

# **South Carolina State Housing Finance and Development Authority 2013 Low-Income Housing Tax Credit Manual**

## **TABLE OF CONTENTS**

<b>I. PROGRAM ADMINISTRATION and PROCEDURES</b>	<b>Page 3</b>
<ul style="list-style-type: none"><li>• General Guidelines</li><li>• Program Suspension/Debarment</li><li>• Definitions</li></ul>	
<b>II. LIHTC ALLOCATION CEILING: LIMITS and CATEGORIES</b>	<b>Page 6</b>
<ul style="list-style-type: none"><li>• LIHTC Allocation Ceiling</li><li>• Cap for Single Applicant/Related Parties/Principal/Owner</li><li>• Special Allocation of Noncompetitive Tax Credits</li><li>• Geographic Distribution of Tax Credits</li><li>• Set-Asides<ul style="list-style-type: none"><li>• General Set-Aside</li><li>• Underserved Counties Set-Aside</li><li>• Rehabilitation Set-Aside</li><li>• Rural Housing Service (RHS) Set-Aside</li><li>• Nonprofit Set-Aside</li></ul></li><li>• Combination with Other Authority-Administered Programs<ul style="list-style-type: none"><li>• State HOME Funds</li></ul></li></ul>	
<b>III. APPLICATION SUBMISSION PROCESS</b>	<b>Page 10</b>
<ul style="list-style-type: none"><li>• Application Submission Procedures</li><li>• Application Review<ul style="list-style-type: none"><li>• Internal Completeness Review</li><li>• Site Review</li><li>• Market Study Review</li></ul></li></ul>	
<b>IV. FINANCIAL UNDERWRITING STANDARDS</b>	<b>Page 15</b>
<ul style="list-style-type: none"><li>• Memorandum of Understanding</li><li>• Basic Financial Feasibility Review</li><li>• Financial Characteristics</li><li>• Utility Allowances</li><li>• Authority Designated Difficult Development Areas (DDAs)</li><li>• Underwriting Standards</li><li>• Syndication Information</li><li>• Determination of Credit Award<ul style="list-style-type: none"><li>• Equity Gap Calculation</li><li>• Maximum Credit Allowable</li></ul></li></ul>	
<b>V. RESERVATION/CARRY-OVER ALLOCATION PROCEDURES</b>	<b>Page 23</b>
<ul style="list-style-type: none"><li>• Notification of Reservation Award</li><li>• Reservation Certificate Conditions</li></ul>	

- Carryover Allocation Procedure
- Verification of Ten Percent Expenditure

## **VI. DEVELOPMENT PROGRESS REPORT REQUIREMENTS**

**Page 26**

- Exhibit L Progress Reports
- Eight (8) Month Progress Report
- Ten (10) Month Progress Report
- Twelve (12) Month Progress Report

## **VII. PLACED IN SERVICE ALLOCATION**

**Page 27**

- Placed in Service Allocation Requirements
- Placed in Service Application Submission
- Cost Certification Requirements

## **VIII. COMPLIANCE MONITORING PROCEDURES**

**Page 29**

- Rent Increases
- Annual Audited Financial Statements
- Record Keeping
- Record Retention
- Annual Owners Certification
- Document Review
- Frequency of Certification Documents
- Physical Inspection of LIHTC Development
- Authority Retention of Records
- Notification of Noncompliance
- Cure Period
- Compliance Monitoring Fees

## **IX. DEVELOPMENTS UTILIZING NON-COMPETITIVE TAX CREDITS WITH TAX EXEMPT BOND FINANCING**

**Page 33**

- Preliminary Opinion of Eligibility (QAP Requirements)
- Application for an Allocation of Non-Competitive LIHTCs

### **ADDENDUMS**

- 2013 Market Study Guideline Procedures
- 2013 LIHTC Program Schedule
- List of Code Numbers for South Carolina Counties
- 2013 Qualified Census Tracts (QCTs) and Difficult Development Areas (DDAs) are posted on the Authority's website at [www.schousing.com](http://www.schousing.com)
- Instructions for Extranet File Uploads on the Authority's Extranet
- 2012 Rent and Income Charts are posted on the Authority's website at [www.schousing.com](http://www.schousing.com)  
As soon as possible following publication by HUD, the 2013 Rent and Income Charts will be posted on the Authority's website. It is the responsibility of the Applicant to obtain the applicable rent and income information to use in completing the Application.

## **I. PROGRAM ADMINISTRATION and PROCEDURES**

### **General Guidelines:**

1. **Fees** - Payment of **all** fees must be in the form of a cashier's check made payable to the South Carolina State Housing Finance and Development Authority. All fees are nonrefundable. Following is a list of the Authority's fee schedule:
  - a) Tax Credit Application Fee: \$5,500.00 due at time of application submission.
  - b) Market Study Review Fee: \$600.00 due at time of application submission.
  - c) Missing Documents Fee: \$2,000.00 assessed for applications determined by Authority to have missing documents as part of the tax credit application submission.
  - d) Tax Credit Reservation Fee: 10% of the tax award amount due 14 calendar days after the notification of the tax credit award.
  - e) Plan Review and Construction Inspections Fee: \$4,000.00 due 14 calendar days after the notification of the tax credit award.
  - f) Compliance Monitoring Fees:
    - i. 2011-2013 Awarded Developments- the first fifteen (15) years payable at placed in service and calculated at \$35.00 per LIHTC unit.
    - ii. 2009-2010 Awarded Developments- the first two (2) years payable at placed in service and calculated at \$35.00 per LIHTC unit and thereafter on an annual basis. Fee is due annually not later than February 1<sup>st</sup>.
    - iii. 2008 and prior Awarded Developments- \$35.00 per LIHTC unit paid annually, not later than February 1<sup>st</sup> of each calendar year.
  - g) Reprocessing of Form 8609 Fee: \$100.00 per Form 8609 will be charged if errors in the final cost certification were made by either the developer or CPA resulting in Authority staff re-underwriting a development.
  - h) Re-underwriting Fee: \$2,000.00 will be charged if an awarded development has to be re-underwritten due to a change in the number of buildings, units, design of the development, sources and uses of funds, etc. This fee will also be charged for developments requesting a restructuring review any time during the 30 year compliance period.
  - i) Extension Request Fee: \$1,000.00 for the first extension request and \$2,000.00 for additional extension requests. Extension requests relate to the submission of Exhibit L Quarterly Progress Report and Tax Credit Program Awarded Development Timelines.
2. **Deadlines** – All applications must be submitted by the required due dates as specified in the LIHTC Program Schedule. Additional information requested by the Authority will be due not later than seven (7) business days from the date the information was requested.
3. **Document Timeliness**- All supporting documentation required for the 2013 Tax Credit Application must not be dated prior to September 1, 2012. The only exception will be for Site Control Documents, community revitalization plans and the Railroad Noise Study.
4. **Material Changes Prohibited**
  - a) If, upon the submission of the Carryover Allocation Documents, the Verification of Ten Percent Expenditure (10% Test) Application or the Placed-in-Service (PIS) Application, it is determined that the development is not substantially the same as the development described in the original Tax Credit Application, the development will not receive an allocation of Low Income Housing Tax Credits (LIHTC). The following changes are deemed to be material and are not permitted:
    - i. General or Managing Partners (GP);
    - ii. Total number of LIHTC units;
    - iii. Total number of units;
    - iv. Number of bedrooms and bathrooms per unit mix;
    - v. Specific tenant population targeted;
    - vi. Tenant mix (low-income/market rate);
    - vii. An increase in the total number of units after initial application submission;
    - viii. Site; or
    - ix. Decreases in square footage.

- b) Changes in the number of buildings and units contained in each building will be allowed only to comply with changes required by local regulatory codes made after the Application submittal deadline. Required changes must be received in writing from the City/County/Regulatory Agency requiring such.
5. **Transfers**
- a) Neither reservations nor carryovers are transferable without the prior written consent of the Authority. Examples of situations in which such consent may be given include, but are not limited to:
    - i. Death;
    - ii. Bankruptcy;
    - iii. Receivership; or
    - iv. Cessation of business operations of a GP;
  - b) 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)” under any scheme that leads to the eventual exit of a GP or its equivalent in a limited liability company;
  - c) LIHTCs allocated to developments whose ownership is altered in violation of this provision shall be subject to revocation by the Authority.
6. **Fractional Rounding** - Fractional units must be increased to the next whole unit.
7. **ADA Requirements and Certification**
- a) The Authority will not offer an allocation to any development unless the Applicant submits, with its Application, a certification, signed by an architect or professional engineer licensed to practice in SC, which states that the architect or engineer will review the plans and specifications of the proposed development to ensure that such plans and specifications will comply with the accessibility and other requirements of Section 504 of the Rehabilitation Act, the Fair Housing Amendments to the Civil Rights Act of 1968, the Americans With Disabilities Act, and any other applicable state or federal legislation;
  - b) As part of its PIS Application, a certification must be included which is signed by an architect or professional engineer licensed to practice in SC which contains a statement that the development has been constructed in accordance with the accessibility and other requirements of Section 504 of the Rehabilitation Act, the Fair Housing Amendments to the Civil Rights Act of 1968, the Americans With Disabilities Act, and any other applicable state or federal legislation, and that the development, as built, complies with the U.S. Department of Housing and Urban Development (HUD) “*Fair Housing Act Design Manual*.”
8. By submitting an application to the Authority, the applicant waives, holds harmless, and releases any claim or cause of action against the Authority or its staff related to or arising under the processing or scoring of any application or for the award of any tax credits under this program, and further the applicant covenants not to sue the Authority or its staff related to or arising under the processing or scoring of any application or for the award of any tax credits under this program. The applicant further agrees to indemnify the Authority for any claim or cause of action brought against the Authority related to or arising under the applicant’s Tax Credit Application.
9. The applicant acknowledges and understands that the tax credits awarded through this program are not entitlements or rights, but rather are privileges conferred at the sole discretion of the Authority to encourage the development of low income housing for citizens of the State.

**Program Suspension/Debarment:**

- 1. Any of the following actions may result in suspension from participating for funding from any of the Authority administered programs for a period of three (3) years:
  - a) Developments that receive a carryover allocation under the program are expected to meet the Ten Percent (10%) Test by the date specified in the carryover document, and to be placed-in-service by the Code deadline. Failure of a development to achieve either of these goals will disqualify the Applicant.
  - b) All GPs of a limited partnership and the equivalent in a limited liability corporation that receive a carryover allocation are required to remain in the partnership until the development places-in-service. Exceptions due to death, bankruptcy, or cessation of business operations will be allowed. All other removals whether voluntary or involuntary will result in disqualification for all GPs in a limited

- partnership and the equivalent in a limited liability corporation. Any person or entity, including Syndicators, that attempts to circumvent this provision will be subject to disqualification.
- c) Failure to provide the Exhibit G certification, or providing a false or inaccurate certification that a development meets the above standards when, in fact, it does not, will result in the disqualification of the developer and the architect. The Authority will also file a complaint against the architect with the S.C. Department of Labor, Licensing and Regulation.
  - d) Developments that receive Tax Credit Assistance Program (TCAP) funds or Exchange Program funds are expected to remain in compliance with all rules and regulations imposed by these programs. Failure of a development to remain in compliance will result in all GPs of a limited partnership and the equivalent in a limited liability corporation being suspended.
  - e) Applicant(s) may not interfere with a tax credit application, for which it is not an owner or principal, at any public hearing or other official meeting. This type of action could undermine the tax credit program in general and could create on-going consequences that can create a negative connotation of the tax credit program.
2. Any of the following actions will result in the permanent debarment from participating for funding from any of the Authority administered programs:
    - a) Any Applicant who provides false or misleading information to the Authority with regard to a development seeking LIHTC will be permanently debarred from further participation in the Authority's programs, in any capacity whatsoever, regardless of when such false or misleading information is discovered. Any reservation or carryover allocation obtained on the basis of such false or misleading information shall be void. Each Applicant shall be given written notice by the Program Director stating the reason for which the sanction of debarment was imposed.
    - b) Any partnership formation and/or developer agreement, whether written or otherwise, that attempts to circumvent Authority requirements will result in the permanent debarment of all parties involved from further participation in the Authority programs, regardless of when the violation is discovered.
    - c) For nonprofit sponsored developments, if the requirement for continuous and ongoing material participation is breached, the nonprofit and all of its officers and directors shall be permanently debarred from future participation. In the event that the requirement for continuous and ongoing control over the development is breached, such breach will be reported to the IRS as noncompliance, and the nonprofit and all of its officers and directors shall be permanently debarred.
  3. Member(s) of the development team or person(s) on behalf of a development team member(s) contacting Board members from the Tax Credit Application submission date through the date of the award of the tax credits regarding (i) the scoring or evaluation of any applications, (ii) interpretations of the QAP, this Manual, or the implementation of the LIHTC program, or (iii) the award of tax credits will be suspended from the tax credit program until the next competitive funding cycle. In addition, all application(s) associated with any such member(s) of the development team will be disqualified from funding consideration.
  4. The Authority, in its sole discretion, may determine other acts to be infractions of the program that require suspension or debarment. Suspensions or debarments based on such acts not defined shall be conducted as outlined in the South Carolina State Housing Finance and Development Authority's Debarment and Program Suspension Policy.

### Definitions:

1. **Applicant** - includes each person, corporation, developer, partnership, joint venture, association, or other entity that has an ownership interest in the development for which the LIHTC application is submitted.
2. **Developer** - any individual or entity responsible for initiating and controlling the development process and ensuring that a material portion of the development process is accomplished.
3. **Material Participation** - the regular, continuous and substantial involvement in the operation of the development throughout the compliance period, as defined by the Code.
4. **Participants** - the Applicant, owner, developer, property management entity, consultants, Syndicators, etc., proposed to be involved with the development for which an application is submitted.
5. **Principal** - any Applicant, owner, developer, guarantor, financial guarantor, or any other person, corporation, partnership, joint venture, or other entity, including any affiliate thereof, or any other person, firm, corporation, or entity of any kind whatsoever that either directly or indirectly receives a portion of the

development fee (whether or not deferred) for development services and/or receives any compensation with respect to such development. Note: Consultants are not considered Principals.

6. **Related Parties** - Notwithstanding anything to the contrary contained herein, the Authority will not reserve credits in an amount in excess of \$1.5 million to any GP or Principal(s) of such GP, directly or indirectly. Applicants will be deemed to be related if any Principal of an Applicant is also a Principal in any other Applicant.

An **“Identity of Interest”** is considered to exist if any of the following conditions exist:

- When there is any financial interest of the Applicant, Principal, owner and any other member of the development team;
- When one or more of the officers, directors, stockholders, members, or partners of the Applicant, Principal, or owner is also an officer, director, stockholder, member, or partner of any other member of the development team;
- When any officer, director, stockholder, member or partner of the Applicant, Principal, or owner has any financial interest whatsoever in any other member of the development team;
- When any other member of the development team advances any funds to the Applicant, Principal, or owner;
- When any other member of the development team provides and pays, on behalf of the Applicant, Principal, or owner, the cost of any architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by any other member of the development team in connection with its obligations under its contract with the Applicant, Principal, or owner;
- When any other member of the development team takes stock or any interest in the Applicant, Principal, or owner entity as part of the consideration to be paid him/her;
- When any relationship exists which would give the Applicant, Principal, or owner or any other member of the development team control or influence over the price of the contract or the price paid to any other member of the development team or to a subcontractor, material supplier or lessor of equipment;
- When there exist (or come into being) any side deals, agreements, contracts, or undertakings entered into or contemplated, thereby altering, amending, or canceling any of the required application or closing (should there be a closing) documents.

