



MSHDA

**MICHIGAN STATE HOUSING
DEVELOPMENT AUTHORITY**

Your Affordable Housing Partner

**Low Income Housing
Tax Credit Program**

**Qualified Allocation Plan
2005-2006**

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2005-2006 QUALIFIED ALLOCATION PLAN

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2005-2006 QUALIFIED ALLOCATION PLAN
STATE of MICHIGAN
LOW INCOME HOUSING TAX CREDIT PROGRAM

I. Introduction

The Low Income Housing Tax Credit (LIHTC) program offers a financial incentive to construct, rehabilitate, and operate rental housing for low-income tenants. Originally created by the Tax Reform Act of 1986 as a temporary provision of the Internal Revenue Code, Congress permanently extended the program with the Omnibus Budget Reconciliation Act of 1993. Under the administration of both the Internal Revenue Service and a designated state agency, the LIHTC program has become the primary mechanism for developing affordable housing in the United States and in Michigan.

Tax credit is allocated by a state agency and issued by the Internal Revenue Service over a ten-year period to offset a total of either 70% or 30% of a building's qualified basis depending on the type of project. Although commonly known as the 9% and 4% credits, respectively, the actual annual credit percentage is published each month by the U.S. Department of the Treasury. In 2000, Congress authorized each state agency to allocate tax credits totaling the greater of \$2 million or \$1.75 per capita (indexed for inflation) annually, as well as unallocated credits from the previous year, credits that have been returned by a developer, and additional credits allocated from the national pool of unused credits.

Under both federal and state law, tax credits must be allocated according to a Qualified Allocation Plan (QAP). Section 42(m) of the Internal Revenue Code provides:

- (B) QUALIFIED ALLOCATION PLAN.---For purposes of this paragraph, the term "qualified allocation plan" means any plan---
- (i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,
 - (ii) which also gives preference in allocating housing credit dollar amounts among selected projects to---
 - (I) projects serving the lowest income tenants, and
 - (II) projects obligated to serve qualified tenants for the longest periods, and
 - (iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of.

Michigan's Public Act 346 of 1966, Section 22b(4) provides:

The plan shall set forth criteria to be used to determine housing priorities of the state, and shall give the highest priority to those projects in which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries, unless granting such priority would impede the development of projects in hard-to-develop areas. In allocating low income housing tax credit dollar amounts among selected projects, the allocation plan shall give preference to projects serving the lowest income tenants and projects obligated to serve qualified tenants for the longest periods, and shall provide a procedure that the authority will follow in notifying the internal revenue service of noncompliance

with the provisions of section 42 of the internal revenue code of 1986 of which the authority becomes aware. The plan shall set forth the process for selecting eligible projects and may be amended from time to time in accordance with its terms and the requirements of section 42 of the internal revenue code of 1986.

The State of Michigan is dedicated to ensuring that low-income persons and families have access to safe, sanitary housing, through both new construction and preservation of the existing affordable housing stock. Michigan's LIHTC program assists the development of affordable housing, but also reduces blight, provides recreational and communal facilities to low income residential areas, promotes local business enterprises, and revitalizes and diversifies the State's overall economy.

In 2003, the Michigan Land Use Leadership Council ("the Council") issued a report entitled *Michigan's Land, Michigan's Future*. The Council recommended ten growth tenets for making the most effective use of Michigan's land. These include:

1. Create a range of housing opportunities and choices
2. Create walkable neighborhoods
3. Encourage community and stakeholder collaboration
4. Foster distinctive, attractive communities with a strong sense of place
5. Make development decisions predictable, fair, and cost-effective
6. Mix land uses
7. Preserve open space, farmland, natural beauty and critical environmental areas
8. Provide a variety of transportation choices
9. Strengthen and direct development towards existing communities
10. Take advantage of compact development design

These recommendations, along with the newly revised best practices from the National Council of State Housing Agencies, have been incorporated into the 2005-2006 Qualified Allocation Plan.

II. Approval of Qualified Allocation Plan

Pursuant to Section 42(m)(1)(A) of the Internal Revenue Code of 1986, as amended, and Section 22(b)(4) of Public Act 346 of 1966, of the State of Michigan, as amended, the Qualified Allocation Plan (QAP) shall be prepared by the Michigan State Housing Development Authority ("the Authority"), submitted to the legislature, and approved by the Governor after notice to the public and public hearing. Notice of the public hearing will be published on the Authority's website and in newspapers of general circulation throughout the state at least fourteen days prior to the public hearing. Comments received shall be taken into consideration and a written summary of such comments shall be provided to the Governor together with the request for approval of the Plan. Low income housing tax credits shall be allocated in accordance with this Plan and any amendments thereto.

III. Signatory Authority/Disclaimer

Reservations, Commitments, and Allocations (including Carryover Allocations) will be made by the Authority's Executive Director or the Authority's Director of Legal Affairs.

The allocation of tax credits shall be at the discretion of the Authority. The Authority and its directors, employees, and agents shall not be liable for any matters arising out of or

in relation to the allocation or administration of the low-income housing tax credit.

IV. Funding Rounds and Availability of Credit

A. Funding Rounds

The Authority may hold up to three competitive funding rounds in each calendar year. Funding rounds will be publicized on the Authority's website (www.michigan.gov/mshda), and the Authority may adjust the funding round schedule (including the number of rounds held) if required by law or other compelling circumstances.

The following table outlines the anticipated schedule for funding rounds in calendar years 2005 and 2006, including the approximate percentage of annual tax credit authority available for each round. The year noted in the funding round column refers to the calendar year in which it is expected credit will be allocated.

