



Asset Management Division

QUALIFIED CONTRACT REQUEST PROCEDURES MANUAL

Pursuant to §42(h)(6) of the Internal Revenue Code, after the end of the 14th year of the compliance period, the owner of a development utilizing housing tax credits can request that the allocating agency find a buyer at the qualified contract price. If a buyer can not be located within one year, the extended use commitment will expire. This *Qualified Contract Request Procedures Manual* describes the conditions and documentation necessary to submit a qualified contract (Request) pursuant to §1.9 of the Texas Administrative Code. A Request may only be submitted upon notification from the Department that the owner is eligible to submit a qualified contract request. All instructions in this manual must be followed exactly as written. The Texas Department of Housing and Community Affairs (the Department) may amend any part of the manual from time to time as necessary. All Requests must adhere to, and will be evaluated in accordance with, §1.9 of the Texas Administrative Code.

The Department shall be under no obligation to undertake an investigation of the accuracy of information submitted in the Request. The Department's review shall not constitute a warranty of the accuracy of the information, nor of the quality or marketability of the housing to be purchased. The Department is not, and is not acting in the capacity of, a real estate agent or broker. Its role is limited to implementing Code requirements and facilitating the presentation of a qualified contract. Interested parties should obtain advice from independent sources, including consultation with tax professionals and legal counsel.

Format for Submitting the Qualified Contract Request

An owner may file a Qualified Contract Request (Request) anytime after approval that the owner is eligible to submit a Request has been received in writing from the Department. All documentation stated in this section must be submitted electronically to the Department behind the tabs listed and in the order stated below. If deficiencies are found, the Department will notify the owner. **Where original signatures are specified, scanned copies are acceptable.**

- **Fee** – A check in the amount of the lesser of \$3,000 or one fourth of one percent of the qualified contract price determined by the CPA must be submitted.

- **Documentation** – All items must be submitted in the order stated below. Once all documentation has been compiled, scan the information and bookmark according to the Tab order identified below.

Tab 1: Qualified Contract Request Form must be completed and submitted with an original signature.

Tab 2: A copy the eligibility letter sent from the Department to the owner.

Tab 3: The Independent Accountant's Agreed-Upon Procedures Report and the qualified contract price calculation worksheet completed by a third party certified public accountant (CPA). The report must include the name, telephone, and facsimile information of the individual CPA who actually produced the report.

Tab 4: A narrative containing a thorough description of the development, including all amenities. Also include a description of all income, rental and other restrictions applicable to the operation of the development.

Tab 5: A detailed set of photographs of the development, including interior and exterior of representative units and buildings, and the property grounds.

Tab 6: A current title report.

Tab 7: A copy of the monthly operating statements for the development for the most recent 12 consecutive months. Also, the three most recent consecutive annual operating statements.

Tab 8: A current and complete rent roll for the property.

Tab 9: *Certification of Tenant Notification* form and a copy of the letter sent to the tenants using the template provided.

Tab 10: Copies of the leases if any portion of the land or improvements is leased.

Additional Documentation:

The following items should also be submitted electronically saved as separate documents.

1. A current appraisal consistent with 10 TAC §1.34
2. A current Phase I Environmental Site Assessment (Phase II if necessary) consistent with 10 TAC §1.35
3. A current property condition assessment consistent with 10 TAC §1.36
4. A cd containing all digital photographs described in Tab 5 above that may be easily displayed on the Department's website. Pictures should be in jpeg format; <= 100KB; width <= 400px.



TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS

Building Homes. Strengthening Communities.

Qualified Contract Request Form

Asset Management Division
 Texas Department of Housing and Community Affairs (TDHCA)
 Mailing Address: P.O. Box 13941, Austin, Texas 78711-3941
 Physical Address: 211 East 11th St., Austin, TX 78701

TAB 1: OWNER INFORMATION

Owner Contact Information:

Owner Legal Name: _____ Phn.: _____
 Owner Contact Name: _____ Fax: _____
 Owner Mailing Address: _____
 City, State, ZIP: _____ Email: _____

If Owner's "Physical Address" is different from the "Mailing Address," provide the physical address below:

Owner Physical Address: _____
 City, State, ZIP: _____

Owner is in good standing with the Secretary of State? No Yes The State Filing # is: _____

DEVELOPMENT INFORMATION

1. Name and Address of Development:

Development Name: _____ TDHCA #: _____
 Address: _____ ZIP Code: _____
 City: _____ County: _____

2. Populations Served

Set-Aside: Non-Profit General Rural/Prison Communities Other: (Specify)
 Does this development serve exclusively Elderly households? No Yes
 Number of Designated Units for Handicapped/Developmentally Disabled Tenants: _____
 Number of Designated Units for Tenants with Other Special Needs (specify): _____

3. Supportive Services

Are supportive services provided to tenants? Yes No
 Cost of the services is included in rent? Yes No If "No", the estimated monthly tenant expense is: \$ _____
 Description of services: _____
 Name of Service Provider: _____
 Contact Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____ Phone: () _____

4. Broker Information

Provide the information of the brokerage firm and sales agent that will market and sell the development.