## **II. LIHTC ALLOCATION CEILING: LIMITS and CATEGORIES**

### **LIHTC Allocation Ceiling:**

The amount of LIHTC available in SC in each calendar year reflects the sum of the amounts allowed under IRC Section 42(h)(3)(C). This amount may be increased by returned tax credits from prior years, tax credits allocated from the National Pool or by new legislation increasing the amount of LIHTC distributed to each state. The Authority reserves the right to withhold such credits from allocation as it deems advisable.

**Return of Credits and Returned Credit Allocation Procedures** - Allocations of credit may be returned only in accordance with applicable U.S. Treasury Regulations on a date agreed upon by the Authority and the Applicant. Amounts that are not accepted or are returned will be made available as follows:

- a) Amounts awarded in the competition and returned prior to November 1<sup>st</sup> may be offered to qualified developments submitted in the annual tax credit funding cycle that are capable of meeting carryover requirements. Reservations of returned amounts will be offered to developments in the order in which they appear on the waiting list if the amount offered is at least ninety percent (90%) of the credit amount for which the development is qualified. If no development can be funded to at least ninety percent (90%) of its qualified amount, such amounts shall be carried forward to the following tax credit year. LIHTC developments receiving a reservation of credits prior to November 1<sup>st</sup> will be required to meet all carryover qualifications.
- b) Any amounts returned after November 1<sup>st</sup> will be carried forward into the next tax credit year.

### **Cap for Single Applicant/ Related Parties/ Principal/ Owner:**

1. The Authority will not allocate more than \$1.5 million in LIHTCs to a Principal involved with multiple developments (see “Definitions” on page 5).
2. The maximum tax credit awarded per project will not exceed \$750,000.
3. In the event a Principal exceeds the limitation, the tax credit award to that Principal’s development with the lowest point score will be reduced so that the limitation is not exceeded. That development will be awarded a reservation only if the LIHTC amount, as calculated by the Authority, is at least ninety percent (90%) of the unreduced amount that the development would have otherwise received.
4. Regardless of the percentage of participation a Principal has in the development, one hundred percent (100%) of the development’s LIHTC reservation will count toward the limitation per Principal.
5. A Principal may not be associated with or submit more than three (3) applications/developments.
6. A Principal may not be awarded more than two (2) developments.

### **Special Allocation of Noncompetitive Tax Credits:**

In its sole and absolute discretion, and where warranted by extenuating circumstances, the Authority reserves the right to allocate additional credits to previously awarded developments.

Any additional credits from the 2013 credit ceiling supplementing awards from prior years will not count against the 2013 cap limits for single applicant, related parties, principal or owner.

### **Geographic Distribution of Tax Credits:**

In order to ensure that tax credits are geographically distributed to all areas of the State, the Authority will limit tax credit awards to a maximum of two (2) new construction developments per county.

### **Set-Asides:**

The Authority has five (5) Set-Asides in which applicants may compete for credits: General, Underserved Counties, Rehabilitation, Rural Housing Service (RHS), and Nonprofit Set-Asides. Proposals in the General Set-Aside will be considered for funding after awards in the other Set-Asides have been made. Unused funds in the Underserved Counties, Rehabilitation, Nonprofit (after the minimum 10% IRS requirement is met) or RHS Set-Asides will roll up to the General Set-Aside. After awards have been made in the General Set-Aside, any unused funds remaining in this Set-Aside will be allocated to the development, irrespective of the development’s Set-Aside, having the highest funding percentage. The maximum funding percentage is determined by dividing the amount of credit remaining in that Set-Aside by the amount of credit calculated by the Authority for a development that is partially funded. These unused funds will be allocated if they increase the development’s funding percentage to at least ninety percent (90%). A development can compete for funding consideration only in the Set-Aside in which it applies.

1. **General Set-Aside:**
  - a) Up to \$4,100,000 of the state LIHTC ceiling is initially reserved for developments participating in this Set-Aside.
  - b) Developments eligible to participate in this Set-Aside can be new construction or adaptive reuse only.
2. **Underserved Counties Set-Aside:**
  - a) Up to \$2,600,000 of the state LIHTC ceiling is initially reserved for developments participating in the Underserved Counties Set-Aside.
  - b) To compete in this Set-Aside, development sites must be located in one of the following counties which has not received a new construction LIHTC award in the past three (3) years: Abbeville, Allendale, Anderson, Bamberg, Barnwell, Calhoun, Cherokee, Chester, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Fairfield, Hampton, Jasper, Lee, Marion, Marlboro, McCormick, Orangeburg, Union and Williamsburg.
  - c) Developments eligible to participate in this Set-Aside can be new construction or adaptive reuse only.

**3. Rehabilitation Set-Aside:**

- a) Up to \$1,500,000 of the state LIHTC ceiling is initially reserved for developments participating in the Rehabilitation Set-Aside.
- b) This Set-Aside is for one hundred percent (100%) rehabilitation developments only. Adaptive Reuse developments will not be allowed in this Set-Aside.
- c) Rehabilitation developments having a current vacancy rate of 30% or greater will not be allowed to participate in the Rehabilitation Set-Aside. These developments must compete in the General or Underserved Counties Set-Aside.

**4. Rural Housing Service (RHS) Set-Aside:**

- a) Up to \$800,000 of the state LIHTC ceiling is initially reserved for the use of eligible RHS developments;
- b) In order to compete within the RHS Set-Aside:
  - i. The development must have been selected for RHS 514, 515, or 516 funding as evidenced by a letter from the RHS State Multifamily Housing Director.
  - ii. The applicant must be qualified to do business in the State of South Carolina, as evidenced by having a status of “Good Standing” with the South Carolina Secretary of State’s Office.

**5. Nonprofit Set-Aside:**

- a) As per Section 42 of the Code, a minimum of ten percent (10%) of the state LIHTC ceiling is reserved for the exclusive use of eligible nonprofit organizations. The Authority will initially reserve up to \$1,500,000 of the state LIHTC ceiling for use in the Nonprofit Set-Aside. Credits awarded to eligible nonprofit organizations from the designated Set-Aside will count toward meeting the minimum ten percent (10%) state ceiling. Should the Authority not award the minimum ten percent (10%) state ceiling then those credits will be carried forward to the next funding cycle.
- b) Eligible nonprofit organizations must meet the following criteria:
  - i. The nonprofit organization(s) must be a tax-exempt organization under Section 501(c)(3) or 501(c)(4) of the Code. A tax-exempt organization is defined as:
    - 1. An entity that has full-time staff whose responsibilities include the development of housing.
    - 2. An entity qualified to do business in the State of South Carolina, as evidenced by having a status of “Good Standing” with the South Carolina Secretary of State’s Office.
  - ii. The nonprofit organization(s) must have among its exempt purposes the development of low-income housing;
  - iii. The nonprofit organization(s) must also meet the requirements for material participation contained in Section 469 of the Code:
    - 1. Each nonprofit must submit a narrative statement, certified by a resolution of the nonprofit’s Board of Directors, describing the nonprofit’s plan for material participation during the development and compliance period;
    - 2. The Authority will review the narrative statement to determine whether the participation of the nonprofit in the ongoing operation of the development will be deemed material. Such determination shall be made in the sole discretion of the Authority;
    - 3. For participation to be deemed material, it must be continuous and ongoing throughout the compliance period;
    - 4. In the event that the requirement for continuous and ongoing material participation is breached, such breach will be reported to the IRS as noncompliance and the nonprofit and all of its officers and directors shall be permanently debarred;
  - iv. If the ownership entity of the development is a limited partnership, the nonprofit organization or the wholly owned single-asset entity subsidiary must own (directly or through the partnership) at least 51% interest in the general partner of the partnership entity in accordance with current laws and IRS regulations throughout the development’s compliance period. If the ownership entity of the development is a limited liability company, the nonprofit organization or the wholly owned single-asset entity subsidiary must be the managing member (having similar powers to a GP in a limited partnership) throughout the development’s compliance period.



- v. The nonprofit GP of the limited partnership or its equivalent in a limited liability company may be an association or alliance of eligible nonprofit organization(s) and a for profit organization(s).
- vi. Fees paid to third party development consultants, evidenced by the cost certification, must not exceed \$35,000. The consultant fee must be for legitimate and necessary consulting services;
- vii. Only the nonprofit organization(s) that is the GP, or the functional equivalent(s) in an LLC, shall be permitted to exercise substantial and ongoing continuous control over the application submission process and over the subsequently produced development. All functions and responsibilities normally performed or undertaken by a GP must be performed by the nonprofit GP. No LP or other investor shall be permitted to exercise control, either directly or indirectly, over the nonprofit GP or to participate in matters relating to the ownership or operation of the development beyond the degree of participation that is usual and customary for an LP.

### **Combination with Other Authority-Administered Programs:**

#### **Applicants may apply for HOME funds only when applying for tax credits.**

##### **State HOME Funds**

- a) State HOME funds up to \$3.6 million will be available in the LIHTC competition;
- b) The maximum state HOME award any one (1) development can request is \$350,000. These awards will be available as deferred loans with a one half percent (1/2%) interest rate and a term and amortization period of no longer than thirty (30) years. Both principal and interest will be deferred for thirty (30) years;
- c) HOME funds will be provided to the set-asides as follows: General- up to \$900,000; Underserved Counties- up to \$1,404,000; Rehabilitation- up to \$504,000; RHS- up to \$288,000 and Nonprofit- up to \$504,000. HOME funds will be awarded in descending point score order by set-aside until the HOME funds are exhausted. A development will be awarded HOME funds only if the HOME amount, as calculated by the Authority, is at least ninety percent (90%) of the unreduced amount that the development would have otherwise received. HOME funds not initially awarded in a Set-Aside will roll to the General Set-Aside. If HOME funds remain after all General Set-Aside awards are made then remaining funds may be applied to developments in the other Set-Asides. The Authority reserves the right to reduce HOME funds requested based on underwriting analysis.
- d) State HOME funds are a permanent financing source and therefore may not be used during the course of project construction. HOME funds may only be requested once the following criteria has been met:
  - i. The project is 100% complete and a certificate of occupancy has been issued by the local City/County officials; and
  - ii. The HOME final inspection has been requested, completed and approved; and
  - iii. The HOME loan has closed and, at a minimum, Authority staff in receipt of a copy of the recorded or clock marked date stamped HOME Mortgage and HOME Restrictive Covenant.
- e) State HOME funds can be applied for and combined with LIHTC proposals only in conjunction with the LIHTC competition. If a HOME award has previously been awarded for the proposed LIHTC development and has not been closed out then the development is not eligible for LIHTC funding. Previously awarded HOME developments that have been closed out can apply only if written approval is given by the Authority's Awards Management Manager and if the development meets the 10-year rule criteria as outlined in Section 42 of the Code;
- f) State HOME funds may be awarded to any LIHTC development if, and only if, at least twenty percent (20%) of the development's total units are rent and income restricted and HOME restricted, based on the fifty percent (50%) Area Median Income. The maximum HOME subsidy per unit cannot exceed the per unit HUD 221(d) limits by bedroom size;
- g) Only one state HOME award will be allocated per development;
- h) LIHTC will not be allocated to any development that applies for state HOME funds but does not receive a state HOME award; and
- i) The Applicant must provide at the Tax Credit Application submission a Phase I Environmental Site Assessment Report prepared by a third party independent licensed environmental professional and addressed to the SC State Housing Finance & Development Authority. For developments with existing buildings, a report must also be included that contains the results from lead-based paint testing. The Phase I ESA must be prepared in accordance with the American Society for Testing and Materials

Practice Standards E-1527-05, or as may be amended. If the Phase I indicates that there are environmental issues at the site which will require a Phase II ESA then the applicant must submit not only a Phase I ESA but also a Phase II ESA with the Application submission. The report must be accompanied by a certification from the Applicant stating that any issues raised in the environmental report(s) have been reviewed. HOME funds will not be awarded to developments which require mitigation for hazardous materials, other than lead-based paint and/or asbestos, found on, within, or adjacent to the proposed site.

- j) For the purposes of this section, Applicant(s) means any person associated with the 2013 LIHTC Application and any prior HOME awards. In order to receive a reservation of LIHTC in conjunction with state HOME funds, each of the following provisions are applicable and must be met by the Applicant by February 1, 2013:
- i. All 2010 and previous state HOME awards must be officially closed out; and
  - ii. All 2011 HOME awards must have a minimum of seventy-five percent (75%) of the funds drawn or seventy-five percent (75%) of the development completed; and
  - iii. The completion percentage for previous HOME awards must be met by February 1, 2013. Written confirmation regarding HOME award completion percentages must be provided with the Tax Credit Application submission from the Awards Management Manager.

