

APPENDIX E

2022 LOW-INCOME HOUSING TAX CREDIT MANUAL

All deadlines listed herein are for 5:00 PM Eastern Standard Time and fall to the next business day if it otherwise would occur on a holiday or weekend.

I. RESERVATION/CARRYOVER ALLOCATION PROCEDURES

Any reservation or carryover allocation obtained on the basis of false or misleading information shall be void.

A. Reservation Certificates

The Authority will mail Reservation Certificates to all funded developments upon completion of the competitive scoring process. To acknowledge acceptance of the reservation of LIHTCs, Owner must execute and return the Reservation Certificate and pay all fees then due within ten (10) business days of receipt. Upon receipt of the Reservation Fee, Construction Inspection Fees, and the executed Reservation Certificate, the Authority will execute the Reservation Certificate and forward a copy to the Owner. The date of the Reservation Certificate is the “Reservation Date.”

Once all Reservation Certificates have been executed and returned, the LIHTC Awards List will be released and posted on the Authority’s website: www.schousing.com.

Issuance of a Reservation Certificate does not guarantee that the development will receive an allocation of LIHTC in the amount stated, or at all.

Any violation of the terms and conditions of the Reservation Certification and/or an untimely submission of documentation referenced in the Reservation Certificate may result in its cancellation.

B. Carryover Allocations

Owners seeking a Placed-In-Service (PIS) allocation the year in which the reservation was made must submit a PIS application on or before the second Monday in December. Developments with a reservation of LIHTC that will PIS after December 31 of the reservation year must submit an Application for a Carryover Allocation to the Authority no later than the date specified in the Reservation Certificate.

The Authority will mail a Carryover Agreement together with a Binding Agreement for signature. The Owner must return the original documents by the due date indicated.

C. Phase I Environmental Site Assessment

Completion of a Phase I Environmental Site Assessment (ESA) report will be a condition of the allocation or must be included in the application submission for 4% LIHTC applications. The ESA will identify Historical, Controlled and Recognized Environmental Conditions (HRECS, CRECs, and RECs) that impact the suitability of the proposed site and must include the Environmental Professional’s opinion

on whether the proposed site requires further examination and the rationale used in making this determination. For proposals with existing buildings built before 1978, the report must also include the results from lead-based paint testing. For any HRECs identified, the ESA must demonstrate that previous efforts to mitigate the issue have been completed to the satisfaction of the applicable regulatory authority and/or that the site under consideration meets current criteria established by the regulatory authority and can be used without mandatory controls. For sites with identified CRECs, the ESA must indicate that the REC has been addressed to the standards and satisfaction of the overseeing regulatory authority and identify the remaining controls in place to mitigate the environmental condition(s).

If the Environmental Professional recommends further examination, the application must include a Phase II ESA. The Phase II ESA must provide a narrative of how the any REC(s) identified will be mitigated using methods recognized and supported by the applicable regulatory authority and the estimated costs of such mitigation.

The report(s) must be prepared by a third-party, independent, licensed environmental professional as defined in 40 CFR § 312.10(b) and addressed to the Authority. The Environmental Professional cannot be a member or affiliate of the Development Team. The report(s) must be prepared in accordance with the American Society for Testing and Materials Practice Standards E-1527-13, or as amended.

II. VERIFICATION OF 10% EXPENDITURE

The Authority requires owners meet the Verification of Ten Percent Expenditure (10% Test) no later than six (6) months after the Carryover Allocation date. The Authority may permit an extension of this date only under circumstances beyond the Owner's ability to control. In any event, the Authority will not grant an extension longer than ten (10) months after the Carryover Allocation date.

The 10% Test application is due to the Authority within three (3) weeks after the 10% Test deadline. Failure to submit by the due date may result in the cancellation of the LIHTC award.

If any of the required documents are missing/incomplete, the following will apply:

- Prior to the Application deadline – the missing/incomplete document(s) may be submitted without penalty.
- After the Application deadline – the missing/incomplete document(s) may be submitted upon payment of a \$1,000 administrative fee for each business day after the deadline.
- If the missing/incomplete documents are not corrected and resubmitted to the Authority within seven (7) business days following the notification, the development may forfeit its allocation of LIHTCs.

III. PROGRESS MONITORING

Applicable to projects awarded in the competitive funding cycle and all 4% LIHTC applications receiving a Section 42(m) letter.

A. Progress Inspections

Developments will be subject to four (4) construction progress inspections during the construction phase (25%, 50%, 75%, and 100%).

B. Progress Deadlines

The Authority may grant an extension of the deadlines below for a fee of \$1,000 for the first request. The fee for any additional request is \$2,000. All extension requests must be in writing and submitted not less than one (1) week prior to the deadline along with the required fee. The Authority will only accept and grant extensions for individual categories, not an overall blanket extension for all categories.