Name of Brokerage Firm: _____ Name of Agent: _____

Address: _____

City: _____ State: _____ Zip: _____ Phone: _____ () _____

Is this firm on the Department's approved list? Yes No

*Note that the Request will not be processed until the firm is on the Department's approved list.

SPECIFICATIONS AND AMENITIES

1. Site Attributes

Total Site Acreage: _____ # Units per Acre: _____

Census Tract Number: _____ Zoning Designation/Use: _____ / _____

Federal Emergency Management Agency Flood Zone Designation(s): _____ Zone(s) _____

Site is entirely outside a designated 100 yr. Flood Hazard Area or Flood Plain? Yes No

Site is within Hazard Area but development is designed as required by program rules? Yes No

2. Development Attributes *Check all that apply*

Development is: New Construction Rehabilitation Only Acquisition & Rehabilitation

Building/Unit Configuration: Detached Residence Duplex Triplex Fourplex

Townhome >4 units per building Single Room Occupancy

Maximum # of Floors: _____ Elevator-Served: No Yes

Total # of residential buildings: _____ Total # of nonresidential buildings: _____

Gross square footage: _____ Net rentable square footage: _____

Common area square footage: _____

Check the box/enter the percentage make-up for each attribute found in the completed Development.

EXTERIOR *The following elements are part of the completed Development::*

Parking

- Carports
- Garages
 - Attached
 - Detached

Roofs

- Built-Up Rock
- Comp. Shingle
- Wood Shingle/Shake
- Clay Tile
- Other *(Describe)*

Walls

- _____ % Masonry/Brick
- _____ % Hardiplank
- _____ % Wood Siding
- _____ % Stucco
- _____ % Other *(Describe)*

Amenities

- Full perimeter fencing & limited access gate
- Community laundry room
- Recreation facilities
- Storage areas
- Computer facilities
- 25-year architectural shingle roofing
- Pool
- Sport Court(s)
- Designated playground & equipment
- Furnished community room
- Public telephone (available 24 hrs.)
- On-site daycare, seniors center or comm. meals room
- Covered unit entries
- Covered balconies/patios
- Exercise Facility
- Other *(Describe)*

INTERIOR *The following are items found in each Housing Tax Credit unit:*

Kitchen

- Range/Oven
- Hood/Fan
- Garbage Disposal
- Dishwasher
- Refrigerator
- Microwave

Floors

- _____ % Carpet
- _____ % Vinyl
- _____ % Tile
- _____ % Other *(Describe)*

Air System

- Central
- Heat Pump
- Evaporative Cooling
- Window Units
- Other *(Describe)*

Other Amenities

- Window covers throughout
- Phone jack in each room
- Laundry connections
- Washer and dryer included
- Ceiling Fans

RENT SCHEDULE

Insert "Rent Schedule" from Excel Portion.

UTILITY ALLOWANCES

Insert "Utility Allowances" from Excel Portion.

OWNER CERTIFICATION

I certify that the information contained in this Texas Department of Housing and Community Affairs Qualified Contract Request (Request), and in any attachments and exhibits in support thereof, is true, correct, and complete. I agree that the Texas Department of Housing and Community Affairs (the Department) or any of its directors, officers, employees, and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the Housing Tax Credit Program; therefore, I assume the risk of all damages, losses, costs, and expenses related thereto and agree to indemnify and save harmless the Department and any of its directors, officers, employees, and agents against any and all claims, suits, losses, damages, costs, and expenses of any kind and any nature that the Department may hereinafter suffer, incur, or pay arising out of its decision concerning this Request.

I understand and agree the submission of this Request will not commence the one-year period during which the Department may offer a contract and that the one-year period will not begin until the Department and Owner have agreed to the qualified contract price in writing.

I understand that all of the information submitted with this Request may be shared with prospective purchasers, real estate brokers and agents of the Department and summary information and pictures may be posted on the Department's website.