### **III. APPLICATION SUBMISSION PROCESS**

#### **Application Submission Procedures:**

**It is required that the Tax Credit Application submission be organized using the Tabs corresponding to Exhibit A-Application Checklist. All documents listed on the Application Checklist, if applicable, are to be submitted.**

1. **Completed Tax Credit Application** – All pages of the Application must be completed and the application certification page executed by the Applicant and a notary public. All required application signatures must be originals. Faxes will not be accepted. The Authority reserves the right to determine whether any omission in the Application or required documentation is material or non-material for purposes of the satisfaction of the criteria. Each Applicant must submit an original in a three ring binder **and** two (2) binder clipped or rubber banded copies of the entire Application package, including all attachments. All pictures/photos submitted as part of the Application package must be in color, including Application copies. In addition, the Application and all attachments, exhibits, certifications, opinions, etc. must also be submitted on a Flash Drive or CD in PDF format.
2. **Application Submission Fee** - A **\$5,500** fee is due at the time of the Application submittal.
3. **Market Study Review Fee** – A market study review fee of **\$600** is due at the time of the Application submittal. This fee and the Application fee may be submitted as a single check.
4. **Certification for Development Rejection Form** - The Applicant consents to the Authority's review of its Application to determine whether or not it meets requirements, and agrees that a determination made that an Application fails to meet requirements is final and is not subject to further appeal (**Form 1**).
5. **Rent Roll**- A rent roll certified by the on-site property manager or a representative of the property management company for all rehabilitation developments must be submitted with the Application.
6. **Utility Allowance**- The applicable utility allowance from the local PHA or other approved utility provider must be submitted with the Application submittal. The allowance must be dated within 12 months of the tax credit application submission date.
7. **Relocation Certification and Tenant Profile Form** - Developments must minimize the displacement of low income households.
  - a) Should permanent or temporary displacement occur, a detailed, step by step relocation plan must be furnished with the Application describing how displaced persons will be relocated, including a description of the costs of relocation. The Applicant is responsible for all relocation expenses, which must be included in the project's development budget. All Applicants applying for acquisition/rehabilitation developments must complete **FORM 3**, Developer Relocation Certification and Tenant Profile Form. Applicants applying for HOME funds must comply with the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as revised in 49 CFR Part 24;

- b) Developments involving permanent relocation of tenants are discouraged and will be considered for LIHTC only application submittals. No more than ten percent (10%) of the existing tenants may be permanently displaced. A detailed, step by step relocation plan must be furnished with the Application describing how permanently displaced persons will be relocated, including a description of the costs of relocation. The Applicant is responsible for all relocation expenses, which must be included in the project's development budget.
- 8. Development Narrative** - The Authority requires a description of:
- a) The current use of the site;
  - b) All development and unit amenities;
  - c) Older person amenities, if applicable;
  - d) Number of units to receive project based rental assistance and the type of assistance;
  - e) Utilities to be used and if tenant or owner will be responsible;
  - f) Proposed supportive services, if applicable;
  - g) Furnishings, if applicable; and
  - h) Identity and proximity of services, including transportation, available to the proposed site and appropriate to its tenant population. Each application must include:
    1. A map identifying the development site and the location of services. Pictures of services must be in color;
    2. Written directions from the site to each service;
    3. The services must be identified by name on the map and in the written directions;
    4. Mileage must be provided from the site to the identified service. Distance should be measured using a computer based mapping system such as Google Maps, or other similar distance calculating systems. All directions must be printed from the mapping system and included in the application for points to be awarded. Distances are subject to Authority verification and GPS verification.
- 9. Site Control Documents** - At the time of Application submission, the Applicant must have site control. The Applicant must show evidence of site control by having one of the following executed documents:
- a) The Applicant holds title to the site on which the development will be constructed by a properly executed and recorded deed; or
  - b) The Applicant has an executed purchase option (the Authority will not accept options on other options) with date certain performance; or
  - c) The Applicant has an executed purchase contract with date certain performance; or
  - d) The Applicant has an executed ninety-nine (99) year land lease or option on a long-term lease.
  - e) With the exception of a) above, the Applicant must also submit a copy of the current deed recorded for the site in order to verify the seller.
  - f) For all developments requesting HOME funds the following language **must be** included in any purchase option, purchase contract, or long term lease or included as an executed addendum attached to one of these documents and dated on or before March 1, 2013 , "Notwithstanding any provision of this Agreement, if U.S. Department of Housing and Urban Development (HUD) funds are used, including, but not limited to HOME funds, the parties agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of an environmental review and receipt of a release of funds notice from the U.S. Dept of HUD under 24 CFR Part 58. The parties further agree that the provision of any federal funds to the project is conditioned on the determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review. If no HUD funds are utilized in regard to this property, this provision shall be considered null and void."
- 10. Zoning** – The Applicant must provide and have in place at the time of Application submission proper zoning for the proposed site:
- a) For new construction or adaptive reuse developments, evidence that the land use requirements for each site on which the development will be located is currently zoned for or allows for multifamily residential use. All special/conditional uses specific to zoning approval must be approved and completed. A letter provided from the City/County official should verify that the proposed development site currently meets the local zoning or land use restrictions.

- b) For rehabilitation developments, a letter provided from the City/County official should verify that this type of development, as existing, is allowed by local zoning or land use restrictions.
- 11. Site Suitability Determination and General Site Information** - The Applicant must provide:
- a) **Labeled color photographs** (or color copies) of the proposed development site and all adjacent properties;
  - b) A **map clearly identifying the exact location** of the development site. The site must be marked with survey tape and/or some other identifying material. All corners of the property's boundaries must be marked and the site entrance noted in some distinctive way. In addition, a sign or number marker that clearly identifies the proposed site must be placed on the site and a photograph of the sign or number marker included with the color photographs submitted as part of the Application;
  - c) A **map with directions** to the development site from 300-C Outlet Point Blvd., Columbia, SC, 29210;
  - d) A **site plan/ schematic site plan** that shows how the development is to be built. The plan must show the site boundaries and setbacks, indicate the placement of buildings on the site, parking areas, sidewalks, planned landscaping, amenities (i.e. gazebo/picnic/playground areas), easements for power lines/sewer and water lines/ cable and phone lines/etc, utility locations for water/ sewer/ gas/ electric/ phone and cable, trash dumpsters, buffers, retaining walls, etc.;
  - e) **Preliminary Development Plans** - Plans must include the front, rear and side elevations of the buildings as well as detailed unit floor plans for each bedroom size. Plans must include square footages of each room in the unit as well as the total square footage of the unit itself. Acquisition with rehabilitation development must provide preliminary plans showing all proposed changes to existing buildings, parking areas, utilities, etc.;
  - f) A **Schematic Site Plan/Topography Map Overlay**. A map using the criteria from item (d) above must be provided. The map must clearly identify the site contour lines at twenty (20) foot intervals or less. A bar graph indicating the scale for distance must also be included on the map.
  - g) The most current **Aerial Photograph**, preferably a Google Earth map, with the location of the site clearly marked. The site location must be in the center of the aerial photograph. The map must also show a ¼, ½, and 1 mile radius circle beyond the development site.
  - h) **Water and Sewer Letter**- Written verification by City/County official or the utility service provider indicating that the water and sewer utility tie-ins are accessible and within the specified 350 feet or 351-500 feet of the proposed site, if claiming points.

NOTE: All required plans and maps must be no larger than 11x17, utilize a scale in which one inch (1") equals one hundred feet (100') or less, and fit, neatly folded if necessary, in a 3-ring binder.

- 12. Phase I Environmental Assessment Report** – The Applicant must provide at Application submission a Phase I Environmental Site Assessment Report prepared by a third party independent licensed environmental professional and addressed to the SC State Housing Finance & Development Authority. For developments with existing buildings, a report must also be included that contains the results from lead-based paint testing. The Phase I ESA must be prepared in accordance with the American Society for Testing and Materials Practice Standards E-1527-05, or as may be amended. If the Phase I indicates that there are environmental issues at the site which will require a Phase II ESA then the applicant must submit not only a Phase I ESA but also a Phase II ESA with the Application submission. The report must be accompanied by a certification from the Applicant stating that any issues raised in the environmental report(s) have been reviewed. HOME funds will not be awarded to developments which require mitigation for hazardous materials found on, within, or adjacent to the proposed site.
- 13. Market Study** – A third party independent market study, prepared by an Authority approved market analyst, must be submitted with the Application. The market study must adhere to the Authority's 2013 Market Study Guideline Procedures.
- 14. Appraisals** –
- a) The Authority requires appraisals at Application submission for all development proposals.
  - b) If the appraisal does not substantiate the purchase price submitted in the tax credit application the Authority will decrease the amount proposed in the application to match the appraised price. .
  - c) The land value and building(s) value will be appraised "as is" and reported separately.
  - d) The Authority will use discretion in allowing acquisition costs in excess of appraised value. These situations will be reviewed on a case-by-case basis and the Applicant must provide justification to support acquisition costs in excess of the appraised value. If the Authority finds the justification offered

- to be unacceptable, acquisition costs in excess of the appraised value will be excluded from the development's eligible basis.
- e) Developments not meeting minimum underwriting requirements or found to be financially infeasible as a result of this reduction will be disqualified.
- 15. Physical Needs Assessment Report (PNA)** - A PNA report prepared and certified by a third party independent licensed engineer or architect is required for rehabilitation developments. The PNA report must not be dated prior to September 1, 2012.
- a) The Authority requires a minimum of \$20,000 per unit in hard construction costs with at least fifty percent (50%) of the hard construction costs attributed to interior unit costs. If the PNA report represents needed repairs in excess of \$20,000 per unit, then the application must reflect the higher rehabilitation costs. Developments that do not reflect at least \$20,000 per unit in hard construction costs will be disqualified for LIHTC funding consideration.
- b) The PNA report must state that one hundred percent (100%) of the units were inspected and provide information unit by unit. **If the PNA report does not reflect that one hundred percent (100%) of the units were inspected then the proposed development will be eliminated from further funding consideration.**
- c) All rehabilitation developments must adhere to mandatory design criteria as outlined in the QAP. Any mandatory items replaced on or after January 1, 2006 are not required to be replaced as part of the rehabilitation. The PNA report must include a unit by unit listing of all mandatory items replaced on or after January 1, 2006.
- d) The report must include a comprehensive list of the immediate necessary repairs and their costs. Additionally, the remaining "useful life" of major systems including the HVAC and roofing must be estimated. Major systems that have been replaced within the past seven (7) years are not allowable rehabilitation expenditure items for meeting the \$20,000 in hard construction costs per unit requirement.
- e) All appliances seven (7) years and older, to include range, refrigerator, dishwasher, and hot water heater, must be replaced.
- f) The PNA report must also address the overall structural integrity of each existing building(s).
- g) Developments applying in the RHS set-aside may submit the rehabilitation assessment utilized by RHS. The assessment must not be dated prior to September 1, 2012.
- h) **Exhibit R** must be submitted with the PNA report. The hard construction costs per unit indicated on page 11 of the Tax Credit Application must be greater than or equal to the hard construction costs indicated on **Exhibit R**.
- i) Adaptive reuse developments are not required to submit a PNA report.
- 16. Parking Space Criteria** – Parking areas must be located on the development site. In localities that do not have their own parking space regulatory code/requirement, the Authority requires that the development provide adequate parking spaces. If tenants are required to pay for parking, those charges must be included in the rental fees and are subject to the LIHTC allowable rent limitations. The minimum number of parking spaces is as follows (again, only in those localities that **DO NOT** have their own regulatory code/requirements):
- a) For older persons developments – a minimum of one-half (.5) parking space per unit is required;
- b) For a homeless/transitional development – a minimum of one (1) parking space per every ten (10) beds is required in addition to sufficient parking for all development staff;
- c) For all other developments, for each unit of three (3) or more bedrooms – a minimum of two (2) parking spaces per unit is required; for each unit of two (2) or fewer bedrooms – a minimum of one and one-half (1.5) parking spaces per unit is required;
- d) Existing properties being submitted for acquisition or rehabilitation are not required to increase existing parking as stated in (a), (b) or (c) above.
- 17. Community Revitalization Plan Areas (CRP)** – Required for tie break purposes only. Refer to Section IV Tie Breaker Criteria in the 2013 QAP.
- 18. Qualified Census Tract (QCT) Verification** – Applicants must provide written verification from the City/County official that the proposed site is located within a federally designated QCT.
- 19. Opinions, Certifications and Exhibits** – All opinions, certifications and exhibits submitted by attorneys, the Applicant, or other professionals must be based on an independent investigation into the facts and circumstances surrounding the proposed development. All opinions, certifications, and exhibits must be in

the form specified by the Authority. **Applications will be disqualified if an opinion, certification, or exhibit has been materially altered, amended, or changed.** All opinions and certifications submitted by attorneys, architects and/or engineers, and certified public accountants (CPAs) must be on letterhead with original signatures. Changes in professionals hired by the Applicant, i.e. attorneys, architects, and certified public accountants, are permissible; however, the new professionals must adhere to the original certifications made by previous professionals.

- 20. Third Party Professionals** -Architects, engineers and certified public accountants must be independent third-party professionals and be licensed to practice their professions in South Carolina. Attorneys must be independent third-party professionals and be licensed to practice law by any state. Matters of South Carolina law must be opined on by South Carolina licensed attorneys.

### **Application Review:**

#### **1. Internal Completeness Review**

- a) Applications will be reviewed for completeness after the submittal deadline. It is the Applicant's responsibility to submit all required documentation. Applicants will be notified in writing of any documents that are missing and/or incomplete and given seven (7) business days to submit those documents. The Authority will make the final determination if applications are complete. The Authority has the right to request clarification or additional information if it deems necessary;
- b) Applications with three (3) or fewer missing and/or incomplete documents will be assessed a \$2,000 administrative fee. If any missing and/or incomplete documents to be resubmitted are not received by the seven (7) business day deadline, the Application will be disqualified;
- c) If an Application has four (4) or more missing and/or incomplete documents the Application will be disqualified;
- d) Any document(s) determined to be missing and/or incomplete and are identified as document(s) needed for points consideration may be accepted but the Applicant will not receive points;
- e) Authority staff will review and point score all Applications. Final point scores will be posted to the Authority's website.
- f) If there is a tie between developments when final point scores are determined, the Authority will utilize the Tie Breaker Criteria outlined in Section IV of the 2013 QAP to determine the development(s) to be awarded tax credits.
- g) Applications that do not score high enough to receive an award will be placed on a waiting list for consideration should additional tax credits become available.

#### **2. Site Review**

- a) Authority staff or contract consultant(s) will conduct evaluations for each Application site. A review will determine if there are (1) detrimental site characteristics on or near the proposed development and (2) positive site characteristics. If the Authority determines detrimental site characteristics exist on, adjacent to, or within unallowable distances from the site, the Authority may reject the application.
- b) All sites will receive a point score based on positive and detrimental site characteristics.

It is the objective of the Authority to select the best available sites for those developments best satisfying the general purpose and guidelines of this LIHTC Manual and the QAP. The determination of detrimental site characteristics should not be construed as a finding that a site is not a buildable site under any circumstances.

#### **3. Market Study Review**

Submitted market studies must conform to the requirements in the Authority's 2013 Market Study Guideline Procedures, contain an Exhibit S-2 form, and a 2012 S-2 Rent Calculation Worksheet. Market analysts must adhere to Market Study Terminology as sanctioned by the National Council of Affordable Housing Market Analysts. The Market Study terminology list is available at: [www.housingonline.com](http://www.housingonline.com). The Authority will engage a third party market analyst to review all market studies submitted with a Tax Credit Application. The Authority's third party market analyst will review each study to ensure that Authority procedures were followed. The Authority's third party market analyst will have at least six (6) weeks to review all submitted

market studies. A report for each submitted market study will be prepared noting any deficiencies found in the market study. The report will be provided to both the analyst that prepared the market study, the Applicant, and the Authority. All deficiencies noted in the market study report must be addressed to the satisfaction of the Authority's third party market analyst and Authority staff. The Authority will consider the market study, the market, marketability factors, and any additional information available to determine if an acceptable market exists for a development as proposed. The Authority is not bound by the conclusions or recommendations of the market study submitted with an Application and reserves the right to disqualify any Application in the competition if it determines an acceptable market does not exist.

#### **IV. FINANCIAL UNDERWRITING STANDARDS**

##### **Memorandum of Understanding:**

On March 1, 2012, a Memorandum of Understanding (MOU) between the South Carolina State Housing Finance and Development Authority (SCSHFDA) and the United States Department of Housing and Urban Development-Regional Administrator's Office (HUD Regional) and the United States Department of Agriculture, Rural Housing Service (RHS) was executed. The MOU outlines the respective roles and responsibilities for Subsidy Layering Reviews (SLRs) related to affordable housing proposals to be developed and financed within the State of South Carolina. The MOU describes the work, conditions, circumstances, and procedures under which all parties will conduct SLRs when involved in the development process for reviewing proposals requesting low income housing tax credits. Information provided by Applicants in their application submission for tax credits and seeking funding through HUD or RHS will be reviewed and information shared with the other funding partners, as outlined in the MOU.

