

# Multifamily Housing

## *Application Package and Guidelines*

2003

**Pennsylvania Housing**

**Finance Agency**

2101 North Front Street

P.O. Box 8029

Harrisburg, PA 17110

(717) 780-3882

TTY (717) 780-1869

[www.phfa.org](http://www.phfa.org)



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# MULTIFAMILY HOUSING PROGRAMS

## APPLICATION PACKAGE

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### *INSTRUCTIONS*

The Pennsylvania Housing Finance Agency (“Agency”) has developed an application that combines the loan and tax credit applications into one document. The application has three main components, (1) Multifamily Program Guidelines, (2) Multifamily Application Instructions and (3) Multifamily Application.

The developer must be familiar with the guidelines prior to completing the Multifamily Housing Application. All applicants should periodically check the Agency’s website for updates and changes at [www.phfa.org](http://www.phfa.org).

In addition to this package, there are specific underwriting requirements regarding the policies, procedures and various review standards utilized by the Loan Programs and the Tax Credit Program. These requirements are available upon request and on the Agency’s website. **Reviewing the additional information on the Agency’s website is a prerequisite to completing the Application.**

### *Multifamily Housing Program Guidelines*

*Tab 1*

This section provides all Multifamily Housing Program Guidelines, including the Selection Criteria common to all applicants; the Low Income Housing Tax Credit Qualified Allocation Plan, the guidelines and requirements of Tax Credit Program; the PennHOMES Program, Taxable and Tax Exempt Bond Financing and the Construction Loan Program.

### *Multifamily Housing Application Instructions*

*Tab 2*

This section provides the information necessary to complete the Application and the additional submission requirements.

### *Multifamily Housing Application*

*Tab 3*

This section is the Application for all Multifamily Programs. It contains information that is used by both the loan and tax credit underwriting staff. Each submission to the Agency must contain the Multifamily Housing Application.



# Multifamily Housing Program Guidelines

## 2003

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**MULTIFAMILY HOUSING PROGRAM GUIDELINES**

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## GENERAL PROGRAM GUIDELINES

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### INTRODUCTION

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The Pennsylvania Housing Finance Agency (Agency) provides funding resources through programs designed to increase and preserve affordable multifamily housing rental properties throughout the Commonwealth of Pennsylvania. The Agency is the administrator of the Federal Low Income Housing Tax Credit Program (Tax Credits). It also provides loans for construction financing, taxable and tax exempt bond financed primary mortgages, and soft second financing. Soft second financing is through the PennHOMES Program, which includes resources from the Federal Home Investment Partnerships Program (HOME) through the Pennsylvania Department of Community and Economic Development (DCED), and the Agency's unrestricted reserves.

The following Multifamily Housing Program Guidelines explain the Agency's processing procedures, development requirements, and the various funding programs that may be accessed by completing the Agency's Multifamily Housing Application and other submission requirements as explained in the Multifamily Housing Application Instructions.

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### APPLICATION PROCESS

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For a development to be considered for a reservation of Tax Credits or a PennHOMES loan, the entire Multifamily Housing Application package, including all Exhibits, must be received by the Agency no later than **2:00 P.M.** on the closing date of the established Cycle. If the applicant is duplicating the Application for use on his/her computer, information must be duplicated exactly as it appears on the original Application. The Application or Exhibits may not be submitted to the Agency via fax or email.

<u>APPLICATION TYPE</u>	<u>SUBMISSION CLOSING DATE</u>	<u>CYCLE ALLOCATION</u>
Tax Credits and PennHOMES	October 14, 2002 and April 14, 2003	50%  50%
Volume Cap for Tax Exempt Bond Financing	October 14, 2002	Availability to be determined
Taxable Bonds, 501(c)(3) Tax Exempt Bonds and Construction Loans	Open	Open
PennHOMES and other loan applicants direct completed Applications and/or inquiries to: Development Division 717-780-3882 TTY 717-780-1869	Tax Credit only applicants direct completed Applications and/or inquiries to: Tax Credit Division 717-780-3948 TTY 717-780-1869	

Pennsylvania Housing Finance Agency

U. S. Postal Deliveries:  
P.O. Box 8029  
Harrisburg, PA 17105-8029

Hand Deliveries:  
2101 North Front Street  
Harrisburg, PA 17110

Applicants requesting **PennHOMES and Tax Credits** must submit **four copies**, applicants requesting **only PennHOMES** must submit **three copies**, and applicants requesting **only Tax Credits** must submit **one copy** of the completed Application with the required Exhibits, along with an Application fee, to the Agency. Staff review of the Application will determine its acceptability for processing.

Applications must be tabbed numerically using the numbering system shown in the Application Instructions. Applications not received in this manner will be returned. Any material omission from the Application Checklist may result in an immediate rejection of the Application, particularly the omission of site control and verification of funding sources. Any omissions, inaccuracies, and inconsistencies in the Application package will result in the Application not receiving bonus points for the Completeness of Application. If initially acceptable, Agency staff will conduct a site inspection and, if the development appears feasible and meets all Agency criteria, the Application may be evaluated based upon the Selection Criteria.

**For Tax Credit applicants**, the applicant must review the Allocation Plan. The Application must also meet the basic program eligibility requirements as outlined in Section 42 of the Internal Revenue Code. A description of the Application Review Process is detailed in the Tax Credit Program Guidelines and the Allocation Plan.

**For PennHOMES applicants** the PennHOMES staff will submit a report to the Agency's Board (the Board). The Board will review the proposal and may authorize approval to proceed with a feasibility study with the Agency.

Developments approved by the Board to proceed with a feasibility study must then be processed to a loan commitment within nine months from the date of the Board's approval. Agency staff will review the applicant's commitment and closing documents as outlined in the Commitment Requirements (which are available from the Agency upon request or on the Agency's website), as well as other applicable federal and state requirements. Upon satisfaction of these requirements, Agency staff may recommend the development to the Board for a mortgage loan commitment, subject to the Agency's ability to provide the financing for the development. Applicants must attend the Board meeting in which their commitment presentation is being made.

Developments approved for a loan commitment must proceed to an initial loan closing within 60 days from the date of the Board's commitment approval. One initial loan closing extension of 45 days may be requested, in writing, and may be approved by the Agency, in its sole discretion. A written request for said extension and the non-refundable required extension fee, equal to .50% of the Agency loan(s), must be submitted to the Agency.

**Applications seeking Volume Cap for Tax Exempt Financing** are generally accepted on a competitive basis. Awards are made in response to a public request for proposal (RFP). Specific application instructions may be incorporated in the RFP. Applicants must submit two copies of the Application and all of the required Exhibits. For additional information, please see the Agency web site at [www.phfa.org](http://www.phfa.org) or contact the Development Division. Qualifying proposals will be presented to the Board during the regularly scheduled meetings.

**Taxable and 501(c)(3) Tax Exempt Bond and Construction Loan Applicants** not requesting PennHOMES funding must complete and submit the Agency's Multifamily Housing Application along with the submission requirements explained in the Multifamily Housing Application Instructions to the Agency for review and approval for each construction loan request. Applicants must submit three copies of the Application and all required Exhibits. Agency staff will conduct a site review and prepare a site and market report for each construction loan request. Qualifying proposals will be presented to the Board during the regularly scheduled meetings.

**For All Applicants** the Agency encourages developers to keep to a minimum any changes in the original development proposal that was ranked and approved for feasibility, site and market study and/or Tax Credits. All revisions are subject to the Agency's approval and may require resubmission to the Board, including, but not limited to, changes in location, development design, per unit construction cost, financial projections, as well as any changes in information used in ranking for the Tax Credit reservation. If the revision is material and unacceptable, as determined by the Agency, the Agency may, in its sole discretion, withdraw the development from loan commitment processing and/or the Tax Credit reservation. In addition, please be advised that the development information presented for Tax Credits and PennHOMES must be consistent at all times.

Failure to provide information requested by the Agency, failure to meet deadlines or time frames imposed by the Agency, or any misrepresentation or nondisclosure of any information or data submitted to the Agency by the applicant may result in the immediate rejection of the Application for financing and forfeiture of fees.

The Agency will notify the applicant if, for any reason, the Application for financing is rejected by the Agency. If the Application is rejected, the applicant shall pay and/or reimburse the Agency for any and all fees and costs incurred in the application process, including, but not limited to, the application fee, market study, appraisal costs, etc.

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## TAX CREDIT PROGRAM

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### ALLOCATION PLAN FOR YEAR 2003 LOW INCOME HOUSING TAX CREDIT PROGRAM

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The Pennsylvania Housing Finance Agency (the "Agency") is the Commonwealth agency responsible for the administration of the Federal Low Income Housing Tax Credit Program. Pursuant to the Omnibus Budget Reconciliation Act of 1989, the Agency has developed an Allocation Plan containing the criteria to be used in distributing Federal Low Income Housing Tax Credits ("Tax Credits") based on the housing needs of the Commonwealth. Adoption of the Allocation Plan requires approval by the Governor after a public hearing. In the event there are changes in federal law subsequent to the adoption of this Allocation Plan or additional regulatory guidance or clarifications regarding the Tax Credit Program become available, the Agency reserves the right to modify, to supplement or to make conforming amendments to this Allocation Plan and all related documents without formal amendment or additional public hearings. In addition to notifying affected Tax Credit Program applicants, information about such subsequent changes will be posted on the Agency's website at [www.phfa.org](http://www.phfa.org).

All information submitted by the applicant or gathered by the Agency in the review of the Application is the sole property of the Agency and may be made public. The Agency's processing procedures, fee schedules and limitations, and current rent and income limits are set forth in the Agency's Multifamily Housing Application Package and Guidelines. It is the developer's responsibility to be familiar with all Tax Credit Program requirements, the regulations, and the Internal Revenue Code (the "Code").

#### **SUBMISSION REQUIREMENTS**

The following section details the timeframes and mandatory processing information applicable to the Year 2003 Tax Credit Program.