Funding Round	Application Due Date	Expected Award Date	Tax Credit Available
2005 Round 1	Monday, March 7, 2005	May 2005	50%
2005 Round 2	Monday, August 1, 2005	October 2005	40%
2006 Round 1	Monday, March 6, 2006	May 2006	50%
2006 Round 2	Monday, August 7, 2006	October 2006	40%

The Authority will accept a maximum of two applications per funding round from an owner, sponsor, developer or related party or entity, and award tax credits to a maximum of two projects per year (up to a maximum \$1,500,000 total tax credit) proposed by an owner, sponsor, developer or related party or entity. Related parties include sponsors, developers, owners, and general partners who are affiliated through any application of a proposed tax credit development. Determining whether parties are related is at the sole discretion of the Authority.

Applications must be received in the Authority's Lansing office no later than 5:00pm on the application due date of the funding round. Applications may be sent via delivery service (e.g., post, overnight, courier), or dropped off in person, but must be received by 5:00pm on the application due date. **Applications received after the due date or time will be returned to the applicant.**

Each funding round will consider applications for developments within three categories: preservation projects, small projects, and general projects. **Applications submitted in a funding round must elect one and only one of these categories.** The Authority will consider applications in each category separately. Applications selecting more than one category will not be accepted by the Authority and will be returned to the Sponsor.

Approximately 30% of the annual tax credit authority in 2005 and 2006 will be held for projects that meet the Authority's requirements for preservation of existing low-income units. (See Eligibility Requirements, Sec. VI(A)(16) below.)

Approximately 10% of the annual tax credit authority in 2005 and 2006 will be held for small projects of one to twenty-four units (inclusive of manager's unit, if provided) that meet the requirements for allocation under this Plan. Projects of more than 24 units may not be

purposely divided in order to compete in this category. Further, applications for projects under this category will not be accepted for processing if the proposed development is to be located within a two-mile radius of a development to which the housing credit has been awarded but that has not been placed in service.

Approximately 50% of the annual tax credit authority in 2005 and 2006 will be available to general projects. Applications for preservation or small projects may be submitted within this category; however, such applications will be considered along with all standard developments submitted. Preservation projects submitted as a general project must meet the threshold requirements for preservation projects under Section IV(A)(16).

The above percentages apply to the overall annual tax credit authority, not the total credit available in each round. Credit allocations within each round may deviate from these percentages.

Applications must meet or exceed a threshold score established by the Authority for each category. Threshold scores for each category will be published on the Authority's website at least 90 days before the funding round application due date. Applications not meeting the threshold score on the self-scoring worksheet will be returned without further evaluation. If a self-score meets the threshold, the Authority will then review the application and determine an official score. Applications that fall below the threshold score after an initial review by Authority staff will be returned without further evaluation.

Once the Authority has determined which applications meet or exceed the threshold score, the Authority and representatives from the for-profit and non-profit development community will conduct a lottery to determine the **order** in which applications meeting the threshold score will be evaluated. Based on the order established by lottery, the Authority will evaluate applications representing approximately 150% of the available credit allocated in each category. If there are deficiencies within an application selected for evaluation, the deficiencies will be noted and processing of the application will be suspended. Applicants will have an opportunity to cure deficiencies, and will be placed at the bottom of the evaluation list when acceptable corrections are received by the Authority. Re-evaluation and awarding of credit for a suspended application will depend upon the availability of credit as other applications are evaluated and the suspended application advances from the bottom of the evaluation list. Once the credit authority for each category in each funding round has been reserved, detailed evaluations of remaining applications will cease and any applications not reviewed must be submitted in a subsequent funding round for further consideration.

The Authority may request additional material if an otherwise eligible project faces possible rejection because of an oversight. Requested material must be submitted within ten days. Under no circumstances will it be used to change a project score.

B. Cool Cities Holdback

Approximately 10% of the annual tax credit authority will be held for Cool Cities developments. Developments qualifying for the Cool Cities holdback will be limited to projects of 24 or fewer units (including manager's unit, if provided) within a designated Cool Cities neighborhood. These projects will not be subject to a funding round; however, credit must be requested in writing prior to August 15 and no one project may be awarded more

than 50 percent of credit available for such projects under the Cool Cities holdback. In order to be eligible, applications must be accompanied by a plan describing the details of the project and how the proposed development meets the objectives of the Cool Cities program. The Authority will publish a policy bulletin outlining the specific documentation that must be provided for applications submitted under the Cool Cities Holdback. For more information about the Cool Cities Initiative, please visit (www.coolcities.com).

C. Credit Allocation Limits

No one owner, sponsor, developer or related party or entity will be eligible to receive reservations for more than an aggregate of \$1,500,000 of the total tax credit available for a given calendar year. However, the Authority reserves the right to waive this limit should it, in its sole discretion, determine that a project merits an exception.

A tax credit ceiling based on geographic location will be imposed on developments located within a city, village, or township. For 2005 and 2006, no more than 35% of the credit available in a funding round will be allocated to projects located within a single city, village, or township.

D. Additional Credit

For projects receiving an award or allocation of housing credit, applications for additional credit may be submitted in conjunction with any competitive funding round; provided however, that after the placed-in-service date, no additional credits may be applied for during the 15-year compliance period.

