional cost to tenants 15 \_\_\_\_
- (ii) Dishwasher and disposal maintained in each unit 10 \_\_\_\_
- Amenities may not be Community Facilities.
- R. *Project Provides Community Facilities (excludes Homeownership Projects, Non-contiguous Scattered Site Projects. Also, On-Site Day Care Service if an Economic Development Project)* 25 \_\_\_\_
- \* Attach description of Community Facilities consistent with definition thereof in Glossary. Community Facilities may not be Amenities.
- S. *On-site Day Care Service* 25 \_\_\_\_
- \* Attach the defined scope of service and costs, if any, to the tenant
- (Projects selecting points here must be an Economic Development Project. PLEASE NOTE: Points awarded for the state's Economic Development Project are for one Project only, and will be withdrawn once Tax Credits for this one Project have been reserved.)*
- T. *Developer submitted an executed Referral Agreement with Local PHA pursuant to which Developer agrees to rent low income units to households at the top of PHA's waiting list (See Attachment to Application for Form of Referral Agreement)* 10 \_\_\_\_
- U. *Project will execute agreement in which Owner irrevocably foregoes right to request Agency to find person to acquire Owner's interest in low-income portion of Project and to submit Qualified Purchase Contract until after the*
- (i) 25<sup>th</sup> year 10 \_\_\_\_
- (ii) 30<sup>th</sup> year 15 \_\_\_\_
- (iii) 35<sup>th</sup> year 20 \_\_\_\_
- (Projects selecting points here do not qualify for Lease-to-Own Points)
- V. *Project Provides Economic Development Benefits* 100 \_\_\_\_
- Project is Economic Development Project
- (PLEASE NOTE: Points awarded for the state's Economic Development Project are for one Project only and will be withdrawn once Tax Credits for this one Project have been reserved.)**

Project located in:

- (i) Enterprise Community or a Renewal Community 30 \_\_\_\_
  - (ii) HUBZone 15 \_\_\_\_
- (See attached list of such communities)

W. *Ratio of Project's Intermediary Cost to Development Costs*  
(See Project Summary for formula to calculate ratio)

- (i) Less than or equal to 10% 20 \_\_\_\_
- (ii) More than 10% but less than or equal to 15% 15 \_\_\_\_
- (iii) More than 15% but less than or equal to 20% 10 \_\_\_\_

X. *Leverage Ratio (Divide Total Dollars from Sources by Net Equity and round down to nearest whole multiple)*

- 1 5 \_\_\_\_
- 2 10 \_\_\_\_
- 3 15 \_\_\_\_
- 4 20 \_\_\_\_
- 5 25 \_\_\_\_

Specify Sources: \_\_\_\_\_ ÷ Net Equity: \_\_\_\_\_ = \_\_\_\_\_ Leverage Ratio

Y. *Syndication Efficiency (Divide Net Equity by the Tax Credits requested by Project from credit ceiling)*

Net Equity

- Less than \$6.00 0 \_\_\_\_
- \$6.00 to \$6.75 15 \_\_\_\_
- \$6.76 to \$7.00 20 \_\_\_\_
- \$7.01 to \$7.50 25 \_\_\_\_
- \$7.51 or more 30 \_\_\_\_

Specify Net Equity: \_\_\_\_\_ ÷ Requested Credits: \_\_\_\_\_ = \_\_\_\_\_ (Syndicate Efficiency)

Z. *Project received carry-forward allocation of credits in a prior funding round and taxpayer returned all allocated credits (Select One)*

- Within six (6) months of carryover allocation 30 \_\_\_\_
- Within twelve (12) months of carryover allocation 20 \_\_\_\_
- Within eighteen (18) months of carryover allocation 10 \_\_\_\_

Specify Project Number from Prior Funding Round: \_\_\_\_\_

AA. *Contact Person listed in Application attended Agency sponsored Workshop in Calendar Year 2004 for 2005 Credit Ceiling*