For a development to be considered for a reservation of Tax Credits, the entire Application package, including all Exhibits, must be received by the Agency no later than **2:00 p.m.** of the closing date of one of the submission cycles listed below. Applications not received by the closing date of the submission cycle will not be considered. The Agency will strive to notify applicants in Cycle 1 of the applicant's status after its March 2003 Board meeting and will strive to notify applicants in Cycle 2 of the applicant's status after its September 2003 Board meeting.

<b><u>Submission Cycle</u></b>	<b><u>Closing Date</u></b>	<b><u>Percentage of Tax Credits to be Allocated</u></b>
<b>1</b>	<b>October 14, 2002</b>	<b>50%</b>
<b>2</b>	<b>April 14, 2003</b>	<b>50%</b>

Any organization shown as an applicant in the Application must have a general partner interest in the final ownership entity of the development. The applicant must be actively involved in both the development and ongoing control and management of the development as evidenced in the partnership agreement governing the ownership entity for the development. Sale, transfer or assignment of an applicant's interest in the proposed Tax Credit development is absolutely prohibited while the Application is under consideration. Such transfers, sales and assignments at any subsequent point in the processing of a development prior to placement in service and issuance of an IRS Form 8609 require prior written approval by Agency staff and may require submission of a new Application and/or may result in recapture of Tax Credits by the Agency.

An Application package submitted for review must include all of the information in the order set forth in the Application Checklist. Any material deficiency in the Application or omission from the mandatory submissions set forth in the Application Checklist, particularly the omission of documentation relating to the site, a market study/needs assessment and verification of funding sources, may result in immediate rejection. In addition, the Application must meet program eligibility requirements set forth in Section 42 of the Code. Applications and required Exhibits may not be submitted via fax or email to the Agency.

An Application, once received by the Agency, may not be altered, amended or modified except upon requests made by staff during underwriting and program review or except for developments participating in an Agency-sponsored bridge loan program, which may undergo subsequent substitute processing and ranking by the Agency. Applications will be processed and ranked based only upon the information contained in the initial Application package. Agency staff will first review the development's construction costs, fees, sources of funds, operating income and expenses to determine the development's financial feasibility and long term viability. Developments that are financially feasible and viable will then be ranked according to the Selection Criteria. Applications that are financially infeasible or that do not demonstrate long term viability may be returned at any time. The Agency reserves the right, in its sole discretion, to reject any Application in the event that the costs associated with the proposed development are deemed excessive or unreasonable.

Upon review of the Application, Agency staff may, but is under no obligation to, advise the applicant of incongruities, discrepancies or incomplete items and may allow the applicant to clarify or supplement the original submission. Such requests will be made in writing to the applicant and response will be required within the timeframe set forth therein which will generally be no later than five business days from notification by staff. Developers are urged to review their original Applications carefully prior to submission to the Agency. Correction allowed during the staff review process will neither include replacement, substitution or amendment of material items used by staff in the ranking of an Application nor remedy the scoring of an Application as an incomplete submission. See the Multifamily Housing Program Guidelines for additional guidance and information about processing Applications.

All Application fees are nonrefundable.

### **THRESHOLD ELIGIBILITY CRITERIA**

The Agency will only process Applications that meet all of the following eligibility criteria. Failure to meet any of these threshold eligibility criteria may result in rejection of the Application.

1. Agency staff will review the Tax Credit Program compliance history and performance of both the general partner and the management agent of the proposed development. The applicant must certify that it is in compliance with all Tax Credit Program requirements for each Tax Credit development in which it has a material ownership interest. If the general partner or management agent of the proposed development is currently involved in a Tax Credit development that has been reported to the Internal Revenue Service ("IRS") as being out of compliance with any Agency program requirement (including Restrictive Covenant Agreement violations) and said noncompliance has not been brought back into compliance prior to the submission of the Application, the Application may be rejected at any time prior to reservation of Tax Credits. In the alternative (or in addition, in the sole discretion of the Agency) the general partner and/or management agent may be required to attend and satisfactorily pass an Agency-approved course in the compliance requirements of the Tax Credit Program. The Agency in its sole discretion will determine whether a compliance issue is of a material or nonmaterial nature and whether it is of a recurring nature. Note that while any material compliance issue may result in rejection of an Application, other types of less serious or repetitive noncompliance issues will result in the adjustment of points during the ranking process.

2. If the general partner or an affiliate of the general partner is involved or has been involved in an Agency funded development that is delinquent in payments to the Agency or has materially defaulted on any of its obligations to the Agency, the Agency may reject the Application.

3. Applications may be rejected from organizations or individuals who have failed to meet any established program deadline date.

4. Applicants who have unpaid fees due to the Agency may be ineligible to participate in the Tax Credit Program.

5. Developments that have resulted from or will result in the permanent displacement of low income residents will be ineligible for Tax Credit Program participation unless the developer provides evidence satisfactory to the Agency that the development either addresses overcrowding or to the greatest extent feasible offers all residents their choice to return to an appropriately sized affordable unit in the development upon completion of the development or receive relocation benefits. Applicants may be requested to document the efficacy of notice given to residents to the satisfaction of the Agency.

6. Applications for acquisition Tax Credits will not be accepted for any existing Tax Credit development during its initial compliance period.

In addition to the above threshold eligibility criteria, the Agency reserves the right to take any action it deems appropriate if the proposed general partner (or any affiliate thereof), proposed management agent, or other material participant has been found to be in violation of fair housing, housing accessibility or nondiscrimination laws or has been found to discriminate against Section 8 voucher and certificate holders and such violation or discriminatory actions have not been remedied to the satisfaction of the governmental agency or entity with jurisdiction. "Material participant" includes any entity who by written agreement may significantly affect, in the opinion of the Agency, the development or operation of the property. Such written agreement may include ground leases, operating subsidies, partnership agreements, or operating regulatory agreements. Such action may include rejection of the Application, termination of processing, recapture of Tax Credits (if an IRS Form 8609 has not been issued) or, if applicable, issuance of an IRS Form 8823 or notification to the appropriate governmental authorities. (As evidence of such finding of violation, the Agency may rely upon its own investigations or may rely upon any order of a court with jurisdiction or upon notice of such a finding from any federal or state agency with investigative or regulatory jurisdiction regarding the subject matter, such as IRS, Justice, Treasury, HUD, or state Human Relations Commission or Attorney General.)

**SET-ASIDES**

In Year 2003, the Agency will provide Tax Credits through several set-asides. An outline of these set-asides is provided below. Should additional Tax Credits become available for whatever reason at any time in 2003, the Agency will not issue an amendment to this Allocation Plan and will instead, make allocations of such additional Tax Credits based upon priorities and preferences set forth in this Allocation Plan as it deems appropriate.

**Set-Aside Percentages**

Set-Asides	Percent to Tax Credits to be Allocated
Region 1 *	28.40 %
Region 2	15.14 %
Region 3	10.28 %
Region 4	8.04 %
Region 5	20.80 %
Region 6	7.34 %
Preservation	<u>10.00 %</u>
Total	100.00 %

\* Thirty-five percent of this amount will initially be set-aside to fund qualified general occupancy developments in counties other than Philadelphia.

**1. Regional Set-Aside**

A percentage of the Year 2003 Tax Credits will be set-aside for each region of the Commonwealth. The counties in each region are shown on the map in Exhibit DCED in the Multifamily Housing Program Guidelines. Set-asides are based on the percentage of households at or below 50 percent of median income for the given region.

**2. Preservation Set-Aside**

A special set-aside of Tax Credits, not to exceed 10 percent of the state per capita allocation available in the Year 2003, will be established for developments that meet the Agency's requirements for preservation of affordable housing. The Preservation Set-aside will be considered for existing low income units receiving project-based rental subsidies that are within two years of any permitted prepayment or subsidy contract expiration with a likely conversion to market rate housing or equivalent loss of low income use restrictions. (The likelihood of conversion to market rate housing must be supported by a current market study in form and substance acceptable to the Agency.)

The Preservation Set-aside will also be considered for the rehabilitation of already existing low income units provided that the rehabilitation will repair or replace components that are a.) in immediate need of repair or replacement; or b.) functionally obsolete or require modification or enhancement to meet new applicable federal, state or local housing or building code requirements. In addition, there must be a lack of sufficient property reserve funds or capital to provide for the necessary capital improvements and no evidence of depletion of funds for such necessary work by the property owner. Developments must expend for rehabilitation a minimum of \$10,000 per unit based upon a professionally commissioned Capital Needs Assessment (not more than twelve months old) which will be required for each proposal.

Applicants for this Preservation Set-aside should refer to the Multifamily Housing Program Guidelines for further guidance on submission requirements. All applicants must state at the time of application whether they are requesting Tax Credits from the Preservation Set-aside or from the Regional Set-aside and the Agency will not allow applicants to apply for simultaneous consideration under each of the Set-asides. The Agency, in its discretion, may consider any Applications under the appropriate Regional Set-aside once the Preservation Set-aside is exhausted. Tax Credits not reserved from the Preservation Set-aside will be made available to other developments competing for Tax Credits through the Regional Set-asides.

### **3. Nonprofit Organization Set-Aside**

Thirty (30) percent of the amount reserved in each of the above Set-asides will be reserved for developments involving qualified nonprofit organizations. A nonprofit organization will qualify for consideration under the Nonprofit Set-aside if it is described in paragraph (3) or (4) of Section 501(c) of the Code, is exempt from tax under Section 501(a) and will materially participate in the Tax Credit development. In addition, the nonprofit organization must have the fostering of low income housing as one of its exempt purposes. The nonprofit organization must own (directly or through a partnership) at least a 51% interest in the general partner of the partnership entity in accordance with current laws and IRS regulations throughout the development's compliance period. The nonprofit organization may not be an affiliate of or controlled by a for profit organization. An opinion of counsel addressing the status of the nonprofit organization and qualification for the Nonprofit Set-aside may be required.

To ensure the maximum use of the Tax Credits, any Regional Set-aside or Nonprofit Set-aside not used by a region may be transferred to another region needing the Tax Credits. In order to ensure that sufficient amounts are available to fully fund specific developments, the Agency may adjust the Regional Set-asides and Preservation Set-aside as determined by the Agency. For developments returning an entire reservation of Tax Credits from a previous or current year's allocation, at the Agency's discretion, the Tax Credits may be set aside for redistribution within the same region.