I certify that I will reasonably cooperate with the Department and its agents with respect to the Department's efforts to present a qualified contract for the purchase of the Development. I understand that prior to the presentation of a qualified contract, I may need to share development "due diligence" with the Department and with prospective purchasers, including but not limited to, additional rent rolls, project tax returns, income certifications and other Section 42 compliance records, records with respect to repair and maintenance of the Development, operating expenses and debt service. I will also share with the Department, at its request, the documents and other information that were used to prepare the Certification of Qualified Contract Price. I also agree to allow the Department, its agents, and prospective purchasers to visit and inspect the Development, including representative apartment units.

I agree to contract with a real estate brokerage firm approved by the Department to market and sell the property. I agree to notify the Department of any potential purchasers and offers to purchase. I understand that if a prospective purchaser willing to present an offer to purchase the Development for an amount equal to or greater than the qualified contract price is found, I agree to enter into a commercially reasonable form of earnest money agreement or other contract for sale for the development which will allow prospective purchaser a reasonable period of time to undertake additional, customary due diligence prior to closing the purchase. I understand that once the Department presents a qualified contract to the owner, the possibility of terminating the extended use period is removed forever and the property remains bound by the provisions of the LURA.

By: _____ Its: _____
Signature of Owner *Date*

STATE OF: _____

COUNTY OF: _____

I, the undersigned, a notary public in and for said County, in said State, do hereby certify that _____, whose name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

Given under my hand and official seal this ___ day of _____, _____. (seal)

Notary Public Signature

Commission Expires

TAB 3: CERTIFICATION OF QUALIFIED CONTRACT PRICE

Insert "Certification of Qualified Contract Price" from Excel Portion.

INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES REPORT

The identical language used in this template must be used in the letter submitted. Submission of this report in any format other than that provided below will not be accepted by the Department.

(To be submitted on accounting firm's letterhead)

INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

To the Partners of
Sample Apartments Limited Partnership:
TDHCA Number:

We have performed the procedures listed below regarding Sample Apartments Limited Partnership (the "Partnership") in connection with Sample Apartments (the "Development"). We have performed these procedures solely to assist you in determining the Qualified Contract Price ("QCP") of the Development for the purpose of selling the Development in accordance with Internal Revenue Code ("IRC") Section 42(h)(6)(F). This report is intended for the information and use of the Texas Department of Housing and Community Affairs and management of the Partnership and is not intended to be and should not be used by anyone other than these specified parties.

This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures performed is solely the responsibility of the specified users. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Using information provided by and pursuant to the request of Management, we applied the following procedures:

- We obtained and read The Qualified Contract Policy (Title 10, Part 1, Chapter 1, Subchapter A, Section 1.9 of Texas Administrative Code) compiled by the Texas Department of Housing and Community Affairs and believe that the procedures applied herein materially comply with said regulations.
- We read IRC Section 42(h)(6)(F) and the Treasury Regulations thereunder and believe that the procedures applied herein materially comply with the IRC and regulations.
- We have obtained and read the Amended and Restated Agreement of Limited Partnership between Sample Apartments Limited, Inc. and Syndicator Equity Limited Partnership dated _____, _____.
- We obtained and read the audited trial balance of the Development for the year ended _____, 20__ (most recent year end). We confirmed the following:
 - i. A principal balance of \$_____ for the first mortgage.
 - ii. A principal balance of \$_____ for the second mortgage.
 - iii. A principal and accrued interest balance of \$_____ for other indebtedness.
- We summed up all the outstanding debt and arrived at a total outstanding debt amount of \$_____.
- We obtained and read the Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits dated _____, _____ between _____ and (the "Owner") and the Texas Department of Housing and Community Affairs, noting the original annual allocation of tax credits to be \$_____.
- We confirmed the aggregate equity contribution from the equity provider such that the owner's equity in calculating a qualified contract to be \$_____ for the Development. We used this number to represent the aggregate contributions for the year ended _____, _____. We then multiplied the aggregate contributions for the year ended _____, _____ by the cost of living adjustment percentage of _____% (which is the lesser of 5% for each year or the consumer price index from _____, _____ to _____, _____ according to _____) arriving at a figure of \$_____.

- We then summed with the aggregate contributions with the aggregate distributions derived below to arrive at total adjusted investor equity of \$_____.
- We obtained and read the tax return for the Partnership for the year ended _____, _____ noted aggregate distributions of \$_____ and multiplied such distribution by the cost of living adjustment percentage of _____% (which is the lesser of 5% for each year or the consumer price index from _____, _____ to _____, _____ according to _____) arriving at an adjusted distribution figure of \$_____.

