JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

September 4, 2007

Dear Friend of Affordable Housing:

It is my pleasure to announce that Wisconsin's ongoing commitment to affordable housing will again be continued to 2008 through the Low-Income Housing Tax Credit Program. The Low-Income Housing Tax Credit Program is a valuable resource that helps ensure the benefits of Wisconsin's robust housing market reach our low-to-moderate income residents.

Therefore, I am pleased to approve Wisconsin's Amended 2007/2008 Qualified Allocation Plan in accordance with Section 42(m)(l)(A)(i) of the Internal Revenue Code of 1986. The Plan is based upon Congressional mandates and Wisconsin's housing needs. It is my Administration's intent that this plan will direct the credit to create as many quality affordable housing units as possible.

In accordance with federal law, I have designated the Wisconsin Housing and Economic Development Authority (WHEDA) as administrator of the state's Low-Income Housing Tax Credit Program. WHEDA and the multifamily housing development community have produced over 31,000 units of affordable rental housing for families and elderly households since 1987.

I am confident that the credits available under this plan will be used effectively and efficiently to produce and preserve high quality affordable rental units. Working together, we can and we must ensure all citizens of Wisconsin safe, decent and affordable housing.

Sincerely,

Jim Doyle
Governor

P.O. BOX 7863, MADISON, WISCONSIN 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

Amended 2007-2008
Qualified Allocation Plan for the State of Wisconsin

SUMMARY OF MAJOR CHANGES

Scoring Changes:

- **Category 1 – Lower-Income Areas**. No major changes.
- **Category 2 – Location.** No major changes.
- **Category 3 – Local Support** – Add language allowing 6 points for municipalities selling land at a discounted purchase price (discount to be supported by an appraisal).
  Category 4 - Mixed-Income Incentive. Add the following language: Developments with market rate units are subject to a reduction in Credit by the equity gap calculation unless each market rate unit is offset by a corresponding 30% CMI unit.
- **Category 5 – Serves Large Families**. No major changes.
- **Category 6 – Serves Lowest-Income Residents**. No major changes.
- **Category 7 - Resident Populations with Special Needs**. No major changes.
- **Category 8 – Small Developments.** Reduced maximum points from 24 to 12.
- **Category 9 – Market Appeal.** No major changes.
- **Category 10 – Accessible Design.** No major changes.
- **Category 11 - Financial Participation**. No major changes.
- **Category 12 – Ownership Characteristics.** No major changes.
- **Category 13 – Development Team.** No major changes.
- **Category 14 - Readiness to Proceed**. No major changes.
- **Category 15- Credit per Unit.** Increased points from 10 to 15 maximum to encourage greater cost control and efficient use of credit.

Qualified Allocation Plan/Process Changes:

Thresholds. Added language on page 5 clarifying that WHEDA limits total development cost for any one development according to the maximum limit under HUD's 221(d)(4) Mortgage Insurance program, plus an automatic 15% allowance for "Cost Not Attributable to a Dwelling Unit" such as parking areas and community spaces. Public housing authorities are exempt from this if they are primary applicant and HOPE VI or similar federal funding is a source of funds. This is a threshold item and applications exceeding this standard will be rejected.

LOW INCOME HOUSING TAX CREDIT

Amended 2007-2008

QUALIFIED ALLOCATION

PLAN

for the

STATE OF WISCONSIN

Amended August 20, 2007

LOW INCOME HOUSING TAX CREDIT

Amended 2007-2008

QUALIFIED ALLOCATION PLAN

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I. INTRODUCTION

Thank you for your interest in the Low Income Housing Tax Credit Program. The Governor has appointed the Wisconsin Housing and Economic Development Authority (WHEDA) to administer this program in Wisconsin. In accordance with Section 42 of the Internal Revenue Code (the "Code"), WHEDA has developed this Qualified Allocation Plan (the "Plan") to establish the criteria and process for the allocation of the housing Tax Credit (the "Credit") to qualified rental housing developments in Wisconsin. WHEDA will implement this Plan following a public hearing, approval of the Plan by the WHEDA Board of Directors, and final approval of the Plan by the Governor. This Amended Plan shall govern calendar year 2008.

II. THE CREDIT RESERVATION & ALLOCATION PROCESS

A. <u>Amount of Credit to be Allocated</u>

The amount of annual Credit authority is based on $1.95 per-capita derived from population estimates released by the Internal Revenue Service (the "IRS"). In calendar year 2007, WHEDA's per-capita Credit authority was **$10,835,187**. 2008 per-capita Credit is yet to be determined. In addition to per-capita Credit, WHEDA may have returned Credit from previous Credit years to allocate. WHEDA may also elect not to allocate remaining Credit.

