

**PENNSYLVANIA HOUSING FINANCE AGENCY  
ALLOCATION PLAN FOR YEAR 2005  
LOW INCOME HOUSING TAX CREDIT PROGRAM**

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*.

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 2005 Multifamily Housing Application Package and 2005 Multifamily Housing Program Guidelines. It is the applicant's responsibility to be familiar and compliant with all Tax Credit Program requirements, the regulations, and the Internal Revenue Code (the "Code").

**SUBMISSION REQUIREMENTS**

The following details the timeframes and processing information applicable to the Year 2005 Tax Credit Program. Additional information regarding Agency processing may be available in the Multifamily Housing Processing Guide, which will be available on the Agency's website at *www.phfa.org*, as amended from time to time.

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 **3:00 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 2005 Board meeting and will strive to notify applicants in Cycle 2 of the applicant's status after its September 2005 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 8, 2004</b>	<b>50%</b>
<b>2</b>	<b>April 8, 2005</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 prohibited while the Application is pending. After reservation of Tax Credits, any such transfers, sales and assignments prior to placement in service and issuance of an IRS Form 8609 require prior written approval by Agency staff, 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 as approved by staff during underwriting and program review or except for developments participating in an Agency financing program, which may undergo subsequent substitute processing and ranking by the Agency. Applications will be 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 or fees associated with the proposed development are deemed to be 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. Applicants are urged to review their original Applications carefully prior to submission to the Agency. Corrections 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 2005 Multifamily Housing Program Guidelines for additional guidance and information about processing Applications.

### **THRESHOLD ELIGIBILITY CRITERIA**

The Agency will only process Applications meeting 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 the applicant (or any related entity or material participant) 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 applicant (or any related entity) 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), attendance and satisfactory completion of an Agency-approved course in the compliance requirements of the Tax Credit Program may be required. 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, nonmaterial noncompliance issues may result in the adjustment of points during the ranking process.

2. If the applicant (or any related entity or material participant) 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 returned if the applicant (or any related entity or material participant) has failed to meet any established program deadline date, which resulted in loss of Tax Credits.

4. Applicants (or any related entities or material participants) 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 an appropriate relocation plan has been developed. Furthermore, to the greatest extent feasible all residents will be offered their choice to either be temporarily relocated until such time, upon completion of the development, as they are able to return to an appropriately sized affordable unit in the development, or receive relocation benefits. Applicants are required 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 occupied Tax Credit development during its initial compliance period unless the initial compliance period will have expired prior to the end of 2005 and the property meets all other acquisition Tax Credit rules.

7. Applications for 2005 Tax Credits must demonstrate a commitment to serve low income residents for a period of not less than 30 years or, in the alternative, offer homeownership opportunities to qualified residents after the initial 15 year compliance period. The Agency may, in its sole discretion, waive this requirement based upon applicant's demonstration that the development furthers affordable housing, economic or redevelopment opportunities.

In addition to the above threshold eligibility criteria, the Agency reserves the right to take any action it deems appropriate if the applicant (or any related entity), 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. 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 the Internal Revenue Service, U.S. Department of Justice, Department of

Treasury, U.S. Department of Housing and Urban Development, Pennsylvania Human Relations Commission or Pennsylvania Office of Attorney General.)

“Material participant” for purpose of this section 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, management contracts or operating regulatory agreements.

**SET-ASIDES**

In Year 2005, 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 2005, the Agency will not issue an amendment to this Allocation Plan but 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**

<u>Set-Asides</u>	<u>Percentage of Tax Credits to be Allocated</u>
Regional Set-Aside	75.00%
Region 1 *	23.80%
Region 2	12.87%
Region 3	9.10%
Region 4	6.53%
Region 5	16.95%
Region 6	5.75%
Preservation	20.00%
Additional Tax Credits	<u>5.00%</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 2005 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 2005 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 and will be available in two funding cycles. The amounts available in each Set-Aside may be adjusted by the Agency during, between, and after the cycles to ensure adequate and appropriate funding of the developments meeting the Program criteria.

**2. Nonprofit Organization Set-Aside**

Thirty percent (30%) of the amount reserved in the Regional Set-Aside 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 nor 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.

### **3. Preservation Set-Aside**

A special Set-Aside of Tax Credits, in the amount of twenty percent (20%) of the state per capita allocation available in the Year 2005, will be established for developments that meet the Agency's requirements for preservation of affordable housing. To qualify for the Preservation Set-Aside, developments must target:

(a) 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.); or

(b) rehabilitation of already existing low income units provided that the rehabilitation will repair or replace major systems and components that are 1) in immediate need of repair or replacement; or 2) 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 legitimate lack of sufficient and available, unrestricted property reserve funds or capital to provide for the necessary capital improvements. Developments must expend for rehabilitation a minimum of \$10,000 per unit in construction costs on major systems and components based upon a professionally commissioned Capital Needs Assessment (not more than twelve months old from the date of Application).

(c) rehabilitation of already existing low income units provided that the rehabilitation is being funded through the Agency and the development will be monitored through an Agency preservation program.

Applicants for this Preservation Set-Aside should refer to the 2005 Multifamily Housing Program Guidelines for further guidance on submission requirements. All applicants must state at the time of Application whether they are requesting 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.