Specify Name of Contact Person : \_\_\_\_\_ 10 \_\_\_\_

BB.	<i>Louisiana Developer</i>	10 ____
	* See definition of Louisiana Developer and Sponsor in Glossary	
CC.	<i>Project requires additional credits due to increased costs from delays caused in part by Fair Housing Act issues which have been resolved through HUD Reconciliation Agreement</i>	25 ____
	* Submit executed copy of HUD Reconciliation Agreement	
DD.	<i>Penalty Points</i>	
	(i) Net Equity is less than or equal to 110% Developer Fee	-15 ____
	Specify Net Equity from Syndication Information: _____ ÷ Developer Fee: _____ = _____%	
	(ii) Rehabilitation Hard Costs are less than \$3,000 per unit	-25 ____
	Specify Total Rehab Hard Costs: \$_____ ÷ Number of Units: _____ = \$_____/unit	
	(iii) Incomplete or Missing Exhibits, Appendices or Documents	-20 ____
	* Does not include Required Exhibits which must be submitted by Application Deadline. Missing Required Exhibits will result in Application being rejected.	
EE.	<i>Project incorporates Energy Efficient products that meet the following performance criteria. (Maximum of 35 points)</i>	
	(i) All windows and sliding glass doors	10 ____
	<ul style="list-style-type: none"> <li>• U-value of 0.4 or less (R-value 2.5 min.)</li> <li>• Solar Heat Gain Coefficient of 0.4 or less</li> <li>• Ten-year warranty from date of delivery against breakage of the glazing panel's seal.</li> </ul>	
	(ii) HVAC	
	<ul style="list-style-type: none"> <li>• Energy Star furnace (90% AFUE) or heat pump (HSPF 7.8)</li> <li>• Energy Star air-conditioner (SEER 12)</li> </ul>	5 ____ 5 ____
	(iii) Appliances	
	<ul style="list-style-type: none"> <li>• Energy Star refrigerator</li> <li>• Energy Star dishwasher</li> <li>• Water heater: Gas (Energy Factor of 0.62 or higher) or Electric (Energy Factor of 0.92 or higher)</li> </ul>	5 ____ 5 ____ 5 ____
	<ul style="list-style-type: none"> <li>• All of the above components must be clearly and individually listed in an original stamped letter from either the architect or engineer of record. The letter must state that the entire construction envelope exceeds the International Energy Conservation Code. Manufacturer's cut sheets must be submitted to document the energy efficiency of each component for which points are claimed.</li> </ul>	



FF. *The Local Government has adopted a resolution or a letter of support, written on official letterhead, clearly expressing its support of the proposed project* 20 \_\_\_\_

Resolution or letter of support, dated no earlier than 180 days of the Application due date, must clearly identify:

- (i) the type of project,
- (ii) the number of anticipated units,
- (iii) special needs populations to be served , if any
- (iv) the specific project location

Applications for a project that will have units in more than one local government jurisdiction must provide resolutions or letters of support from all jurisdictions in which there are project units.

GG. *Government reduces project development costs by providing CDBG, local HOME or other local governmental assistance/ funding in the form of loans, grants, rental assistance, or a combination of these forms or by:*

- *Waiving water and sewer tap fees;*
- *Waiving building permit fees;*
- *Foregoing real property taxes during construction;*
- *Contributing land for project development;*
- *Providing below market rate construction and/or permanent financing;*
- *Providing an abatement of real estate taxes;*
- *Providing other project operational cost subsidies, and/or; making other financial contributions.*

- 7% or more of total project development cost reduction 20 \_\_\_\_
- Greater than or equal to 4% but less than 7% of total project development cost reduction 15 \_\_\_\_
- 2% but less than 4% of total project development cost reduction 10 \_\_\_\_

HH. *Design Features (maximum 20 points)*

- (i) Project exceeds 15-year maintenance-free exterior standard as certified by the project architect. 10 \_\_\_\_
- (ii) Project has 30-year roof as evidenced by manufacturer's warranty. 10 \_\_\_\_

II. *Development will be managed by a Property Management Company or On-Site Manage that has received LIHTC Compliance Certification dated no more than 12 months prior to the application deadline from a program deemed acceptable to the Agency in accordance with industry recognized training standards.* 10 \_\_\_\_

- \* Submit certification from national trainer

- JJ. *Development is located within:*
- (i) Two (2) miles of the town of Farmerville, Union Parish 50 \_\_\_\_\_
  - (ii) Five (5) miles of the town of Farmerville, Union Parish 20 \_\_\_\_\_

*(Projects selecting points here must be an Economic Development Project.*  
**PLEASE NOTE: Points awarded for the state's Economic Development Project are for one Project only and will be withdrawn once Tax Credits for this one Project have been reserved. )**

- KK. *Development provides transportation for residents to Local Industry* 20 \_\_\_\_\_

*(Projects selecting points here must be an Economic Development Project.*  
**PLEASE NOTE: Points awarded for the state's Economic Development Project are for one Project only and will be withdrawn once Tax Credits for this one Project have been reserved. )**

- LL. *High-speed Internet Access/Computer Training* (25 points maximum)

- (i) Computer training center, complete with computers and highspeed internet access and structured training courses. 15 \_\_\_\_\_
- (ii) Each unit provided with the necessary hardware for cable, DSL, or wireless internet access, with such access provided to the tenant free of charge. 10 \_\_\_\_\_