There will be one pool of Credit divided into five set-asides in 2008. These set-asides are General, Nonprofit, Preservation, Rural and Reserve. All set-asides are available at the opening of the application period. Because WHEDA intends to leverage this limited public resource to the furthest extent possible, the maximum Credit that will be awarded to any one development is **$750,000**.

All developments applying for additional competitive Credit (in excess of the development's original Credit request) in a subsequent year must compete with all other competitive applications submitted in the selected set-aside. Such additional Credit applications shall not include a Developer's Fee higher than the development's original request.

For **2008**, the set-aside percentages are:

1. **General Set-Aside. Thirty five percent (35%)** or approximately **$3,792,315** of the State housing per-capita Credit will be made available in the General Set-Aside.

2. **Nonprofit Set-Aside. Ten percent (10%)** or approximately **$1,083,519** of the State housing Credit ceiling must be set aside for qualified nonprofit organizations that have an ownership interest in a Credit development. This Credit amount cannot be used for any other purpose and any unused Credit may be carried over at the end of the allocation year.

   If nonprofit applications score insufficient points to qualify for Credit in the Nonprofit Set-Aside, they will be transferred to the General Set-Aside to compete there.

   The nonprofit must be a "qualified nonprofit organization" as defined in Section 42 of the Code and submit a fully completed Appendix B with the initial LIHTC application.

3. **Preservation Set-Aside. Forty percent (40%)** or approximately **$4,334,075** of the State housing per-capita Credit will be set aside for the preservation of qualifying federally assisted housing units. Unused Credit remaining in the Preservation Set-Aside will be returned to the General Set-Aside.

   Federally Assisted Housing Preservation includes low-income housing developments subsidized under the following or similar programs: Section 236, Section 221(d)(3) Below Market Rate (BMIR), Section 221(d)(3) Market Rate with Section 8 rental assistance, Section 8 project-based new construction, Section 202, Section 811, Section 221(d)(4), and Section 515- Rural Rental Housing Program, Rural Development, USDA and NAHASDA or other tribal subsidies.

   Note: Any building with current mixed use must have a minimum of 50% of total square footage in residential use at the time of application to qualify in the Preservation Set-Aside.

4. **Rural Set-Aside. Ten percent (10%)** or approximately **$1,083,519** of the State housing per-capita Credit will be reserved for developments in qualified rural counties. Unused Credit remaining in the Rural Set-Aside will be returned to the General Set-Aside.

   a. To qualify for the Rural Set-aside, a development must be in a location that is rural in character. The following criteria will be used by WHEDA in determining whether a site is rural in character or not: a) Population (generally less than 10,000), b) Location relative to other communities and the population of those communities, c) Commuting patterns and distances, d) Community economic base, and d) Community land use patterns. WHEDA will, upon request, evaluate sites in advance and advise applicants as to whether the proposed site is eligible for the Rural Set-aside. Any request for the evaluation should be directed to the Low Income Housing Tax Credit Allocating Group, must be made in writing, and must be received on or before, January 11, 2008.

   b. Applications for Rural Set-Aside Credit must be for developments consisting of 24 or fewer units.

5. **Reserve Set-Aside. Five percent (5%)** or approximately **$541,759** of the State housing per-capita Credit will be reserved for Credit fluctuations and contingencies.

B. Steps in the Reservation & Allocation Process for Competitive Credit

Step 1	Tax Credit Application Submissions (see www.wheda.com of LIHTC Online Application (LOLA) and Paper Application Documentation.	January 18 – February 1, 2008
Step 2	WHEDA Initial Application Review, Site Visit, Financial Feasibility, Market Approval Review	February 1 – March 14, 2008
Step 3	WHEDA Scoring	March 14 – April 14, 2008
Step 4	WHEDA Internet Publication of Preliminary Awards (see www.wheda.com)	Approx. April 14, 2008
Step 5	Multifamily Loan Application Fees Due (If Application Was Submitted With Tax Credit Application)	May 9, 2008
Step 6	Submission & Review of Additional Paper Documents to Complete Application	Due Approx. July 14, 2008 (90 days after internet publication)
Step 7	WHEDA Credit Calculation & Reservation Issuance	Approx. July 2008
Step 8	Submission of Second Review via LOLA and paper Application. WHEDA Issuance of Carryover Agreement	Due Approx. September 15, 2008 (60 days after Reservation issuance)
Step 9	10% Test Deadline (see www.wheda.com for documentation)	Due 30 days prior to the latter of: Six months after Carryover issuance or December 31, 2008
Step 10	Begin construction	July 31, 2009
Step 11	Building places in service	
Step 12	Submission of Third Review via LOLA and Paper Documentation (see www.wheda.com for documentation)	Due within **180** days after placing in service
Step 13	WHEDA Issuance of 8609 Form(s) & mandatory 30-year Land Use Restriction Agreement (LURA)	After approval of satisfactory third review documentation
Step 14	WHEDA Ongoing Compliance Monitoring Procedures	Post 8609 issuance for 30 years