To the extent that there is available credit after October 1 in any calendar year, Reservations and Carryover Allocations may be awarded at the Authority's discretion to projects that have been determined in a previous funding round to be eligible for credit but for which no credit was previously available. In order to award credit in this manner, the Authority's Director of Legal Affairs shall convene a panel of Authority staff, non-profit and for-profit developers or other affordable housing professionals to review eligible projects and to make funding recommendations to the Authority's Executive Director.

Once credits have been awarded or allocated by the Authority, applications for additional credit will not be allowed to change the tenant income level configuration originally elected unless the change is to reach more low-income tenants, lower-income tenants, or both.

V. **Statutory Set-Asides**

The State of Michigan has created statutory "set-asides" (see Section 22b(5) of P.A. 346 of 1966, as amended) based on housing needs within the state. The purpose of these set-asides is to assure that the low income housing tax credit will be used to create and to preserve affordable housing opportunities for both urban and non-urban citizens of the State. The following percentages of the state's total credit ceiling for a calendar year have been reserved:

Category	Set-Aside
Qualified nonprofit organization ¹	not less than 10%
Rural Housing Projects ²	not less than 10%
Housing projects in eligible distressed areas	not less than 30%
Housing projects for the elderly ³	not less than 10%

¹ Pursuant to Section 42 of the Internal Revenue Code

² Defined as proposed or existing housing projects that fall into one or more of the following categories: 1) located in an area other than a metropolitan county; 2) funded by a federal program for the development of rural housing; and 3) financed by a loan guaranteed by Rural Housing Services or a successor agency. RHS 515 projects will be awarded credit before projects with RHS 538 loan guarantees. Rural housing projects of 50 units or more must compete in other set-asides.

³ Defined as projects in which 100% of the units will be occupied by a single person who is 55 years of age or older or a household in which at least one member is 55 years of age or older and all other members are 50 years of age or older.

With the exception of the nonprofit set-aside, if the amount of low income housing tax credit dollars set aside in these categories has not been allocated before October 1 of the year in which that credit amount is authorized, the Authority may reapportion unallocated credit amounts thereafter. For purposes of meeting these set-asides, projects will be counted in only one category.

Applications, when received, will be placed into the appropriate set-aside categories, if applicable, for scoring in accordance with the selection criteria set forth in the Plan.

VI. Eligibility Requirements

When an application is received, it will be reviewed for eligibility to be scored and evaluated. In order to be eligible for scoring and evaluation, certain threshold requirements must be met. The application must be made on a completed form prescribed by the Authority, including the mandatory exhibits prescribed below and in the application.

All projects will be given the opportunity to submit their market study, environmental review, special needs exhibits, or tax credit application to the appropriate MSHDA staff member prior to the funding round. These materials must be submitted at least 30 days prior to application submission if a pre-review is requested. Pre-reviews requested less than 30 days prior to application submission will not be reviewed. Pre-reviews are not a final determination of either points or Tax Credit award. Tax Credit awards will be solely based on the information/documentation submitted in the final application. Applicants are responsible for addressing recommendations made by tax credit staff prior to funding round submission.

DETERMINATION OF ELIGIBILITY DOES NOT ENTITLE AN APPLICANT TO AN ALLOCATION OF TAX CREDITS. THE ABOVE ARE THRESHOLD REQUIREMENTS FOR SUBMITTING A TAX CREDIT APPLICATION TO THE AUTHORITY.

A. Threshold Requirements – All Applicants

The following exhibits must be included with any application, in tabs as outlined therein:

- 1) Evidence of site control and ability to keep same for 120 days from the application

due date.

- 2) Evidence from the municipality of the property's current zoning designation and what, if any, steps are in process to obtain proper zoning for the proposed development; evidence from the municipality and/or utility companies regarding the availability of utilities.
- 3) Level I environmental review in accordance with ASTM standards or, if determined by the Level I or the Authority, a Level II together with remediation plan if necessary, costed in detail and accounted for in the Sources and Uses Statement. Projects will be rejected if the Level I does not meet ASTM standards or if the Authority determines that additional testing is necessary.
- 4) Evidence of submission of application(s) stating the amount of the loan, terms, and interest rate to a mortgage lender(s): in the case of a RHS project, the completed AD 622 form or a letter signed by an official of RHS; in the case of conventional financing, documentation from the lender(s) stating that a formal application for construction and permanent financing has been submitted and is under serious consideration; and in the case of an Authority financed project, evidence that the project has passed initial determination.
- 5) A market study that indicates the housing needs of low-income individuals in the area to be served by the project that is completed in accordance with the Authority's guidelines. The market study must be prepared by an Authority approved market analyst and must be acceptable to the Authority. The Authority may adjust proposed rents for purposes of feasibility. Projects will be rejected if the Authority deems the market study insufficient.
- 6) Pro forma financial projections submitted on the form and in the format prescribed by the Authority.
- 7) Statement of sources and uses of funds.
- 8) Title Insurance Commitment dated within six months of the application due date.
- 9) Documentation of federal tax-exempt status, if applying under the non-profit set-aside.
- 10) Executed agreement between the sponsor and the non-profit if applicable and, if applying under the non-profit set-aside, or for points.
- 11) A narrative description of the project which includes the type of project; location; type of financing; tenants served, bedroom mix; local, federal or state subsidies; and any other relevant descriptive information.
- 12) For acquisition/rehabilitation projects of existing low-income units financed by HUD, RHS, or MSHDA, written evidence from the appropriate agency that the transfer application has been submitted.
- 13) New construction projects will be required to provide certification from the architect that all units will be equipped for high-speed internet capability. This may be

accomplished by connecting each unit to a separate data network using either Category 5e wiring or by installing a wireless Local Area Network (LAN) server and providing each unit with at least one wireless LAN card.