##### **Basic Financial Feasibility Review:**

1. Section 42(m)(2)(A) of the Code provides that "The housing credit dollar amount allocated to a development shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the compliance period." **In determining financial feasibility, the Authority will disregard all personal or other guarantees that are required to supply deficiencies in income necessary to pay debt service and operating expenses of the development. Developments that are not financially feasible without such guarantees will not be offered a LIHTC award.**
2. Developments determined not to be financially feasible or determined not to need the LIHTC will be disqualified.
3. To receive an allocation, a development must be underwritten to determine the least amount of credit necessary to be financially feasible at the following times:
  - a) When the initial Application is made; and
  - b) When the Carryover Allocation is requested; and
  - c) When the last building is Placed-In-Service.

##### **Financial Characteristics:**

Development income information on any market rate and low income units must be provided. Market rate units are units that are not income or rent restricted and are available without regard to tenant income. The low-income units are units subject to the income and rent restrictions of the Code. The Applicant must indicate all federal, state, or local subsidies that will be providing any type of assistance for the low-income tenants.

In determining maximum allowable gross rent and utility allowances for LIHTC units, the use of an imputed income based on the number of bedrooms in a unit is required by the provisions of the Code. Units with no separate bedroom are treated as being occupied by one (1) person and larger units are treated as being occupied by one and one-half (1.5) persons per separate bedroom.

- 0 Bedroom Unit = 1.0 person income
- 1 Bedroom Unit = 1.5 person income
- 2 Bedroom Unit = 3.0 person income
- 3 Bedroom Unit = 4.5 person income
- 4 Bedroom Unit = 6.0 person income

Maximum annual gross rents cannot exceed thirty percent (30%) of the imputed income. Gross rent does not include any payment under Section 8 of the U. S. Housing Act of 1937, or any comparable rental assistance program with respect to such unit or the occupants. Gross rent must include an allowance for any utilities paid by the tenant.

The Revenue Reconciliation Act of 1993 requires the housing credit agency to consider the reasonableness and appropriateness of development costs and operating expenses. In making this determination, the housing credit agency must consider: (1) the sources and uses of funds and the total financial structure of the development; (2) any proceeds expected to be generated by the syndication of the tax credit; and (3) the percentage of the housing credit dollar amount to be used for development costs other than intermediary costs.

Certain fees are considered to be intermediary costs. The term "intermediary" has not been defined in the Code, and the IRS has not issued regulations concerning this provision. Until such regulations are promulgated, the Authority has defined intermediary costs as all costs other than "land, sticks, and bricks." For evaluating the reasonableness of certain fees and overhead items represented for tax credit basis purposes, additional documentation as to the nature and amount of intermediary costs may be required. The Authority reserves the right to question any fees which are unidentified, unusual or excessive and to limit these fees and overhead items, based on the development size and other associated risk factors. A tax attorney or consultant is recommended to aid in determining which development costs are included in eligible basis under the Code.

The development costs are evaluated for reasonableness, necessity, and eligibility. Cost comparisons with previous development cost certifications and other third party data may be performed for comparability and reasonableness. Acquisition and/or rehabilitation development costs will be evaluated to assess whether the proposed rehabilitation is required and satisfies the PNA. The Authority reserves the right to inspect proposed rehabilitation developments before a reservation is offered.

Applicants are cautioned to be accurate in providing development cost information. Underestimating could result in insufficient tax credits being available to successfully complete the development while overestimating could result in a development being considered infeasible. **Increases in development costs due to cost overruns will not result in an increase in the allocated tax credit.**

### **Utility Allowances:**

Any utility services paid for by the tenant must be considered in the calculation of tenant-paid rent. An allowance for tenant-paid utilities is deducted from the maximum allowable monthly gross rent to determine the maximum allowable monthly net rent; the proposed tenant rent may not exceed the maximum allowable monthly net rent. Any services paid for by the owner should not be included in the utility allowance.

1. **Sources:** Applicants may submit utility allowances only from those sources approved by the Authority. The Authority will accept utility allowances provided by:
  - a) Rural Housing Service (RHS) but only for those developments financed by and receiving rental assistance from RHS. A copy of the RHS approved utility allowance must be provided;
  - b) The Authority's Voucher Program Utility Allowances for developments located in the seven (7) counties which the Authority administers Section 8 Rental Assistance;



- c) HUD Regulated Buildings with 100% project based rental subsidies where the rents and utility allowances are reviewed by HUD each year. A copy of the current approved HUD allowance for the development must be provided;
- d) The local public housing authority (PHA) serving the proposed project;
- e) HUD Utility Schedule Model. All utility allowance calculations on the Excel Spreadsheets as part of the HUD Utility Schedule Model must be provided. The Authority reserves the right to review all backup data used for calculations; **or**
- f) Third party certified utility company estimates **only if** that utility company will be directly providing services to the development.

The Authority will not accept utility allowances determined by any other sources, including engineers, consultants, and applicants/developers.

2. **Mandatory Services:** Utility services which must be provided to all tenants are heating, air conditioning, cooking, lighting and/or other electric, hot water, water and sewer, and trash collection. Air conditioning must be separately identified in the allowance calculation.
3. **Other Charges:** The utility allowance must include an amount for the cost of any service paid for by the tenant. In addition the allowance must include any charges imposed by the utility provider for access or connection, such as electric or natural gas facilities fees. Charges for services must accurately reflect any surcharges based on the location of the development, such as higher water and sewer fees for sites outside the city limits. Charges for specific appliances, such as ranges and refrigerators, should be included in the allowance only if the tenant must supply the appliance(s).
4. **Calculation:** The utility allowance is computed by first adding the exact amount of each individual utility service (e.g., heating, cooking) for each bedroom size, without rounding. The resulting total utility allowance for each bedroom size is then rounded upward to the next whole dollar if it contains any fraction of a dollar (i.e., .01-.99). See Exhibit U for an example of a completed utility allowance schedule.

#### **Authority Designated Difficult Development Areas (DDAs):**

As outlined in H.R. 3221, the Housing and Economic Recovery Act of 2008, the Authority must establish criteria for determining which areas will be treated as Difficult Development Areas (DDAs) and which projects will be eligible to receive additional tax credits up to 130%. Developments utilizing tax exempt bonds are not eligible for this basis boost. The DDA criteria established by the Authority are separate from the federally designated DDA areas. Developments meeting any of the following criteria are eligible to receive a basis boost of up to 130%.

- a) If any part of the proposed site is in a federally designated Qualified Census Tract (QCT), the Authority will treat the entire site as a DDA area and allow the basis boost to all building(s) in the development; or
- b) Developments that are 100% elderly (62 years and older); or
- c) Developments that are 100% special needs; or
- d) Development that are targeted for older persons or families.

#### **Underwriting Standards:**

1. **Operating Reserves** - Developments receiving loan funds from RHS may satisfy the operating reserve requirement of the LIHTC program by establishing the two percent (2%) operating and maintenance capital reserve account and by maintaining this account as required by RHS. Developments not subject to the RHS two percent (2%) operating and maintenance capital reserve requirements must establish and maintain minimum operating reserves equal to six (6) months of projected operating expenses, six (6) months of the Authority's required replacement reserves, six (6) months of must-pay debt service and any additional reserves required by the syndicator and verified in writing. The reserve must be established at the time the development places in service and must be maintained at the required level throughout the compliance period unless earlier release of the reserves is approved by the Authority and the Syndicator of the low-income housing tax credits.

The Authority may allow for release of operating reserves after certain requirements are met. The following conditions must be met for consideration:

- a) The Syndicator of the low-income housing tax credits must provide a written statement verifying the Syndicator’s approval of the release of operating reserves and must attest that the agreement is the result of the property meeting the conditions of release specified in the partnership agreement or operating agreement. The Syndicator must use **Exhibit OR-1** to report the approval for release of the reserves and must indicate on this form the conditions that have been met which allow for the release.
- b) The Owner/Principal(s) must provide a statement that the conditions required by the Syndicator for release of the operating reserves have been met. This must be certified on **Exhibit OR-2**. Providing false or misleading information to obtain the release of reserves may result in debarment.
- c) Before a release of operating reserves will be considered, the property must have been placed in service a minimum of five (5) years and have maintained a minimum debt coverage ratio of 1.15 for the three (3) most recent consecutive calendar years.

The Authority reserves the right to hire an accounting firm at the property owner’s expense to confirm that the required conditions for release of the operating reserves have been met.

- 2. **Replacement Reserves** - Applicants are required to establish and maintain minimum replacement reserves of **\$250** per unit annually for new construction and for rehabilitation developments serving older persons (aged 55 and up). Replacement reserves for all other rehabilitation developments are **\$300** per unit annually. The Authority requires evidence of the existence of Replacement Reserves. If the syndicator requires additional amounts above the Authority minimums then written verification of such must be provided by the syndicator. Replacement Reserves must be reflected in the development’s annual audited financial statements. The Authority must approve and sign off on the use of Replacement Reserves. Applicants must submit satisfactory documents to justify the expenditure(s). Requests should be submitted to the Authority’s Development Director. Approvals will be completed within five (5) business days of receipt. If an approval from the Authority is not received back within the specified timeframe, the use of Replacement Reserves is automatically granted.
- 3. **Developer Fees, Developer Overhead, and Consultant Fees (the “Fees”)** - In evaluating the reasonableness of Fees the Authority has established limits as follows:
  - a) **New Construction** – The sum of **Fees** may not exceed fifteen percent (**15 %**) of Adjusted Development Costs\*
  - b) **Rehabilitation without a change in ownership** – The sum of **Fees** may not exceed fifteen percent (**15%**) of Adjusted Development Costs\*
  - c) **Acquisition with rehabilitation**
    - i. **Acquisition** - For acquisition with rehabilitation developments, **Fees** allowed on the acquisition costs are limited as follows:
      - 1. **Acquisition costs up to \$500,000** – **Fees** may not exceed eight percent (**8%**) of Adjusted Development Costs\*
      - 2. **Acquisition costs from \$500,001 to \$1,000,000** – **Fees** may not exceed the **greater of \$40,000** or seven percent (**7%**) of Adjusted Development Costs\*
      - 3. **Acquisition costs from \$1,000,001 to \$1,500,000** - **Fees** may not exceed the **greater of \$70,000** or six percent (**6%**) of Adjusted Development Costs\*
      - 4. **Acquisition costs greater than \$1,500,000** – **Fees** may not exceed the **greater of \$90,000** or five percent (**5%**) of Adjusted Development Costs\*
      - 5. **Acquisition cost limit** - **Fees** on acquisition costs are capped at a **maximum of \$150,000**.
    - ii. **Rehabilitation** – **Fees** on rehabilitation costs may not exceed fifteen percent (**15%**) of Adjusted Development Costs\*

<u>*Adjusted Development Costs</u>	=	Total Development Costs (Line 51)	_____
		Less Land (Line 1)	- _____
		Less Consulting Fees (Line 20)	- _____

Less	Developer Fees (Line 45)	-	
Less	Developer Overhead (Line 46)	-	
Less	Other Developer Costs (Line 47)	-	

Line numbers refer to page 10 in the Tax Credit Application, the 10% Expenditure Test Application, and Placed In Service Application.

- 4. Deferred Developer Fees** - Developer fees can be deferred to cover a gap in funding sources when:
- a) The entire amount will be paid pursuant to the standards required by the Code to stay in basis.
  - b) The deferred portion does not exceed fifty percent (**50%**), at initial tax credit application submission, of the total amount in the application.
  - c) Payment projections do not jeopardize the operation of the development.
  - d) Nonprofit organizations must include a resolution from the Board of Directors authorizing a deferred payment obligation from the development.
  - e) Applicants must include with the application a statement describing the terms of the deferred repayment obligation, including any interest rate charged and the source of repayment.
  - f) The Authority will require a Note evidencing the principal amount and terms of repayment of any deferred repayment obligation to be submitted at the time of the PIS cost certification.

- 5. Contractor Cost Limits** - The combined total of Contractor Profit, Overhead, and General Requirements (the “Contractor Fees”) shall be limited to fourteen percent (**14%**) of Hard Construction Costs. The restrictions on Contractor Fees are the following:

Contractor Profit and Overhead:	may not exceed <b>8%</b> of Hard Construction Costs
<u>General Requirements:</u>	<u>may not exceed <b>6%</b> of Hard Construction Costs</u>
Total Contractor Fees:	may not exceed <b>14%</b> of Hard Construction Costs

If there is an identity of interest between the Applicant and contractor, as defined in the LIHTC Manual, the Authority, at its sole discretion, may require an additional cost certification with the PIS application of the construction costs. The Authority will commission the CPA and the associated accounting fees will be charged to the Applicant.

**\*\*\*Hard Construction Costs** are limited to the following line items from the development cost budget in the Application:

- Line 3 – Demolition
- Line 5 – On Site Improvement
- Line 6 – Off Site Improvement
- Line 7 – Other (Site Work)
- Line 8 – New Building
- Line 9 – Rehabilitation
- Line 10 – Accessory Building
- Line 15 – Contractor Contingency

- 6. Annual Operating Expenses (AOE)**
- a) Applicants must provide a detailed explanation of the methodology used in determining AOE.
  - b) AOE must be projected in a range from a minimum of \$3,200 to a maximum of \$4,200 per unit.
  - c) AOE per unit are to be calculated excluding reserves.
  - d) The Authority may, in its sole discretion, consider and approve AOE outside of this range. The Applicant must present support for those expenses and provide evidence supporting the higher amount (e.g., insurance for coastal properties). Owner-paid utilities, other than water, sewer, and trash, will also be considered.

- 7. Development Cost Review** – The Authority will utilize a construction cost consultant to render an opinion on the development cost projections for proposals considered for funding. Applicants will be required to

provide detailed cost information to substantiate the projected costs. Should the construction cost consultant require additional information to render an opinion, applicants will be given seven (7) business days to provide the additional information. If the additional information is not received within seven (7) business day, the application will be disqualified. If the construction cost consultant determines that the projected costs cannot be substantiated or determines that the project's costs are not reasonable for an affordable housing development, then the development will be eliminated from the tax credit competition. See the 2013 QAP for maximum Total Development costs per unit and maximum tax credits per unit.