Applications will be returned if the amount of Tax Credits requested for a development exceeds the amount of Tax Credits available for its region by more than 10 percent of the set-aside amount. In addition, the Agency has imposed a \$1,200,000 per development maximum on the Tax Credits reserved in the Year 2003.

### **MAXIMUM PER UNIT BASIS LIMITATIONS**

The Agency has established a maximum basis per unit based upon the U. S. Department of Housing and Urban Development's (HUD) Section 221(d)(3) maximum mortgage limits. "Maximum Basis" includes all depreciable costs normally included in the eligible basis determination for rehabilitation or new construction (not including the developer's fee or cost of acquisition). Maximum Basis for the purposes of this calculation is determined after the deduction for commercial space costs but prior to the pro rata reduction for historic tax credits and other nonqualified financing and costs normally not included in eligible basis.

Developments located in a "qualified census tract" or "difficult development area", as established by HUD, may qualify for Tax Credits based on 130 percent of the eligible basis.

If the Maximum Basis per unit, as previously described, exceeds the established limits, Agency staff may waive the Maximum Basis per unit for some developments. An Agency waiver of the established limits will be based upon the demonstration of compelling circumstances and justification for the additional costs incurred in the development. Compelling circumstances are limited to the following: costs are predominately related to the preservation of a designated historic building or necessitated by building in or adjacent to a designated historical district; construction costs attendant to providing supportive services to the resident population; excessive costs due to unsuitable subsoil conditions; costs associated with environmental remediation; and costs resulting from local attempts to exclude affordable housing (this may include excessive impact fees, building code requirements, restrictive zoning, extraordinary litigation costs incurred because of neighborhood opposition and planning requirements). For those properties seeking to exceed limits based on excessive costs due to unsuitable subsoil conditions, costs associated with environmental remediation, or up-front capital expenditures related to energy efficiency systems that will result in demonstrable savings in utility costs to the residents, developers must provide full explanation of all alternative site considerations and provide adequate justification of the need for the development at the identified location or a full explanation and adequate evidence of cost savings. For developments affected by local attempts to exclude affordable housing, Agency staff will not approve Tax Credits above 30 percent of the maximum per unit cost basis. For all other circumstances, Agency staff will not approve Tax Credits above 15 percent of the maximum per unit cost basis. A waiver of the HUD Section 221(d)(3) limits is at the sole discretion of the Agency.

See Exhibit 221d3 in the Multifamily Housing Program Guidelines for a breakdown of HUD's Section 221(d)(3) maximum mortgage limits by market area and unit size.

## **SELECTION CRITERIA**

### **General Processing Information**

The Agency will review the Application and award points based on the Selection Criteria. A development must address a substantial number in each of the six categories of Selection Criteria in order to qualify for a reservation of Tax Credits. The Agency will establish a minimum point threshold for Applications during the Year 2003 Tax Credit Program. The Agency reserves the right, at any time, to require submission of such documentation or additional support as it deems necessary to evidence any of the items set forth herein including, without limitation, additional independent market studies, independent appraisals, evidence of property location and accurate deed and title information, and opinions of qualified tax counsel or certified public accountants and will impose additional documentation or clarifying information as further set forth herein and in its Multifamily Housing Program Guidelines.

All Tax Credit reservations are based upon the information contained in the Application. Unless specifically directed by the Agency, changes or supplements to an Application during the processing period for ranking are not permitted. Changes to a development made by the developer after a reservation is received affecting any of the Selection Criteria features will result in reconsideration of the ranking and may lead to a "rescission" of the conditional reservation. As a reminder, the Selection Criteria that have been addressed will be incorporated into the Restrictive Covenant Agreement and monitored during the compliance period. Changes in any of the Selection Criteria subsequent to issuance of an IRS Form 8609 may result in noncompliance, may lead to specific enforcement action against the development and may result in the loss of Tax Credits to the development and its investors.

The scoring and ranking of a development does not guarantee funding by the Agency. In the event the Agency departs from the ranking and scoring criteria, it shall document such departure in accordance with the Code. Based upon the demand for Tax Credits and development rankings, the Tax Credits reserved for any one sponsor or development in any specific jurisdiction may be limited at the discretion of the Agency.

The Selection Criteria are set forth in Exhibit SC2003 in the Multifamily Housing Program Guidelines.

### **RANKING OF DEVELOPMENTS**

Developments receiving the highest ranking for each region will be evaluated to determine the amount of Tax Credits required to make the development economically feasible and to ensure the development's long term viability. If two or more developments have the same ranking within a region or the statewide pool and only one development can be awarded Tax Credits, the Agency will select the development that has a higher percentage of units available to residents whose incomes are at or below 50 percent of area median gross income as compared to total number of Tax Credit eligible units. If the developments have equal percentages of units available to residents at or below 50 percent of area median gross income, the Agency will select the development that has the higher percentage of units with rents affordable to persons at or below 50 percent of the area median gross income. If the developments have equal percentages of units with rents affordable to persons at or below 50 percent of area median gross income, the Agency will select the development with the longest commitment to serve low income residents. If the developments have commitment periods of the same length, the Agency, in its sole discretion, may select the Application that it determines best fits its affordable housing priorities and achieves geographic distribution.

Ranking of an Application does not guarantee funding by the Agency. The Agency's determination as to the amount of Tax Credits reserved for or allocated to a development shall not be construed by the developer, lender, or any other interested party to be a warranty of the development's feasibility and viability, nor shall such determination constitute a representation of compliance with any requirements of the Code.

### **DEVELOPER'S FEE**

The developer's fee, which is meant to compensate the developer for staff time, effort and work involved in the development of the property, includes developer's expenses, overhead, profit and consulting fees or other fees and costs that are above the maximums allowed by the Agency. For developments that have 25 or more units, the developer's fee is limited to 15 percent of the first \$5 million of replacement cost of the development less all costs of acquisition and 10 percent on every \$1 of replacement cost thereafter. For developments of 24 units or less, the developer's fee is limited to 20 percent of the replacement cost of the development less all costs of acquisition. For purposes of calculating the developer's fee in phased developments, the fees for each phase will be aggregated and the total fee may not exceed the above stated limits.

The developer's fee may not be calculated on a basis that exceeds the HUD Section 221(d)(3) maximum mortgage limits. However, Agency staff may consider a higher developer's fee (up to the maximum percentage limits) if an amount of funds equal to the developer's fee calculated in excess of the HUD Section 221(d)(3) limitation is being committed by the owner to the provision of social supportive services, support for families in transition, or as an internal rental subsidy to subsidize rents below 50 percent of area median gross rent. Evidence of these commitments must be provided with the Tax Credit Application. The Restrictive Covenant Agreement will specifically reflect such commitment.

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

Developers of properties with 25 units or more may request a developer's fee in excess of the maximum allowable amount (up to but not exceeding 20 percent of the replacement cost of the development less all costs of acquisition) if the developer commits to provide to the development an amount equal to 75 percent of the total fee (net of reasonable consultant and organizational fees) for the provision of social supportive services, support for families in transition or an internal rent subsidy for the residents. In the event the development receives Agency financing through the PennHOMES program, a developer may demonstrate its commitment to utilize the developer's fee for providing social supportive services, support for families in transition or an internal rent subsidy through the establishment of an escrow fund. In addition, Agency staff may approve the use of the developer's fee to augment the required \$2,500 per unit funding of social supportive services when required. For developments not receiving Agency financing, Agency staff will only approve an increased developer's fee if the developer provides adequate assurances and documentation that an amount of funds equal to the increased developer's fee will be committed to the development to establish a qualified supportive services plan, support for families in transition or internal rent subsidy for the compliance period. To further ensure the utilization of the additional developer's fee for a qualified purpose as described herein, the Restrictive Covenant Agreement will be amended to reflect such commitment.

Development consultant's fees and organizational costs are required to be paid from the developer's fee. These fees may not be listed as separate line items on the Application.

### **TAX EXEMPT FINANCED DEVELOPMENTS**

All tax exempt financed developments utilizing Tax Credits in their financing plan must be evaluated in accordance with the Tax Credit Allocation Plan and Multifamily Housing Program Guidelines. Developments receiving tax exempt financing for at least 50 percent of the aggregate basis of the property including land are not required to receive an allocation of Tax Credits through competitive allocation from the Agency. The eligible basis of the development would qualify for the Tax Credits without competing through the regular allocation process. However, developments receiving tax exempt financing on less than 50 percent of the aggregate basis will be eligible for Tax Credits on only that portion of the eligible basis financed by the tax exempt bonds. For the remaining portion, the owner must apply and compete for an allocation of Tax Credits from the Agency in the established allocation process.

All tax exempt development applications will be scored pursuant to the Selection Criteria. To be considered, a development must obtain the minimum threshold requirement established by the Agency. Only that amount of Tax Credits that is necessary to ensure feasibility and long term viability will be issued on the IRS Form 8609. See the Multifamily Housing Program Guidelines for additional information and the appropriate documentation to be submitted and the applicable timeframes.

### **SUBSIDY LAYERING REVIEWS**

Pursuant to Section 911 of the Housing Community Development Act of 1992, HUD published administrative guidelines concerning subsidy layering review of Tax Credit developments receiving assistance from the HUD's Office of Housing. The guidelines provide for the delegation of subsidy layering reviews to Tax Credit allocating agencies. Pennsylvania requested and has been delegated the subsidy layering review responsibility. Section 911 guidelines provide the Tax Credit allocating agencies with standards for evaluating builder's profit, development fee, syndicator expenses, and net syndicator proceeds. The guidelines include both a safe harbor standard and ceiling standard for each category. The Tax Credit allocating agency may simply use the safe harbor standards or through the Allocation Plan may raise the safe harbor standards to the published maximum ceiling standards. The Agency has elected to raise the safe harbor guidelines to the maximum ceiling standards established for the Section 911 layering review since the ceiling standards are within the fee and cost limitations already established for the Tax Credit Program.