### **4. Requests for Additional Tax Credits Set-Aside**

A special Set-Aside of Tax Credits in the amount of five percent (5.0%) of the state per capita allocation will be available for developments that have received an initial reservation of Tax Credits in a prior year, must be placed in service in 2005, and are seeking additional

Tax Credits in 2005. This Set-Aside is only available for developments which have not changed any selection criteria nor made any unapproved modifications to the development from the initial application.

In the event the Applicant is amending the selection criteria considered by the Agency in making the initial reservation, or will be placed in service after 2005, the Applicant must submit a new Application in a Regional Set-Aside. Regardless of which source the Applicant chooses (i.e. Regional Set Aside or Additional Set Aside), Applicants may only request additional Tax Credits two times subsequent to the initial reservation.

A development seeking Additional Tax Credits from the Set-Aside will not be considered at the same time under the Regional Set-Aside. The Agency, in its discretion, may consider any Applications under the applicable Regional Set-Aside once the Additional Tax Credits Set-Aside is exhausted or reallocate Tax Credits in an amount as determined by the Agency to developments which must be placed in service in 2005.

All Applicants for Additional Tax Credits should refer to the Checklist of Exhibits in the 2005 Multifamily Housing Program Guidelines for resubmission requirements and processing instructions.

In order to ensure that sufficient amounts are available to fully fund specific developments, the Agency may adjust any of the Set-Asides as determined by the Agency. For developments returning an entire reservation of Tax Credits from a previous or current year's allocation, the Tax Credits may be redistributed at the Agency's discretion.

Applications may be returned if the amount of Tax Credits requested for a development exceeds the amount of Tax Credits available for the applicable Set-Aside 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 2005. Based upon the demand for Tax Credits and development rankings, the Tax Credits reserved for any one applicant (or related entity or material participant) or development in any specific jurisdiction or within a particular Set-Aside may be limited at the discretion of the Agency. Moreover, the Agency reserves the right to amend, modify or waive specific nonmaterial submission requirements or requisite documentation to best achieve affordable housing programs or affirmatively further fair housing in the Commonwealth

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

The Agency has established a maximum basis per unit of one hundred twenty percent (120%) of the U. S. Department of Housing and Urban Development's (HUD) Section 221(d)(3) maximum mortgage limits ("Maximum Basis"). 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 rehabilitation/new construction 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 that are over and above that typically associated with such housing; excessive costs due to unsuitable subsoil conditions; costs associated with environmental remediation; up-front capital expenditures related to energy efficiency systems that will result in demonstrable savings in utility costs to the residents 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 Basis limitation. For all other circumstances, Agency staff will not approve Tax Credits above 15 percent of the Maximum Basis limitation. A waiver of the Maximum Basis limitation is at the sole discretion of the Agency.

See Exhibit MAX BASIS for a breakdown of the Agency's Maximum Basis limitation 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 has established a minimum point threshold of two hundred (200) points for Applications during the Year 2005 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, independent capital needs assessments 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 the 2005 Multifamily Housing Program Guidelines.

All Tax Credit reservations are made based upon the information contained in the Application. Unless specifically directed or approved 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, certain Selection Criteria 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.

The Selection Criteria are set forth in Exhibit SC2005.

### **RANKING OF DEVELOPMENTS**

Developments 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, Set-Aside or the statewide pool and only one development can be awarded 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 the same percentage of units serving residents at or below 50 percent of area median income, the Agency, in its sole discretion, may select the Application that it determines best fits the Agency's affordable housing priorities and achieves geographic distribution.

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 (under a common financing plan), 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 Agency's maximum per unit basis limitation. However, Agency staff may consider a higher developer's fee (up to the maximum percentage limits) if an amount of funds equal to the increased developer's fee calculated in excess of the Agency's maximum per unit basis limitation is committed by the owner to the provision of social supportive services, as support for lower income families in transition or in concert with a families moving to work initiative of the Commonwealth, or as an internal rental subsidy to subsidize rents at or below 20 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 may request a developer's fee in excess of the maximum allowable amount (up to but not exceeding an additional 5 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 the equity raised from the additional development fee of 5 percent for the provision of an internal rent subsidy for all units set aside to provide affordable accessible housing to persons with disabilities. A unit would be considered affordable in this instance if the housing expense to the resident is maintained at a level affordable to a person with income at or below 20 percent of the area median income. For developments not receiving Agency financing, Agency staff will only approve an increased developer's fee if the developer provides adequate assurances and documentation (including evidence of a third party escrow arrangement) that an amount of funds equal to the increased equity raised from the additional developer's fee of 5 percent will be committed to the development to establish an internal rent subsidy to subsidize rents at or below 20 percent of area median gross income for at least the initial 15 year occupancy 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 submit a Tax Credit Application and must be evaluated in accordance with the Tax Credit Allocation Plan and the 2005 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 of two hundred (200) points. 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 2005 Multifamily Housing Program Guidelines for the appropriate documentation to be submitted and the applicable timeframes.