- 14) At least 10% of the units must be reserved for special needs tenants in any project except for small projects or projects applying under the Cool Cities holdback.
- 15) Any development serving special needs must submit the exhibits requested on page 7 of Addendum III to receive credit.
- 16) By submitting an application for tax credits, all applicants waive the right under Section 42 of the Internal Revenue Code to request that the Authority find a buyer for the project in year 14 of the compliance period. The extended use commitment shall not terminate at the end of the compliance period.

B. Threshold Requirements – Preservation Projects

In addition to meeting the other requirements of the Michigan Qualified Allocation Plan, applications competing for credit reserved for preservation projects must meet the following threshold requirements.

- 1) Eligible properties include:
 - a. Section 236
 - b. Section 8
 - c. Section 202
 - d. Rural Development
 - e. MSHDA-financed
 - f. HUD-financed
 - g. Low Income Housing Tax Credit
- 2) Projects must either:
 - a. Be within two years of any permitted prepayment or equivalent loss of low income use restrictions, and must remain low income for the longer of fifteen years or the length of the mortgage; or
 - b. Preserve already existing low income units provided the rehabilitation will repair or replace components that are:
 - i. In immediate need of repair or replacement; or
 - ii. Substantially functionally obsolete or will provide modifications or betterments consistent with new code requirements or the Authority's design requirements.
- 3) The owner must agree to maintain the tax credit affordability of the development for a period of at least 30 years.
- 4) Low income targeting:
 - a. 10% of the LIHTC units in a development must have income and rents set at 40% of median income (inclusive of existing units). A deep subsidy contract for a minimum of 5 years will satisfy this requirement.
 - b. 10% of the LIHTC units in a development must have income and rents set at 30% of median income (inclusive of existing units). A deep subsidy contract for a minimum of 5 years will satisfy this requirement.

- 5) Projects with federal assistance must retain the assistance.
- 6) For projects of 49 units or fewer, the combined total of the developer fee, developer overhead, and any consultant fees will be limited to 15% of the total development cost, not to exceed \$1,000,000. For projects of 50 units or more, the combined total of the developer fee, developer overhead, and any consultant fees will be limited to 10% of the total acquisition costs and 15% of the total rehabilitation costs, not to exceed \$1,000,000. Excess fees will be deducted from total development costs and eligible basis. If an existing project is split into two or more projects, the aggregate developer fee for all projects cannot exceed \$1,000,000.

C. Disqualification

Projects submitted by an owner, sponsor, developer or related party or entity that currently has a project or projects out of compliance will not be accepted until the event of non-compliance is corrected.

VII. Evaluation Criteria

The Authority will evaluate applications for tax credits in accordance with the principles and requirements discussed herein, and, where applicable, a competitive scoring process. Under no circumstances will any application subject to a competitive scoring process give rise to an entitlement or legal right to an allocation of tax credits. The allocation of tax credits shall be entirely at the discretion of the Authority.

In general, the Authority will give preference to projects serving the lowest income tenants and projects obligated to serve qualified tenants for the longest periods of time. The Policy Bulletins, incorporated here by reference, set forth additional requirements for tax credit applicants. Projects subject to a competitive funding round will be scored according to the point system outlined in the Scoring Summary section of Addendum I of the Combined Primary Application. The selection criteria set forth in the Scoring Summary are incorporated into the QAP by reference. Any changes to a project that require a re-scoring or re-evaluation in which the score falls below the minimum threshold of the category in which they were funded will not be allowed from the time of initial application until the project is placed in service.

Geographic location of a development will be considered in three different ways. First, the statutory set-asides for rural and distressed areas discussed in Section V above will be applied. Second, points based on project location will be awarded in accordance with the Scoring Summary in the Combined Primary Application. Finally, after applications have been categorized and scored, the award of tax credits will be subject to the tax credit ceiling for individual cities, villages, or townships discussed in Section IV(C).

The proposed site, including any existing improvements, must support the market population in terms of desirability of location; environmental quality; adequacy of utilities and transportation; proximity to civic, social and commercial services; and appropriateness of the proposed development to the specific site (e.g., conformance with neighborhood character and land use patterns; impact on surrounding area; extent to which the proposal furthers local revitalization efforts; visual impact).

The development team will be evaluated for professional capacity to plan, build, market, and operate the proposed development. The performance record of the sponsor, consultant, architect, management agent and contractor will be measured by the quality and quantity of previous development, design, construction and property management efforts, as well as affirmative action records. Each team member is expected to demonstrate satisfactory prior experience on projects of similar scale and complexity; to have satisfactory professional references; and to devote sufficient staffing and resources to complete the proposed development. If a development team member does not have satisfactory prior experience, a written plan must be submitted to outline how this technical capacity will be achieved. The mortgagor and contractor will also be evaluated for creditworthiness and financial capacity. The composition of a non-profit sponsor's Board of Directors and the tenure of its respective members will be given significant consideration.

For service-enriched housing proposals, development team members will also be evaluated on the basis of demonstrated success in (i) the development, design and construction of housing with supportive services; and (ii) the planning and delivery of services including adequacy of staffing and/or oversight of third party contracts for services.