#### 8. **Debt Coverage Ratio (DCR)**

- a) LIHTC dollars will not be reserved or allocated to developments that are not made financially feasible by the credit or which are financially feasible without the credit. The development's first year DCR must be within the range of **1.20 to 1.45**. The development must maintain not less than a 1.0 DCR throughout the 15 year compliance period.
- b) The DCR is calculated as Net Operating Income (NOI) divided by the annual debt service. For this purpose, NOI is the income remaining after subtracting Operating Expenses and Replacement Reserves from the Effective Gross Income (EGI).
- c) For the purpose of determining the appropriate amount of tax credits to be allocated to a development, the Authority assumes that each development will bear the maximum level of permanent debt. **When calculating the tax credit amount, the Authority will limit the maximum DCR to 1.45. A proposed development may exceed the 1.45 maximum DCR for financial feasibility purposes, but when calculating the credit to be allocated, the Authority will limit the DCR to 1.45. In the event that the development DCR, as submitted, is greater than 1.45, the Authority will increase debt based on the terms submitted in the application in order to reduce the DCR to 1.45 for the calculation of the credit amount. This increase in debt will be included in the equity gap calculation.**
- d) The maximum DCR of 1.45 restriction will be waived if the initial projected annual Cash Flow/Unit (CFU) does not exceed four hundred dollars (\$400). CFU is calculated by subtracting annual debt service from the NOI and dividing this result by the number of units that will be rented to tenants. In the event that the development DCR, as submitted, is greater than 1.45 and the development CFU, as submitted, is greater than \$400, the Authority will increase debt based upon the terms submitted in the application in order to reduce the DCR to 1.45 or the CFU to \$400, whichever is met first, for calculation of the credit amount. This increase in debt will be included in the equity gap calculation.

#### 9. **Expense Coverage Ratio (ECR)**

- a) For developments whose funding sources do not include repayable debt, financial feasibility will be measured by the Expense Coverage Ratio (ECR). The development's initial ECR must be a minimum of **1.20**. Development utilizing the ECR may not have an initial projected annual cash flow per unit in excess of \$400.
- b) The ECR is calculated as Effective Gross Income (EGI) divided by the sum of Annual Operating Expenses (AOE) plus Replacement Reserves.
- c) For the purpose of determining the appropriate amount of tax credits to be allocated to a development, the Authority assumes that each development will bear a reasonable level of permanent debt if it is feasible for the development to do so. If it is determined in the Authority's underwriting analysis that a proposed development can bear a level of permanent debt, then debt will be imputed at current rates and the debt coverage ratio (DCR) rules identified in 8 a) through 8 d) above will apply.

#### 10. **Funding Sources**

- a) Applicants receiving "soft loans" (e.g., AHP, Deferred Developer Fees, etc.) must adequately explain in their applications the repayment terms of these loans.
- b) Income that is projected to be generated by a property during the construction or rent up period may not be used as a funding source in the proposal for low-income housing tax credits. Examples of this are "rent-up cash flow" and interest earnings.

#### 11. **Permanent Financing**

A letter of intent is required for all permanent financing sources. The Authority will underwrite the first mortgage debt at an interest rate of six percent (6%) or the rate provided in the lender letter if less. The letter must clearly state the term of the permanent loan, the amortization period, how the interest rate will be indexed, the current rate at the time of the letter, the anticipated principal amount of the loan, and the lien position. All permanent loans are required to amortize so that debt service on such loans is paid in equal installments over a period of twenty (20) years or longer. Any permanent loan represented as having an amortization period shorter than twenty (20) years or with an accelerated payment of debt service (such that the loan is paid off in less than 20 years) will be underwritten by Authority staff with a minimum twenty (20) year amortization with 240 equal monthly debt service payments. Should a proposal fail to meet other underwriting guidelines resulting from projecting a minimum twenty (20) year amortization, the proposal may be disqualified.

**12. Annual Rent, Expense Trends and Vacancy Rates**

- a) Development rents will be trended upward at a two percent (2%) annual increase.
- b) Operating expenses will be trended upward at a three percent (3%) annual increase.
- c) For the vacancy rate, the Authority will utilize the greater of seven percent (7%) or the vacancy rate represented in the market study for the primary market area.
- d) The pro-forma financial statements must substantiate that the development will maintain a positive cash flow for the full fifteen (15) year period. A fifteen (15) year pro-forma must be submitted with the application submission.

**13. Other Income**

Projected income from services or charges other than monthly rental of dwelling units must be clearly specified with type and amount of income identified in detail in the application for tax credits. Other Income projections may not exceed three percent (3%) of the total potential annual rent. For this purpose, total potential annual rent will be defined as the sum of all rents to be collected assuming one hundred percent (100%) occupancy at the proposed tenant rents as represented in the application for tax credits.

**14. Brokering / Reselling of Services to Tenants**

Revenue and expenses resulting from acting as a broker or reseller of services to tenants **may not be included** in a proposal for low-income housing tax credits. Examples include, but are not limited to, the brokering or purchase and resale of cable, satellite, and/or internet service to tenants. These activities are not prohibited as long as they are in compliance with IRC Section 42, but income projected to be generated from such endeavors will be excluded when performing the Authority's underwriting analysis.

**15. Minimum Hard Cost Requirement** - The Authority requires a minimum hard cost ratio of not less than sixty-five percent (**65%**) of total development costs.

*Hard Costs* are the following line items on the development cost budget in the Application:

- Line 1 – Land
- Line 2 – Existing Structure
- Line 3 – Demolition
- Line 4 – Other (Land & Buildings)
- Line 5 – On Site Improvement
- Line 6 – Off Site Improvement
- Line 7 – Other (Site Work)
- Line 8 – New Building
- Line 9 – Rehabilitation
- Line 10 – Accessory Building
- Line 15 – Contractor Contingency

Although the total of soft costs can be up to thirty-five percent (35%) of total developments costs, the Authority and its third party cost consultant will review soft cost budget items to ensure that these costs are within reasonable and acceptable ranges based on current industry standards. If costs are determined to be

too high or too low, an explanation of how the costs were determined will be requested. Depending on further review of the explanation, costs may be adjusted as deemed necessary.

16. **Alternative Plan for AHP Funding Source** - Applications that compete for tax credits and represent that Affordable Housing Program (AHP) funds will be sought from the Federal Home Loan Bank (FHLB) must provide a narrative with the Application detailing how the funding gap will be filled if not awarded AHP funds. Additionally, revised pages 7, 8 (rental income section only), 9, and 12 (rental income section only) of the application must be attached to the narrative. The only changes allowed are changes in funding sources and rental income. Changes not allowed include, but are not limited to, operating expenses, total development costs, total number of units, and unit mix. This information will be required at the Application submittal. This requirement may be waived for Applicants that provide a firm commitment of the AHP funding.

**Syndication Information:**

If the information as to the syndication value is unusual, the Authority in its sole discretion may assign a value based on existing market information. If any elements of the syndication proposal are unusual, the Applicant must provide an explanation. The Authority will underwrite using a flat rate of 80 cents on the dollar for a syndication factor.

**Determination of Credit Award:**

1. **Equity Gap Calculation:**

Equity gap is defined as total development costs minus the total of all non-LIHTC sources of funds (i.e., the development costs not covered by debt financing, grants, etc.). The Authority will impute debt for owner financed developments. **When calculating the tax credit amount to be awarded/allocated, the Authority will limit the maximum DCR to 1.45. In the event that the DCR for the proposal submitted is greater than 1.45, the Authority will increase debt based on the terms stated in the application in order to reduce the DCR to 1.45 for the purpose of calculating the tax credit. This increase in the debt amount will be utilized in the equity gap calculation.** The tax credit amount is calculated so that, over ten years, the allocation equals the excess development costs, thereby "closing" the equity gap. If credits are syndicated, only a portion of the ten (10) year allocation amount is returned to the developer as equity. The rest is used to cover the Syndicator's expenses and reserve requirements. The equity factor is the percentage of the ten (10) year credit returned to the development owner in the form of equity.

A certified statement from the Syndicator or private placement entity identifying the syndication factor per tax credit dollar and the amount of syndication proceeds is required when available, but not later than the PIS date. The equity gap is calculated as follows:

Total Development Cost	_____
Less:	
Total Sources of Funds*	( _____ )
Equity Gap	_____
Divide by 10 Year Credit Period ÷ 10	_____
Annual Tax Credit Required	_____
Divide by Syndication Value	
Returned Per Tax Credit Dollar	÷ _____
Annual Credit Amount	_____

\* For the purpose of the equity gap calculation, a developer fee note will not be considered as a source of funding.

2. **Maximum Credit Allowable:**

The amount of the tax credit awarded will be limited to the amount necessary to fill the equity gap but cannot exceed the amount determined using the applicable percentage set monthly by the Secretary of the Treasury.

Total Qualified Basis	_____
Multiplied by Applicable Percentage	__x_____ %
Maximum Annual Credit Amount	_____

The actual amount of the credit for the development is determined by the Authority.

If the development is eligible for historic tax credits, include a detailed narrative description of the calculation of eligible basis for the historic credit and other information critical to the successful combination of the two (2) tax credit programs.

## **V. RESERVATION/CARRY-OVER ALLOCATION PROCEDURES**

### **Notification of Reservation Award:**

**Reservation Certificate** – Reservation Certificates will be sent to Applicants for those developments in order of highest to lowest point score until tax credits have been exhausted. To acknowledge acceptance of the reservation of tax credits, Applicants must execute and return the Reservation Certificates. 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](http://www.schousing.com). The date of the Reservation Certificate is the “Reservation Date.”

Under Section 42(b)(2)(A), only developments that place in service by December 30, 2013 are eligible for the flat 9% credit rate. The amount of tax credits reserved for new construction or rehabilitation costs for the 2013 tax credit funding cycle will be calculated using a minimum applicable percentage rate of nine percent (9%). The amount of tax credits reserved for acquisition costs is based on the **greater of** the tax credit applicable percentage (%) in effect for the month of credit reservation or the applicable percentage (%) in effect for the month of the Tax Credit Application submission. Applicants who receive a reservation of tax credits will be notified of the dollar amount of tax credits preliminarily reserved and the Reservation Fee which must be submitted to the Authority. Applicants have ten (10) business days from the date of the notification letter to submit fees and the executed original Reservation Certificate. 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 Applicant.

Tax credit developments that do not place in service **on or before** December 30, 2013 will be underwritten at the applicable federal rate for the month the development places in service. Additional tax credits may not be available to fill any funding gaps created by the difference between the flat nine percent (9%) credit rate and the applicable federal rate after December 30, 2013. It is the Applicant’s responsibility to ensure that developments are financially feasible and have all sources of funding in place and committed at the time a Placed in Service Application is submitted.

### **Reservation Certificate Conditions:**

**Reservations of LIHTCs are not transferable.** Any changes in GP, partnership, or individual, etc., listed as the "owner" entity on the initial Application will result in cancellation of the reservation of tax credits. A non-refundable Reservation Fee will be charged in an amount equal to ten percent (10%) of the annual LIHTC amount reserved for the development. Applicants must strictly comply with the following reservation conditions:

1. Developments may, because of the limited supply of credit dollars, be offered reservations in an amount less than the maximum amount for which it would otherwise qualify. Additional LIHTC amounts that may become available for reallocation will be reserved only upon payment of a Reservation Fee equal to ten percent (10%) of the additional amount awarded.

2. Developments will be subject to three (3) construction inspections by an independent third party consultant during the course of construction. This includes two inspections during the construction phase and a final inspection. In addition, all development plans and specifications will be reviewed for compliance with Exhibit G criteria, for which points were taken, as well as ADA compliance. The Authority's fee schedule for these reviews are as follows:
  - a) Construction inspection fee \$750.00 per inspection; and
  - b) Plan and specification review \$1,750.00.A total of \$4,000.00 to cover these reviews is due at the time the executed Reservation Certificate is returned.
3. Developments 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 not later than 5:00 p.m. (EST).
4. Developments with a reservation of LIHTC that will PIS after December 31 of the year in which the reservation was issued must submit an Application for a Carryover Allocation to the Authority no later than the date specified in the Reservation Certificate.
5. Issuance of additional regulations by the IRS may change the amounts and terms of the Reservation Certificate, or may cause it to be revoked in order to comply with such regulations.
6. Failure to meet any of the above conditions will render the Reservation Certificate null and void.
7. Any untimely submission of documentation referenced in the Reservation Certificate will result in its cancellation.

### **Carryover Allocation Procedure:**

Applicants receiving a Reservation Certificate will be notified of the requirements to apply for an **allocation** of tax credits at the time of the reservation.

Issuance of a Reservation Certificate does not guarantee that the development will be the recipient of an allocation of LIHTC, nor does it guarantee that, if the development becomes the recipient of an allocation of LIHTC, such credit will be in the amount stated in the Reservation Certificate. All allocations will be determined by the Authority. The Authority reserves the right to investigate the validity of any certifications and/or opinions and reserves the right to request supplemental information. Also all allocations will be based upon the determination by the Authority of the least amount of credit which will render the development financially feasible. Should it be determined that the development is financially feasible without an allocation of the credit, then no LIHTC will be allocated to the development and the reservation certificate will be null, void and of no force or effect.

**Carryover Allocations are not transferable.** An Application, together with all supporting documentation must be received in the Authority's office on or before the date specified in the Reservation Certificate. No extension will be given.

If the Carryover Application is complete and deemed eligible, the Authority will mail a Carryover Agreement together with a Binding Agreement for signature. The Applicant must return the original documents by the due date indicated in the notification letter. In addition, the Applicant must enter into an Agreement as to Restrictive Covenants with the Authority and record the Covenants in the Office of the Register of Mesne Conveyance (or office of the Clerk of Court if there is no RMC) in the county in which the development is located. The Authority requires the recorded Restrictive Covenants to be submitted within twelve (12) months after the Reservation Date.

### **Verification of Ten Percent Expenditure:**



The Code allows the Verification of Ten Percent Expenditure (10% Test) to be met no later than twelve (12) months after the Carryover Allocation date. However, the Authority requires the Verification of Ten Percent Expenditure (10% Test) to be met no later than six (6) months after the Carryover Allocation date. Any extension of this date will be permitted only at the Authority's discretion and only under circumstances deemed to be beyond the Applicant's ability to control. In any event, the Authority will not grant any extension longer than ten (10) months after the Carryover Allocation date.

1. The 10% Expenditure Test Application is due and must be submitted in a three ring binder by the due date specified in the Carryover Allocation Agreement. Failure to submit by the due date will result in the cancellation of the LIHTC award.
2. This date will be three (3) weeks after the date that the development is required to have met the 10% Test.
3. In the event that the three (3) week period does not end on a business day, the due date will be extended until 5:00 p.m. (EST) on the next business day.
4. The 10% Test must be complete and correct as of the date on which it is submitted.
5. The 10% Test will be reviewed for completeness and accuracy to allow the Authority to compare the information with **Exhibit A - 10% Expenditure Information Checklist**. If any of the required documents are found to be missing/incomplete the following will apply:
  - a) Prior to the Application deadline – the missing/incomplete document(s) may be submitted without penalty.
  - b) 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 until the documents are submitted.
6. If the missing/incomplete documents are not corrected and resubmitted to the Authority within seven (7) business days following the notification, the development will forfeit its allocation of tax credits.
7. Costs incurred to meet the 10% Test must be certified by an independent (unrelated third party) CPA by the date that the Carryover Allocation Agreement requires the 10% Test information to be submitted to the Authority.