### **PLACED-IN-SERVICE/CARRYOVER ALLOCATION**

All developments receiving a reservation of the Year 2003 Tax Credits must either be placed in service by December 1, 2003 or, by November 15, 2003, be eligible for a carryover allocation of Tax Credits pursuant to Section 42 (h)(1)(E) of the Code. Any owner who will not be able to place the building in service by December 1, 2003 must notify the Agency by October 1, 2003 of the need to execute a Carryover Allocation Agreement. Developments not adhering to this procedure or not meeting the above criteria will be subject to immediate recapture of the Tax Credits. All deadlines for Carryover Allocations must be met.

To qualify for a Carryover Allocation, an owner must, by November 15, 2003, have evidence of ownership of the land or the depreciable real property that is part of the proposed development. The Agency may, in its sole discretion, accept an Attorney's Opinion Letter or a Certified Public Accountant Letter that certifies that the owner has carryover allocation basis for the development pursuant to the Code. The Code requires that an owner must incur more than 10% of the "reasonably expected basis" in the property, including land no later than six (6) months of the date of Carryover Allocation. The "reasonably expected basis" is that basis which is expected to be incurred as of the close of the second calendar year following the calendar year of the Carryover Allocation. See the Multifamily Housing Program Guidelines for further details and specific processing deadlines.

Notwithstanding the above stated procedures and deadlines, the Agency may, in its sole discretion and in accordance with any such additional guidance or regulatory direction implementing amendments to Section 42 of the Code, establish alternative, supplemental, or additional processing requirements and deadlines for developments receiving Year 2003 Tax Credits. Any such changes or supplements shall be effective upon written instruction by the Agency to the affected Tax Credit developments.

### **PROCESSING PROCEDURES**

Developments receiving an initial reservation of Tax Credits in the Year 2003 are subject to the Agency's Year 2003 Multifamily Housing Program Guidelines and in the event the initial reservation is modified or amended, the Year 2003 Multifamily Housing Program Guidelines shall remain in force and effect for the property. However, the Agency may amend the Multifamily Housing Program Guidelines from time to time to further comply with Tax Credit Program requirements or to enable Agency staff to better fulfill its administrative duties and such changes would be applicable to the development.

A developer may only request additional Tax Credits for a development one time after it receives an initial reservation. Therefore, the Agency recommends that a developer submit a request for additional Tax Credits only after the total development costs and a commitment of all funds are finalized. A developer requesting an additional reservation of Tax Credits must submit a revised Application that reflects all revisions to the development's costs, financing, income and operating expenses and remit a new Application fee. The development will not have to compete for additional Tax Credits provided the replacement cost has not increased by more than 10 percent and the changes have not had a material adverse impact on the original ranking of the development. Any changes to an Application that affect the ranking of the development may result in recapture of the reserved Tax Credits. The revised Application must include an updated syndication letter that supports the purchase of additional Tax Credits. The awarding of additional Tax Credits is based upon the availability of the Tax Credits at the time of submission. In the event the replacement cost is greater than 10 percent, the development will be re-evaluated and must compete for the Tax Credits based upon the revised Application. All requests for additional Year 2003 Tax Credits must be received by the established cycle deadlines.

A developer requesting additional Tax Credits from a prior year must submit a new, complete Application by the closing date of one of the cycles established above. The Application will be ranked as a new Application and will be subject to the Year 2003 Allocation Plan. Year 2003 developments receiving allocations may apply for additional Tax Credits in subsequent years in accordance with the Allocation Plan then in effect.

### **DEVELOPMENTS WITH MULTIPLE BUILDINGS**

A development may include multiple buildings if it has similarly constructed units, is located on the same or contiguous tracts of land, is owned by the same federal taxpayer and is financed pursuant to a common plan of financing. A development with multiple buildings that is proposing a mixed income structure must have low-income units in each building of the development. Scattered site buildings on noncontiguous tracts of land may also qualify if the development meets all of the other requirements described above and the development is 100 percent rent and income restricted.

### **COMPLIANCE**

Owners are responsible for ongoing compliance with all requirements of the Code and the Agency's Compliance Program Manual, including such rules, regulations, administrative revenue proclamations and revenue rulings as may be issued from time to time.

Each owner of a Tax Credit development must execute an agreement setting forth allowable occupancy and use restrictions, owner responsibilities and continuing Section 42 qualified development characteristics. This Agreement, the "Restrictive Covenant Agreement," must be recorded for the maximum period required by the Code and no Tax Credits may be claimed by a property owner in any taxable year unless the Restrictive Covenant Agreement is in effect and is appropriately recorded on the property in the county land records.

The Agency will monitor each Tax Credit development for compliance with the Code. Such requirements may change from time to time and the protocol for compliance monitoring may be adjusted as deemed necessary or appropriate by the Agency. In addition to monitoring for all federal requirements, developments will be monitored for compliance with the occupancy standards, Selection Criteria and other covenants set forth in the Restrictive Covenant Agreement.

All owners must keep the following records for each qualified low income building in the development for each year of the compliance period: number of residential units in the building, the number of low income units in building, the number of occupants in each low income unit, the number of bedrooms in each unit, the square footage of each unit, the rent charged on each unit including the utility allowance, the low income unit vacancies in the building and the rentals of the next available unit for each building in the development including when and to whom it was rented. The owner must also keep documentation of the eligible basis and the qualified basis of the building as of the end of the first year of the Tax Credit period. Owners must also keep a record of the annual income certification of low income residents along with documentation to support the certification. Owners renting to holders of Section 8 certificates or vouchers may ask the public housing authority issuing the certificates or vouchers to provide a statement declaring that the resident's income does not exceed the applicable income limit under Section 42(g) of the Code. Any nonresidential portion of a building included in the eligible basis of the building must demonstrate its availability to all residents in the building at no additional cost to the residents.

Records for the first year of the Tax Credit period must be retained for at least 6 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. In all subsequent years of the Tax Credit period, records must be kept by property owners for a minimum of 6 years after the due date (with extensions) for filing the federal income tax return for the year.

The Agency will also review and monitor developments for compliance with required certification submissions. Owners must provide certification at least annually to the Agency, under penalty of perjury, as to the following: the development meets the requirements of the elected minimum set-aside test; the applicable fraction, as defined in Section 42(c)(1)(B) of the Code, of each building in the development has not changed, or, if there was change, a description of the change; owner has received the annual income certification from each low income resident along with supporting documentation; the low income unit is rent restricted under Section 42(g)(2) of the Code; all units are available to the general public and used on a non-transient basis and no finding of discrimination under the Fair Housing Act has occurred for the development; each building is suitable for occupancy pursuant to local health, safety and building codes; the building's eligible basis pursuant to Section 42(d) of the Code has remained the same (or if there was a change, the nature of the change); and any resident facility in the building is available to all residents in the building on a comparable basis without a separate fee charged to the resident. Owner must also certify that if a low income unit becomes vacant, reasonable attempts are made to rent that unit to a qualified low income resident, and while that unit is vacant no units of comparable or smaller size may be rented to a non-qualified low income resident. If a low income resident's income rises above the limit established in Section 42(g)(2)(D)(ii) of the Code, all available units of comparable or smaller size in that building must be rented to an income qualified resident. Owner must also certify that an extended low income housing commitment, as described in Section 42(h)(6) of the Code, was in effect for all qualified low income buildings in the development. Owner must also certify that a unit lease has not been refused to a Section 8 applicant because the applicant holds a Section 8 voucher or certificate. Owner's certifications of these items must be submitted at least annually or with such greater frequency as may be required by the Agency.

The Agency may review the information set forth on the certifications at any time for compliance with the Code. On-site inspections of all Tax Credit developments will be held from time to time, at the sole discretion of the Agency, for compliance with the certification requirements, habitability standards, rent records, supporting documentation and all record keeping requirements in the low income units. Physical inspections of all buildings and at least 20% of all low income units are performed at least once every three years. The Agency will determine which developments and which records it will inspect and how often such inspections will be conducted in its discretion. The Agency retains the right to perform on-site inspections at any time during the compliance period for any Tax Credit development or to conduct more frequent or more detailed site visits if the Agency deems it appropriate.

Audited financial statements must be submitted annually to the Agency's Compliance Monitoring Department for all properties with twenty (20) or more units. If audited financial statements are not available, a compilation must be prepared and submitted to the Agency's Compliance Monitoring Department. (Applications for Tax Credits in any year may be rejected from organizations or individuals who have not submitted to the Agency the audited financial statements for a Tax Credit development for the preceding tax year.)

In the event the owner or the development does not comply with any of the provisions of the Code, the Agency will provide written notice to the owner that specifies a correction period that may not exceed 60 days, unless extended by the Agency in writing. Not later than 45 days after the end of the correction period set forth in the written notice to the owner, the Agency must file IRS Form 8823 "Low Income Housing Credit Agency Report of Noncompliance" ("IRS Form 8823") with the IRS to advise the IRS of the existence of an event of noncompliance with an explanation of the nature of the event and whether the owner has corrected the noncompliance. Any change in either the applicable fraction or eligible basis resulting in a decrease in the qualified basis will be treated as an event of noncompliance. In addition, any failure to provide required information to the Agency on a timely basis in accordance with its written request or the procedures established in Agency directives or set forth in its Compliance Program Manual may be treated as an event of noncompliance and may result in the filing of IRS Form 8823. Failure to continually meet the requirements of the use, occupancy and other conditions relevant to the operation of the development, as set forth in the Restrictive Covenant Agreement, may be treated as an event of noncompliance and may result in the filing of IRS Form 8823.

Pursuant to Revenue Procedure Ruling 94-64, an owner of a 100 percent qualified low income building may request a waiver from the IRS of the annual recertification of the resident's income requirement. Please see the Agency's Multifamily Housing Guidelines for further details.

The Agency will assess owners an upfront compliance fee designed to cover administrative expenses associated with the performance of compliance monitoring. Additional fees may be charged, as necessary and appropriate, for any property.