1. Application Deadline

WHEDA will prepare and make an application available to all interested applicants. The application will include a prescribed form and a list of required additional documentation. All initial and subsequent competitive and noncompetitive LIHTC applications must be submitted via WHEDA's On Line Application system (LOLA). A Delegated Administrator Agreement must be submitted to and processed by WHEDA to obtain access to LOLA WHEDA's LIHTC On Line Application. One paper copy of the application and required additional documentation must also be submitted to WHEDA. Completed paper applications must contain **original signature(s)** and the initial application must be accompanied by a check for the appropriate nonrefundable application fee(s). (See Section IX, Tax Credit Allocation Fees.)

WHEDA will accept competitive LIHTC applications for a two-week period beginning, January 18, 2008. All competitive applications must be submitted via the LOLA System by 5:00 p.m. C.S.T. on, February 1, 2008. The paper copy of the application, nonrefundable fee(s) and required additional documentation will be accepted by mail, postmarked NO LATER THAN February 1, 2008, or hand-delivery, received in WHEDA's Madison office by 5:00 p.m. C.S.T. February 1, 2008. WHEDA may accept applications after this period should WHEDA determine it has not received an adequate quantity of quality applications.

All initial noncompetitive LIHTC applications must be submitted via the LOLA System between January 2, 2008 and 5:00 p.m. C.S.T. on December 29, 2008. The paper copy of the application, nonrefundable fee(s) and required additional documentation must be submitted to WHEDA's Madison office between January 2, 2008 and December 29, 2008 (5:00 p.m. C.S.T. if hand-delivered).

WHEDA will charge fees at the time of issuance of the Reservation Agreement and again at Post-Reservation or Carryover Allocation (Tier One and Tier Two Agreements for noncompetitive applications.) Fees are detailed in Section IX, Tax Credit Allocation Fees.

2. Initial Application Review & Site Visit

WHEDA will initially review all applications for completeness, including, but not limited to, the following:

- The application is complete with all additional documentation, including all threshold items. **See Application Submission Checklist accompanying the Application.**
- The development meets the basic occupancy and rent restrictions of Section 42 of the Code;
- The organization applying for the Credit will have an ownership interest in the development;
- If a nonprofit applicant is competing in the nonprofit set-aside, the nonprofit meets the "qualified nonprofit organization" requirements of the Code, and must submit a completed Appendix B;
- The developments owned or operated by any member of the development team in the State of Wisconsin or any other state are in compliance with the Code and are operating in a manner acceptable to WHEDA;
- Environmental issues or administrative proceedings do not exist that would adversely affect the ability to timely proceed;
- The applicant is sufficiently ready to proceed based on site control; and
- Minimum requirements are met for RCAC and special needs developments, including service provider experience.

As required by the Code, WHEDA will also notify the appropriate official's office in the local jurisdiction of the proposed Credit development location and solicit comments. While Credit cannot be denied to a development based solely on such comment, WHEDA will consider this information, and in its sole discretion may utilize such comment in its decision-making process. WHEDA will evaluate all input received from the appropriate official(s) when deciding to award Credit to a particular development.

For applications deemed complete, a WHEDA representative will contact a member of the development team to discuss the proposed development, arrange a site/market visit, meet with representatives of the local municipality, and meet with representatives of the development team.

3. Market Approval Threshold

WHEDA requires that applicants submit with the application a completed market study. All market studies must be prepared by a WHEDA-approved third-party market analyst.

WHEDA will evaluate the market strength of all complete applications. This is a threshold determination based on the market study provided in the application, the market visit by the WHEDA representative, and other sources. The market studies must adhere to the market study standards published on www.wheda.com. WHEDA may request additional information from the applicant during the market review process. All applications, including those financed with tax-exempt bonds (see section below regarding "Rules for Developments Receiving Non-Competitive Credit when Financed with Tax-Exempt Bonds"), must meet the market approval threshold as determined by WHEDA. WHEDA will make market decisions based on the application as submitted. WHEDA, at its option, may elect to contract its own third-party market study to evaluate information provided by the developer.

WHEDA reserves the right to reject applications at the Market Approval Threshold stage if, in its sole opinion, it believes that an insufficient market exists for the proposed development, or that the proposed development will have a significant impact on existing multifamily housing in the market, or that the proposed development will have a negative impact on other developments in the market area currently under construction or lease-up.