The following documents must be submitted with the 10% Test:

1. Certification of 10% Expenditure (**Exhibit H**); and
2. Accountant Certification of Costs and 10% Expenditure (**Exhibit I**) (all cost certifications must be issued by a CPA licensed by South Carolina Board of Accountancy); and
3. If land cost is being used to meet the 10% Test then a copy of the executed deed or executed ninety-nine (99) year land lease with a recorder's clock mark or a recorder's receipt must be provided. The grantee on the deed or the land lease must be same entity as the owner listed on the Reservation Certificate and Carryover Allocation application. The recordation date must reflect that the deed or land lease was recorded no later than six (6) months from the allocation date; and
4. Attorney Opinion Letter for 10% Expenditure (**Exhibit F**); and
5. All supporting documentation required by the application Checklist (**Exhibit A- 10% Expenditure Checklist**).

## **VI. DEVELOPMENT PROGRESS REPORT REQUIREMENTS**

### **Exhibit L Progress Reports- (For Developments/Buildings from Reservation through initial Rent-up period):**

1. The Authority will accept **Exhibit L** Progress Reports by fax (803) 551-4925 or email.
2. The Applicant must file quarterly Exhibit L Progress Reports. The first (1<sup>st</sup>) Report will be due on April 7 of the calendar year following Reservation/Carryover. Subsequent reports are due July 7, October 7, and January 7 thereafter until the development reaches a stabilized occupancy of at least ninety-three percent (93%). "Stabilized occupancy" is defined as sustaining at least ninety-three percent (93%) occupancy for six (6) consecutive months.
3. Exhibit L Progress Reports must accurately describe the status of the development and will be used to track the initial lease-up progress of the development.
4. All developments are subject to inspection by Authority staff at any time.

5. A fine of \$1,000 will be assessed against any development for which Exhibit L Progress Reports are not received by the due date. Report dates falling on Saturday, Sunday, or state holidays will be due the next business day.

Applicants are required to submit Exhibit L Progress Reports until the development reaches stabilized occupancy. Failure to submit the required Exhibit L Progress Report within seven (7) business days of the due date may result in a revocation of the reservation award or Carryover Allocation.

From the date of reservation, the applicant is expected to adhere to the time constraints as outlined below. The Authority may grant a forty-five (45) calendar day extension of certain items for a fee of \$1,000. The Authority will only accept and grant extensions for individual categories and will not accept or approve an overall blanket extension for all categories. All extension requests must be in writing and submitted not less than one (1) week prior to the deadline. Fees must be paid at the same time the extension request is submitted. After the first approved extension the fee for any additional extensions will be \$2,000 per request. Additional extensions will only be made for thirty (30) days at a time.

#### **Eight (8) Months after the Reservation Date:**

1. Final architect certified development plans and specifications for LIHTC developments are due to the Authority before 5:00 p.m. (EST) not later than eight (8) months after the reservation date. Plans and specifications must be in paper form, electronic form will not be accepted. Plans and specifications must incorporate all **Exhibit G** design and amenity items. The development architect must include a letter certifying that all design and amenity items are incorporated into the plans and specifications. All plans and specifications will undergo a third party consultant review. Any revisions or drawing review comments from the third party consultant must be incorporated into the plans and specifications and a revised final version of the documents submitted to the Authority.
2. The land must be purchased by the ownership entity, and the deed and/or land lease recorded as evidenced by a copy of the recorded document. If the recorded deed and/or land lease was previously provided as part of the 10% Test, then another copy is not required.
3. All building permits must be obtained and copies submitted to the Authority.

#### **Ten (10) Months after the Reservation Date:**

1. A certified copy of the executed, recorded, FINAL construction mortgage document for all LIHTC developments is due before 5:00 p.m. (EST) not later than ten (10) months after the reservation date. The construction mortgage document must have the recorder's clock mark date stamp showing the date, book, and page number of recording.
2. The executed and recorded Restrictive Covenants for all LIHTC developments are due before 5:00 p.m. (EST), not later than ten (10) months after the reservation date.
3. The executed binding commitment for syndication for all LIHTC developments is due before 5:00 p.m. (EST), not later than ten (10) months after the reservation date.
4. Applicants must list their development on the South Carolina Housing Search website, [www.SCHousingSearch.com](http://www.SCHousingSearch.com). The South Carolina Housing Search website is a database, sponsored by the Authority, that assists South Carolina residents in locating available affordable housing units. This is a free service with no fees charged for listing the development or maintaining development information throughout the compliance period. The applicant must provide evidence that the development has been listed on the website.

#### **Twelve (12) Months after the Reservation Date:**

1. All developments must be under construction.
  - a) New construction developments must have all footings in place not later than twelve (12) months after the reservation date, as evidenced by photographs submitted with a Progress Report that is certified by the development architect or development engineer. The Authority will allow the use of monolithic slabs as a substitute for the footings requirement.

- b) Rehabilitation developments must have begun actual rehabilitation of the units no later than twelve (12) months after the reservation date, as evidenced by photographs submitted with a Progress Report certified by the development architect.
2. Rehabilitation and new construction must be continuous and progressive from this date to completion. If it is determined that an Applicant started the construction or rehabilitation only to technically meet this requirement, then the Authority will determine that these criteria have not been met.

## **VII. PLACED-IN-SERVICE ALLOCATION**

Placed-In-Service allocations will be issued only in the name of the Applicant named on the initial application. Transfers subsequent to the issuance of the placed in service allocation are subject to provisions of Section 42 (j) (6) of the Code. If the Placed-In-Service application is complete and deemed eligible, the Authority will execute and mail a Form 8609 to the owner following the final underwriting.

### **Placed-in-Service Allocation Requirements:**

The Authority will issue a Form 8609 on a building-by-building basis; however, a Form 8609 will not be issued to a multi-building development until the last building in the development has been placed in service. In addition, **the Authority requires that all rental units in all buildings be complete and suitable for occupancy before a Form 8609 will be issued.** The owner must submit to the Authority a Placed-In-Service application on or before the second Monday in December not later than 5:00 p.m. (EST). The Placed-In-Service application must be submitted in a three ring binder and must include the following:

1. All unpaid fees or charges owed the Authority to include development monitoring or administrative fees; and
2. All applicable updated attorney opinion letters, (**Exhibits C, D, & E**), and final allocation CPA certification package (**Exhibits J-1, J-2, J-3 & J-4**); and
3. A final partnership agreement, if the owner entity on the application is a partnership, must be submitted. The final partnership agreement must reflect the annual LIHTC allocation and syndication proceeds. If the owner entity is a limited liability corporation, the operating agreement must also be submitted; and
4. All supporting documentation required by the application Checklist (**Exhibit A**).

This process is subject to change to comply with additional guidance, notices, or regulations issued by the IRS. All deadlines have been established to allow the Authority sufficient time for processing and underwriting. The owner must enter into any agreements that may be required by federal regulations to return unused credits.

### **Placed-In-Service Application Submission:**

Placed-In-Service applications are due on or before the second Monday in December not later than 5:00 p.m. (EST). The development's compliance monitoring fees, for the first fifteen (15) years, payable in certified funds, must be included or the application will not be accepted. The fee is equal to **\$35.00** for each LIHTC unit in the development. Once the development begins year sixteen (16) of the extended compliance monitoring period, the Authority will collect the then current monitoring fee on an annual basis.

1. Placed-In-Service applications not received by the due date stated above may be submitted until 5:00 p.m. (EST) on 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. All administrative fees must be paid to the Authority when the late application is submitted.
2. Placed-In-Service applications will be reviewed in the order received for completeness, allowing staff to review the submission against the application Checklist (**Exhibit A-Placed-In-Service Checklist**). If any of the required documents are found to be incomplete or missing, the following will apply:
  - a) Prior to the second Monday in December – the documents may be submitted without penalty.
  - b) 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.
3. If the Authority does not receive the corrected or missing documents and administrative fee within ten (10) business days following December 31, the development will lose its allocation of tax credits.

4. **The Authority requires that all units in all buildings must be one hundred percent (100%) complete and available for immediate occupancy by the placed in service deadline.** This must be documented by the Certificates of Occupancy or the equivalent provided by the local government entity. Failure to meet this criterion will result in cancellation of the LIHTC allocation.
5. After a Placed-In-Service application is submitted, the Authority will review the Application and inspect the development to ensure it was constructed as described in the application and in accordance with the representations contained in **Exhibit G**. The development must comply with **Exhibit G** before any Form 8609 will be issued.
6. Should the Authority be required to amend a Form 8609 due to errors in the application submitted, the Applicant must submit an administrative fee of \$100 for each corrected Form 8609. This fee must be paid prior to the issuance of the corrected Form 8609.
7. In accordance with Revenue Procedure 94-57, the IRS will treat the gross rent floor defined in Section 42(g)(2)(a) for a building as taking effect on the date that an allocation of tax credits is made to the building unless the owner elects to have the gross rent floor take effect on the date that the building is placed in service. For buildings described in Section 42(h)(4)(B) (a bond financed building), with respect to the gross rent floor effective date for each building in the development, the building owner must submit an executed gross rent floor designation (**Exhibit N**) with the Placed-In-Service Application.

#### **Cost Certification Requirements:**

As part of the Application for final allocation of tax credits, the Applicant is required to submit a cost certification acceptable to the Authority. **The cost certification must be in the form outlined in Exhibit J-2 and must include line item costs and a building-by-building breakout of building designation, building identification number, address, applicable fraction, placed in service date, applicable federal rate, and eligible and qualified basis costs.** The cost certification must be prepared and certified as to accuracy by a CPA licensed by the South Carolina Board of Accountancy. It must also state that a significant portion of the CPA's practice relates to tax matters and the interpretation of the Code. It 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. The certification must indicate 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 considers ineligible costs to include, but not to be limited to, costs for land, reserves, syndication, and permanent loan origination fees. **The Authority reserves the right to require an attorney opinion for costs that are questionable as to their eligibility for tax credit purposes. The Authority assumes no responsibility for determining which costs are eligible and urges the Applicant and their tax attorney/CPA to perform an independent investigation into the eligibility of all cost items.**

#### **VIII. COMPLIANCE MONITORING PROCEDURES**

These procedures are applicable to all buildings receiving LIHTC to include tax-exempt bond financed developments. Section 1.42-5 (a) of U.S. Treasury Regulations (the "Regulations") requires that each QAP include a procedure that the housing credit agency will follow in monitoring for noncompliance with the provisions of the Code and in notifying the IRS of any noncompliance of which the Authority becomes aware. The procedure for monitoring contained in the QAP must contain procedures consistent with the Regulations that address the following areas: record keeping and record retention; certification and review; on-site inspection; and notification as to noncompliance. This section of the LIHTC Manual complies with the mandate of the Regulations. The Authority reserves the right to make such alteration or amendment to its monitoring procedures as may be required. Such alteration or amendment is expressly permitted without further public hearings. The specific procedures that owners must follow to remain in compliance with program requirements are outlined in the LIHTC Compliance Monitoring Manual. Changes and updates to the manual can be found on the Authority's web site. The web site address is [www.schousing.com](http://www.schousing.com).

#### **Rent Increases:**

All developments funded in the 2013 tax credit funding cycle and forward must have Authority approval to increase rents by more than 2% per year. Rents can **only** be increased on an annual basis. For those developments restricted to threshold market advantage criteria, the Authority will use its third party market analyst to determine whether the development's rent increase request meets the required QAP threshold. All rent increase requests must be uploaded to the Authority's Extranet webpage and placed in the applicable Tax Credit section at least 60 days prior to their effective date. Instructions for uploading files is included as an Addendum to this Manual.

Note: Developments with one hundred percent (100%) Rural Housing Development or HUD Section 8 project based rental subsidy contracts are exempt from having to obtain Authority permission to increase rents; however, annual rent increase data for these developments must be uploaded annually to the Authority's Extranet webpage so that historical data can be tracked.

### **Annual Audited Financial Statements:**

All developments, regardless of when funded, must submit not later than June 1<sup>st</sup> of each year the annual audited financial statements for developments. In addition, annual operating expense information for developments must also be submitted, on the Authority approved form. The form should be included with the annual audited financial statements and must be certified to by the CPA/Ownership Entity. All financial information is to be uploaded to the Authority's Extranet webpage and placed in the applicable Tax Credit section. Instructions for uploading files is included as an Addendum to this Manual.

### **Record Keeping:**

In the manner prescribed by the Authority, the owner of a LIHTC development must keep records for each building in the development to which an allocation has been made that show for each year of the compliance period:

1. The total number of residential rental units in the building (including the number of bedrooms and the size, in square feet, of each residential rental unit);
2. The percentage of residential rental units in the building which are LIHTC units;
3. The rent charged on each residential rental unit in the building (including utility allowances);
4. The number of occupants in each LIHTC unit;
5. The LIHTC vacancies in the building and information that shows when, and to whom, the next available units were rented;
6. The annual income certification of each low-income tenant per unit. The Tenant Income Certification Form (TIC) or other Authority approved income certification must be signed and dated by each adult member of the household and executed on or before the date of initial move-in. Thereafter, gross annual household income must be re-certified every twelve (12) months unless the owner has applied for and received the Waiver of Annual Income Re-certification as described in IRS Revenue Procedure 94-64;
7. Documentation to support each low-income tenant's income certification consisting of verifications of income from third parties such as employers or state agencies paying unemployment compensation. Such third party verifications may be supported by copies of the tenant's federal income tax returns or W-2 forms. All income verification documentation must be received before the TIC may be executed. Income verifications are valid for one hundred twenty (120) days from the date of the verifying party's signature or printout. Owners may not rely on verifications that are more than one hundred and twenty (120) days old to support an annual income certification. Tenant income must be calculated in a manner consistent with the determination of income under Section 8 and not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under the Section 8 program, the documentation requirement of this paragraph is satisfied if the public housing authority administering the Section 8 program provides the building owner with a statement that the tenants' income does not exceed the applicable income limit under Section 42(g);
8. The eligible basis and qualified basis of the building at the end of the first year of the credit period;
9. The character and use of the nonresidential portion of the building included in eligible basis under Section 42(d) (for example, (i) tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or (ii) facilities reasonably required by the development);

10. Copies of executed IRS Forms 8609, Schedules A, Forms 8586, or other applicable documentation filed with the IRS for the purposes of claiming the LIHTC must be retained and available for inspection for the entire compliance period.

### **Record Retention:**

Other than the records for the first year of the credit period, the owner of a LIHTC development must retain the records for at least six (6) years after the due date (with extensions) for filing the federal income tax returns for that year. The records for the first year of the credit period must be retained for at least six (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.