VIII. Underwriting Standards

The Authority will perform an evaluation of the project costs to determine reasonableness as compared to other projects in similar areas. Generally, costs in excess of 110% of the Department of Housing and Urban Development's 221(d)(3) Mortgage Limit for the area will not be permitted to be included in eligible basis (although such costs are not prohibited). However, in unusual and well-documented cases, costs in excess of these limits may be included in eligible basis. Unusual cases may include, but are not limited to, small size projects, projects located in qualified census tracts, projects with deep rent targeting, projects sponsored by local nonprofit organizations, or difficult substantial rehabilitation projects. Costs includable in eligible basis shall not exceed the greater of 110% of the HUD 221(D)(3) Mortgage Limit or \$90,000 per unit. Developments processed under the Corporation for Supportive Housing/MSHDA initiative may include costs above 110% of the HUD 221(d)(3) limits and/or over \$90,000 per unit in eligible basis.

In making its determination of the housing credit dollar amount necessary for the financial feasibility of a project and its viability as a qualified low income housing project throughout the credit period, the Authority will consider the sources and uses of funds and the total financing planned for the project, and any proceeds or receipts expected to be generated by reason of tax benefits. **HOWEVER, SUCH A DETERMINATION BY THE AUTHORITY SHALL NOT BE CONSTRUED TO BE A REPRESENTATION OR WARRANTY AS TO THE FEASIBILITY OR VIABILITY OF THE PROJECT.**

In conducting its evaluations, the Authority will apply the following reasonableness standards in regard to fees:

1. Consultant Fees (excluding "consultants" normally used in the development process, such as market analysts, environmental consultants, construction manager/consultant when not included in the construction contract, etc) - Must be included in and paid from the developer fee.

2. Developer fee for projects subject to state housing credit ceiling:

The combined total of the developer fee, developer overhead, and any consultant fees will be limited to 15% percent, not to exceed \$1,000,000. This is calculated as 15% of the total development cost excluding developer fee, developer overhead, and consultant fees.

If an existing project is split into two or more projects, the aggregate developer fee for all projects cannot exceed \$1,000,000.

3. Developer fee for projects not subject to state housing credit ceiling:

For projects consisting of 49 units or fewer and receiving an allocation of housing tax credit by virtue of being financed with tax-exempt bonds, the combined total of the developer fee, developer overhead, and any consultant fees will be limited to 20% of the total development cost excluding developer fee, developer overhead, and consultant fees, not to exceed \$2,000,000.

For projects consisting of 50 to 150 units and receiving an allocation of housing tax credit by virtue of being financed with tax-exempt bonds, the combined total of the developer fee, developer overhead, and any consultant fees will be limited to 15% of the total development cost excluding developer fee, developer overhead, and consultant fees, not to exceed \$2,000,000.

If an existing project is split into two or more projects, the aggregate developer fee for all projects cannot exceed \$2,000,000.

4. For projects involving acquisition and rehabilitation, an amount equal to at least 5% of the acquisition cost must be allocated to acquisition for purposes of attribution to the developer fee.

5. A maximum of 70% of the developer fee can be used for project costs.

6. Construction Contract Items

a. General Requirements - 6% of construction contract, exclusive of builder profit, builder overhead, and general requirements.

b. Builder Overhead - 2% of construction contract, exclusive of builder profit and builder overhead.

c. Builder Profit - 6% of construction contract, exclusive of builder profit.

7. Projects of 49 units or fewer may aggregate general requirements, builder overhead, and builder profit to a maximum of 20% of the construction contract.

8. Construction manager/consultant fee when not included in the construction contract - maximum of \$50,000.

Excess fees will be deducted from total development costs when performing the gap calculation.

9. In general, for projects involving rehabilitation, the hard construction costs for the rehabilitation of the buildings must not be less than \$7,500 per unit. For projects competing for credit reserved for preservation, the hard construction costs for the rehabilitation of the buildings must not be less than \$15,000 per unit.
10. Rent increases will be limited to no more than 5% per year for the first three years.
11. Identity of Interest - If an identity of interest exists between the sponsor and the general contractor, incentive fees may only be paid to the extent that they are included in the above mentioned fee limitations. A general contractor may act as a subcontractor and may be entitled to additional overhead and profit otherwise payable to an independent subcontractor. However, the general contractor's overhead, profit, and general requirements that may be included as allowable project costs are limited to the percentages noted above.

In determining the feasibility of a project over the compliance period, the Authority has established minimum and maximum standards for operating expenses, vacancy rates, increases in operating costs and expenses, project income, debt service coverage ratio, operating reserves, and replacement reserves. (See Tab O of Combined Application)

IX. First Evaluation and Award of Reservations

Project applications that include all required information and documentation in a form and manner acceptable to the Authority, and that meet or exceed the threshold score established by the Authority will be eligible to be evaluated for receipt of a Reservation of tax credit.

The evaluation will consider the project's economic feasibility and financial viability over the 15-year compliance period and will consider project costs and expenses. If the project is not feasible over the fifteen-year credit period, the project will be rejected.

An equity gap calculation will also be performed to ensure that only the amount of credit necessary to make the project feasible will be awarded. The equity gap is determined by subtracting the syndication costs, all permanent financing amounts, and any other applicable amounts from the total development cost (after deductions are made for excess fees). This total is then compared to the value of the credit that the project is eligible to receive based on its qualified basis. The amount of credit awarded will be that for which the value is the lesser of the two.

Once the Authority has conducted the evaluation and determined the amount of tax credit to be reserved, it will issue a Reservation on its prescribed form to the applicant.

Reservations shall be valid for 120 days from the date of issuance by the Authority, at which time all documentation required for a Commitment will be submitted to the Authority.