Ten (10) Months after the Reservation Date or receipt of the Section 42(m) letter :

Final architect certified development plans and specifications for LIHTC developments are due to the Authority not later than ten (10) months after the reservation date. Final plan and specification requirements are outlined in Appendix B Development Design Criteria.

The Owner entity must have title to the land as evidenced by a copy of the recorded deed and/or land lease.

Twelve (12) Months after the Reservation Date or receipt of the Section 42(m) letter:

The following documents are due not later than twelve (12) months after the Reservation Date:

- a certified copy of the executed, recorded, FINAL construction mortgage document with the recorder's clock mark date stamp showing the date, book, and page number of recording;
- the original executed and recorded Restrictive Covenants(if applicable); and
- the executed binding commitment for syndication.

Owners must provide evidence that their development is listed on the South Carolina Housing Search website, www.SCHousingSearch.com.

Fifteen (15) Months after the Reservation Date or receipt of the Section 42(m) letter:

All developments must be under construction. New construction developments must have all footings or a monolithic slab in place as evidenced by photographs submitted with a Progress Report certified by the development architect or engineer. Rehabilitation developments must have begun actual rehabilitation of the units, as evidenced by photographs submitted with a Progress Report certified by the development architect. Rehabilitation and new construction must be continuous and progressive from this date to completion.

IV. PLACED IN SERVICE ALLOCATION PROCEDURES

The owner must submit a Placed-In-Service (PIS) application and all supporting documentation listed on Exhibit A – Placed in Service Checklist on or before the second Monday in December. Applications not received by this due date may be submitted until the last business day in December, upon payment of an administrative fee equal to \$1,000 for each business day after the second Monday in December.

The Authority will review PIS applications in the order received. If the application is incomplete, the following will apply:

- Prior to the second Monday in December – the documents may be submitted without penalty.
- After the second Monday in December – the documents may be submitted upon payment of a \$1,000 administrative fee for each business day after notification until the documents are submitted.
- If the Authority does not receive the corrected or missing documents and administrative fee within ten (10) business days following December 31, the development may lose its allocation of LIHTCs.

The PIS application must include a Contractor Cost Certification in the form outlined in Exhibit J-2 as to the actual costs incurred in construction of the project. A Certified Public Accountant must perform an audit and issue an opinion letter in accordance with Generally Accepted Accounting Principles and Generally Accepted Auditing Standards and execute the CPA Certification Form. The development team must certify that all costs have been reported for inclusion in the cost certification.

The certification must include a statement that a final copy of all costs incurred has been reviewed and is in accordance with the requirements of the LIHTC Program, and that after careful review and investigation into the eligible basis, the costs that are not includable have been excluded from the eligible basis. The Authority may require an attorney opinion for costs that are questionable as to their eligibility for LIHTC purposes.

The Authority will use industry standards to determine the total actual allowable cost for construction and may reduce the LIHTC allocation. If either the audit or Authority staff finds that the Contractor's actual allowable costs for construction are less than budgeted costs at application and as amended by any approved change order requests, then the Authority may reduce the eligible basis and decrease the amount of LIHTCs. The Authority assumes no responsibility for determining which costs are eligible.

Once submitted Owners may not modify or resubmit a certification. All underwriting decisions based on the submitted certification are final.

After receipt of a complete PIS application, the Authority will inspect the development. All units to be one hundred percent (100%) complete and available for immediate occupancy by the placed in service deadline, as documented by the Certificates of Occupancy or an equivalent provided by the local government entity. Failure to meet either criterion may result in cancellation of the LIHTC allocation.

If the PIS application is complete, the Authority will execute and mail Form 8609(s), but not until the last building in a multi-building development has been placed in service.

V. PROJECT CHANGES, TRANSFERS AND RETURN OF CREDITS

A. Material Changes Prohibited

If, upon the submission of the Carryover Allocation Documents, the 10% Test application or the PIS application, the Authority determines that the development is not substantially the same as described in the original Tax Credit Application, the development may not receive an allocation of LIHTCs.

At all times after award, the owner is responsible for promptly informing the Authority of any changes or alterations which deviate from the final plans and specifications approved at award.

B. Transfers

Neither reservations nor carryovers are transferable without the prior written consent of the Authority.

No change in the makeup or identity of a GP in a partnership or its equivalent in a limited liability company is permitted without the prior written consent of the Authority. Without limitation, this prohibition includes indirect transfers through the admission of any "special limited partner(s)" that leads to the eventual exit of a GP or its equivalent in a limited liability company. LIHTCs allocated to

developments whose ownership is altered in violation of this provision shall be subject to revocation by the Authority.