Because of the competitive nature of Tax Credits, the Agency may require certain applicants to pursue Tax Exempt financing as an alternative to seeking Tax Credits in the competitive cycles. To achieve this goal, the Agency may waive such timelines, processing and program requirements, in its discretion, to encourage and facilitate such financings.

## **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 for certain programs to Tax Credit allocating agencies. Pennsylvania requested and has been delegated this subsidy layering review responsibility. Assistance received from the Office of Public and Indian Housing (which includes Section 8 Project Based Assistance) requires a subsidy layering review by HUD. 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 Year 2005 Tax Credits must either be placed in service by December 1, 2005 or, by November 1, 2005, 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, 2005 must notify the Agency by October 1, 2005 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 1, 2005, 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 1.) 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 or 2.) an owner's certification which includes sufficient identification of the property (i.e. legal descriptions, surveys, title insurance) to assign building identification numbers. In making this certification, the owner accepts full responsibility of all discrepancies, errors or omissions of properties and acknowledges that subsequent adjustments may require Internal Revenue Service approval. 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 2005 Multifamily Housing Program Guidelines for further details and specific processing deadlines.

The Agency reserves the right, in its sole discretion upon review and approval of a committee of the Board, to provide an allocation of Year 2005 Tax Credits to a development, without requiring re-ranking under the Year 2005 Allocation Plan. The development must be currently holding a valid allocation of Tax Credits and, due to circumstances beyond its control, can not meet Tax Credit program deadlines. The Year 2005 Tax Credits will be allocated upon release and return of the prior allocation. Such circumstances may include delays caused by local government's opposition to affordable housing; delays due to the failure of the federal government to release program guidelines or regulations in a timely manner or due to temporary freezes in federal government budget authority for program activity; or similar extraordinary and compelling basis (and but for such circumstance,

Agency program deadlines and requirements would have been met.) Further, the Agency will not consider requests for additional Tax Credits for the affected Development when it considers providing this extraordinary relief and will not consider any applications for Tax Credits for a new development submitted by the same applicant (or related entity or material participant) during the same funding cycle for Tax Credits if it provides this extraordinary relief due to the Developer's inability to meet placed in service 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 2005 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 2005 are subject to the Agency's Year 2005 Multifamily Housing Program Guidelines and in the event the initial reservation is modified or amended, the Year 2005 Multifamily Housing Program Guidelines shall remain in force and effect for the property. However, the Agency may amend the 2005 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.

### **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.

In order to provide a resource for households seeking affordable housing throughout the Commonwealth, the Agency is currently developing an interactive database for all affordable housing units in developments participating in any of PHFA's multifamily housing programs. All developments receiving 2005 Tax Credits must participate in this data collection effort and will be expected to provide information including, but not limited to unit amenities, household size, household income and move in information and any ongoing unit vacancies in a secure and timely manner.

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. As referenced above, the Agency may also require submission of ongoing data from each property regarding move ins and vacant units.

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 90 days, unless extended by the Agency in writing. Upon the expiration 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 2005 Multifamily Housing Program 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.