The Authority, at the time it issues the Reservation, shall notify the chief executive officer of the locality in which the project is to be located of the proposal, and shall give

reasonable opportunity for comment by that chief executive officer.

Reservations, Commitments, and/or Carryover Allocations are non-transferable either to another entity or within the same entity where there is a change in control or general partner interests, except with the express written consent of the Authority, it being the explicit intention of this plan to prevent one party from obtaining such a Reservation, Commitment, and/or Carryover Allocation in order to sell or "broker" its interest in the proposal (except for syndication purposes). Because all representations made with respect to the owner, sponsor, developer or related party or entity, its experience and previous participation are material to the evaluation made by the Authority, it is not expected that the Authority's consent will be granted for such transfers unless a new application is submitted and scores no less than the original application.

X. Evaluation of Developments Subject to Subsidy Layering

The Authority, as Michigan's sole housing credit agency for administration of the low income housing tax credit, and the Department of Housing and Urban Development (HUD), have entered into a Memorandum Of Understanding which outlines the Authority's Section 911 subsidy layering review of projects receiving tax credit and "assistance" from HUD'S Office of Housing. Until such time as guidelines are published and the Authority accepts such delegation, the Authority will not be performing subsidy layering reviews for projects receiving assistance under HUD'S Offices of Public and Indian Housing and Office of Special Needs Assistance Programs.

In connection with the subsidy layering evaluations performed by the Authority as the housing credit agency, the following standards will be applied:

1. Profit and Fees – Projects with layered subsidies will be subject to the provisions outlined in Section VIII, Underwriting Standards, regarding the developer fee and the builder's profit, overhead, and general requirements.
2. Syndication Expenses - The total expenses, excluding bridge loan costs, incurred by the sponsor in obtaining cash from the sale of project interest to investors through public offerings will generally be evaluated as not exceeding 15% of gross syndication proceeds but may, in the event that the Authority determines special market or risk factors to be involved, be evaluated up to 24% of gross syndication proceeds. Similarly, the Authority will generally evaluate private offering expenses at 10% of gross syndication proceeds, excluding bridge loan costs, but may use a figure of up to 15%.
3. The Authority will, in its evaluation, apply an applicable market rate, expressed in cents netted per dollar of credit as of the project's placed in service date, in calculating maximum low income housing tax credit, and valuing all payments, whether by installment or in one lump sum. This applicable market rate will be based upon factors including the project's market value, comparable, contemporary syndications, and the Authority's judgment regarding market trends. Where a higher than usual ownership percentage is retained, the following will apply: if an owner retains between a 5-50% interest, an additional \$.10 will be added to the applicable market rate, and if ownership of over 50% is retained, an additional \$.20 will be added to the market rate used for the evaluation.

With regard to these standards, the Authority may choose to evaluate using less than the standards set forth herein.

XI. Second Evaluation and Commitment

Prior to the expiration of the Reservation, the sponsor must submit to the Authority acceptable evidence of the following:

- 1) Firm commitment(s) and certification(s), dated within 30 days of application submission, of all federal, state, and local subsidies that will apply to the project.
- 2) Firm commitment(s) for construction and permanent financing, dated within 30 days of application submission, (for RHS projects, the 1944-51 or a letter signed by an official of RHS which commits funds to the project; for conventional construction and permanent financing, letters of commitment from the lender which are accepted by the sponsor, or signed mortgage documents; for Authority financing, a copy of the Mortgage Loan Feasibility Resolution).
- 3) Necessary local approvals, including zoning (for rehabilitation projects a letter from the municipality must be submitted, stating that the zoning is compatible with the proposed use of the buildings), the project specific tax abatement ordinance or an area-wide tax abatement ordinance with a qualifying resolution which meet Authority requirements (for projects located in the City of Detroit, the project specific tax abatement resolution, or the Detroit tax abatement ordinance and a letter from the City of Detroit stating that the project is eligible for tax abatement), and final site plan approval. (For rehabilitation projects, a letter from the municipality indicating that the relevant board or commission of the municipality has reviewed the proposal, including the level of rehabilitation work to be completed, the site, and that no further plan approvals are necessary.)
- 4) Letter of intent from the equity provider indicating that review of the project has begun, and stating the amount of equity to be paid, the timing of such payments, the amount of credit expected by the investor, and which is accepted by the sponsor.
- 5) Certification from the equity provider that it has received a letter of intent that has been accepted by the sponsor.
- 6) Project schedule (updated).
- 7) Pro-forma financial information (updated).
- 8) Sources and Uses Statement (updated).
- 9) Formation of ownership entity (Documentation received by the Department of Labor and Economic Growth's Bureau of Commercial Services, where applicable). Out-of-state entities must submit a copy of an endorsed application for certificate of authority to transact business or conduct affairs in Michigan, along with the supporting documentation submitted with the application.
- 10) A capital needs assessment for rehabilitation projects.
- 11) An appraisal for **all** projects. All appraisals must be less than one year old.

Upon receipt of this information, the Authority will review submitted documentation and, if deemed acceptable, will issue a Commitment document.

If changes to the Low Income Housing Tax Credit Program as enacted by Congress in any given calendar year so dictate, Reservations and/or Commitments of such Authority may be subject to different expiration dates depending on the nature of any changes in the federal program.