4. Financial Feasibility Threshold

Section 42 of the IRS Code states in part "The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period". Therefore, WHEDA will evaluate the financial feasibility of all applications. This is a threshold item based on the information provided in the application. Feasibility is determined by taking into account a variety of factors including: projected operating expenses, replacement reserves, rents and other income, vacancy assumptions, debt service and expected equity proceeds.

<u>WHEDA reserves the right to reject applications or reduce Credit requests /allocations at any stage of the allocation process per Section 42 requirements, based on financial infeasibility or excessive Credit request. WHEDA further reserves the right to reject applications which, in WHEDA's opinion, have inadequate or excessive development budgets.</u>

WHEDA limits total development cost for any one development according to the maximum limit under HUD’s 221(d) 4 Mortgage Insurance program, plus an automatic 15% allowance for “Cost Not Attributable to a Dwelling Unit” such as parking areas and community spaces. Public housing authorities are exempt from this if they are the primary applicant and HOPE VI or similar federal funding is a source of funds. This is a threshold item and applications exceeding this standard will be rejected. See current year application and its appendices for calculation and methodology.

Requirements contained in any Memoranda of Understanding ("MOU") executed by and between WHEDA and the US Department of Housing and Urban Development, Wisconsin Rural Housing Service, or others will be applied to the underwriting of applications combining both Credits and other federal funding. Subsidy layering reviews required under these MOUs will be conducted and may result in a reduction of Credit. Documentation may be exchanged by the aforementioned agencies in the underwriting of these Credit applications. A copy of the applicable MOU will be made available to applicants upon request.

Developments with HUD or Rural Development financing and/or project-based subsidies have special application submittal requirements that may impact feasibility. See the Application Submittal Checklist and Appendix N of the 2008 LIHTC application.

WHEDA reserves the right to reject **competitive 9% credit** applications if it believes the development could reasonably be accomplished utilizing noncompetitive 4% credits and tax-exempt financing. WHEDA may use the following assumptions for this determination: WHEDA's then-current tax exempt loan rates, longer amortization, a subsidized second mortgage, reasonable deferment of developer fees.

Acquisition-rehab proposals (except for adaptive reuse developments) must provide a Capital Needs Assessment report (CNA) of the subject property. The CNA must be completed by a WHEDA approved third-party CNA provider. A list of WHEDA-approved CNA providers can be found on www.wheda.com.

5. Application Scoring & Minimum Scoring Threshold

Applications that are deemed complete and have passed the market approval, financial feasibility, and service provider threshold (See Self-Scoring Exhibit Category 7) are scored based on the criteria listed below. Applicants will self-score a portion of these criteria in the Application. However, WHEDA will make the final determination of the applicant's score.

6. Land Use Restriction Agreement (LURA)

Owners of developments funded with **competitive** Low Income Housing Tax Credit will be required to enter into a Land Use Restriction Agreement (LURA) with WHEDA for a mandatory thirty-year period. No "opt-out" provision will be included.

Owners of developments funded with **noncompetitive** Low Income Housing Tax Credit will be required to enter into a Land Use Restriction Agreement (LURA) with WHEDA for a mandatory thirty-year period but may elect an "opt-out" provision after year fifteen.

7. 2008 Scoring Categories: Note: Points for scattered site developments will be prorated at WHEDA's discretion

<u>Location</u>

Category 1. Lower-Income Areas 15 points

Developments within a qualified census tract and in which the development contributes to a community revitalization or redevelopment plan. Developments on federally designated tribal land.

Category 2. Location 20 points

Developments in infill locations or demonstrating linkages with public transportation. Corroborating information must be provided with the application.

<u>Local Support</u>

Category 3. Local Support 27 points

Developments demonstrating community support of elected officials and other leaders or housing related neighborhood groups. Additional consideration is given for indirect financial support.

Resident Profile

Category 4. Mixed-Income Incentive 25 points

Mixed-income developments will be awarded points. Developments with markets rate units are subject to a reduction in credit by the equity gap calculation unless each market rate unit is "offset" by a corresponding 30% CMI unit.

Category 5. Serves Large Families (3-bedroom or larger units) 12 points

Developments in which a minimum of 10% of the total units include three or more bedrooms.

Category 6. Serves Lowest-Income Residents 50 points

The Plan gives priority to developments that serve the lowest-income residents when qualifying Tax Credit units are set aside for households with incomes and rents at or below the 50% County Median Income level required for Credit developments. Units serving the lowest-income residents shall be of comparable quality to other units in the development. The Owner will be required to maintain the stated set-aside through a Land Use Restriction Agreement (LURA). Applications in the Preservation Set-Aside are not eligible to score points in this category.