## TAX CREDIT PROGRAM GUIDELINES

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These guidelines are provided to assist applicants for Tax Credits in preparing the Agency's Application. The guidelines are a supplement to the Allocation Plan. Should there be an inconsistency between these guidelines and the Allocation Plan, the terms and descriptions set forth in the Allocation Plan will prevail. The terms set forth in these guidelines may change from time to time. The Agency will endeavor to advise interested parties of any changes in the Tax Credit Program or the process of implementing the Program through the Agency's website at [www.phfa.org](http://www.phfa.org).

Applicants are advised to be familiar with the requirements of Section 42 of the Internal Revenue Code (the Code). Information concerning the basic requirements of the Tax Credit Program is now contained on the Agency's website. Before completing the Multifamily Application, applicants should thoroughly review the Allocation Plan, as well as the General Overview of the Tax Credit Program on the Agency's website.

### Review Process

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An Application, once received by the Agency, may not be altered in any manner except for clarification or information requested by Agency staff. If a discrepancy is found in an Application during the review process the applicant may be given five business days to respond to the request for clarification. Corrections allowed by staff will not include replacement, substitution or amendment of material items used in the ranking of the Application. An actual omission from the Application Checklist may result in the immediate rejection of the Application.

In reviewing the Application the Tax Credit Officer will first determine the financial feasibility and long term viability of the development based upon the development costs, sources of financing and the operating income and expenses presented in the Application. If an Application appears to be financially feasible a site visit will be scheduled. The Tax Credit Officer along with an Agency Housing Management Representative will visit the site to substantiate the information contained in the Application and the Market Study/Housing Needs Assessment. The applicant must attend the site visit to answer any questions that might be raised during the site visit.

After the site visit the Tax Credit Officer will complete the review of the Application and rank the Application according to the Selection Criteria set forth in Exhibit SC2003 to the Multifamily Housing Program Guidelines. A development must address a substantial number of the Selection Criteria in order to qualify for a reservation of Tax Credits. The Agency will establish a minimum point threshold for Applications for the Year 2003. Contained in the Multifamily Housing Application Instructions is a Self-Scoring Sheet (Exhibit B). It is important for each applicant to complete this form so there is no question as to the intent of the applicant. A narrative explaining the applicant's reasoning for requesting points is recommended, but not required.

(Note that for applicants seeking both PennHOMES financing and Tax Credits, the Tax Credit Application review will be completed by the PennHOMES Development Officer.)

To ensure a fair evaluation of a development's fees and expenses, the Agency has developed a Development Cost Limits Schedule and a Fee Schedule. These schedules, included in the Multifamily Housing Program Guidelines, are an applicant's guide for the fees and expenses that are normally incurred in developing a property. The fees and expenses outlined in these two schedules are the maximum amounts that may be included in the total development cost, and, if applicable, the eligible basis of the development. Any cost, whether developmental or operational, that is deemed unreasonable will be adjusted by the Agency.

The Agency has also established a maximum basis per unit based upon HUD's 221(d)(3) maximum mortgage limits. Exhibit 221d3 to the Multifamily Housing Program Guidelines contains the Maximum Basis limits for each region of the Commonwealth along with a detailed explanation of the conditions under which an applicant may request a waiver of these limits. Maximum Basis is calculated by applying the limits in Exhibit 221d3 by the number and applicable size unit, as shown in the Application. To this

amount is added the approved developer fee. This total is then adjusted for any federal subsidies, non-recourse debt, non-qualifying units of higher quality, and historic rehabilitation tax credits. In certain developments, these adjustments may be pro-rated. To request a waiver of the Maximum Basis limits, a development's high costs must be due to the existence of one or more of the eligible conditions outlined in the Allocation Plan. An applicant must formally request a high cost waiver at the time of application, supplying detailed information on the high cost conditions, cost estimates and cost comparisons. This information will be reviewed by Agency staff and, if warranted, a specific waiver amount will be approved. This approved high cost amount will be added to the Maximum Basis amount.

For developments financed through the Rural Development Section 515 program, the Agency will recognize only those costs that have been approved by Rural Development with the exception of the developer's fee. The Agency has entered into a Memorandum of Understanding with Rural Development regarding agreed upon procedures for processing developments involving both Rural Development funds and Tax Credits. These procedures will be applied when processing a Tax Credit request for a development that has received Rural Development funding. For a copy of this Agreement, please contact the Agency or the local Rural Development office.

A building located in a "qualified census tract" (QCT) or "difficult development area" (DDA) may have its eligible basis, for purposes of the new construction Tax Credit or rehabilitation expenditures Tax Credit, increased to 130% of the eligible basis. Mere location does not automatically entitle a building to receive a higher amount of Tax Credit. The Agency will still determine the amount of Tax Credits needed to assure the development's feasibility and long term viability. The QCTs and DDAs are designated by HUD and are listed in Exhibit QCT to the Multifamily Housing Program Guidelines.

When calculating the maximum amount of Tax Credits the development is eligible to receive, the Agency will use the applicable percentage in effect for the initial month of each processing cycle. The applicable percentage is determined monthly by the Treasury Department. The Agency's website contains a detailed description of the applicable percentage. The percentage utilized at the initial application review will remain with the development until a binding commitment is executed by the developer and the Agency to lock into an applicable percentage. This binding commitment can only occur upon the execution of the Carryover Allocation Agreement. If a binding commitment is not executed, the applicable percentage for each building will be the one in effect for the month in which each building is placed in service. The reservation amount however is the maximum amount that the development may receive even if the applicable percentage rate has increased at placed-in-service. Applications for additional Tax Credits will only be accepted from a development with increased costs and not due to changes in the applicable percentage.

When determining the amount of Tax Credits to be reserved for the development the Agency may only reserve the amount of Tax Credits necessary to assure the feasibility and long-term viability of the development. The Agency will determine the amount of Tax Credits based upon a review of the development costs and permanent funding sources (considered the "need calculation"), the qualified basis of the development and the Maximum Basis of the development, as previously defined. In determining the need for the Tax Credits all sources of financing are reviewed. Each financing letter must include the terms of the loan including all financing fees. Any conventional permanent loan must be fully amortized, have a minimum term of 15 years with a fixed rate, and a debt coverage ratio of 115 percent.

Upon the issuance of a reservation, a Worksheet is provided to the recipient which shows the approved development costs, the eligible and qualified basis of the development and the calculation of the Maximum Basis. Once a reservation letter is issued, the recipient of the Tax Credits will have fifteen (15) business days from the reservation date to notify the Agency in writing of any discrepancy on the Worksheet.

A development's costs, subsidies, financing and allocable Tax Credits will be evaluated at least three times during the processing period:

- (1) upon application for the Tax Credits;
- (2) upon allocation of the Tax Credits (Carryover Allocation); and
- (3) after the building is completed and placed-in-service but prior to the issuance of IRS Form No. 8609.

Certifications of the applicant and documentation will be required to be submitted at each stage to allow the Agency to properly evaluate any changes to the development's initial Application. Any material change in the development's Application at any time during the process may result in a loss of Tax Credits, a recapture of the Tax Credits or a required submission of a new Tax Credit Application.

The determination of Tax Credits by the Agency shall not be construed to be a representation or warranty as to the development's feasibility and viability.

### **Modifications to a Tax Credit Application**

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A development receives a reservation of Tax Credits based upon the information contained in the initial Application package. The developer or applicant may not alter the Application in any manner without prior written approval of the Agency. This includes but is not limited to the following: an increase or decrease in the number of units in any building; an increase or decrease in the number of buildings in the development; a change in any site; replacement of any development team member including the syndicator; alteration of the proposed rent and income structures; change in the participation level of a social services provider; or a change to the financial structure which includes the gross pay-in value of the Tax Credit dollar. Applicants who alter the Application in any manner without prior written approval of the Agency may be subject to an immediate recapture of the Tax Credits reserved. Any change to an Application requires the Agency's review and a new application fee. Please note that the Agency may only approve moderate changes to the Application which do not negatively affect the ranking of the development. Should a development's ranking score decrease as a result of a change, the change may be disallowed and the Tax Credits recaptured.

### **Extended Use Agreement/ Restrictive Covenant Agreement**

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The Restrictive Covenant Agreement (the Agreement) sets forth the income and occupancy restrictions for the development for the entire compliance period. The Agreement requires that the applicable fraction of low income units will remain the same for each taxable year in the extended use period. In addition to identifying the minimum set-aside election of the buildings, the Agreement will also include the following selection criteria on which the development was ranked and obtained a reservation of Tax Credits: number of units to be occupied by tenants at 50% or, if applicable, 40% of the area median gross income; units to be maintained at rents that do not exceed 50% or, if applicable, 40% of the area median gross income; special needs housing; accessible units; 30-year extended use; home-ownership program; families in transition program; elderly housing with supportive services; and the Nonprofit Set-Aside. In addition, if a developer's fee exceeded the maximum limitation and was approved to fund a reserve for the permitted uses as set forth in the Allocation Plan, the Agreement will be amended to reflect such conditions. Tax Credits may not be claimed until the Agreement is executed and recorded. The Agreement must be recorded in the Office of Recorder of Deeds for the county in which the property is located prior to any recording or filing of financing documents concerning the development funds. The Agreement will be forwarded to the owner after the reservation of Tax Credits is issued, and should be returned with the Carryover Allocation documentation evidencing that it has been recorded prior to any other document. The original Agreement must be returned to the Agency.

The Agreement is binding on all successors to the owner.

## Carryover Allocation Requirements

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The Allocation Plan outlines the important deadlines and requirements associated with the execution of a Carryover Allocation Agreement.

If the building is to be placed in service by December 1, 2003, all documents shown under Placed-In-Service Requirements must be received by November 10, 2003 to enable the Agency to issue IRS Forms 8609 in 2003. In the event the development will not be placed in service by December 31, 2003, the following requirements must be fulfilled no later than November 15, 2003 and received by this Agency **by noon**, on Monday, November 24, 2003:

- 1) The original Allocation Carryover Agreement which will be forwarded to the developer by November 5, 2003, for execution. The taxpayer identification number for the taxpayer executing the Agreement is required for a valid Carryover Agreement. Please note that the taxpayer executing the Agreement must be the party that will meet the 10% expenditure test by May 15, 2004.
- 2) The executed "Owner Certification of Property Ownership" Form with either a) the current deed(s) which indicate that the taxpayer is the owner of all buildings and land in the project, or b) an extended lease agreement. All documents must be fully executed.