**COMPLIANCE MONITORING AGREEMENT**

**I**

WHEREAS, the undersigned taxpayer-owner (the "Owner") of the qualified low-income buildings and/or project described in **Exhibit A** hereto acknowledges and agrees that, pursuant to §42(l) of the Internal Revenue Code of 1986, as amended (the "Code"), the Secretary of Treasury (the "Secretary") may require certifications concerning information in such form and such manner as the Secretary prescribes with respect to any qualified low-income building under §42 of the Code; and

**II**

WHEREAS, §42 of the Code provides for a low-income housing credit (the "Housing Credit") that may be claimed as part of the general business credit under §38 of the Code; and

**III**

WHEREAS, the Housing Credit determined under §42 of the Code is allowable only to the extent that the Owner receives a housing credit allocation from a housing credit agency such as the Louisiana Housing Finance Agency (the "Agency"), unless the building is exempt from the allocation requirements by reason of §42(h)(4)(B) of the Code; and

**IV**

WHEREAS, under §42(m)(1)(A) of the Code, the Housing Credit for any building is zero unless the amount was allocated pursuant to a qualified allocation plan (the "Allocation Plan") of the Agency; and

**V**

WHEREAS, under §42(m)(1)(D) of the Code, the Housing Credit for any project qualifying under §42(h)(4) of the Code is zero unless the project satisfies the requirements for allocation of a Housing Credit under the Allocation Plan of the Agency; and

**VI**

WHEREAS, under §42(m)(1)(B)(iii) of the Code, an allocation plan is not qualified unless it contains a procedure that the Agency (or an agent of, or private contractor hired by, the Agency) will follow in monitoring compliance with the provisions of §42 of the Code and notifying the Internal Revenue Service (the "IRS") of any non-compliance of which the Agency becomes aware; and

## VII

WHEREAS, §42(m)(1)(B)(iii) of the Code is effective on January 1, 1992, and applies to all buildings placed in service for which a Housing Credit is, or has been, allowable at any time; and

## VIII

WHEREAS, final regulations relating to (i) the requirement that State allocation plans provide a procedure for the Agency to monitor for compliance with the requirements of §42 of the Code, (ii) how the Agency is to report any non-compliance to the IRS, and (iii) the affect of such regulations on the Agency, owners of buildings or projects for which a Housing Credit is claimed, and taxpayers claiming the Housing Credits are contained in Section 1.42-5 of the Treasury Regulations (the "Compliance Regulations"); and

## IX

WHEREAS, the Compliance Regulations provide that a procedure for monitoring for non-compliance under §42(m)(1)(B)(iii) must include the following:

- A. Record-keeping and Record Retention Provisions;
- B. Certification and Review Provisions;
- C. Inspection Provisions; and
- D. Notification of Non-Compliance Provisions.

## X

WHEREAS, pursuant to the Record-keeping provisions of §1.42-5(b)(1), the Agency must require the Owner to keep records for each qualified low-income building that show for each year in the compliance period:

- (i) the total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- (ii) the percentage of residential units in the building that are low income units;
- (iii) the rent charged on each residential rental unit in the building (including any utility allowances);

- (iv) the number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under §42(g)(2) (as in effect before the amendments made by the Revenue Reconciliation Act of 1989;
- (v) the low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;
- (vi) the annual income certification of each low-income tenant per unit, unless an exception to the annual re-certification is available because an entire building is occupied by low-income tenants under Section 42(g)(8)(B) of the Code;
- (vii) documentation to support each low-income tenant's income certification; for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation, unless an exception to the annual re-certification is available because an entire building is occupied by low-income tenants under Section 42(g)(8)(B) of the Code. *[Tenant income is calculated in a manner consistent with the determination of annual income under §8 of the United States Housing Act of 1937 ("Section 8"), not in accordance with the determination of gross income for federal income tax liability.]* In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of this subparagraph (vii) is satisfied if the public housing authority provides a statement to the building owner that the tenant's income does not exceed the applicable income limit under Section 42(g) of the Code.
- (viii) the eligible basis and qualified basis of the building at the end of the first year of the credit period; and
- (ix) the character and use of the nonresidential portion of the building included in the building's eligible basis under §42(d) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

## XI

WHEREAS, pursuant to the Record Retention provisions of §1.42(5)(b)(2), the Agency must require the Owner to retain records described in §1.42-5(b)(1) for at least six years after the due date (with extensions) for filing the federal income tax returns for that year; provided, however, that the records for the first year of the credit period must be retained

for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building; and

## XII

WHEREAS, pursuant to the Certification provisions of §1.42-5(c)(1) the Agency must require the Owner to certify at least annually to the Agency that, for the preceding 12-month period:

- (i) the project met the requirements of:
  - (a) the 20-50 test under §42(g)(1)(A) or the 40-60 test under §42(g)(1)(B), whichever minimum set-aside test was applicable to the project; and
    - (b) if applicable to the project, the 15-40 test under §42(g)(4) and 142 (d)(4)(B) for "deep rent skewed" projects;
- (ii) there was no change in the applicable fraction (as defined in §42(c)(1)(B)) of any building in the project, or that there was a change, and a description of the change;
- (iii) the Owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving §8 housing assistance payments, the statement from a public housing authority described at 26 CFR 1-42-5(b)(1)(vii), unless an exception to the annual re-certification is available because an entire building is occupied by low-income tenants under Section 42(g)(8)(B) of the Code;
- (iv) each low-income unit in the project was rent-restricted under §42(g)(2);
- (v) all units in the project were for use by the general public (as defined in Section 1.42-9 of the Treasury Regulations), including the requirement that no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, occurred for the Project. A finding of discrimination includes an adverse final decision by the Secretary of the Department of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 USC 361a(a)(1), or an adverse judgment from a federal court;
- (vi) the buildings and low-income units in the project were suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the State or local government unit responsible for making local health, safety or

building code inspections did not issue a violation report for any building or low-income unit in the project. If a violation report or notice was issued by the governmental unit, the owner must attach a statement summarizing the violation report or notice or a copy of the violation report or notice to the annual certification submitted to the Agency under paragraph (c)(1) of the Compliance Regulations. In addition, the owner must state whether the violation was corrected;

- (vii) there was no change in the eligible basis (as defined in §42(d)) of any building in the project, or if there was a change, the nature of the change (e.g., a common area has become commercial space or a fee is now charged for a tenant facility formerly provided without charge);
- (viii) all tenant facilities included in the eligible basis under §42(d) of any building in the project, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;
- (ix) if a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income;
- (x) if the income of tenants of a low-income unit in the project increased above the limit allowed in §42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income; and
- (xi) an extended low-income housing commitment as described in section 42(h)(6) of the Code was in effect (for buildings subject to section 7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989, 103 Stat. 2106, 2308 - 2311 (1989)), including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f (for buildings subject to section 13142(b)(4) of the Omnibus Budget Reconciliation Act of 1993, 107 Stat 312, 438 - 439 (1993)); and
- (xii) all low-income units in the project were used on a non-transient basis (except for transitional housing for the homeless provided under section 42(i)(3)(B)(iii) or single-room-occupancy units rented on a month-by-month basis under section 42(i)(3)(B)(iv)).

### XIII

WHEREAS, pursuant to the Review provisions of §1.42-5(c)(2), the Agency must:

- (i) review owner certifications under Section 1.45-5(c)(1) for compliance with the requirements of Section 42,
- (ii) conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is placed in service and, for a least 20 percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units; and
- (iii) at least once every 3 years, conduct on-site inspections of all buildings in the project and, for at least 20 percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units; and
- (iv) require that the Agency randomly select which low-income units and tenant records are to be inspected and reviewed by the Agency. *[The review of tenant records may be undertaken wherever the owner maintains or stores the records (either on-site or off-site). The units and tenant records to be inspected and reviewed must be chosen in a manner that will not give owners of low-income housing projects advance notice that a unit and tenant records for a particular year will or will not be inspected and reviewed. However, the Agency may give an owner reasonable notice that an inspection of the building and low-income units or tenant record review will occur so that the owner may notify tenants of the inspection or assemble tenant records for review (for example, 30 days' notice of inspection or review).]*

### XIV

WHEREAS, pursuant to the Frequency and Form of Certification provisions of §1.42-5(c)(3), the Agency must require that Owners submit certifications under penalty of perjury at least annually covering each year of the 15-year compliance period under §42(i)(1); and



**XV**

WHEREAS, pursuant to the Inspection provisions of §1.45-5(d), the Agency must have the right to perform an on-site inspection of any low-income housing project at least through the end of the compliance period of the buildings in the project, which inspection is a separate requirement from any tenant file review under paragraph (c)(2)(ii) of the Compliance Regulations; and

**XVI**

WHEREAS, pursuant to the Notification of Non-Compliance provisions of 1.42-5(e)(2) and (3), the Agency agrees to give notice to the Owner and to the IRS, respectively, if the Agency (i) does not receive required certifications of the Owner, (ii) does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records or (iii) discovers by inspection, review, or in some other manner, that the project is not in compliance with the provisions of §42; and

**XVII**

WHEREAS, pursuant to the provisions of §1.45-5(e)(4), relating to the correction period, the Owner will be permitted by the Agency to supply any missing certifications and bring the project into compliance with the provisions of §42 within a period which ends not later than 90 days from the date the Agency mails a Notice of Non-Compliance to the Owner; and

**XVIII**

WHEREAS, pursuant to the provisions of §1.45-5(g), the Owner acknowledges that compliance with the requirements of §42 is the responsibility of the Owner and that the Agency's obligation to monitor for non-compliance pursuant to §42 and the Compliance Regulations does not make the Agency liable for the Owner's non-compliance.