Category 7. Resident Populations with Special Needs 25 points

Developments that provide units intended for immediate occupancy by residents with identified special needs including frail elderly in an RCAC facility. The applicant must document the experience of the service provider in the type of housing or service delivery proposed.

Building Size & Characteristics

Category 8. Small Developments 12 points

WHEDA will award 12 points to developments with 24 or fewer units.

Category 9. Market Appeal 20 points

Developments offering amenities that enhance market appeal and promote long-term development viability.

Category 10. Accessible Design 20 points

Developments offering architectural features that increase accessibility will broaden the market for many units. An architect must specify and certify all items. The applicant must attach the specifications and certification to the application.

Financial Participation

Category 11. Financial Participation 40 points

Developments that have financial participation, supported by a written conditional financial commitment, from one or more of the following sources for permanent (not construction) financing:

(a) Tribal, federal, state, county or city governments;
(b) Public housing authorities;
(c) FHLB;
(d) Tax-exempt bonding authorities;
(e) Unaffiliated public or private foundations;
(f) Unaffiliated nonprofits; and
(g) Federal/State historic Credit.

Financial participation, in the form of a loan, must be at a rate equal to, or less than, the Long Term Applicable Federal Rate (compounded annually) plus 25 basis points. Origination fee may not exceed 2.5%.

Category 12. Owner Characteristics 6 points

(a) Developments where the controlling entity (managing member or general partner) is at least 51% owned and at least 51% controlled by minority group members or tribal governments (for a listing of minorities, navigate to page 2 of the "Minority Business Enterprise Certification Manual" via the link found at this web address: http://www.commerce.state.wi.us/bd/MT-FAX-0910.html)

(b) The controlling entity (managing member or general partner) is at least 51% owned and controlled by a local tax-exempt organization (including local governments, public housing authorities, Indian housing authorities and tribally designated housing entities) with documented previous experience in the development and/or operation of housing similar to that proposed in the application; OR

(c) Developments intended for eventual low-income resident ownership.

Category 13. Development Team 60 points

Development team (Developer, Management Agent, and Consultant) will be evaluated based on past performance and previous Credit program participation.

Readiness

Category 14. Readiness to Proceed 15 points

Developments with permissive zoning in place, including any conditional use permit or other acceptable zoning.

Credit Use

Category 15. Credit Per Low Income Unit 15 points

Developments using relatively fewer credits per low income unit produced.

TOTAL POINTS: 362 points

WHEDA calculates the score for each application and then determines which applications meet or exceed a minimum established scoring threshold. These are then ranked. Ranking results are published on WHEDA's website (www.wheda.com). WHEDA recognizes that its decisions, or other events beyond the developer's control, may affect the development and potentially change its score. ***WHEDA, at its discretion, may allow changes in scoring. Whether the development receives Credit in such a circumstance will depend on its new score and ranking within its respective set-aside category.***

WHEDA requires a minimum threshold point score for all applications of 100.

8. Submission & Review of Additional Documents

The highest-ranking applicants within each set-aside and for which Credit is deemed likely to be available are able to continue in the process. Additional required application materials must be submitted to WHEDA within **90 days** of the awards/rankings announcement on www.wheda.com. Failure to meet all threshold requirements within the 90-day period **will render applications ineligible for further evaluation**.

At its sole discretion, WHEDA may approve a written request for an extension. See Section IX, Tax Credit Allocation Fees. In the event an application is unable to proceed in the Credit process, the next highest-ranked scored application that meets or exceeds the minimum scoring threshold will continue in the process.

9. Credit Calculation & Reservation

a. Credit Calculation:

WHEDA will reserve the calculated Credit amount after the development has received market approval, received financial feasibility approval, achieved sufficient scoring rank, and has satisfactorily submitted all requested additional documentation. WHEDA determines the amount of Credit reserved through information received and the amount requested in the application. The actual reservation amount may not equal the dollar amount requested in the application. The Code requires that WHEDA determine that *"the housing Credit dollar amount allocated to the development does 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 project throughout the Credit period."* In making this determination, WHEDA will consider the following:

- The sources and uses of funds and the total financing planned for the development;
- Any proceeds or receipts expected to be generated by tax benefits;
- Percentage of the housing Credit dollar amount used for development costs other than the cost of intermediaries;
- The reasonableness of operating expenses, rent and vacancy assumptions, and proposed debt service coverage, the development and operational costs of the proposed development; and
- An analysis of the appropriate Credit amount based on an “equity gap” model.