**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
REGIONAL OFFICES**

**Region 1 – South East**

908 State Office Building  
Broad & Spring Garden Sts.  
Philadelphia, PA 19130  
(215) 560-2083

**Region 5 - South West**

1405 State Office Bldg.  
300 Liberty Avenue  
Pittsburgh, PA 15222  
(412) 565-5002

**Region 2 – North East**

201 Samters Building  
101 Penn Avenue  
Scranton, PA 18503-2025  
(570) 963-4573

**Region 6 – North West**

1200 Lovell Place  
Erie, PA 16503  
(814) 871-4241

**Region 3 & 4 – North & South  
Central**

400 North Street 4<sup>th</sup> Fl.  
Keystone Building  
Harrisburg, PA 17120  
(717) 720-7300

*Exhibit MAX BASIS*

**MAXIMUM PER UNIT BASIS LIMITATIONS  
2005 Programs**

<b><u>MARKET AREA</u></b>	<b><u>0BR</u></b>	<b><u>1BR</u></b>	<b><u>2BR</u></b>	<b><u>3BR</u></b>	<b><u>4BR</u></b>
<b>PHILADELPHIA AREA</b>					
(Bucks, Chester, Delaware, Montgomery, and Philadelphia)					
Non-elevator Construction	\$105,961	\$122,172	\$147,342	\$188,597	\$210,106
Elevator Construction	\$111,510	\$127,824	\$155,434	\$201,079	\$220,722
<b>READING/POTTSTOWN AREA</b>					
(Berks, Northumberland, and Schuylkill)					
Non-elevator Construction	\$95,365	\$109,955	\$132,607	\$169,738	\$189,095
Elevator Construction	\$100,360	\$115,030	\$139,890	\$180,971	\$198,649
<b>ALLENTOWN/BETHLEHEM AREA</b>					
(Lehigh and Northampton)					
Non-elevator Construction	\$98,897	\$114,028	\$137,519	\$176,023	\$196,098
Elevator Construction	\$104,076	\$119,303	\$145,072	\$187,673	\$206,006
<b>SCRANTON AREA</b>					
(Columbia, Carbon, Lackawanna, Luzerne, Monroe, Pike, Susquehanna, Wayne and Wyoming)					
Non-elevator Construction	\$95,365	\$109,955	\$132,607	\$169,738	\$189,095
Elevator Construction	\$100,360	\$115,042	\$139,890	\$180,971	\$198,649
<b>WELLSBORO AREA</b>					
(Bradford and Tioga)					
Non-elevator Construction	\$93,347	\$107,628	\$129,802	\$166,145	\$185,093
Elevator Construction	\$98,236	\$112,607	\$136,930	\$177,140	\$194,446
<b>HARRISBURG AREA</b>					
(Adams, Cumberland, Dauphin, Franklin, Lebanon, and Perry)					
Non-elevator Construction	\$94,356	\$108,791	\$131,204	\$167,941	\$187,093
Elevator Construction	\$99,298	\$113,825	\$138,410	\$179,056	\$196,548
<b>LANCASTER/YORK AREA</b>					
(Lancaster and York)					
Non-elevator Construction	\$93,347	\$107,628	\$129,802	\$166,145	\$185,093
Elevator Construction	\$98,236	\$112,607	\$136,930	\$177,140	\$194,446
<b>BELLEFONTE/STATE COLLEGE AREA</b>					
(Centre, Clinton, Lycoming, Juniata, Mifflin, Montour, Union, Snyder, and Sullivan)					
Non-elevator Construction	\$94,356	\$108,791	\$131,204	\$167,941	\$187,093
Elevator Construction	\$99,298	\$113,825	\$138,410	\$179,056	\$196,548
<b>PITTSBURGH AREA</b>					
(Remaining 29 Counties)					
Non-elevator Construction	\$92,338	\$106,464	\$128,398	\$164,348	\$183,091
Elevator Construction	\$97,172	\$111,390	\$135,449	\$175,225	\$192,343

## Selection Criteria

### A. Need and Marketability

*20 points*

1. Need and Marketability – The Agency will measure the marketability and need of a development based on information provided by the Market Study/Needs Assessment. A Market Study/Needs Assessment form must be completed by the market analyst in the format developed by the Agency. Special needs housing developments that are not requesting Tax Credits may provide market studies prepared by the developers addressing their client base utilizing the Market Study/Needs Assessment format. The Market Study/Needs Assessment must address the following criteria:

- Size of waiting lists in existing complexes;
- Vacancies in existing complexes;
- Affordable housing options in the primary market area;
- Rent pricing advantage of the proposed development rents compared to market rents;
- Population statistics;
- Impact on existing subsidized, affordable and Tax Credit developments;
- Results of the Housing Provider Needs Assessment Form completed by the local housing authority (note: refusal by the housing authority to complete the form will not impact ranking of the development);
- Capture rate relating the number of rental units being proposed to the number of age and income qualified households in the primary market area;
- Local community support;
- Projected absorption period;
- Estimated vacancy rate; and
- Recommendations of the market analyst.

If the Market Study/Needs Assessment is not completed by the appropriate party or is not in the Agency’s format, the Application may be rejected and returned to the developer. Points may be provided given the strength of the development’s specific capture rate, as follows:

Development’s Capture Rate		
Urban/Suburban Areas	Rural Areas	Points
0-2%	0-4%	10
>2-4%	>4-6%	6
>4-6%	>6-8%	3

Additionally, points may be provided for the overall primary market area’s capture rate which incorporates both the number of units proposed for the subject property, the number of existing low income units and proposed low income units in the primary market area, as follows:

Overall Capture Rate	Points
0-15%	10
>15-20%	6
>20-25%	3

It should be noted that the Agency will closely review this category with a thorough analysis of the Market Study/Needs Assessment and the information gathered during its site visit. If questions or concerns are raised regarding the market and/or need of the development or the impact on affordable housing units in the area, clarification will be requested of the developer and/or market analyst. If the concerns are not addressed by the

developer and/or market analyst to the satisfaction of the Agency, the Application may be eliminated from funding consideration.

## **B. Development Characteristics**

*90 points*

### 1. Development Amenities –

- a. The Agency may award up to 5 points for the provision of each of the following development amenities to a maximum of 20 points:

#### Development Amenities (5 points per provision)

- An on-site community room with a kitchen or kitchenette that will be available to all residents. In order to qualify for ranking points, the community room must contain at least 20 net square feet for each residential unit in a senior occupancy development or 15 net square feet for each residential unit in a general occupancy development.
- Common laundry facilities. If a scattered site development, must be within two blocks of each unit.
- For suburban or rural areas, garage or carport for each unit (without extra charge to residents)
- For urban areas, sufficient on site, off street parking for each unit (without extra charge to residents)
- Equipped health/wellness room
- Equipped computer learning labs
- Units with air conditioning in living areas and all bedrooms
- On site management office
- Security system

Note: The community room, health/wellness room, and/or computer learning lab could all be in the same room, but only a maximum of 5 points will be awarded. Points will be based on the number of rooms set aside for these purposes.

The Agency will review the architectural documents submitted with the proposal to confirm the existence of the proposed amenities. A certification from the design architect verifying the inclusion of the amenities in the development must be submitted with the Application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents. For developments not requiring the services of an architect, the certifications may be provided by the general contractor. Amenities included in the development should be appropriate for the proposed resident population. The appropriateness and adequacy of the proposed amenities for ranking purposes will be determined at the sole discretion of the Agency. Verification of the availability of the amenities may be required by the Agency at any time and throughout the development's compliance period.