(list out all 15 years of tax returns)

- We summed up all aggregate adjusted distributions to arrive at a total of \$_____ in distributions for the year ended _____, _____ through the year ended _____, _____.
- We further noted the following by reading the audited trial balance for the year ended _____, _____:
 - i. A replacement reserve account in the amount of \$_____, with \$_____ available for distribution per Management.
 - ii. An escrowed property taxes account in the amount of \$_____, with \$_____ available for distribution per Management.
 - iii. An escrowed insurance account in the amount of \$_____, with \$_____ available for distribution per Management.
 - iv. A tenant deposits account in the amount of \$_____, with \$_____ available for distribution per Management.
 - v. A partnership operating account in the amount of \$_____, with \$_____ available for distribution per Management.
- We summed up the aggregate amount of cash available for distribution of \$_____.

We added the total outstanding debt of \$_____ with the total adjusted investor equity of \$_____, and subtracted the total cash available for distribution of \$_____ to arrive at a QCP of \$_____ as shown in the Certification of Qualified Contract Price. We agree to provide TDHCA with the working papers used to generate the Certification of Qualified Contract Price if so requested.

These agreed-upon procedures do not constitute an audit, the objective of which is the expression of an opinion on these findings. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We have no financial interest in the Development other than in the practice of our profession and have not been compensated for this assignment based on a predetermined outcome.

Signature of Principal of Firm *Date*

Printed or Typed Name & Title

_____, _____
City *State*

Contact Person for questions about this report: _____

Phone # _____ *Facsimile #:* _____

TAB 8: CERTIFICATION OF TENANT NOTIFICATION

DEVELOPMENT NAME: _____ **TDHCA NO.:** _____

Owners must certify that tenants in the development have been notified in writing of the request for a qualified contract. A copy of the form letter used as the notification must be attached to this certification for review.

I, the undersigned, being duly sworn, hereby represent and certify under penalty of perjury that **tenants in the development were notified in writing of the request for a qualified contract on:**

Date of Notification: _____

The information contained in this statement, including any attachments hereto, is true, correct and complete to the best of my knowledge.

By: _____ Its: _____
Signature of Proposed Owner *Date*

STATE OF: _____
COUNTY OF: _____

I, the undersigned, a notary public in and for said County, in said State, do hereby certify that _____, whose name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

Given under my hand and official seal this ___ day of _____, _____. (seal)

Notary Public Signature *Commission Expires*

NOTIFICATION LETTER TEMPLATE

This will serve as notice, in accordance with 10 TAC §1.9, that _____, the owner of _____ (Apartment Name) is nearing the end of the initial 15 year affordability period. The owner intends to request a Qualified Contract from the Texas Department of Housing and Community Affairs (the Department). If the Department is unable to present a Qualified Contract before the end of the one year period, defined in 10 TAC §1.9, then the development will no longer be restricted to low-income requirements and compliance. However, in accordance with §42(h)(6)(E)(ii) of the Internal Revenue Code, for a three year period commencing on the termination of the extended use period, the owner may not evict or displace tenants of low-income units for reasons other than good cause and will not be permitted to increase rents beyond the maximum tax credits rents.

In the event that the low-income restrictions are terminated you will be notified again in writing of your protections during the three-year time frame mentioned above.

Should you have any questions, please contact the management office.



TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS

Building Homes. Strengthening Communities.

QUALIFIED CONTRACT REQUEST PAYMENT RECEIPT

Texas Department of Housing and Community Affairs (TDHCA)
 Mailing Address: P.O. Box 13941, Austin, Texas 78711-3941
 Physical Address: 221 E. 11th Street, Austin, TX 78701

This form must be submitted with any documents or payments listed below to obtain proof of delivery and/or ensure that the payment is credited properly. The contact and document description information should be completed prior to submission. Receipt of this form with valid 'date received' stamp and HTC Staff execution indicates that the document and/or fee has been received. However, this receipt does not attest to the sufficiency of the provided documentation to fulfill the Program's requirements. Both pages of this receipt must be completed!

TDHCA Date Stamp	TDHCA Number:

Contact Information

Development Name: _____

Development Address: _____

Owner Name: _____ Contact Name: _____

Address: _____ City: _____

State: _____ Zip: _____ Phone: _____ Fax : _____

Documentation Description	Payment Description
<input type="checkbox"/> HTC Qualified Contract Pre-Request	Check Amount: \$ _____
<input type="checkbox"/> HTC Qualified Contract Final Request	Check #: _____

Attach check here if required



Applicant Signature & Date

TDHCA Staff Initials