Please note: In the event the property is not conveyed through a deed or lease, owner must submit evidence in the form of an Attorney's Opinion Letter or a Certified Public Accountant letter that certifies that the owner has Carryover Allocation Basis for the development pursuant to the Code.

- 3) The settlement sheet(s) must be provided for each building or parcel of land in the development, and must be properly executed. In addition, evidence must be provided that each deed was recorded.
- 4) If the property(s) was purchased through a Purchase Money Mortgage, a copy of the mortgage and mortgage note must be provided.
- 5) Financial Characteristics Form (Agency document)
- 6) Updated financing letters
- 7) Updated syndicator letter or executed Limited Partnership Agreement
- 8) Certification of Subsidies
- 9) Allocation Fee equal to 2% of the annual Tax Credit amount reserved. Refer to the Multifamily Housing Fee Schedule for further explanation.

The following requirements must be fulfilled no later than **May 15, 2004** and received by the Agency by noon on **May 31, 2004**:

- 1) The executed "Owner's Certification of Costs Incurred" Form including either "a" or "b" shown below. The owner may only include costs in the certification that have been approved by the Agency.
  - a. For developments 6 units or more, the owner's certification must be audited by an independent, third party, certified public accountant.
  - b. For developments with 5 units or less, in lieu of the certified public accountant's audit, the taxpayer may provide evidence of costs incurred in the form of copies of checks, receipts, or other records of payment. These items must total the amount indicated as expended on the "Owner's Certification of Costs Incurred."
- 2) Independent Auditor's Report

- 3) Copy of the executed Developer's Fee Agreement (Development Services Agreement). Be sure that the agreement stipulates the fee earned through May 15, 2004, to incur costs for inclusion in the 10% of basis expenditures test.
- 4) Sources and Uses of Funds Statement
- 5) Syndicator/Investor Certification – If the Developer's Fee included in the 10% of basis expenditure test exceeds 20% of the total Developer's Fee, the syndicator and/or investor must certify that the percentage claimed by the accountant is a percentage acceptable to them. The letter must refer to the percentage and the amount of the Developer's Fee that is acceptable as part of the 10% of basis expenditure test. If a development has already closed on all of the construction loans and construction is underway, a certification from the investor is not required.
- 6) Copy of the recorded deed demonstrating transfer of ownership to owner for each building and/or parcel of land that is part of the development, if not previously submitted.
- 7) Copy of the Settlement Statement for each building and/or parcel of land included in the development, if not previously submitted.
- 8) The Architect's Certification of Compliance With Design Requirements for Accessible Housing (Exhibit F, Part 4 of the Multifamily Housing Application Instructions) must be executed by the architect and taxpayer.

**Failure to meet all of the above requirements will result in an immediate recapture of the Year 2003 Tax Credit reservation.** The Agency will not extend the November 15, 2003 or the May 15, 2004 deadline dates. There will be no exceptions to this policy.

## **Placed In Service Requirements**

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Upon completion of the development, a cost certification audit must be completed. The Placed-in-Service Package must be received by the Agency no later than 90 days after the placed-in-service date of the last completed residential building in the development. Owners who are not able to submit the cost certification, including all documentation required by the Placed-in-Service package, within the 90-day period may request an extension, but will be required to pay extension fees. Refer to the Multifamily Housing Fee Schedule for specific information regarding the maximum extensions and the required fees.

The Agency has developed a cost certification guide to assist in completing the cost certification. This guide is not an authoritative pronouncement on those costs that are Tax Credit eligible or ineligible, but rather serves as a tool for completing the cost certification.

The Placed-in-Service Package is mailed to those applicants receiving a reservation of Tax Credits with the reservation letter. All of the required documents must be forwarded to the Agency for review and approval prior to the issuance of IRS Form 8609. The requirements of the Placed-in-Service Package, including the cost certification guide, are also outlined on the Agency's website at [www.phfa.org](http://www.phfa.org).

Upon submission and review of the required documents, IRS Form No. 8609 will be issued. For developments that have received financing through the Agency, the cost certification required by the PennHOMES Program must be received by the Agency's Finance Division prior to the release of the IRS Forms No. 8609. Please note that once submitted to the Agency, the cost certification cannot be amended. It is the owner's and syndicator's responsibility to review the cost certification prior to its submission to the Agency to ensure that all costs and sources of funds are included in the cost certification.

## **Annual Recertification Waiver**

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Internal Revenue Procedure Ruling 94-64 provides instruction to owners of a 100% qualified low-income building for obtaining a waiver of the annual recertification required in paragraphs (b)(1)(vi) and (b)(1)(vii) of Section 42(g)(8)(B) of the Code and paragraph (c)(1)(iii) of Treasury Regulation 1.42-5. An owner with more than one 100% low-income building in a development may submit a single application for all qualified buildings in the development.

An owner obtaining a waiver is not required to: keep records that show an annual income recertification of the low income tenants in the building whose income was previously verified, documented and certified; maintain documentation to support that recertification; or certify to this Agency that the owner has received this information. The waiver takes effect for the compliance monitoring cycle following the date the waiver is in effect and the Agency has been properly notified.

Prior to applying for the waiver the owner must obtain a statement from the Agency that each residential unit in the building was a low-income unit under Section 42 at the end of the most recent Tax Credit period for the building. This statement along with all other certifications listed in the Revenue Procedure Ruling 94-64 must be submitted to the IRS in Philadelphia.

Obtaining the waiver for a building does not preclude the owner of a 100% qualified low-income building from meeting the requirements of the Code for income verification of all new incoming tenants.

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## **PENNHOMES PROGRAM GUIDELINES**

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The Agency's PennHOMES Program offers zero percent interest, deferred payment loans that can be used to support the development of lower income rental housing. PennHOMES funds may be structured as primary or secondary mortgage loans.

The funding for the PennHOMES Program is a combination of resources from the Agency's unrestricted reserves and HOME funds. Certain funding sources have restrictions as to where the funds may be used. The HOME funds may generally only be used in Nonparticipating Jurisdiction communities that do not already receive entitlement allocations of HOME funds. Refer to Exhibit PJNPJ of the Multifamily Housing Program Guidelines for a listing of Participating and Nonparticipating Jurisdictions. Upon approval of financing under the PennHOMES Program, the Agency in its discretion will determine which of the funding sources will be appropriate to finance the development. To make this decision, the Agency will take into consideration, such things as, location, availability of funding and other underwriting criteria.

The PennHOMES funds are limited. Therefore, applicants are strongly encouraged to make maximum use of other financial resources and to create public/private partnerships. The presence of non-Agency support funds is essential to the successful development and operation of properties. Evidence of support funds will be a significant factor used to select among competing applications. Examples of other financial resources and support funds include owner equity, equity from the sale of Tax Credits, private or public grant monies or low interest loans, and donated real estate.

**Financially infeasible Applications that do not demonstrate long term viability may be returned to the applicant at any time and will not be reconsidered in the same application cycle.**

All applicants must comply with the following Agency requirements, as well as other requirements the Agency may develop from time to time.

### **Program Highlights**

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#### **MINIMUM NUMBER OF UNITS**

All Applications must consist of 5 or more units that are under common ownership, management and financing as a single undertaking. Developments located in the City of Philadelphia, the City of Pittsburgh, or Allegheny County must consist of at least 15 units, except for special needs housing.

Commercial space is limited in a development to 25% of gross income and/or gross area of the development. All commercial tenants are subject to the Agency's approval. Additionally, program funds cannot be used in the development of commercial space.

#### **MAXIMUM INCOME OF TENANTS**

Applicants must comply with the Agency's Maximum Income/Rent Chart (as may be adjusted from time to time by the Agency), which is Exhibit MAX to the Multifamily Housing Program Guidelines. A minimum of 50% of the units assisted by the PennHOMES Program must be rented to households whose incomes do not exceed 50% of the area median income, adjusted for family size. The remaining number of the units assisted by the PennHOMES Program must be rented to families whose incomes do not exceed 60% of the area median income, adjusted for family size. Developments may still house residents with incomes over 60% of median income, but only those units serving households at or below 50% and 60% of median income for the term of the PennHOMES loan are eligible for PennHOMES funding.

## **MAXIMUM RENTS**

All rents must comply with the Agency's Maximum Income/Rent Chart (as may be adjusted from time to time by the Agency), which is Exhibit MAX to the Multifamily Housing Program Guidelines. A minimum of 50% of the units must be affordable to households at 50% of the median income and may not exceed the applicable Fair Market Rents established by HUD. Any additional units anticipating PennHOMES funds must be affordable to households at or below 60% of the median income and may not exceed the applicable Fair Market Rents established by HUD.

## **PER UNIT FUNDING LIMITATIONS**

As stated, the PennHOMES funds are limited and there are certain restrictions as to where some of the funding sources may be used. Therefore, the Agency has established funding limitations on a per unit basis to allow for an equitable method of distributing funds to more developments. The per unit limitations for various areas of the Commonwealth are set forth below:

### **Participating Jurisdictions**

Developments located in Participating Jurisdictions are limited to \$30,000 per unit. Philadelphia developments requiring a supportive service escrow may increase the funding request to \$32,500 per unit. At no time may the total PennHOMES funds to one development exceed \$1,500,000.

### **Nonparticipating Jurisdictions**

Developments located in communities that do not receive entitlement allocations under the HOME Program (Nonparticipating Jurisdictions) are limited on a per unit basis to 100 percent of HUD's Section 221(d)(3) Mortgage Limits with Elevators.

Refer to the Exhibits to the Multifamily Housing Program Guidelines for a listing of Participating and Nonparticipating Jurisdictions (Exhibit PJNPJ) and for the HUD Section 221(d)(3) Mortgage Limits (Exhibit 221d3).

