

**WASHINGTON STATE HOUSING FINANCE COMMISSION
LOW-INCOME HOUSING TAX CREDIT PROGRAM
QUALIFIED ALLOCATION PLAN**

I. Introduction

The 1986 Tax Reform Act created the low-income housing tax credit (“tax credit”), under Section 42 of the Internal Revenue Code (the “Code”), to assist the development of low-income rental housing by providing qualified owners with income tax credit to reduce their federal tax obligations. The Washington State Housing Finance Commission (“Commission”) is the agency authorized to allocate tax credit for residential rental buildings located in the state of Washington.

This Qualified Allocation Plan is intended to comply with the requirements of Section 42(m)(1)(B) of the Code which requires that a Qualified Allocation Plan set forth (i) the selection criteria to be used to determine the Commission’s housing priorities, (ii) the preferences of the Commission in allocating credit dollar amounts among selected projects, and (iii) the procedures that the Commission will follow in monitoring for noncompliance and notifying the Internal Revenue Service of such noncompliance and in monitoring for noncompliance with habitability standards through regular site visits.

II. Project Selection Preferences and Criteria

A. Project Preferences.

For the purposes of ranking projects and allocating credit dollar amounts, the Commission will give preference to projects that serve the lowest income tenants, that are obligated to serve low-income tenants for the longest periods, and that are located in qualified census tracts and the development of which will contribute to a concerted community revitalization plan.

B. Selection Criteria and Set-Asides.

1. Selection Criteria. In determining housing priorities, the Commission will consider sponsor and project characteristics. The Commission will give weight to those projects which, among other things,
 - (a) are located in areas of special need as demonstrated by location, population, income levels, availability of affordable housing and public housing waiting lists;
 - (b) set aside units for special needs populations, such as large households, the elderly, the homeless and/or the disabled;

- (c) preserve federally assisted projects as low-income housing units;
- (d) rehabilitate buildings for residential use;
- (e) include the use of existing housing as part of a community revitalization plan;
- (f) have received written authorization to proceed as a United States Department of Agriculture - Rural Housing Service multifamily new construction project approved by the Commission;
- (g) are historic properties;
- (h) are located in targeted areas;
- (i) leverage public resources;
- (j) maximize the use of credits;
- (k) demonstrate a readiness to proceed;
- (l) serve tenant populations of individuals with children;
- (m) are intended for eventual tenant ownership; and
- (n) promote energy efficiency.

The Commission may decline to consider a project that fails to meet minimum standards established by the Commission for such an evaluation. Notwithstanding applicant characterization, the Commission may determine the scope of or otherwise define a “project” or “projects” for purposes of ranking applications and reserving and allocating tax credit.

2. Qualified Nonprofit Set-Aside. The Commission will reserve at least ten percent of the state housing credit ceiling for a calendar year for projects in which qualified nonprofit organizations have an ownership interest and materially participate in the development and operation of the projects throughout the compliance period, all as described in the Code. A qualified nonprofit organization is an organization described in section 501(c)(3) or (4) of the Code, which is determined by the Commission not to be affiliated with or controlled by a for-profit organization and one of whose exempt purposes includes the fostering of low-income housing.
3. Other Set-Asides. The Commission may also reserve a portion or portions of its state housing credit ceiling for other types of projects or sponsors.
4. Code Requirements. In order to receive tax credit, a project must meet all of the requirements of Section 42 of the Code.

5. Housing and Economic Recovery Act of 2008 (HERA) Basis Boost. Pursuant to HERA, the Commission has been provided authority to increase the eligible basis of certain buildings to 130% of the eligible basis, when the Commission determines that the financial feasibility of the building so requires. The Commission, through its policies, shall establish criteria and procedures for implementing such designations. The criteria and procedures shall apply to all projects seeking the boost regardless of the year of the allocation to the projects, to the extent that the projects were not placed in service prior to July 30, 2008.