- b. Energy Conservation – The Agency may award a maximum of 15 points to developments that promote energy conservation. Up to 5 points may be awarded for each of the following conservation efforts.

- Developments that exceed the cumulative building envelope “U Overall” (UO) standards of Chapter 5 of the International Energy Conservation Code by 10 percent or greater.
- Developments that promote energy efficiency by constructing a building that passes a Blower Door test with a rating of .50 Air Changes per Hour (ACH) or less, but no less than .35 ACH.
- Developments that promote energy efficiency by exclusively using Energy Star compliant appliances, furnaces, heat pumps, water heaters, etc.

A certification from the design architect verifying the inclusion of energy conservation efforts in the development must be submitted with the Application. Confirmation from the construction contract administration architect is required with the submission of the cost certification documents.

c. VisitAbility – The Agency may award 5 points to developments with VisitAbility design features in at least 75 percent of the units. To meet the VisitAbility requirements,

- The buildings and units must have at least one zero-step entrance with a 36 inch wide door.
- All doorways and passageways on the entry level floor of a unit should have a width of 36 inches.
- There should be a clear pathway to a bathroom or powder room. The bathroom or powder room should have a 60 inch turning radius and grab bars on reinforced walls, which could be used as towel bars.

The Agency will review the architectural documents submitted with the proposal to confirm the existence of the VisitAbility features. A certification from the design architect verifying the inclusion of the VisitAbility features in the development must be submitted with the Application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents.

2. Unit Amenities – The applicant may be awarded up to 10 points for residential living space exceeding certain square footage standards and 5 points for each of the remaining unit amenities listed below, for a maximum of 20 points:

- Developments with net residential living space exceeding certain square footage standards. Points will be awarded based on the following scale and will be prorated by the number of units exceeding the following standards. It should be noted that manager units are not included when determining the number of units impacted.

<u>Unit Type</u>	<u>Flats</u>	<u>Townhouses</u>
SROs	Exceeds 200 sq. ft.	N/A
Efficiencies	Exceeds 450 sq. ft.	N/A
1 Bedroom	Exceeds 600 sq. ft.	Exceeds 850 sq. ft.
2 Bedroom	Exceeds 850 sq. ft.	Exceeds 1,000 sq. ft.
3 Bedroom	Exceeds 1,000 sq. ft.	Exceeds 1,200 sq. ft.
4 Bedroom	Exceeds 1,200 sq. ft.	Exceeds 1,400 sq. ft.
5 Bedroom	Exceeds 1,400 sq. ft.	Exceeds 1,600 sq. ft.

- Washer and dryer hook ups in each unit
- Dishwasher in each unit
- Emergency notification system (Senior housing developments or developments providing housing for persons with disabilities. General occupancy developments do not qualify.)
- Digital accessibility installed in each unit
- Window treatments in all residential units. Window treatments include venetian blinds, vertical blinds, or other opaque blinds. Roller shades would not be considered in this category.
- Storage space of at least twelve (12) square feet, plus twelve (12) additional square feet for each bedroom within a unit. All units for general occupancy must also have an additional sixteen (16) square feet within or outside of the unit in a basement or other secured space for bicycles, tires, etc.

The Agency will review the architectural documents submitted with the proposal to confirm the existence of the proposed amenities. A certification from the design architect verifying the inclusion of the amenities in the development must be submitted with the Application. Confirmation from the construction contract administration architect is required with the submission of the cost certification documents. For developments not requiring the services of an architect, the certifications may be provided by the general contractor. Amenities should be appropriate for the proposed resident population. The appropriateness and adequacy of the proposed amenities for ranking purposes will be determined at the sole discretion of the Agency.

Verification of the availability of all amenities may be required by the Agency at any time and throughout the development's compliance period.

3. Neighborhood Characteristics – The Agency may award 5 points for each desirable characteristic noted for the development site and neighborhood. To be considered, a desirable characteristic must be in close accessible proximity (generally located within 1 mile radius) of the development, or each building, if scattered site development. The maximum points awarded in this category will be 15 points.

Desirable characteristics include:

- Regularly scheduled public transportation available to all residents in the neighborhood
- Day care center for general occupancy developments
- Senior center for senior occupancy developments
- Full service grocery store
- Retail stores
- Pharmacies
- Parks/recreational facilities
- Places of worship
- Schools – kindergarten through high school (for general occupancy developments)
- Hospitals/health care facilities

Documentation must be provided in the form of a map indicating location of all desirable characteristics along with a key for the map indicating the type of activity. This map may be combined with the location map if all of the information is clearly represented. The map should be presented with photographs of the site and the surrounding neighborhood, highlighting the desirable characteristics. All photographs are to be either color originals or color copies. Black and white photographs are not acceptable. Site and neighborhood characteristics may be reviewed by the Agency at any time.