**XIX**

WHEREAS, this Compliance Monitoring Agreement is intended to comply with the requirements of §42(m)(1)(B)(iii) and the Compliance Regulations with respect to the procedures which the Agency (or an agent or other private contractor of the Agency) will follow in monitoring for non-compliance and in notifying the IRS of such non-compliance of which the Agency becomes aware;

NOW, THEREFORE, the Louisiana Housing Finance Agency, acting through its duly authorized officers, and the undersigned Owner hereby agree, covenant and represent as follows:

SECTION 1. Record-keeping by the Owner. The Owner agrees to develop and maintain, for each qualified low-income building for each year of the compliance period for such buildings or project described in **Exhibit A** the records and information which the Agency must require the Owner to keep as described in paragraph X of the preamble hereof and as required pursuant to §1.42-5(b)(1) of the Compliance Regulations.

SECTION 2. Record Retention by the Owner. The Owner agrees to maintain and retain the records and information described in paragraph X of the preamble hereof for the time described in paragraph XI of the preamble hereof and for the time which the Agency must require the Owner to maintain and retain such records and information pursuant to §1.42-5(b)(2) of the Compliance Regulations.

SECTION 3. Certifications by the Owner. The Owner agrees to submit by February 15th of each calendar year the certifications of the form attached hereto as **Exhibit B** with respect to the immediately preceding calendar year which the Agency must require from the Owner as described in paragraph XII of the preamble hereof and as required pursuant to §1.42-5(c)(1) of the Compliance Regulations.

SECTION 4. Submission of Low-Income Tenant Annual Income Certification Documentation and Rent Records. The Owner agrees to submit (i) by February 15th of each calendar year on the form attached hereto as **Exhibit C** information on tenant income and rent for each low income unit and (ii) within fifteen (15) calendar days of a written request of the Agency (a) a copy of the annual income certifications, and the documentation the owner has received to support that certification, with respect to the number and/or percentage of low-income tenants and (b) the rent record for each low-

income tenant in the percentage (not less than 20%) of low-income units in the project described in **Exhibit A** as specified by the Agency.

SECTION 5. Project Inspection. The Owner agrees, acknowledges and specifically provides that the Agency has the right to perform an on-site inspection of the project described in **Exhibit A** at least through the end of the latter of the compliance period or extended use period.

SECTION 6. Delivery of IRS Forms. The Owner agrees to provide to the Agency the following:

- (a) Copy of IRS Form 8609 for each qualified low-income building;
- (b) Copy of Schedule A to Form 8609 for each qualified low-income building;
- (c) Copy of IRS Form 8586.

SECTION 7. Annual Compliance/Monitoring Fee. The Owner agrees to submit on or before December 31 of each year, beginning with the year any building in the Project is placed in service, the Annual Compliance Monitoring Fee constituting a minimum fee to be computed as follows:

<u>Project Size</u>	<u>Minimum Fee</u>
1-4 units	\$ 20.00
5-16 units	80.00
17-32 units	160.00
33-60 units	*
61-100 units	*
Over 100 units	*

\*Minimum fee is amount equal to 50% of units in Project times \$10.00.

The Agency reserves the right to charge such additional amounts at any time as may be required to monitor compliance in accordance with the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

The Owner further acknowledges and agrees that failure to submit the Annual Compliance/Monitoring Fee will result in the Agency reporting that the Owner has failed to deliver the appropriate certifications and/or other documentation necessary to satisfy the Compliance Regulations.

SECTION 8. Captions. The captions or headings in this Compliance Monitoring Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Compliance Monitoring Agreement.

SECTION 9. Counterparts. This Compliance Monitoring Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 10. Acceptance by Owner. The undersigned Owner hereby acknowledges receipt of an executed counterpart of this Compliance Monitoring Agreement and hereby approves the terms and provisions thereof and agrees to be bound by all the provisions thereof applicable to Owner.

LOUISIANA HOUSING FINANCE AGENCY

\_\_\_\_\_  
PRESIDENT

(Name of Owner)  
\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 200\_\_