C. Project Feasibility and Viability.

The Commission will determine the amount of tax credit necessary for a project's financial feasibility and viability as a qualified low-income housing project. The Commission will not allocate or award to a project more than the minimum amount of tax credit required to ensure a project's financial feasibility and viability. If a project is financed in part with tax-exempt bonds, the Commission's responsibility to determine the financial feasibility and viability of a project shall be co-extensive with the responsibility of the governmental unit which issued the bonds (or on behalf of which the bonds were issued) to make a financial feasibility and viability determination under Section 42(m)(2)(D) of the Code. In the event a feasibility and viability determination is made by the Commission and the governmental unit which issued the bonds (or on behalf of which the bonds were issued) for the same project, the Commission will not certify to an award of tax credit for the project in an amount that is greater than the lesser of (i) the minimum amount of tax credit as determined by the Commission or (ii) the minimum amount of tax credit as determined by the local government, which is required to ensure the project's feasibility and viability.

III. Project Monitoring Procedures and Notification

At a minimum, each project that has been placed in service shall be subject to the following monitoring requirements:

A. Recordkeeping, Record Retention and Data Collection.

1. Recordkeeping. The owner of a low-income housing project must keep records for each building in the project that show for each year throughout the term of the Regulatory Agreement (Extended Use Agreement) in effect for such project:
 - (a) 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);
 - (b) The percentage and number of residential rental units in the building that are low-income units;
 - (c) The percentage and number of residential rental units in the building that are subject to the additional low-income unit set-aside requirements;

- (d) The percentage and number of residential rental units in the building that are subject to the special-needs unit set-aside requirements;
- (e) The rent charged for each low-income unit in the building (including any utility allowances);
- (f) The number of occupants in each low-income unit;
- (g) The number of occupants in each residential rental unit in the building that is subject to a special-needs unit set-aside requirement related to household size;
- (h) The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;
- (i) The vacancies of any additional low-income set-aside units in the building and information that shows when, and to whom, the next available units were rented;
- (j) The vacancies of any special-needs set-aside units in the building and information that shows when, and to whom, the next available units were rented;
- (k) The initial annual income certification of each low-income resident and any recertifications of income that may be required by the Commission;
- (l) Documentation to support each low-income household's income certification;
- (m) Documentation to support that each household that is subject to a special-needs unit set-aside meets the Commission's criteria for such special-needs unit set-aside or commitment;
- (n) The eligible basis and qualified basis of the building at the end of the first year of the credit period;
- (o) The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) of the Code; and
- (p) The date that a resident initially occupies a rental unit and the date that a resident moves-out of a rental unit.

The owner shall also keep such additional records throughout the term of the Regulatory agreement (Extended Use Agreement) as the Commission determines are necessary or appropriate to demonstrate compliance with the Code, the tax credit program and the owner's commitments and obligations under the tax credit program contracts, including the Regulatory Agreement (Extended Use Agreement).

2. Record Retention. The owner of a low-income housing project must, during the term of the Regulatory Agreement (Extended Use Agreement) in effect for such project, retain the records described above: (i) for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year; and, (ii) with respect to any year for which an income tax return is not filed or does not reflect the Credit for such project, for at least six (6) years after the end of that year. The records for the first year of the credit period as defined under Section 42(f)(1) of the Code, however, 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 as defined under Section 42(i)(1) of the Code with respect to a building in the project.

Except as otherwise provided by the Commission, the owner of a low-income housing project must, during the term of the Regulatory Agreement (Extended Use Agreement), in effect for such project, retain the original local health, safety, or building code violation reports or notices that are issued by any state or local government unit.

3. Data Collection. To the extent required of the Commission by federal law, the owner will assist the Commission with meeting federal reporting requirements by collecting and submitting information to the Commission annually concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United States Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of all low-income households.

B. Certification and Review Provisions.

1. Certification. The owner of a low-income housing project must certify in a form acceptable to the Commission at least annually to the Commission that during the preceding twelve (12) month period (the "Certification Period"):

(a) The project at all times met the requirements of:

- (1) The 20-50 test under Section 42(g)(1)(A) of the Code, or the 40-60 test under Section 42(g)(1)(B) of the Code, whichever minimum set-aside test is applicable to the project, or, if applicable to the project, the 15-40 test under Sections 42(g)(4) and 142(d)(4)(B) of the Code for "deep rent skewed" projects;
- (2) If applicable to the project, the additional low-income unit set-aside; and
- (3) If applicable to the project, the special-needs unit set-aside(s).