Note on equity gap: Developments electing points in Category 4 (Mixed Income) may be subject to a reduction in Credit by the equity gap calculation. In order to encourage and assist developments in providing both market rate units and very low rent units, applicants are allowed an “override” of the equity gap model if the application provides for at least as many 30% CMI units as market rate units proposed.

The Code allows the possibility of receiving a Credit reservation equal to 130 percent of qualified expenditures. The increased basis is allowed in areas defined by HUD as "qualified census tracts" ("QCT") or "difficult development areas" ("DDA"). There are no HUD-designated DDAs in Wisconsin. Applicants may request the higher basis, but WHEDA reserves the right to determine the Credit allocation amount required for feasible development. A map of the census tract showing the development location must be submitted with the application for Credit. See Appendix F of the 2008 LIHTC Application for a list of qualified census tracts.

Credit may be awarded to that portion of a building used as a community service facility not in excess of 10% of the total eligible basis, if the building is located within a qualified census tract. "Community service facility" may include childcare, workforce development, healthcare, etc., and must be designed primarily to serve individuals whose income is 60% or less of area median income.

Under certain circumstances described in the Code, buildings financed under the Native American Housing Assistance and Self-determination Act of 1996 (NAHASDA) are eligible for the 9% Credit.

Developments receiving assistance under the HOME Investment Partnerships Act are considered federally subsidized unless certain income requirements are met for a portion of the residential rental units in each building and those units are occupied by income-eligible households. These requirements and restrictions may conflict with eligibility for HOME funds under rules promulgated by the State of Wisconsin and may affect the ability of a development to use 9% credits and/or receive the "high cost" increase in basis. HOME grants are subtracted from eligible basis. Please consult with a competent professional as to the interplay of these rules and their impact on Tax Credits.

b. Reservation of Credit

WHEDA will issue a letter reserving the determined Credit amount to qualifying applicants. An applicant may not transfer Credit to another development or another development site. **WHEDA will not allow changes to the development that affect scoring after the reservation letter has been issued without its written approval. All developments receiving a reservation of Credit will be required to erect a WHEDA construction sign meeting specifications outlined in Appendix S of the 2008 LIHTC Application.**

10. Second & Third Application Reviews & Credit Allocation

Federal law requires that WHEDA evaluate the application three times: a) at initial application; b) at carryover allocation/post-reservation application; and c) at the time the building(s) is (are) placed in service. On each occasion, the applicant must submit a complete Credit application via LOLA and in paper form including a financial feasibility threshold test and certify to all Federal, State, and local subsidies expected to be available to the development. The process requires that applicants provide detailed and accurate information concerning all development costs at each evaluation. Applicants with Reservations will be subject to cancellation of the Reservation if they are unable to provide WHEDA with satisfactory evidence of progress toward timely completion of the proposed development, or if there are significant changes to the proposed development from the approved application.

The second review is due from the applicant no later than **60** days after the date of the Reservation issuance. WHEDA will review financial feasibility and revised costs based on information provided by the applicant in the second review application to determine the appropriate amount of Credit to be allocated. Provided the second evaluation is in order, WHEDA will issue either a Carryover Agreement or a Post-Reservation letter at the time of completion of the second evaluation. Developments eligible for 2008 Credit must be placed in service during the calendar year 2008 - **OR** – apply for a Carryover Agreement prior to, November 28, 2008. WHEDA must **receive** the fully executed Carryover Agreement on or before, December 29, 2008.

Developments shall not receive a Carryover Allocation that exceeds by more than 5% the development's original credit request.

A valid Carryover Allocation Agreement requires that the taxpayer incur costs that exceed 10% of the taxpayer's "reasonably expected basis" or total development cost by the later of: a) December 31, 2008 or b) six months after the date the carryover allocation is issued. The owner must submit a third-party accountant's review certifying that the required 10% expenditure has occurred, or is likely to occur as of either a) or b), above. WHEDA requires a breakdown of expenditures as well as proof of expenditure by the specified deadline. Developments eligible for 2008 Credit must meet the specified requirements by the applicable date in 2008.

Developments receiving Carryover Allocations must begin construction by July 31st of the calendar year following the year in which Credits were first allocated. The Carryover Agreement will be void unless an extension has been approved by WHEDA and an extension fee has been received prior to July 31st. If the Owner does not comply with this requirement, WHEDA reserves the right to revoke the Credit allocation.

The third and final review is conducted after the development has been placed in service. WHEDA will again review financial feasibility, revised costs and the equity requirement based on information provided by the applicant in a third updated application to determine the appropriate amount of Credit to be allocated. At the third application, the Owner is required to submit an ACH (Automated Clearing House) form. The Owner must certify that the management agent identified on the initial application will continue to manage the property. Submission of a third application for final allocation must be made within 180 days of the placed-in-service date or an extension must be requested.