### **Annual Owners Certification:**

The owner of a LIHTC development must provide to the Authority on or before the first day of February of each year after a development has been placed in service, an annual Owner's Certification for the preceding calendar year which certifies:

1. The development met the requirements of the twenty percent (20%) of the units at fifty percent (50%) of AMI requirement under Section 42(g)(1)(A), or the forty (40%) of the units at sixty (60%) of the AMI requirement under Section 42(g)(1)(B), whichever set-aside was applicable to the development;
2. If applicable, the development met the fifteen percent (15%) of the units at forty percent (40%) of AMI requirement under Sections 42(g)(4) and 142(d)(4)(B) for "deep rent skewed" developments;
3. There was no change in the applicable fraction (as defined in Section 42(c)(1)(B)) of any building in the development, or that there was a change and a description of the changes;
4. The owner has received an annual income certification from each low-income tenant, and documentation which supports the accuracy of that certification, or, in the case of tenants receiving Section 8 housing assistance payments, a statement from the public housing authority, or the owner has a re-certification waiver letter from the IRS in good standing that waives the requirement to obtain third party verification at re-certification and has received an annual income certification from each low-income household and documentation to support the certification at their initial occupancy;
5. Each LIHTC unit in the development was rent-restricted under Section 42(g)(2);
6. All units in the development were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless under Section 42(i)(3)(B)(iii));
7. Under the Fair Housing Act, 42 U.S.C. 3601-3619, no finding of discrimination to include any adverse final decision by HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a federal court;
8. Each building in the development was suitable for occupancy, taking into account local health, safety, and building codes, and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or LIHTC unit in the development;
9. There was no change in the eligible basis (as defined in Section 42(d)) of any building in the development, or if there was a change, the nature of the change (for example, a common area has become commercial space, or a fee is charged for a tenant facility formerly provided without charge);
10. All tenant facilities included in the eligible basis under Section 42(d) of any building in the development, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the building;
11. If a LIHTC unit in the building became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualified income before any units in the development were or will be rented to tenants not having a qualifying income;
12. If the income of tenants of a LIHTC unit in the development increased above the limit allowed in Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the development was or will be rented to tenants having a qualifying income;
13. The LIHTC extended commitment as described in Section 42(h)(6) was in effect (for buildings subject to Section 7108(c)(1) of the Revenue Reconciliation Act of 1989), including the requirement that an owner cannot refuse to lease a unit in the development to a tenant because the tenant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f, and the owner has

- not refused to lease a unit to a tenant based solely on their status as a holder of a Section 8 voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C.1437f;
14. The development meets the provisions, including any special provisions, outlined in the LIHTC extended use commitment;
  15. The owner received its credit allocation from the portion of the state ceiling for a development involving “qualified nonprofit organizations” under Section 42(h)(5) of the Code and its nonprofit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code;
  16. There has been no change in the ownership or management of the development, or provide details of changes in ownership or management of the development.

### **Document Review:**

Annually, the Authority will inspect at least thirty-three percent (33%) of LIHTC developments to which it has made an allocation under the Code. In each development selected for review, the Authority will review the low-income certifications, the documentation the owner has received to support that certification, and the rent record for no fewer than twenty percent (20%) of the LIHTC units located in each such development. Records relating tenant income, supporting documentation and rent records will be selected at random by the Authority's monitoring officer at the time the review is held. In addition, the Authority's monitoring officer will conduct a physical inspection of each LIHTC unit that receives a record review. The purpose of the physical inspection is to determine whether the units meet Uniform Physical Condition Standards as defined by HUD. The owner will be notified prior to the arrival of the Authority's compliance monitoring officer conducting the management review.

The Authority will review all required certifications submitted to determine whether or not the requirements of the Code have been complied with by the owner. As necessary, the Authority will review documentation to support a nonprofit's continued participation in the development throughout the compliance period as described in the development agreement.

### **Frequency of Certification Documents:**

Certifications are required annually each year of the credit period. The Certifications are a legally binding document to be made under oath and subject to the penalties of perjury as provided by law. The Authority reserves the right to require additional submissions of any Certifications for review more frequently than an annual basis.

### **Physical Inspection of LIHTC Development:**

The Authority reserves the right to perform a physical inspection at its discretion of any LIHTC development. The Authority's right to perform such inspection shall be ongoing and shall continue at least through the end of the compliance period and any extended use period.

### **Authority Retention of Records:**

The Authority will retain records of noncompliance or failure to certify for a period of six (6) years beyond the Authority's filing of the respective Form 8823. In all other cases the Authority shall retain certifications, inspection reports and other records for a period of three (3) years from the end of the calendar year in which the Authority has received or generated the certifications or reports.

### **Notification of Noncompliance:**

The Authority will provide written notice to the owner of a LIHTC development if the Authority does not receive the required certifications, if it is not permitted to review tenant income certifications, supporting documentation and rent records, or if it discovers by inspection, review, or in some other manner, that the development is not in compliance with the provisions of the Code.

The Authority will file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance" with the IRS no later than forty-five (45) days after the end of the Cure Period (including any permitted extensions), and no earlier than the end of the Cure Period, whether the noncompliance or failure to certify has been corrected. The Authority shall explain on Form 8823 the nature of the noncompliance or failure to certify and shall indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or the eligible basis that results in a decrease in the qualified basis of the development under Section 42(c)(1)(A) is noncompliance and must be reported to the IRS. Should the Authority report on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the Authority need not file additional Form 8823's in subsequent years to report that building's noncompliance.

### **Cure Period:**

The owner will be given the opportunity to supply any missing documentation or correct physical deficiencies to bring the development into compliance with the Code requirements. The Cure Period will not exceed ninety (90) days and will begin on the date of the written notice given by the Authority. The Cure Period for violations that threaten the health and/or safety of tenants will not exceed forty-eight (48) hours. The Authority may grant an extension an additional period not to exceed six (6) months only in the event of judicially caused delays in the eviction of tenants.

### **Compliance Monitoring Fees:**

The owner of each building to which an allocation of LIHTC has been made by the Authority, prior to the 2011 tax credit funding cycle, shall pay to the Authority an annual compliance monitoring fee of **\$35** for each LIHTC unit contained in each building. All compliance monitoring fees must be certified funds paid to the Authority within thirty (30) days of the date on which the building is PIS and on or before the first day of February of each succeeding year throughout the remainder of the fifteen (15) year compliance period and any extended use period. Checks should be made payable to the Authority. 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 reserves the right to make adjustments in the amount of the annual compliance monitoring fee to defray the cost of compliance monitoring. Such an adjustment by the Authority shall not be treated as an amendment of the QAP.

Developments receiving non-competitive tax credits in conjunction with tax exempt bonds issued by the Authority shall pay monitoring fees according to the bond program. If the bond program's compliance period expires prior to the end of the tax credit compliance period, monitoring fees shall be assessed as described above. Developments receiving non-competitive tax credits in conjunction with tax exempt bonds not issued by the Authority shall pay monitoring fees as described above.

## **IX. DEVELOPMENTS UTILIZING NON-COMPETITIVE TAX CREDITS WITH TAX EXEMPT BOND FINANCING**

### **Preliminary Opinion of Eligibility (QAP Requirements):**

Developments proposed for financing by private activity bonds may be eligible to receive an approximate four percent (4%) tax credit without competing for an allocation of tax credits. To be considered for a non-competitive allocation, a development must satisfy the requirements of Sections 42(h)(4), 42(m)(1)(D) and 42(m)(2)(D) of the Code. The development must also comply with the applicable procedures and requirements of the QAP and the LIHTC Manual. The LIHTC allocated to a development shall not exceed the amount the housing credit agency determines is necessary for its financial feasibility and viability as a qualified low-income housing development throughout the credit period.

To receive an allocation of tax credits, a bond-financed development must be eligible to receive a tax credit allocation under the QAP for the year in which the application for bond financing is filed with the Authority. If



tax credits are sought as a funding source, the Applicant must notify the Authority of this at the time of the application for bond financing. Upon notification that a development intends to utilize non-competitive LIHTC, the Authority will evaluate the proposal and will provide a preliminary, non-binding statement as to whether the development, as described to the Authority, is eligible to receive funding under the current QAP. This preliminary Authority evaluation of the proposal will consist of reviewing the site and market of the proposed development for conformity with the QAP. The site must meet all site threshold criteria for consideration for tax credits. If the project is to be financed by bonds offered for sale to the public, the market study must be ordered by the DUS lender and prepared by an independent third-party analyst. If the project is to be financed by bonds that are privately placed or sold as a limited offering to sophisticated investors, the Applicant will notify the Authority and the Authority will either order the market study at the Applicant's expense or require the bond purchaser to order a market study prepared by an independent third-party analyst. The Authority reserves the right to use its own judgment in making a final decision on the site and/or market.

For a development proposing rehabilitation, a Physical Needs Assessment Report (PNA) must be submitted with the Application. The PNA must follow the guidelines provided in the QAP and LIHTC Manual. Developments must meet the minimum rehabilitation standards and all mandatory construction design criteria identified in the QAP and LIHTC Manual to be eligible for low-income housing tax credits.

If the Authority review is favorable, the preliminary, non-binding statement provided by the Authority shall state: (i) that it is based upon information provided to the Authority regarding the development, the accuracy of which has not been finalized; (ii) that it assumes that the development as PIS will exactly match the development described to the Authority; and (iii) that the opinion is preliminary, non-binding, and may not be relied upon by any party. **THE APPLICANT ASSUMES ALL RISK FOR REPRESENTATIONS MADE TO THE AUTHORITY IN THE APPLICATION FOR FINANCING.**

#### **Application for an Allocation of Non-Competitive LIHTC:**

For bond-financed developments that are seeking LIHTC, an application for LIHTC must be submitted to the Authority only after the development is Placed-In-Service. A Final Cost Certification Package, prepared and certified as to accuracy by a third-party Certified Public Accountant licensed by the South Carolina Board of Accountancy, must accompany this application. This cost certification must follow the format and guidelines identified in the LIHTC Manual. In addition, the CPA must attest that the 50% aggregate basis test has been met to qualify the development for tax credits. This requirement shall be met with a signed opinion accompanied by the CPA's detailed calculation of the aggregate basis financed by the tax-exempt bonds.

The development must meet all financial underwriting standards identified in the QAP and LIHTC Manual except those that are superceded by the following requirements applying only to developments with tax-exempt bond financing:

**1. Operating Reserves:** Bond-financed developments are required to establish and maintain minimum operating reserves equal to three (3) months of projected operating expenses. These reserves must be established at the time the development places-in-service.

**2. Developer Fees:** Developer fees are limited as a percentage of development costs adjusted for project size. For new construction and/or rehabilitation costs, the sum of Developer Fees + Developer Overhead + Consulting Fees is limited as follows:

Up to 100 units	15% of <u>Adjusted Development Costs*</u>
101 – 150 units	12.5% of <u>Adjusted Development Costs*</u>
151 units or more	10% of <u>Adjusted Development Costs*</u>

For acquisition costs, the sum of Developer Fees + Developer Overhead + Consulting Fees is limited to a maximum of 5% of Adjusted Development Costs.\*

Adjusted Development Costs\* are defined below. Line numbers refer to page 10 of the LIHTC Application:

Total Development Cost (Line 51)  
Less Land (Line 1)  
Less Consulting Fees (Line 20)  
Less Developer Fees (Line 45)  
Less Developer Overhead (Line 46)  
Less Other Developer Costs (Line 47)

If an identity of interest exists between the developer and any construction contractor, any payments rebated to the developer must be identified and itemized.

**3. Physical Needs Assessment Report (PNA):** The Authority requires a minimum of \$15,000 per unit in hard construction costs with at least fifty percent (50%) of the hard construction costs attributed to interior unit costs. If the PNA report represents needed repairs in excess of \$15,000 per unit, then the application must reflect the higher rehabilitation costs. Developments that do not reflect at least \$15,000 per unit in hard construction costs will not be considered for funding consideration.

## 2013 Market Study Guideline Procedures

\*All relevant tables should be placed with corresponding text.

### **Market Study Process:**

The Applicant will be required to submit a cashier's check in the amount of **\$600.00** at Application submission or the Application will be disqualified.

1. Applicants must use an Authority approved market analyst to complete market studies. All market analysts **must adhere** to Market Study terminology as sanctioned by the National Council of Housing Market Analysts. The Market Study Terminology list is available at: [www.housingonline.com/Resources.aspx](http://www.housingonline.com/Resources.aspx). An electronic copy of the market study must be submitted with the Tax Credit Application in the form of a CD, DVD or Flash Drive.
2. Submitted market studies must conform to the requirements in these Guideline Procedures and Exhibit S – 2. The market study should reflect conclusions based on the proposed development. This includes capture rates, absorption periods, market advantage, etc. A Exhibit S – 2 form **and** a 2013 Rent Calculation Worksheet must be completed and included with the market study.
3. Each market study submitted with an Application must include the following:
  - a) A map of the Primary Market Area (PMA);
  - b) A physical description of the PMA including the methodology used to define it;
  - c) Census tracts that encompass the PMA; and
  - d) A list of the comparable/competitive developments to be used in the market study.
4. The Applicant's market analyst must indicate within the conclusion and recommendations section of the market study a determination as to how many units the designated PMA can absorb.
5. Upon receipt of the Tax Credit Applications, the Authority will forward a copy of the market study to the Authority's third party market analyst who will perform a review of each individual market study.
6. The Authority's third party market analyst will have six (6) weeks to complete the review of all market studies. Applicants and the market analyst that prepared the market study will be notified by the Authority's analyst via email of any deficiencies are found in the submitted market study. All issues must be resolved to the satisfaction of the Authority's market analyst and Authority staff in order for the study to be deemed acceptable.
7. In conjunction with the Authority's third party market analyst, the Authority will consider the market study, the market, marketability factors, and any additional information available to determine if an acceptable market exists for a development as proposed. The Authority is not bound by the conclusions or recommendations of the market study submitted and reserves the right to disqualify any application in the competition if it determines an acceptable market does not exist.

### **Market Study Requirements:**

#### **A. Project Description**

1. Give the following information for the proposed subject as provided by the LIHTC Applicant:
  - a. Development Location;
  - b. Construction Type: New Construction, Rehab, Acquisition and Rehab, Adaptive Reuse;
  - c. Occupancy Type: Family, Older Persons, etc.;
  - d. Target Income Group: 50% AMI, 60% AMI, Market Rate;
  - e. Special Needs Population (if applicable);
  - f. Number of units by bedroom/bathroom;
  - g. Number of buildings and stories and if there will be an elevator;
  - h. Unit Size(s);
  - i. Structure Type/Design: Townhouse, Garden Apartment, etc.;
  - j. Proposed Rents and Utility Allowances including energy source (Gas, Oil, Electric) and if utility is Tenant or Owner's responsibility;
  - k. Status of Project Based Rental Assistance: None, Existing, Proposed;
  - l. Proposed Development Amenities;
  - m. Proposed Unit Amenities;

- n. For rehab proposals, please provide: current occupancy levels, current rents being charged (versus proposed rents), tenant incomes, as well as detailed information about the scope of work planned and how the rehabilitation will be carried out.

## **B. Site Description**

1. Give the date(s) the senior analyst/market study author made a site visit including surrounding market area developments.
2. Describe physical features of the site, adjacent parcels, surrounding structures and neighborhoods. Give a brief description of the surrounding land uses. Note any obvious environmental concerns or any other visible concerns.
3. Give the site's general physical location to surrounding roads, public transportation, community amenities, employment, and services. It is extremely important to identify the closest shopping areas, schools, and employment centers, medical facilities and other amenities that would be important to the targeted population.
4. Indicate if there are any road or infrastructure improvements planned or under construction in the proposed market area.
5. Provide information or statistics as well as local perceptions of crime in the neighborhood, if applicable.
6. Comment on access, ingress/egress, and visibility to site.
7. Describe overall positive and negative attributes about the site as they relate to marketability.