4. Community Revitalization Plan – The Agency may award 5 points for developments contributing to an existing community revitalization plan. To qualify for points in this category, the applicant must submit a letter from an official of the local government explaining how the development will contribute to the community revitalization plan. The letter should be specific to the proposal and must identify the official title of the community revitalization plan along with the year in which it was adopted. The Agency may accept a copy of the community revitalization plan in lieu of a letter from the local government in the event the developer is unable to obtain such a letter. The developer must clearly identify the specific statement in the plan which includes the proposed site and use. A county or municipal zoning or land use plan does not qualify as a community revitalization plan. If the development is not located in a qualified census tract, the development must include the use of existing housing in order to qualify for points in this category.
5. Coordination with Other Housing and Community and Economic Development Programs – The Agency may award 10 points to proposals that demonstrate further coordination between other housing and community and economic development programs targeted by PHFA and other state or local governmental agencies. Such programs include (without limitation): Home Choice Program (PHFA); Main Street, Elm Street, Hometown Street, and pilot initiatives and demonstration programs between PHFA and DCED, (including the Commonwealth Financing Authority), DPW, PennDOT, DCNR, L&I or Office of Aging.

**C. Resident Population and Services**

165 points

1. Income and Rent Targeting

- a. Resident Income – Developments that are designed to be substantially occupied by and affordable to residents with incomes that are at or below 50 percent of the area median income. In mixed income developments, the percentage will be based on the total number of Tax Credit eligible units. Points will be considered for the following percentages of units for tenants whose incomes are at or below 50 percent of area median income:

<u>Percentage</u>	<u>Points</u>
0-10%	0
>10-20%	6
>20-30%	12
>30-40%	18
>40-50%	24
>50%	30

- b. Affordability of Rents – Developments that are underwritten and maintained at the imputed rents at or below 50 percent of the area median income. In mixed income developments, the percentage will be based on the total number of units. Developments that receive subsidies for rent will be given consideration provided the developer certifies that upon expiration or termination of the subsidy, total rents charged to the tenants will not exceed rents that are at or below the imputed rent at 50 percent of the area median income. Points will be considered for the following percentages of units provided with imputed rents less than or equal to 50 percent of the area median income:

<u>Percentage</u>	<u>Points</u>
1-20%	6
>20-40%	12
>40-60%	18
>60-80%	24
>80-100%	30

- c. Deeper Income Targeting - Consideration will be given to developments in which at least 20 percent of the units will be affordable to and rented to residents whose incomes do not exceed 40 percent of the area median income, adjusted for family size. A total of 15 points may be given for this category.

- 2. Special Needs & Supportive Services – Developments requesting consideration for providing services for one of the following designated populations must include evidence that the development will provide appropriate services for residents for the duration of the compliance period. Evidence consists of a supportive services plan that is specific to the development; a financial commitment to provide services for residents, with a plan of how it will be funded for the long term; and an agreement with a qualified service provider. The supportive services plan must include a detailed description of services; an explanation of how and where residents will access the services; and the cost for and source of funds to pay for these services.

Confirmation from the service provider regarding the availability of applicable services at initial occupancy of the development will be required prior to issuing the IRS Form 8609. To ensure the continued provision of supportive services, the Restrictive Covenant Agreement will reflect such commitment. Evidence of enforcement of the lease provisions prioritizing the occupancy of these units by the targeted population will be required and implementation and adherence to additional outreach programs to identify and match qualified residents who need the features within the development may be required throughout the compliance period.

- a. Developments demonstrating a significant commitment to, and the ability to meet the needs of, one of the following special needs populations: residents who are physically or mentally disabled, including persons with HIV/AIDS; transitional or permanent housing for the homeless or victims of domestic abuse; or seasonal farm workers. At least 10 percent of the units must be set aside for residents with the identified special needs. The service provider must provide written evidence that there are a sufficient number of income-qualified persons with special needs waiting to occupy the units. This set aside must provide for rental subsidies for at least a 5-year period, with a financially viable plan for continued affordability.

(or)

- b. General occupancy developments that provide program support for low income residents affected by life changes associated with preparing for and retaining employment or moving into the workforce.

(or)

- c. Developments that support residents 62 years of age and older in maintaining their independent lifestyle through the provision of appropriate supportive services. Note that the entire development must be occupied by residents at or above age 62.

A total of 15 points may be awarded for meeting one of the above criteria.

### 3. Accessible Units –

- a. Consideration may be given to developments where the developer agrees to provide twice as many fully accessible units as are otherwise required (under local, state, or federal mandate, whichever is greater) in the development. All employee units must be included in the total units count when calculating the required number of accessible units. The developer must certify that these units are accessible and, that during initial lease up, the developer will exclusively reserve the units for occupancy by persons needing the accessible units for the first thirty days and thereafter will provide for certain lease provisions designed to allow the units to be occupied by persons who need the accessible features of the units to the greatest extent feasible. Evidence of enforcement of the lease provisions will be required and implementation and adherence to additional outreach programs to identify and match qualified residents who need the accessible features within the development may be required throughout the compliance period.

Terms addressing the accessible units and the subsequent rental of these units will be incorporated in the Restrictive Covenant Agreement. In addition, a certification from the design architect verifying the inclusion of the accessible units in the development will be required at the time of application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents. For developments not requiring the services of an architect, the certifications may be provided by the general contractor. For preservation developments, consideration will be given for points under this category if the development increases the number of accessible units available in the development by at least 5 percent of the total units available. (All other requirements applicable to rental and long term occupancy of these units are the same.) A total of 10 points may be awarded for this category.