(b) There was no change at any time in the applicable fraction (as defined in Section 42(c)(1)(B) of the Code) of any building in the project, or that there was a change, and a description of the change;

- (c) The owner has received an initial income certification for each new low-income household, and documentation to support that the certifications met applicable income set-aside requirements; and any annual recertifications of income that may be required by the Commission;
- (d) At all times each low-income unit in the project was rent-restricted under Section 42(g)(2) of the Code;
- (e) At all times all units in the project were for use by the general public, including the requirement that no finding of discrimination under the Fair Housing Act occurred for the project;
- (f) At all times each building in the project was suitable for occupancy, taking into account local health, safety, and building codes and Uniform Physical Condition Standards (UPCS) as defined by HUD, and the state or local government unit responsible for making local health, safety, or building code inspections did not issue a violation report for any building or low-income unit in the project. If a violation report or notice was issued by the governmental unit, the owner must attach a statement summarizing the violation report or notice or a copy of the violation report or notice to the annual certification submitted to the Commission under paragraph III.B.1 and must state whether the violation has been corrected;
- (g) At all times there was no change in the eligible basis (as defined in Section 42(d) of the Code) of any building in the project, or if there was a change, a written explanation of the change;
- (h) At all times all resident facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without a separate fee to all residents in the building;
- (i) If the income of a low-income household increased above the limit allowed in Section 42 (g)(2)(D)(ii), the next available unit of comparable size or smaller in the building was rented to an income qualified household;
- (j) At any time if a special-needs set-aside unit in the project became vacant, that reasonable attempts were made to rent that unit or the next available unit to applicants who qualify for the special-needs unit set-aside;
- (k) At all times an extended low-income housing commitment as described in Section 42(h)(6) of the Code was in effect (for buildings subject to Section 7108(c)(1) of the Revenue Reconciliation Act of 1989), including the requirement under Section 42(h)(6)(B)(iv) of the Code that an owner cannot refuse to lease a unit in the project to an applicant who holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437.

- (l) All low-income units in the project were used on a nontransient basis (except as otherwise permitted by the Code).
- (m) Pursuant to IRS Revenue Ruling 2004-82, the owner has not evicted any residents, or refused to renew any leases, except for good cause.
- (n) To the extent required by federal law the property is in compliance with the Fair Housing Accessibility Guidelines as issued in the Federal Register Vol. 56, No. 44, issued March 6, 1991.

The certification referenced in this paragraph III.B.1. shall also address such other matters as the Commission determines are necessary or appropriate to ensure compliance with the Code, the tax credit program, and the owners commitments and obligations under the tax credit program contracts, including the Regulatory Agreement (Extended Use Agreement).

2. Review. The Commission:

- (a) Will review the annual certifications submitted by owners of low-income housing households under paragraph III.B.1. above, for compliance with the requirements of Section 42 of the Code and with the requirements of the Commission's Low-Income Housing Tax Credit Program;
- (b) May, in addition to the review process described in paragraphs III.B.2. (a) and (c), randomly select low income units for each project each year and obtain from the owner and review the documentation of the residents who have occupied these units within the Certification Period, including a copy of the annual income certification and the documentation (in a form prescribed by or acceptable to the Commission) the owner has received to support that certification.
- (c) Will, with respect to each low-income housing project –
 - (i) Conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is placed in service and, for at least 20 percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the residents in those units;
 - (ii) At least once every 3 years, conduct on-site inspections of all buildings in the project and, for at least 20 percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the residents in those units; and

- (iii) Randomly select, in the manner described in Section 42 of the Code and the Regulations thereunder, which low-income units and resident records are to be inspected and reviewed by the Commission.

Provided, subparagraph (i) above shall apply only to buildings placed in service on or after January 1, 2001 (subparagraph (ii) shall apply to all buildings regardless of their placed in service date).

- 3. Frequency and Form of Certification. The certifications and reviews described in paragraphs III.B.1. and 2. will be made at least annually covering each year of the term of the Regulatory Agreement (Extended Use Agreement) (except for certain buildings financed by Rural Housing Service (“RHS”) or certain tax-exempt bond issuers, as permitted by Section 42 of the Code and the regulations thereunder).
- 4. Commission Reports of Compliance Monitoring. The Commission will report its compliance monitoring activities annually on Form 8610, “Annual Low-Income Housing Credit Agency’s Report.”