**Ineligible for applying for PennHOMES funding are new proposals of Hope VI, Comprehensive Grant Funds, Section 202 and Section 811 developments, and developments going through the market-to-market process.**

## **INTEREST RATE**

The annual interest rate on a PennHOMES loan is zero percent.

## **TERM OF LOAN**

The term of the PennHOMES loan is 30 years.

In the event the loan is prepaid, however, restrictive covenants and other federal requirements relating to the affordability period continue for the minimum affordability period required by the HOME Program, Tax Credit Program or other funding as applicable.

## **AMORTIZATION OF PENNHOMES LOAN**

Repayment of the PennHOMES funds may be deferred during the term of the loan subject to the availability of cash flow (excess revenue). If cash flow is available during the loan term, the maximum annual principal repayment will be based on a 30 year repayment term.

## **EQUITY REQUIREMENTS**

Owners must make an appropriate cash equity contribution as required by the Agency at initial loan closing. A letter of credit for 100% of the developer's equity less cash required for the initial closing may be posted. During construction, the owner will be required to replace a portion of the letter of credit each month to allow for construction draws to be paid. Philadelphia applicants must provide cash for three months of construction plus the cash required for the initial closing.

## **RETURN ON EQUITY**

Distribution to for profit owners from excess revenue of a development will be limited to an annual return of fifteen percent (15%) of the owner's equity in the development. The right to receive the return on equity is cumulative after payment of debt service on the PennHOMES loan. The equity in the development shall be determined at final closing based on the cost certification. The stated owner's equity in the development may be adjusted annually to reflect increases in the Consumer Price Index and further adjusted at the discretion of the Agency in the event of significant capital improvements to the development.

## **PENNHOMES REPAYMENT TERMS**

Developments with 12 or more units with cash flow will dedicate excess cash flow first to cover a one year payment of the PennHOMES loan. Any remaining cash flow may be used to pay one year of owner's return on equity. If excess cash flow is still available after payment of the PennHOMES loan and owner's return on equity, proceeds will be distributed evenly between outstanding balances of PennHOMES and return on equity.

All repayments will only be made after sufficient funds are available to cover one month of debt service payments on the first mortgage debt financing or, if no first mortgage debt financing, one month of the PennHOMES principal repayment. Development cash flow will not be entirely depleted.

For developments of 11 or less units, and provided that there is no Agency taxable debt, there are no scheduled loan repayment requirements from available cash flow. However, the Agency may in its discretion require that available cashflow be applied to repay outstanding PennHOMES principal.

## **PRIMARY MORTGAGE REQUIREMENTS**

If the development can support debt, applicants shall incorporate permanent Agency taxable and tax exempt financing as part of the financing plan unless another primary lender can offer significantly better financing terms than available through the Agency (as determined by the Agency).

## **MINIMUM LOAN AMOUNT**

The suggested minimum loan amount for taxable financing is \$100,000; the minimum loan amount for tax exempt financing is \$1,000,000, unless there are a sufficient number of developments requesting tax exempt financing that may be pooled together to arrive at the \$1,000,000 balance.

## **DEBT SERVICE COVERAGE RATIO**

If PennHOMES is secured as the first mortgage debt, debt service requirements are not applicable. In the event that there is Agency first mortgage debt financing, then the debt service coverage ratio is a minimum of 115 percent. If the first mortgage debt financing is provided by another lender, then the debt service coverage ratio is 115 percent.

## **LOAN TO VALUE RATIO/EQUITY REQUIREMENT**

Loan underwriting and first mortgage credit enhancement requirements normally determine maximum loan to value ratio for Agency developments. Usually, the ratio does not exceed 80 percent of replacement value and/or appraised value. In no event may the ratio exceed 90 percent of development cost for for-profit developers or 100 percent of development cost for nonprofit developers. The Agency may require an "as built" appraisal to determine market/development replacement value.

## **AFFORDABILITY PERIOD**

The affordability period is the time period during which the development must comply with maximum rent and tenant income restrictions, and will not be less than the term of the PennHOMES loan.

The affordability period is subject to the various program requirements. The Agency will determine the appropriate affordability period based on available resources.

## **SUPPORTIVE SERVICES**

**All PennHOMES Applicants** have the option of requesting consideration for points under one or more of the following selection criteria: Special Needs Housing; Support for Families in Transition; and Elderly Housing with Supportive Services. Applicants should follow the guidelines described in the Supportive Service Plan Outline (Exhibit H) for the submission under the appropriate selection criteria set forth in the Multifamily Housing Application Instructions.

**All Philadelphia Applications:** As a part of a comprehensive strategy toward achieving family self-sufficiency in the City of Philadelphia, the Agency has established the Family Supportive Services (Escrow) Program. This program helps to fund on-site supportive services for residents in need and assists on-site management in addressing social welfare issues that impact property operations.

The Agency requires that all Applications for family developments located in Philadelphia escrow \$5,000 per unit to pay for supportive services for the residents. The Agency will provide 100 percent match for the applicant's contribution of \$2,500 per unit. However, the total PennHOMES loan may not exceed \$1,500,000.

Escrow funds will be used to hire staff or to contract with a service provider to provide residents with information and referrals to increase family self-sufficiency. Applicants must identify a qualified social service provider to facilitate the provision of supportive services to families. The service provider must complete the Service Provider Questionnaire, which is Exhibit G to the Multifamily Housing Application Instructions.

Philadelphia developments may request a waiver of the escrow requirement. An applicant who chooses to request a waiver of this requirement must submit a written request and attach a supportive services plan. To be eligible for a waiver, the development must provide the following information:

1. Memorandum of Understanding or contract that outlines workplan, staffing (with job descriptions) and proposed budget.
2. Completed PHFA Service Provider Questionnaire (Exhibit G).
3. Viable plan to secure additional or on-going funding to ensure uninterrupted delivery of services for up to ten years.

Please contact the Agency's Housing Services Representative at (610) 270-1989 if you have questions concerning the escrow requirement or waiver process.

## **Selection Criteria**

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The Agency will review the Application and award points based on the Selection Criteria, which is shown as Exhibit SC2003. A development must address a substantial number of the Selection Criteria in order to qualify for PennHOMES funding. The Agency will establish a minimum point threshold for Applications during the Year 2003 PennHOMES Program. Once the financial review of an Application is completed, Agency staff will review the Application to determine its qualification under each of the Selection Criteria and assign ranking points as a result of this review. The available PennHOMES funding will be awarded at the Agency's discretion considering, but limited to, ranking, housing need and the availability of Tax Credits, if applicable.

Contained in the Multifamily Housing Application Instructions is a Selection Criteria Self-Scoring Sheet (Exhibit B). It is important for each applicant to complete this form so that there is no question as to the intent of the applicant. A narrative explaining the applicant's reasoning for assigning points is recommended but not required.

## **HOME Program**

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### **MATCH REQUIREMENTS**

The Agency must meet certain funding match requirements of the HOME Program. Non-federal public and private funds included in a development's financing plan will assist the Agency in meeting its HOME Program match requirements. HOME-assisted, HOME-eligible and partially-assisted HOME Program developments will be reviewed to determine the amount of match contribution earned.

The Agency will use PennHOMES loans as match under the HOME Program. For developments receiving an award of HOME Program funds from a local jurisdiction, unless claimed by that local Participating Jurisdiction, the Agency will also use all other eligible sources of match contributed to the PennHOMES development as HOME Program match.

### **MBE/WBE/SERB & SECTION 3**

In addition to the Agency's equal opportunity policy, developments located in Nonparticipating Jurisdictions must also meet certain MBE/WBE/SERB & Section 3 requirements.

The definition of a MBE is a "certified minority business enterprise," a WBE is a "certified women's business enterprise." A SERB is a "socially and economically restricted business" which is a certified MBE/WBE, or a business located in a Commonwealth designated enterprise zone. Businesses will not be considered socially/economically restricted if one of the following conditions exist:

The business has gross revenues over four million dollars annually; or

The concentration of an industry is such that fifty percent (50%) of the market is controlled by the same type of SERB (MBE/WBE) or business within designated enterprise zones.

Where applicable, owners and their development team must conduct outreach to seek participation by SERB professional services providers and MBE/WBE professional services providers, Section 3 material and equipment suppliers, manufacturers and subcontractors. The HOME Program requires that the owner must establish minimum participation goals of 5 percent for MBEs and 3 percent for WBEs when contracting for professional services, construction and materials.

Section 3 of the Housing and Urban Development Act of 1968, as amended, establishes certain goals to enhance the economic opportunity to be afforded to local residents in the neighborhood of federally assisted developments. As it relates to the Agency, the purpose of Section 3 is to ensure that employment and other economic opportunities generated by the HOME Program shall, to the greatest extent feasible, be directed to low and very low income persons.

A Section 3 business is a business that is fifty-one percent (51%) or more owned by Section 3 residents; or commits to subcontract more than twenty-five percent (25%) of its contract to Section 3 businesses; or whose permanent, full-time workforce consists of at least thirty percent (30%) Section 3 residents. Section 3 residents are public housing residents or low income individuals who reside in the metropolitan area or non-metropolitan county where the development is located.

The HOME Program requires that the owner must establish the following minimum participation levels for Section 3 participation:

- 10 percent of the total dollar amount of all building trades work contracts, and
- 3 percent of all non-building trade contracts, and
- 30 percent of all new hires generated (at all job levels)

As an example, the MBE/WBE goals would be calculated as follows:

	TOTAL DEVELOPMENT <u>BUDGET</u>	3% WBE <u>GOAL</u>	5% MBE <u>GOAL</u>
Architectural Fees	\$50,000		
Engineering Fees	10,000		
Environmental Audit	5,000		
Furnishings & Equipment	5,000		
Legal Fees	20,000		
Accounting Fees	5,000		
Survey	500		
Title Insurance	5,000		
Property Insurance	5,000		
Marketing/Rent-Up	5,000		
Consultant	<u>15,000</u>		
	\$125,500	\$3,765	\$6,275
Construction (Less General Contractor's overhead and profit)	\$1,000,000	\$30,000	\$50,000

If the development owners have contracted with businesses for services and/or material prior to the date of the Application submission, outreach will not be required for those contracts.