A final allocation of Credit cannot be made until the development building(s) has/have been placed in service and the owner has provided a third-party cost certification to actual development costs. Awarding of the actual Credit will be contingent upon:

- Developer's ability to meet its proposed time schedule;
- Approved occupancy permit(s) for new construction and adaptive re-use developments;
- Architect's certification of substantial completion for new construction, adaptive re-use and substantial rehabilitation developments;
- One Allocation Certification Request ("ACR") form for each building, Credit percentage and allocation of Credit, originally signed by Owner stating the development is in compliance with Section 42 of the Code and will remain in compliance for the Credit period specified in the Code. In addition, this ACR will certify that the management agent identified on the initial application will continue to manage the property;
- An Owner/Taxpayer-certified current rent roll; (in accordance with the requirements of Appendix R)
- Updated title commitment, or final title policy containing and accurate final legal description of the property;
- Tax parcel identification number(s) for the development;
- Third-party cost certifications (for those developments of 10 units or less, a cost review is required; for developments consisting of 11 units or more, an audited third-party cost certification must be submitted);
- Completion by the applicant of all required agreements, including certification of all Federal, State, and local subsidies that apply; reporting and record keeping requirements; nondiscrimination regulations and any special conditions imposed by WHEDA or the U.S. Department of Treasury;
- Execution of a Land Use Restriction Agreement (LURA) mandated under Section 42 of the Code that commits to extend use for low-income housing for a **mandatory thirty-year period with no "opt-out" provision for developments funded with competitive Low Income Housing Tax Credits**; Noncompetitive applicants will be required to enter into a Land Use Restriction Agreement (LURA) with WHEDA for a mandatory thirty-year period but may elect an "opt-out" provision after year fifteen.
- One exterior photograph for each building of the completed development;
- ACH form if one is not currently on file with WHEDA;
- Energy-efficiency documentation required in Appendix M of the 2008 LIHTC application;
- If there has been a change in Owner entity since the "Carryover Allocation" letter, include a photocopy of the original signed and dated organizational documents filed with the Wisconsin Department of Financial Institutions; change the Owner information on the application for Credit and note the correct Federal Identification number on the application for Credit; and
- Submission of any other documents WHEDA may require to carry out the requirements of the application, the Qualified Allocation Plan for the State of Wisconsin, or IRS regulations.

The above requirements must be submitted in an acceptable form to WHEDA. WHEDA will then allocate Credit and send a completed original of IRS Form(s) 8609 to the owner. WHEDA will forward a photocopy of Form(s) 8609 to the IRS. **WHEDA will assess fees for the re-issuance of 8609 form(s) at the Owner's request for non-WHEDA errors. This fee must be paid in full prior to WHEDA mailing or faxing the revised/corrected 8609 forms to the Owner.**

If WHEDA at any time has reason to believe that the development: 1) will not be placed in service in a timely fashion; 2) fails to comply with the requirements for a carryover allocation; 3) is not in compliance with Section 42 of the Code; or 4) that the application contains misrepresentations, WHEDA may revoke the Credit allocation.

11. Rules for Developments Receiving Non-Competitive Credit when Financed with Tax-Exempt Bonds

Applicants applying for Credit for a development financed by WHEDA or locally issued tax-exempt bonds must follow a two-tier application process.

Applicants must submit the first application prior to commencing construction of the development. WHEDA will review the application to confirm that the development meets the requirements of the Plan, including a determination that the application meets both the market threshold, financial feasibility threshold, and minimum-scoring threshold. Developments may rely on the Plan and form of application in effect for the year in which they make their first application. In its review of the first application, WHEDA also confirms that 50% or more of the aggregate basis of building(s) and land is being financed with tax-exempt bonds. **Since all Tax Credit applications must meet the market threshold, financial feasibility threshold, and minimum-scoring threshold, developers are encouraged to make the first application for Credit as early in the development process as possible.**

Applicants submit the second application at the time of request for Credit allocation (assignment of the building identification numbers ["BINs"] and Form 8609). In addition to the approval of the first and second Tax Credit applications, Applicants must meet the following requirements to qualify for the final allocation of Credit:

- The governmental unit that issues the bonds must make a determination of allowable Credit under rules similar to those required in Section 42(m)(2)(A)&(B), and will be required to provide an affidavit in a form acceptable to WHEDA that it has made this determination.
- If there has been a change in Owner entity since the "Tier One" letter, include a photocopy of the original signed and dated organizational documents filed with the Wisconsin Department of Financial Institutions; change the Owner information on the application for Credit and note the correct Federal Identification number on the application for Credit.
- Applicants must submit evidence of applicable Tax Credit percentage election in accordance with Section 42(b)(2). If no such election is submitted, WHEDA will issue an allocation based on the appropriate percentage prescribed by the law.
- Submit all items required for "The third and final review" in Section 10 above.