XII. Carryover Allocations

A Carryover Allocation will be issued to projects at the time of reservation. Projects that

receive an allocation of credit prior to July 1 must provide evidence, acceptable to the Authority and in accordance with any applicable federal regulations, from a Certified Public Accountant no later than December 1 that more than 10% of the project's reasonably anticipated basis has been incurred in the year in which the Carryover Allocation is issued. Projects receiving a Carryover Allocation on or after July 1 will be given six months from the date of the allocation to incur more than 10% of the project's reasonably anticipated basis and to provide documentation of such to the Authority. A second financial evaluation of the project based on updated information will be conducted at the time this certification is submitted.

In the event that a Commitment has not been issued prior to issuance of a Carryover Allocation, all requirements for the Commitment must be fulfilled within 120 days of the issuance of the Reservation or the Carryover Allocation shall become null and void. In the event that "Readiness to Proceed" points have been awarded to the project prior to issuance of a Carryover Allocation, all requirements must be met within 120 days of the issuance of the Reservation or the Carryover Allocation shall become null and void.

XIII. Project Reconfiguration and Exchange of Credit

Project evaluations are performed on the information that is provided in the initial application for reservation. This information is material to the determination of project score, the amount of credit reserved, and the feasibility of the project during the compliance period. Any changes to a project that require a re-scoring or re-evaluation in which the score falls below the minimum threshold of the category in which they were funded will not be allowed from the time of initial application until the project is placed in service.

In certain unusual circumstances, delays may occur which will prevent the project from being placed in service at the end of the second calendar year from the date of the Carryover Allocation. The Authority may allow the credit to be returned and may issue a Carryover Allocation in the year in which the credit is returned without the necessity of competing for funding provided certain conditions, including an assessment of facts by the Authority, are met.

At no time will any project be allowed more than three calendar years from the date of initial application to project completion unless approved by the Authority.

XIV. Fees

All applications must be accompanied by a check or money order in an amount equal to \$35 for each proposed low income unit, with a \$1,500 maximum limit. This fee is non-refundable and must be paid in each funding round in which a project is seeking to be scored and/or evaluated. A fee of \$100 will be assessed each time a check is returned to the Authority for non-sufficient funds.

The Authority will charge a fee equal to 6% of the annual tax credit dollar amount reserved for a project. A sum equal to 3% of the annual tax credit dollar amount shall be submitted to the Authority at the time of Reservation. Should a project that has received a Reservation return that Reservation to the Authority within 90 days of its receipt, 50% of the fee shall be refundable; however, after 90 days, 0% shall be refundable. The remaining 3% shall be paid at Commitment. Projects in which the sole general partner is a nonprofit entity or a wholly owned for-profit subsidiary of a nonprofit entity may defer all but the initial

application fee, until such time as closing on the equity contribution occurs.

In addition to the fees listed above, the Authority may establish such other fees as may be necessary to effectively administer the program. Such fees may include, but not be limited to, charges to process waiver requests, changes in ownership, and subsidy layering reviews. The Authority shall publish a schedule of such fees 60 days prior to implementation.

Compliance monitoring fees will be charged for the credit period as follows:

All units for which an allocation of credit was not made by December 31, 2000 must pay the sum of \$300 per low income unit, which amount will cover the entire monitoring period and is payable prior to issuance of Form 8609. All units that received an allocation of credit prior to January 1, 1993, and all projects financed by the Authority that received an allocation of credit before January 1, 1997, may elect to submit a sum equal to \$15 per low income unit on an annual basis for the remainder of the compliance period, or may opt to make one payment similar to that described above. With the exception of projects financed by Rural Development, all projects that received an allocation of credit prior to January 1, 2001 must pay an additional inspection fee of \$30 for each unit to be inspected once every three years. Projects financed by Rural Development must pay an additional fee of \$20 per each unit to be inspected once every three years. This fee shall be paid at the time of submission of the annual owner certifications. Failure to submit any compliance or inspection fee will be considered non-compliance.

XV. Tax-Exempt Financed Projects Not Subject to Housing Credit Ceiling

In accordance with Section 42(m)(2)(D) of the Internal Revenue Code of 1986, as amended, projects which do not receive an allocation from the State's credit ceiling because they qualify under Section 42(h)(4) by virtue of being financed with tax-exempt obligations issued after December 31, 1989, must satisfy the requirements for allocation of a housing credit dollar amount under this Plan, and shall be subject to the evaluations required herein, but shall not be subject to the funding rounds.

Authority projects financed with tax-exempt obligations shall be subject to the fees enumerated in Section XIV above.

Applications for Authority projects financed with tax-exempt bonds that include all required information and documentation in a form and manner acceptable to the Authority, and that meet or exceed the threshold score of 100 will be eligible to be evaluated for receipt of a Reservation of tax credit.

XVI. Subsequent Evaluations

The Authority will further evaluate the project at the time of making a Carryover Allocation and again at the date each building is placed in service. When the project/building is placed in service, and prior to the issuance of an 8609, the owner must submit to the Authority acceptable evidence of the following:

- 1) Updated application.
- 2) Independent, third party final owner's and contractor's cost certifications for all projects.
- 3) Certificates of occupancy, or equivalent for rehabilitation work.

- 4) Executed limited partnership agreement and all attachments.
- 5) Copy of permanent mortgage and other permanent financing sources.
- 6) Copy of deed to property showing partnership as owner, including correct property description.

XVII. Compliance Monitoring and Notification of Noncompliance

Owners receiving a tax credit allocation shall be required to follow the requirements outlined in the Authority's Requirements and Procedures for Compliance Monitoring.