## **C. MARKET AREA**

1. Provide all Primary Market Area pre-market analysis information.
2. The analyst may provide information about the secondary market area if desired.

## **D. MARKET AREA ECONOMY**

1. A **map** of the site as compared to the locations of major employment concentrations.
2. Employment by industry--numbers and percentages (i.e. Manufacturing: 150,000 (20%)).
3. The major current employers and anticipated expansions, contractions in their workforces, as well as newly planned employers and their impact on employment in the market area.
4. Total workforce figures and employment and unemployment trends for the market area and, where possible, the county. Provide numbers and percentages for both. Provide annualized figures for these trends (i.e. average annual increase of unemployment of 1.2%).
5. If relevant, comment on the availability of housing for low- to very low-income employees of businesses and industries that draw from the PMA.
6. Provide commuting patterns for workers such as how many workers in the PMA commute from surrounding areas outside the PMA.

## **E. COMMUNITY DEMOGRAPHIC DATA**

Provide the following demographic information for the market area, giving historical data as well as current data and estimates. Include data on population and household trends from 2000 to 2011 and projected to 2014. Projections must be prepared by a reputable source such as Claritas or ESRI. U.S. Census data prior to the 2000 Census is only acceptable as historical data. If the Market Analyst does not agree with these projections, s/he must provide the reasoning, along with substitute projections. Both numbers and percentages should be shown for the data below. Annualized growth figures should be included. Please include a brief narrative of overall conclusions.

1. Population Trends
  - a. Total Population
  - b. Population by age groups
  - c. Number of older persons (for older persons projects)
  - d. If a special population is proposed for the development (i.e. migrant workers, homeless), provide additional information on population growth patterns specifically related to this population.

2. Household Trends
  - a. Total number of households, average household size, and group quarter.
  - b. Households by tenure (If appropriate, breakout by older persons and non-older persons).
  - c. Households by income. (Older person(s) proposals should reflect the income distribution of those households only).
  - d. Renter households by number of persons in the household.

## F. PROJECT SPECIFIC DEMAND ANALYSIS

1. **Income Restrictions:** Use the applicable incomes and rents in the subject's application. Be aware of the specific income restrictions which apply to the tax credit program. Analysts must take the income restrictions designated in the application into account when estimating demand.
2. **Affordability:** Analysts must assume that no family households are able to pay more than 35% of gross income towards gross rent and no elderly households are able to pay more than 40% of their gross income toward gross rent. Any such additional indicators should be calculated separately and be easily added or subtracted from the required demand analysis.
3. The demand analysis should clearly indicate the minimum and maximum income range for each targeted group.

In cases where the proposed rents for projects with Project Based Rental Assistance are higher than the maximum allowable LIHTC rents, two separate demand analyses must be shown: One with the rental assistance (thereby allowing \$0 for the minimum income) and one without the rental assistance. For the second demand calculation without rental assistance, analysts should use tax credit rents regardless of market conditions.

For projects with market rate units, the analyst must make some reasonable determination of a maximum income level beyond which a household would not likely be a participant in the rental market. The analyst should clearly state the assumptions used in making the aforementioned determination.

4. **Demand:** The demand should be derived from the following sources using data established from a reputable source:
  - a. **Demand from New Renter Households:** New rental units required in the market area due to projected renter household growth. Determinations must be made using the current base year of 2012 and projecting forward to the anticipated placed-in-service date of 2014. The population projected must be limited to the age and income cohort and the demand for each income group targeted (i.e. 50% of median income) must be shown separately.
    - In instances where a significant number (more than 20%) of proposed rental units are comprised of three-and four-bedroom units, analysts must refine the analysis by factoring in the number of large households (generally 4+ persons). A demand analysis which does not take this into account may overestimate demand.
  - b. **Demand from Existing Households:** The second source of demand should be determined using 2000 census data, 2010 census data (as it rolls out), ACS 5 year estimates or demographic estimates provided by reputable companies such as Claritas, ESRI, etc., as long as firms are using the same source for all tables and projected from:
    - 1) **Rent over-burdened households**, if any, within the age group, income cohort and tenure targeted for the proposed development. In order to achieve consistency in methodology, all analysts should assume that the rent-overburdened analysis includes households paying greater than 35% or in the case of elderly 40% of their gross income toward gross rent rather than some greater percentage. If an

analyst feels strongly that the rent-overburdened analysis should focus on a greater percentage, they must give an in-depth explanation why this assumption should be included. Any such additional indicators should be calculated separately and be easily added or subtracted from the required demand analysis.

- 2) **Households living in substandard housing.** Households in substandard housing should be adjusted for age, income bands and tenure that apply. The analyst should use their own knowledge of the market area and project to determine if households from substandard housing would be a realistic source of demand.
    - The Market Analyst is encouraged to be conservative in his/her estimate of demand from both households that are rent-overburdened and/or living in substandard housing.
  - 3) **Elderly Homeowners likely to convert to rentership:** The Authority recognizes that this type of turnover is increasingly becoming a factor in the demand for elderly tax credit housing. A narrative of the steps taken to arrive at this demand figure should be included.
  - 4) **Other:** Please note, the Authority does not, in general, consider household turnover rates other than those of elderly to be an accurate determination of market demand. However, if an analyst firmly believes that demand exists which is not being captured by the above methods, s/he may be allowed to consider this information in their analysis. The analyst may also use other indicators to estimate demand if they can be fully justified (e.g. an analysis of an under-built or over-built market in the base year). Any such additional indicators should be calculated separately and be easily added or subtracted from the demand analysis described above.
5. **Method:** Please note that the Authority’s stabilized level of occupancy is 93%.
- a. **Demand:** The two overall demand components added together 4a and 4b above represent demand for the project.
  - b. **Supply:** Comparable/competitive units funded, under construction, or placed in service in 2012 must be subtracted to calculate net demand. Vacancies in projects placed in service prior to 2012 which have not reached stabilized occupancy must also be considered as part of the supply.
  - c. **Capture rates:** Capture rates must be calculated for each targeted income group and each bedroom size proposed as well as for the project overall.
  - d. **Absorption rates:** The absorption rate determination should consider such factors as the overall estimate of new renter household growth, the available supply of comparable/competitive units, observed trends in absorption of comparable/competitive units, and the availability of subsidies and rent specials.
6. **Example of Method:**
- a. **Demand**

	Households at 50% Median Income (min. income to max. income)	Households at 60% of Median Income (min. income to max. income)
Demand from New Households (age and income appropriate)		
+	+	+
Demand from Existing Households Rent-Overburdened		
+	+	+
Demand from Existing Households Renters in Substandard Housing		
+	+	+

Demand from Existing Households Elderly Homeowner Turnover		
=	=	=
Total Demand		
-	-	-
Supply		
=	=	=
Excess Demand/Supply		

**b. Net Demand and Capture Rates**

Bedrooms	Total Demand	Supply	Net Demand	Units Proposed	Capture Rate
<b>1 Bedroom % AMI</b>					
<b>2 Bedroom % AMI</b>					
<b>3 Bedroom % AMI</b>					
<b>4 Bedroom % AMI</b>					

**G. SUPPLY ANALYSIS (Comparable/Competitive Rental Developments)**

The supply analysis will be given significant weight in the Authority’s review of the market study. The senior analyst/market study author must visit all comparable/competitive developments. The analysis must include all existing LIHTC projects and other projects that would compete with or be affected by the proposed project. The analyst must include and consider all developments under construction and/or in the pipeline in the analysis.

1. The following information should be included for each comparable/competitive development:
  - a. Name, Address, and Phone Number
  - b. Contact Person’s Name and staffing of the comparable/competitive property development
  - c. Photograph
  - d. Monthly Rents and utilities included in the rent, if any
  - e. Type of development (RHS, tax credit, conventional, bond, bond and tax credits, etc.)
  - f. Breakdown of unit sizes by bedroom/bathroom count
  - g. Square footage for each comparable/competitive unit type
  - h. Project age and Condition
  - i. Population Served
  - j. Description of unit amenities (include kitchen equipment) and site amenities
  - k. Concessions given, if any
  - l. Current vacancy rates broken down by bedroom size. Vacancy rates are to be determined using 2011 second and fourth quarter information provided by property management.
  - m. Waiting list information, if any
  - n. Number of units receiving rental assistance, description of assistance as project or tenant based.
  - o. For developments in the planning or construction stages, provide the name, address/location, name of owner, number of units, unit configuration, rent structure, estimated date of market entry, and any other relevant market analysis information. If there are no developments in the planning stages or under construction, a statement to that effect must be provided.
  - p. If the proposed project is an additional phase of an existing project, include a tenant profile as well as any information about a waiting list.

The above information should be provided in a comparative framework **including** the proposed project and those projects under construction and/or in the pipeline. For example, in addition to providing a page of information along with a picture for each comparable/competitive development, the analyst should also provide comparative charts that show such factors as the proposed project's rents, square footages, amenities, etc. as compared to the other projects.

2. A **map** showing the comparable/competitive developments in relation to the proposed site. The map should have an identifiable usable scale.
3. If applicable to the proposed development, provide data on three and four bedroom single-family rentals, OR provide information on rental trailer homes and single family homes in rural areas lacking sufficient three and four bedroom rental units in an attempt to identify where potential tenants are currently living.
4. Derive the programmatic rent and compare them to the proposed development's rents. Quantify and discuss market advantage of the subject and impact on marketability.
5. Calculate the overall market vacancy rate, the overall comparable/competitive vacancy rate, and the overall vacancy rate for all LIHTC projects in the market area. (Do not include new projects in the process of "renting up" in vacancy rate.)
6. The cost and availability of homeownership and mobile home living, if applicable.
7. Conclusion as to the impact that the proposed project will have on the occupancy of other assisted housing projects in the market area.
8. Discuss the availability of affordable housing options, including purchase or sale of homes.
9. The Market Analyst should note any primary housing voids in the market and comment whether the proposed project will fill such a void or not.

## **H. INTERVIEWS**

The results of formal or informal interviews with property managers, town planning officials or anyone with relevant information relating to the overall demand for the proposed development should be summarized in this section.

## **I. RECOMMENDATIONS**

Market Analysts must provide a recommendation that clearly states whether a proposed project should be awarded tax credits. The Market Analyst must provide a brief summary of all the major factors that led to their conclusion.

The completed market study must meet the minimum threshold requirements stated in the 2013 QAP. If the development cannot meet the threshold requirements the development will be disqualified.

## **J. SIGNED STATEMENT**

The signed statement must include the following language:

I affirm that I have made a physical inspection of the market and surrounding area and the information obtained in the field has been used to determine the need and demand for LIHTC units. I understand that any misrepresentation of this statement may result in the denial of further participation in the South Carolina State Housing Finance & Development Authority's programs. I also affirm that I have no financial interest in the project or current business relationship with the ownership entity and my compensation is not contingent on this project being funded. This report was written according to the SCSHFDA's market study requirements. The information included is accurate and can be relied upon by SCSHFDA to present a true assessment of the low-income housing rental market.

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Market Analyst Author

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Date

### **2013 LIHTC Program Schedule**

#### **November 1, 2012**

A Public Hearing will be held at the Authority's Office, 300-C Outlet Pointe Blvd, Columbia, SC from 10:00 a.m. to 12:00 p.m. (EST).

**By January 18, 2013**

Application packages will be posted on the Authority's web site: [www.schousing.com](http://www.schousing.com)

The Authority will provide fill in applications on CDs. The fill-in applications do not require any special system requirements or software to operate on a PC running Windows 95, Windows 98, Windows 2000, Windows NT, or Windows XP. A separate application package must be submitted for each development.

**January (date TBD) 2013**

A workshop will be held in Columbia, SC. Authority staff will provide information on the 2013 tax credit program and review the 2013 application procedures. Although attendance is not mandatory, it is strongly recommended. Notification of the exact date of the workshop will be posted on the Authority's website at [www.schousing.com](http://www.schousing.com)

After the workshop, specific questions regarding the 2013 tax credit program and/or application should be e-mailed to Laura Nicholson at [laura.nicholson@schousing.com](mailto:laura.nicholson@schousing.com) or faxed to (803) 551-4925. The Authority will respond in writing and will post any programmatic clarifications on the website.

**March 4-8, 2013**

Tax Credit Applications are due along with the application fee and the market study review fee. No application will be accepted, under any circumstance, after 5:00 p.m. (EST), March 8, 2013 .

**June 2013**

It is anticipated that Applicants will be notified of their Application point scores in June. Point scores will be posted on the Authority's website at [www.schousing.com](http://www.schousing.com)

**July 2013**

It is anticipated that notification of the Final Tax Credit Reservations will be made in July.

**List of Code Numbers for South Carolina Counties:**

<b>1</b>	<b>Abbeville</b>
<b>2</b>	<b>Aiken</b>
<b>3</b>	<b>Allendale</b>
<b>4</b>	<b>Anderson</b>
<b>5</b>	<b>Bamberg</b>
<b>6</b>	<b>Barnwell</b>

<b>7</b>	<b>Beaufort</b>
<b>8</b>	<b>Berkeley</b>
<b>9</b>	<b>Calhoun</b>
<b>10</b>	<b>Charleston</b>
<b>11</b>	<b>Cherokee</b>
<b>12</b>	<b>Chester</b>
<b>13</b>	<b>Chesterfield</b>
<b>14</b>	<b>Clarendon</b>
<b>15</b>	<b>Colleton</b>
<b>16</b>	<b>Darlington</b>
<b>17</b>	<b>Dillon</b>
<b>18</b>	<b>Dorchester</b>
<b>19</b>	<b>Edgefield</b>
<b>20</b>	<b>Fairfield</b>
<b>21</b>	<b>Florence</b>
<b>22</b>	<b>Georgetown</b>
<b>23</b>	<b>Greenville</b>
<b>24</b>	<b>Greenwood</b>
<b>25</b>	<b>Hampton</b>
<b>26</b>	<b>Horry</b>
<b>27</b>	<b>Jasper</b>
<b>28</b>	<b>Kershaw</b>
<b>29</b>	<b>Lancaster</b>
<b>30</b>	<b>Laurens</b>
<b>31</b>	<b>Lee</b>
<b>32</b>	<b>Lexington</b>
<b>33</b>	<b>Marion</b>
<b>34</b>	<b>Marlboro</b>
<b>35</b>	<b>McCormick</b>
<b>36</b>	<b>Newberry</b>
<b>37</b>	<b>Oconee</b>
<b>38</b>	<b>Orangeburg</b>
<b>39</b>	<b>Pickens</b>
<b>40</b>	<b>Richland</b>
<b>41</b>	<b>Saluda</b>
<b>42</b>	<b>Spartanburg</b>
<b>43</b>	<b>Sumter</b>
<b>44</b>	<b>Union</b>
<b>45</b>	<b>Williamsburg</b>
<b>46</b>	<b>York</b>