C. Return of Credits and Returned Credit Allocation Procedures

LIHTC allocations may be returned only on a date agreed upon by the Authority and the Owner.

VI. COMPLIANCE MONITORING PROCEDURES

The procedures the Authority will follow in monitoring are outlined in the LIHTC Compliance Monitoring Manual on the Authority's website. The manual includes but is not limited to procedures that address the following areas: record keeping and record retention; certification and review; on-site inspection; and notification as to noncompliance.

Additionally, all LIHTC developments must comply with the following:

A. Mandatory Compliance Training Session for On-Site Management Staff

Once a development reaches 75% construction completion, the Owner must schedule required attendance at a compliance training session for on-site management staff charged with handling the daily tasks of property management and program eligibility determinations.

B. Rent Increases:

Developments cannot increase rent levels without approval from the Compliance Monitoring Department. Rent increases in excess of 5% annually may not be approved.

C. Annual Audited Financial Statements:

All developments, regardless of when funded, must submit audited financial statements and operating expense information not later than June 1st of each year through the appropriate Authority platform. A late fee of \$1,000 will be assessed for each month the statements are not received.

VII. DEVELOPMENTS UTILIZING NON-COMPETITIVE TAX CREDITS WITH TAX EXEMPT BOND FINANCING

Developments proposed for financing by private activity bonds may be eligible to receive 4% LIHTCs if eligible to receive a LIHTC allocation under the QAP for the year in which the application for bond financing is filed with the Authority. The Authority will issue a preliminary, non-binding response to an application for the 4% LIHTC stating whether the development is eligible. After the development places in service, the owner will submit a PIS application.

A. Application Process

The Authority will accept 4% non-competitive applications by issuers other than SC Housing a minimum of 120 days prior to the scheduled State Fiscal Accountability Authority meeting, and issue a preliminary, non-binding statement as to whether the development is eligible.

B. Requirements

All developments utilizing 4% non-competitive tax credits must meet all threshold criteria in the QAP, except the following:

1. SCATTERED SITE:

Scattered site developments are eligible if the development meets all the following:

- All buildings must be under the ownership of one entity;
- All units must be managed by one management entity;
- All buildings must be developed under one plan of financing and considered a single development by all funding sources;
- The development must be appraised as a single proposed development;
- Each noncontiguous parcel must be located within the same county; and
- Each noncontiguous parcel must contain at least four (4) units per parcel.

2. PORTFOLIO TRANSACTIONS:

Applications pooling together multiple properties for acquisition/ rehabilitation under one bond issuance must be:

- separate for each property, and include an appraisal for that single property;
- developed under one plan of financing and considered a single development by all funding sources; and
- entirely managed by one management entity.

3. REQUIRED DEVELOPMENT EXPERIENCE FOR RAD CONVERSIONS:

An application proposing to convert public housing developments through the Rental Assistance Demonstration (RAD) program, may request a waiver of the required development experience if the Development Team contracts for the services of an LIHTC consultant who has experience on previous RAD conversions.

4. TARGETING REQUIREMENTS

For New Construction family developments, the development must contain a minimum of the following three (3) or more bedroom units: the lesser of twenty-five percent (25%) of the total low-income units or 35 units.

5. SIZE REQUIREMENTS

There is no maximum number of units in any county.

6. MAXIMUM LIHTCS PER UNIT

There is no maximum amount of LIHTCs.

7. MANDATORY DESIGN CRITERIA

The applicant must request any waiver of the mandatory design criteria specified in the QAP and Appendix B prior to the application submission. Any waivers requested after the submission of the application must be due to changed circumstances and must include compelling evidence demonstrating the need for the waiver and why it could not be requested prior.

8. AUTHORITY-ADMINISTERED HOME FUNDING

Tax exempt bond developments are not eligible to apply for HOME funds.

9. DEVELOPER FEE

For both new construction and rehabilitation developments, developer fee is limited to the lesser of (1) \$3 million or (2) 15% of Total Development Costs less Land, Consulting Fees, Developer Fees, Developer Overhead, Other Developer Costs and Reserves. Deferred Developer Fee: The deferred portion of the developer fee may not exceed fifty percent (50%) of the total at application submission.