C. Inspection Provision.

- 1. General. The Commission has the right to perform on-site review(s) of any building in a low-income housing project throughout the term of the Regulatory Agreement (Extended Use Agreement) in effect for such project. Such on-site review shall include, but not be limited to, the right to interview any resident of the project, to review resident applications and financial information submitted to the owner, and to review information, including without limitation, the owner’s books and records relating to the project upon a minimum of three (3) days advance notice. The on-site review provision of this paragraph is separate from any review of low-income certifications and supporting documents under paragraph III.B.2.(b).
- 2. Inspection Standard. For the on-site inspections of buildings and low-income units required by paragraph III.B.2.(c), the Commission will review any local health, safety, or building code violations reports or notices retained by the owner under paragraph III.A.3. and will determine—
 - (a) Whether the buildings and units are suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards as may be determined by the Commission); or
 - (b) Whether the buildings and units satisfy, as determined by the Commission, the Uniform Physical Condition Standards (UPCS) for public housing established by HUD.
- (3) Exception. The Commission is not required to inspect a building under this paragraph III.C. if the building is financed by the RHS under the section 515 program, the RHS inspects the building, and the RHS and the Commission have entered into a

memorandum of understanding, or other similar arrangement, under which the RHS agrees to notify the Commission of the inspection results.

D. Notification of Noncompliance.

1. In General. The Commission shall notify the owner of a low-income housing project and the Internal Revenue Service of any required reportable noncompliance of which the Commission becomes aware.
2. Notice to Owner. The Commission shall promptly notify the owner of a low-income housing project in writing if the Commission does not receive the certification described in paragraph B.1. above, or does not receive or is not permitted to inspect the resident income certifications, supporting documentation, and rent records described in paragraphs III.B.2(b) or (c) above, or discovers by inspection, review, or in some other manner, that the project is not in compliance with the provisions of Section 42 of the Code or the Low-Income Housing Tax Credit Program.
3. Notice to Internal Revenue Service. The Commission shall file Form 8823, *Low-Income Housing Credit Agencies Report of Noncompliance*, with the Internal Revenue Service no later than forty-five (45) days after the end of the correction period (as described in paragraph F below, including extensions permitted under that paragraph) and no earlier than the end of the correction period, whether or not the noncompliance was corrected. The Commission shall explain on Form 8823 the nature of the noncompliance and indicate whether the owner has corrected the noncompliance. If the noncompliance is corrected within 3 years after the end of the correction period, the Commission will file Form 8823 with the Service reporting the correction of the non-compliance. If the Commission reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the Commission need not file Form 8823 in subsequent years to report that building's noncompliance.

E. Commission Retention of Records.

The Commission shall retain the certifications and records described in paragraph III.B.1. for three (3) years from the end of the calendar year the Commission receives the certifications and records. The Commission shall retain records of noncompliance or failure to certify for six (6) years beyond the Commission's filing of the respective Form 8823.

F. Correction Period.

An owner shall have thirty (30) days beginning on the date of the Commission's notice to the owner of noncompliance during which time the owner must supply any missing certifications and bring the project into compliance with the provisions of Section 42 of the Code and the requirements of the Commission's Low-Income Housing Tax Credit Program. The Commission may in its sole discretion extend the correction period for up to six (6) months, but only if the Commission determines there is good cause for granting the extension.

G. Delegation of Authority.

The Commission may in its sole discretion delegate compliance monitoring functions to the extent permitted under Section 42 of the Code and the Regulations thereunder.

H. Liability.

Compliance with the requirements of Section 42 of the Code and the Commission's Low-Income Housing Tax Credit Program is the responsibility of the owner of the building which received low-income housing tax credit. The Commission is not liable for an owner's noncompliance or for any damages or losses arising as a result of notifying the Internal Revenue Service of noncompliance.

I. Applicability and Amendments.

These compliance monitoring procedures shall be applicable to all owners, buildings and projects that are subject to the Commission's tax credit program. These compliance monitoring procedures are subject to modification and waiver by the Commission to the extent permitted or required to conform to Section 42 of the Code or Regulations thereunder.

J. Fees.

Annual compliance monitoring fees are established by the Commission and are payable by the owner on an annual basis upon notification by the Commission. Fees may be adjusted at the discretion of the Commission to cover increases in compliance monitoring expenses of the Commission.

V. Effective Date.

This Qualified Allocation Plan shall be effective upon its approval and execution by the Governor.

Approved: Christine Gregoire April 7, 2009
Governor of the State of Washington Date