- b. Consideration will be given to developments maintaining the affordability of all accessible units in the development, including those identified in 3(a). above, if applicable, to persons at or below 20 percent of the area median income, adjusted for family size. A total of 20 points may be awarded for this category.

4. Large Families – Up to 10 points may be awarded for those developments providing units with three or more bedrooms for large families. High rise developments cannot qualify for this category. Points will be considered for developments that include the following percentages of units with three or more bedrooms:

<u>Percentage</u>	<u>Points</u>
15-20%	6
>20-25%	8
>25%	10

A certification from the design architect verifying the number of large family units in the development will be required at the time of application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents. For developments not requiring the services of an architect, the certifications may be provided by the general contractor.

5. Long Term Affordability Commitment – The Agency may award 30 points for developments that comply with a long-term affordability commitment. The following will be considered for qualification in this category:

- a. A commitment to serve low income residents for a period of not less than 30 years. The owner will certify this commitment in the Application and the Restrictive Covenant Agreement will contain a provision waiving any right to petition the Agency to terminate the extended use term (as described in Section 42 of the Code).

(or)

- b. A commitment to offer homeownership opportunities to qualified residents after the initial 15-year compliance period. Proposals must present a financially viable homeownership program for residents who inhabit the units during the compliance period. The program must incorporate an exit strategy, homeownership counseling and a minimum amount of funds set aside by the developer to assist the residents with the purchase. The only types of units eligible for consideration are townhouse and single family attached and detached structures. The Agency, in its discretion, may approve other unit types if structured as cooperative ownership. The developer will certify this commitment in the Application and the Restrictive Covenant Agreement will contain provisions ensuring enforcement of the related covenants by affected qualified residents. Should the units not be converted to homeownership, the Restrictive Covenant Agreement will contain a provision waiving any right to petition the Agency to terminate the extended use term for all units remaining as rental units. A certification from the design architect verifying the units are townhouse or single family attached or detached structures will be required at the time of application. Confirmation from the construction contract administration architect will be required with the submission of the cost certification documents.

(or)

- c. A commitment incorporating a combination of 5(a) and 5(b) provided all Tax Credit units meet one of the two options.

6. Housing Authority Notification – Developments that address the housing needs of local public housing waiting lists may be awarded 5 points. Developers may meet this requirement by providing either: (1) a current letter from the local public housing authority stating how the development is specifically meeting the housing needs of residents on the public housing waiting list; (2) a copy of the comprehensive plan outlining the current local public housing authority waiting list and evidence that the development will meet such resident needs; or (3) satisfactory evidence of mailing to the local public housing authority prior to the date of the Tax Credit application which evidences the commitment of the developer to work cooperatively to meet the needs of persons on the local public housing waiting list.

**D. Development Team and Process**

42 points

1. Development Team – The Agency may award up to 30 points for the experience of the development team in creating the type and size of the property. The development team members include the applicant, architect, general contractor, attorney, and management agent.

a. Experience of applicant (or any related entity) – This category measures the experience of the applicant in the production of multifamily rental housing developments. To receive points, at least one development must be a Tax Credit development which has been placed in service and has been issued an IRS Form 8609. In general, a development must have a minimum of 10 units to be considered in this category. If an applicant has experience in developing 3 or more developments of under 10 units, up to 3 points may be awarded in this category. (Lack of experience of the applicant may be supplemented by the inclusion of an experienced housing consultant on the development team.)

<u>Number of Developments</u>	<u>Points</u>
1-4	3
5-10	6
11-15	9
Over 15	12

(or)

Experienced housing consultant (consulted in 3 or more developments that received a reservation of Tax Credits) in lieu of an experienced general partner – 2 points

Note: If there are two or more applicants, the experience of applicant with the majority interest in the ownership entity will be taken into account. If the applicants hold equal shares of in the ownership entity, then the experience of each will be considered and prorated by the percent of ownership.

b. Experience of management agent with Tax Credit developments – In order to be considered in this category, a management agent must currently manage at least three Tax Credit developments. Management of developments with project based or public housing rental assistance may qualify as experience, provided that the management agent has experience with at least one Tax Credit development.

<u>Number of Units</u>	<u>Points</u>
25-150	3
151-300	6
301-450	9
Over 450	12

(or)

Experienced housing management consultant (involved in 3 or more developments that received a reservation of Tax Credits) in lieu of an experienced management agent – 2 points

- c. Experience of attorney in the Tax Credit program – 2 points
- d. Experience of general contractor in type and size of development to be developed – 2 points
- e. Experience of architect in type and size of development to be developed – 2 points (1 point for design architect and 1 point for construction contract administration architect)

## 2. SERB Participation

- a. Material participation in the development team by a entity which meets eligibility criteria of the Socially and Economically Restricted Business (“SERB”) Program operated by and through the Pennsylvania Bureau of Contract Administration and Business Development of the Department of General Services may be awarded 2 points. To qualify, the SERB must materially participate in the development process and must have been involved with fewer than 4 developments that have previously received approval for funding from the PennHOMES and/or Tax Credit Programs in the last five (5) years. Joint ventures, subcontracting arrangements, or joint fee arrangements will not qualify as material participation. Development team members to be considered are the applicant, design architect, construction contract administration architect, attorney, general contractor and management agent.