**RESIDENTIAL/NON-RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION REQUIREMENTS**

All developments located in non-participating jurisdictions that receive the Agency's approval to proceed with Feasibility, Site and Market Study must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). A summary of these requirements is set forth in the Summary of the Federal Displacement, Relocation and Acquisition Requirements (Exhibit RELO) located in the Multifamily Housing Program Guidelines. Various sample reports, plans and notices, as presented in the HOME Program regulations at 24 CFR 92.353, (Exhibits N, O, P and Q) are located in Multifamily Housing Application Instructions.

All owners of developments in non-participating jurisdictions (except vacant land developments where no demolition has occurred within the last 12 months) must prepare and adopt a Residential/Non-residential Anti-displacement and Relocation Assistance Plan (Exhibit Q) as presented in the Multifamily Housing Application Instructions. Owners of occupied developments must prepare the Plan along with the application submission. Owners of unoccupied developments that receive Agency approval to proceed with Feasibility, Site and Market Study must prepare and adopt the Plan prior to receiving the Agency's loan commitment.

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## VOLUME CAP FOR TAX EXEMPT BOND FINANCING

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Developments receiving tax exempt financing for at least 50 percent of the aggregate basis of the property including land are not required to receive an allocation of Tax Credits from the Agency. However, the development must be evaluated by the authority issuing the bonds to assure that the proposal is in accordance with the priorities, Selection Criteria and other program requirements as set forth in the Allocation Plan. The issuing authority must also determine the amount of Tax Credits required to assure the feasibility and long term viability of the development.

Developments financed through the issuance of tax exempt bonds are eligible for a 30 percent present value credit. The owner has the option of deducting the amount of the tax exempt financing from the adjusted basis to be eligible for a 70 percent present value Tax Credit on the reduced eligible basis. If the owner chooses this method, it must receive an allocation of Tax Credits from the Agency.

Developments receiving tax exempt financing on less than 50 percent of the aggregate basis will be eligible for an automatic Tax Credit on only that portion of the eligible basis financed by the tax exempt bonds. For the remaining portion, the owner must apply and compete for an allocation of Tax Credits from the Agency in an established cycle for the 70 percent present value Tax Credit. The development will be evaluated in accordance with the Allocation Plan and a determination will be made as to the amount of Tax Credits needed to assure feasibility and long term viability.

To further ensure that the development has met a priority in the Allocation Plan and has addressed a sufficient number of Selection Criteria, a Multifamily Housing Application must be submitted to the Agency for all developments requesting Volume Cap for Tax Exempt Bond Financing. The Multifamily Housing Application will be scored pursuant to the Selection Criteria set forth within the Allocation Plan. The Agency will establish a minimum point threshold for applications during the Year 2003 Tax Credit Program. The Agency will also review the Application for adherence to all program criteria as set forth in the Multifamily Housing Program Guidelines and the accompanying Exhibits. Upon the Agency's determination that the development qualifies for the Tax Credits, the Agency will issue the Indenture of Restrictive Covenants Agreement ("Restrictive Covenants Agreement"). Tax Credits may not be claimed until the Restrictive Covenants Agreement is executed and recorded pursuant to the Code.

The Agency processes applications for volume cap for tax exempt financing on a competitive basis through an announced Request for Proposals (RFP). For additional information please see the Agency website at [www.phfa.org](http://www.phfa.org) or contact the Development Division.

Developments receiving Tax Credits exclusively through the issuance of tax exempt bonds will be subject to the fees outlined in the Agency Fee Schedule (Exhibit FEES) located in the Multifamily Housing Program Guidelines. Upon construction completion, as with developments receiving a direct allocation of Tax Credits from the Agency, the development will be required to submit a cost certification package. The cost certification package must be received by the Agency no later than 90 days after the last residential building in the development is placed in service.

The Agency will conduct its standard review of the cost certification. After completion of this review, the Agency will issue IRS Form No. 8609 for each building in the development.

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## **TAXABLE AND 501(C)(3) TAX EXEMPT BOND FINANCING**

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The Agency provides financing to developers building or rehabilitating rental units designed for lower income occupancy. The competitive rates are made possible through the sale of Agency tax exempt and taxable bonds. Mortgages provided through Agency bond proceeds must be secured by a first lien position. Bond financing may be coupled with PennHOMES funds to help make the development economically feasible.

### **Program Highlights**

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#### **MINIMUM NUMBER OF UNITS**

All applications must consist of 15 or more units. The Agency may consider developments with less than 15 units if all Agency guidelines and financing requirements are met.

#### **MAXIMUM INCOME OF TENANTS**

When using tax exempt financing or Tax Credits, one of the following minimum set-aside requirements must be implemented:

- 20% of the units must be rented to persons with incomes at or below 50% of the area median income, adjusted by family size; or
- 40% of the units must be rented to persons with incomes at or below 60% of the area median income, adjusted by family size.

When using taxable financing, not involving tax credits, at least 20% of the units must be rented to households with incomes at or below 80% of the area median income.

#### **MINIMUM LOAN AMOUNT**

The suggested minimum loan amount for taxable financing is \$100,000; the minimum loan amount for tax exempt financing is \$1,000,000, unless there are a sufficient number of developments requesting tax exempt financing that may be pooled together to arrive at the \$1,000,000 balance.

#### **INTEREST RATES**

Interest rates will vary depending on market conditions. Please contact the Agency's Development Division for projected mortgage interest rates.

#### **AFFORDABILITY PERIOD**

All developments must remain rental housing, meeting the low-to-moderate income tenancy requirement for the term of the mortgage or 15 years, whichever is longer.

#### **TERM OF LOAN AND AMORTIZATION**

The maximum loan term will be 30 years for taxable bond financing and tax exempt bond financing.

## **RETURN ON EQUITY**

Distribution to owners from excess revenue of a development will be limited to an annual return of 15% of the owner's equity in the development. The right to receive the return on equity is cumulative. The equity in the development shall be determined at final closing based on the cost certification. The stated owner's equity in the development may be adjusted annually to reflect increases in the Consumer Price Index and further adjusted at the discretion of the Agency in the event of significant capital improvements to the development.

## **DEBT SERVICE COVERAGE RATIO**

The development's net operating income must equal 115% of the development's total annual debt service.

## **LOAN TO VALUE RATIO/EQUITY REQUIREMENT**

Loan underwriting and first mortgage credit enhancement requirements normally determine maximum loan to value ratio for Agency developments. Usually, the ratio does not exceed 80% of replacement value and/or appraised value. In no event may the ratio exceed 90% of total replacement cost for for-profit developers or 100% of total replacement cost for nonprofit developers. The Agency may require an "as built" appraisal to determine market value.

The combined total of taxable or tax exempt financing and PennHOMES cannot exceed the 90% and 100% amounts referenced above.

## **OUTSIDE FUNDING SOURCES**

Other sources of public and private support, including donation of publicly held land, should enhance financial viability.

## **CREDIT ENHANCEMENT/MORTGAGE INSURANCE**

Credit enhancement/mortgage insurance is required for all developments requesting Agency taxable or tax exempt bond financing.

The Agency has established a Mortgage Insurance Program designed to protect the Agency and its bondholders in the event of a fiscal or covenant default on an Agency financed development through direct insurance support on a property specific basis.

Bond rating organizations have developed criteria for rating debt obligations secured by multifamily mortgages on a property specific basis. Only those properties classified as "prime quality properties" will be qualified for a rating without other sources of credit enhancement.

If the Agency's Mortgage Insurance Program is to be requested, please indicate by checking the appropriate box on page one of the Multifamily Housing Application. The Agency's Mortgage Insurance Program is either self-insured or provided through other financial intermediaries as the Agency deems appropriate.

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## **CONSTRUCTION LOAN PROGRAM**

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The Agency will provide below market rate construction loans for multifamily rental housing developments in conjunction with a permanent take-out loan from a lender other than the Agency. If the Agency is also the permanent take-out lender, the Multifamily Housing's General Program Guidelines must also be met. Both new construction and rehabilitation developments are acceptable.

Eligible applicants for Agency financing include individuals, joint ventures, partnerships, limited partnerships, trusts, corporations, cooperatives and condominiums, whether for profit or nonprofit.

### **Program Highlights**

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#### **MINIMUM NUMBER OF UNITS**

The minimum number of units for the construction loan program is fifteen (15).

#### **MAXIMUM INCOME OF TENANTS**

A minimum of 20% of the units must be rented to tenants whose incomes do not exceed 80% of the area median income, adjusted for family size. This is for a construction only loan.

#### **INTEREST RATE**

The Agency construction interest rate is based upon the Agency's borrowing costs in the market. Agency staff may provide an approximate rate for purposes of financial estimates upon receipt of the application. Exact rates will not be available until the loan closing.

#### **FINANCING FEE / CONSTRUCTION MONITORING FEE**

The Agency requires a 2% fee, calculated on the total construction mortgage.

#### **LOAN TO VALUE RATIO**

The Agency is authorized to make loans to for-profit developers of up to 90% of replacement cost of the development. The Agency may provide loans of up to 100% of replacement cost of the development to nonprofit developers. The loan to value ratio may be determined by an independent appraisal determining both an "as is" and "as completed" market value.

#### **CONSTRUCTION RETENTION**

The Agency requires retention of 10% of all requested construction payouts. At the Agency's discretion the percent retained may be reduced to 5% after construction has been 50% completed. A copy of the Agency's guidelines for disbursement of Agency funds is available upon request.

#### **CONSTRUCTION MONITORING**

The Agency will monitor construction and will attend monthly construction conferences at the site. In addition, Agency Technical Services Representatives may visit the development site to review site activity at any time during construction. The Agency Technical Services Representative and the Agency Staff Accountant shall review and approve all requisitions, payouts, and change orders to ensure compliance with the Agency's requirements.

Rev. 6/18/02

END OF PROGRAM GUIDELINES

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# PROGRAM GUIDELINE EXHIBITS