All developments utilizing 4% non-competitive tax credits by issuers other than SC Housing must meet all criteria in the 2022 Low-Income Housing Tax Credit Manual, except the following:

1. Reservation Certificates
2. Carryover Allocations
3. Verification of 10% Expenditure

C. Fees

Developments utilizing non-competitive tax credits will be responsible for the following:

- Application Fee - \$4,500
- Market Study Review Fee- \$600
- Missing Documents Fee - \$1,000 assessed for the first missing items and an additional \$500 for each additional.
- Plan Review and Construction Inspections Fees - \$5,850 due 14 calendar days after receipt of the Section 42(m) letter.
- Reservation Fee: 10% of the LIHTC award amount due 14 calendar days after receipt of the Section 42(m) letter.
- Compliance Monitoring Fees - \$50 per unit annually, plus an additional \$50 per unit annually for projects using the average income minimum set-aside. All compliance monitoring fees must be paid to the Authority within 30 days of the date on which the first building is placed in service and on or before the first day of February of each succeeding year throughout the remainder of the 15 year compliance period and any extended use period. The Authority will assess a ten percent (10%) late fee of the total outstanding balance for payments received after thirty (30) days from the date due. The minimum late fee will be \$50. The Authority may adjust the amount of the fee at any time. Such an adjustment shall not be treated as a QAP amendment.
- Reprocessing of Form 8609 Fee - \$100 per Form 8609 for errors in the final cost certification by either the developer or certified public accountant resulting in Authority staff re-underwriting a development.
- Re-underwriting Fee - \$2,000 if the Authority has to re-underwrite a development due to a change at any time

VIII. PROGRAM SUSPENSION AND DEBARMENT

- A. The following events may result in suspension from participating for funding from any of the Authority administered programs for a period of three (3) years:
 1. Developments that fail to meet the 10% Test by the date specified in the carryover document or place-in-service by the Code deadline.
 2. Removal of the General Partner or its equivalent in a limited liability corporation. The Authority may make exceptions due to death, bankruptcy, or cessation of business operations.

3. Providing a false or inaccurate certification.
 4. Failure of a development to remain in compliance with all rules and regulations imposed by the Tax Credit Assistance Program (TCAP) funds or Exchange Program.
 5. Interference with a LIHTC application for which an individual or an entity is not a part of the Development Team.
- B. Any of the following actions may result in the permanent debarment from participating for funding from any of the Authority administered programs:
1. Any Development Team member who provides false or misleading information to the Authority or the Hearing Officer with regard to a development seeking LIHTC, regardless of when such false or misleading information is discovered.
 2. Any partnership formation and/or developer agreement, whether written or otherwise, that attempts to circumvent Authority requirements, regardless of when the violation is discovered.
 3. For nonprofit sponsored developments, breach of the requirement for continuous and ongoing material participation. Debarment applies to the nonprofit and all of its officers and directors.
- C. The Authority may disqualify an application from the current or upcoming application cycle for any of the reasons below.
1. Member(s) of the Development Team or person(s) on behalf of a development team member(s) contacting Board members from the LIHTC preliminary application submission date through the date of award regarding
 - the scoring or evaluation of any applications,
 - interpretation or implementation of the QAP or Appendices, or
 - the award of LIHTCs.
 2. Any of the following applies to a member of the Development Team:
 - debarment from any federal or state program;
 - submission of fraudulent information to the IRS or any federal or state affordable housing program;
 - failure to meet a requirement resulting in full recapture of LIHTCs;
 - failure to comply with laws governing fair housing and accessibility for persons with disabilities resulting in a U.S. Department of Justice finding;
 - default on a loan resulting in foreclosure or deed in lieu of foreclosure that leads to premature termination of a mandatory affordability period*;
 - abandonment or forfeiture of an affordable housing property*;
 - failure to comply with restrictive covenants*;
 - removal or withdrawal as General Partner or Managing General Partner of a LIHTC property*;
 - and/or
 - return of LIHTCs to an allocating agency*.

*Items denoted with an asterisk are events for which the applicant may request a waiver no later than January 31, 2022.
 3. A member of the Development Team is responsible for prior instances of any of the following in the previous ten (10) years without a waiver from the Authority requested no later than January 31, 2022:
 - Forms 8823s and/or health and safety issues not cured within the established period;
 - default or arrearage of at least three months in an affordable housing mortgage or loan;
 - outstanding flags in HUD's 2530 National Participation system;
 - deferred maintenance, mold, building code violations or other evidence of poor maintenance at properties monitored by the Authority;
 - failure to pay Compliance Monitoring Fees;
 - failure to submit rent rolls, annual owner certifications, or other required reporting;

- failure to report to the Authority any common areas, buildings or dwelling units that has been out of service for a period exceeding 30 days due to damage or disrepair; and/or
- failure to notify the Authority of a change in property ownership or management.

D. The Authority may determine other acts that require suspension or debarment. Suspensions or debarments based on such acts not otherwise defined shall be conducted as outlined in the Authority's Debarment and Program Suspension Policy.