A. Owner Responsibilities

The records for the first year of the credit period must be kept for six years after the due date (with extensions) for filing the federal income tax return for the last year of the compliance period. Owners must keep subsequent records on file for six years after the due date (with extensions) for filing the federal income tax return for that year. These records must include:

- ◆ the total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each unit);
- ◆ the percentage of residential rental units in the buildings that are low-income units;
- ◆ the rent charged on each residential rental unit in the building;
- ◆ the number of occupants in each low-income unit if rent is determined by the number of occupants in each unit;
- ◆ the low-income unit vacancies in the building and information that shows when and to whom the next available units were rented;
- ◆ income certifications of each low-income tenant and the documentation to support the certification;
- ◆ the eligible basis and qualified basis of the building at the end of the first year of the credit period; and
- ◆ the character and use of the nonresidential portion of any building included in the project's eligible basis.

Owners must keep, for inspection by the Authority, the original local health, safety or building code violation reports or notices that are issued by the state or local government unit. These reports may be destroyed following an inspection by the Authority and notification to the owner that the violations have been corrected. Code violation reports must be retained for uncorrected violations.

Owners must submit to the Authority on an annual basis the following:

- ◆ an Owner Certification Form certifying that for the preceding twelve month period the project met certain conditions outlined in Section 42;
- ◆ a Tenant Income and Rent Report stating the number of qualifying units; and
- ◆ information on each low-income tenant, the number of bedrooms in each unit, the rent charged for each unit, and any other information as set forth on the form.

B. Authority Responsibilities

Each year the Authority will review the Owner Certification Forms and Tenant Income and Rent Reports for compliance with program requirements.

The Authority, or its authorized agent, will physically inspect 20% of the low-income units in a project and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for 20% of the low-income units no later than the end of the second calendar year following the year the last building in the project is placed in service.

The Authority, or its authorized agent, will conduct a physical inspection of all buildings and 20% of the low-income units in a project, and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for 20% of the low-income units at least once every 3 years. Inspections may be more frequent for projects receiving assistance through other state or federal programs in addition to the LIHTC.

The Authority retains the right to perform an on-site inspection of any low-income building at any time during the compliance period for low-income housing tax credit.

The Authority shall retain records of noncompliance or failure to certify for six years after its filing of a Form 8823. The Authority shall retain all certifications and records for not less than three years from the end of the calendar year in which they are received.

Any monitoring of continuing compliance is being done by the Authority to assure that public purpose goals are being achieved and any failure to receive notice of noncompliance SHOULD NOT BE RELIED UPON BY ANY OWNERS OR THEIR INVESTORS AS A WARRANTY OR REPRESENTATION BY THE AUTHORITY THAT THE PROJECT IS IN COMPLIANCE WITH APPLICATION REQUIREMENTS.

C. Notification of Noncompliance

If any of the submissions required in Section A, including the Owner Certification, the Tenant Income and Rent Report, income certifications, supporting documentation, and rent records are not submitted in a timely fashion, or should there be omissions, the Authority shall request such information from the owner within 45 working days. If not provided within 20 working days, the Authority shall notify the Internal Revenue Service of the owner's failure to provide the required information.

Should the Authority discover, as a result of an inspection or review, or in any other manner, that the project is not in compliance with Section 42, or that credit has been claimed or will be claimed for units that are ineligible, the Authority shall notify the owner within 45 working days. The owner shall have 20 working days in which to commence appropriate action to cure such noncompliance. The owner shall have a maximum of 90 days from the date of notice to the owner to cure the noncompliance. The Authority shall notify the Internal Revenue Service, utilizing Form 8823, no later than 45 days after the end of the correction period, and no earlier than the end of the correction period, of the nature of the noncompliance and will indicate to the Service whether or not the owner has made appropriate corrections. In extraordinary circumstances, and only if the Authority determines that there is good cause, an extension of up to six months to complete a cure for noncompliance may be granted.

While the Authority will notify the owner of compliance issues, neither a finding of noncompliance nor a determination that noncompliance has been cured is binding on the Internal Revenue Service. Owners who have received a notification from the Authority that

a project is in compliance may still be subject to an IRS audit and the possibility of loss or recapture of Housing Credits. Please refer to the Internal Revenue Code for all federal compliance issues.

XVIII. Modifications to the Qualified Allocation Plan

To the extent necessary to facilitate the award of low-income housing tax credits that would not otherwise be awarded, the QAP may be modified by the Authority from time to time. Under the terms of Section 22(b)(4) of Public Act 346 of 1966, of the State of Michigan, as amended, modifications to the QAP shall be prepared by the Authority, submitted to the legislature, and approved by the Governor after notice to the public and public hearing. The Authority reserves the right to modify the Scoring Summary and Policy Bulletin sections of the Combined Application at its discretion following notice to the public.

With the exception of requests for the exchange of credit, the Authority's Director of Legal Affairs may waive any conditions that are not mandated by Section 42 of the Internal Revenue Code on a case-by-case basis deemed necessary to facilitate the administration of the credit program or to address unforeseen circumstances. The Executive Director may also waive any conditions that are not mandated by Section 42 of the Internal Revenue Code, and has the exclusive authority to approve requests for the exchange of credit.

In unusual circumstances, and for good cause shown, the Authority's Executive Director may waive project-specific deadlines. In the event a waiver is granted, a fee of 5% of the annual credit amount may be charged.

To the extent that anything contained in this Plan does not meet the minimum requirements of federal law or regulation, or state law or regulation, such law or regulation shall take precedence over this Plan.

The QAP shall be valid until it is changed by the Authority.