(or)

1 point will be awarded for SERB participation in any of the following professions: housing consultant, housing management consultant, landscape architect, civil engineer, geo-technical engineer or environmental review professional. Joint ventures, subcontracting arrangements, or joint fee arrangements will not qualify for consideration in this category. The firm must be part of the development process upon submission of the Application, and must be the only professional hired by the ownership entity for that purpose.

3. Ability to Proceed - The Agency may award up to 5 points for completion of each of the following steps in the development process at the time of application, to a maximum of 10 points:

- Site ownership – The developer must submit recorded deeds (or copies of the deeds and recording receipts) of all real estate parcels with the Application. Property ownership (as listed on the deeds) must be the same as the ownership entity listed on the Application. (A subsidiary or related entity to be formed with the same principals may satisfy this standard.)

Developments utilizing long-term lease arrangements (minimum of 35 years) are eligible, provided the lease is executed at the time of application. A copy of the recorded deed evidencing ownership of the property by the lessor must be provided.

- Zoning – The developer must provide evidence that zoning is in place for all sites included in the Application and that all variances/special exceptions have been approved.
- Site Plan Approval – A letter from the appropriate local government (or opinion of city solicitor or experienced real estate counsel) that certifies the developer has satisfied the site planning process or that no further municipal approvals are required.
- Environmental Review – Evidence is provided that a Phase 1 environmental review has been completed by an environmental review professional certified or licensed by federal, state, or local authorities. A copy of the review or executive summary of the report and a certification that any issues raised in the environmental review have been reviewed and appropriately budgeted by the developer must be submitted.

4. Noncompliance – The Agency may deduct up to 20 points from the ranking score for proposals involving either an applicant (or any related entity) that owns a managing or controlling interest in a Pennsylvania Tax Credit development or a management agent of such development who has unresolved IRS Form 8823 noncompliance issues, has not met the requirements of the Restrictive Covenant Agreement or failed to meet the selection criteria for which an allocation of Tax Credits was made.

## **E. Financial Aspects of Development**

*70 points*

1. Inclusion of Soft Debt Funds – The Agency may award up to 20 points for the inclusion of financing that does not impact the ongoing operations of a development through the amortization of debt. Such financing, commonly referred to as “soft” financing, may include permanent funding from state or local programs, nonprofit organizations, private foundations and/or federal programs. This category includes equity from historic tax credits and land and/or building donation (subject to verification by a current appraisal). This

category does not include a PennHOMES Program request that has not yet reached feasibility approval. Applications with a donation or a reduction in development related fees (i.e., tap-in, impact, recreational and/or other development rights by the local government unit/municipality) may also be included. The reduction must be measurable and based upon an existing fee schedule that applies to all developments.

Comparison will be made between total qualifying soft financing and total development costs, with possible points granted as follows:

Participating Jurisdiction Percentage	Nonparticipating Jurisdiction Percentage	Points
5-10%	2-5%	2
>10 -20%	>5-10%	5
>20-30%	>10-15%	10
>30-40%	>15-20%	15
> 40%	> 20%	20

2. Inclusion of Below Market Rate Interest Loans – The Agency may award up to 10 points for inclusion of permanent amortized debt with a below market interest rate. “Below market” is defined as a loan amortized at an interest rate which is at least 100 basis points below the applicable federal rate at the time of application and at the time of loan closing.

Comparison will be made between total qualifying permanent financing and total development costs, with possible points granted as follows:

Percentage	Points
0-25%	0
>25-50%	5
> 50%	10

3. Percent of Equity Raised – The Agency may award up to 20 points to proposals receiving greater net equity pay-in values for the Tax Credits from investors than provided on average in the existing market. Net equity pay-in is calculated after deducting all syndication costs including bridge loan interest and expenses. Potential points may be granted as follows:

Pay-in Above Market by at Least:	Points
\$.01	5
\$.02	10
\$.03	15
\$.04	20

4. Development Cost Savings - The Agency may award up to 20 points to Applications which have Maximum Basis (as defined in the Allocation Plan) below the Maximum Per Unit Basis Limitations ("Max Basis") as shown below. Points in this category will generally only be considered for substantial rehabilitation or new construction developments which evidence quality construction at efficient cost levels. In addition to submission of certifications that the building as designed and as constructed will meet/meets all labor and material standards set forth in applicable local or statewide codes (without sacrificing unit size and other building amenities), the Agency reserves the right to require additional certifications from local officials or building design professionals prior to the issuance of an IRS Form 8609 for the building or to conduct its own site visits during construction to ensure that the quality of construction is not compromised by cost savings.

Percentage Below Max Basis:	Points
5-10%	5
>10-15%	10
>15-20%	15
>20%	20

**F. Other**

*5 points*

1. Complete Application Package – The Agency may award 5 bonus points for Applications that are submitted with all required Application exhibits and information as delineated in the Application Checklist and the Application Guidelines.

**Total Points Available**

*392 points*