WHEDA will charge an application fee and additional review fees for all tax-exempt bond financed developments. See Section IX, Tax Credit Allocation Fees.

12. Compliance Monitoring Procedures

The Code requires housing Credit agencies to monitor all Credit developments to determine whether they are complying with the requirements of the Credit program. The monitoring requirement applies to all buildings placed in service for which the Credit is, or has been, allowable at any time. WHEDA's internal monitoring process is outlined in the Tax Credit Program Compliance Monitoring Manual and the Compliance Policy for Extended Use Period, which are provided on the Internet at www.wheda.com.

Once the Form(s) 8609 is (are) issued, WHEDA will only allow changes to the development affecting the selection criteria on which the allocation of Credit was awarded upon satisfactory evidence that the change is necessary for the ongoing financial viability of the development. WHEDA will consider no change within the first three years of the Credit period.

All Credit developments are required to comply with the following regulations: The owner of a Credit development must keep records for each qualified building that show for ***each year*** in the compliance period:

a. The owner of a Credit development must certify annually to WHEDA under penalty of perjury, on forms and in a manner prescribed by WHEDA, that:

- The development meets the minimum set-aside test applicable to the development;
- The owner has received an annual Resident Income Certification from each qualifying resident and documentation to support that certification;
- Each qualifying unit in the development is rent restricted under Section 42(g)(2) of the Code;
- All units in the development are for use by the general public (as defined in §1.42-9), including the requirement that no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, occurred for the development. A finding of discrimination includes an adverse final decision by the Secretary of the Department of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent State or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a Federal court;
- The buildings and each residential unit in the development are suitable for occupancy (taking into account applicable health, safety, accessibility, building codes and regulations or other habitability standards), and the government unit responsible for making health, safety, or building code inspections did not issue a violation report for any building or residential unit in the development;
- Either there has been no change in the eligible basis as defined in Section 42(d) of any building, or there has been a change, and the nature of the change, including any new Federal funds received;
- All resident facilities included in the eligible basis under Section 42(d) of the Code of any building in the development, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances, are provided on a comparable basis without a separate fee to all residents in the buildings;
- If a qualifying unit in the development becomes vacant during the year, reasonable attempts are made to rent that unit to residents having a qualifying income and while the unit is vacant, no units of comparable or smaller size are rented to residents not having a qualifying income;
- If the income of residents of qualifying units increases above the limit allowed in Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the building will be rented to residents having a qualifying income;
- Either there has been no change in the applicable fraction as defined in Section 42 (c)(1)(B), or there has been a change, and the nature of the change;
- The development complies with the requirements or special provisions on which the allocation was based as outlined in the allocation documents, including, but not limited to, special set-asides and the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the development to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1927, 42 U.S.C. 1437s (for buildings subject to Section 13142(b)(4) of the Omnibus budget Reconciliation Act of 1993, 107 Stat. 312, 438-439);
- All qualifying units in the development are used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i)(3)(B)(iii) or single-room-occupancy units rented on a month-by-month basis under Section 42(i)(3)(B)(iv) of the Code);
- The development complies with the requirements for all Federal or state housing programs (e.g.) RHS assistance, HOME assistance, Section 8, FHA, tax-exempt financing or other programs), as applicable.
- If the owner received its Credit allocation from the portion of the State ceiling set-aside for a development involving "qualified non-profit organizations" under Section 42(h)(5) of the Code,

- the nonprofit entity materially participates in the operation of the development within the meaning of Section 469(h) of the Code, as applicable;
- The development is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations;
- There has been no change in the ownership or management of the development or any such changes have been reported to the State Monitoring Agency; and,
- The applicable fraction as reported to the IRS for each building in the development at the close of the most recent tax year.

b. WHEDA requires that an owner of a Credit development submit to WHEDA during the compliance period, at times and in a manner prescribed by WHEDA, which may include transmission via e-mail or through a website, the following information:

- The Form 100 owner's certification as described in Section (a) above;
- Unit event information including data as described in Section (a);
- Utility documentation as required by the Code of Federal Regulations (26 CFR §1.42-10) and described in WHEDA's Tax Credit Program Compliance Monitoring Manual;
- Copy of signed 8609s the owner submits in the first year Credit is claimed; and
- Other documentation as required.

c. WHEDA has the right to perform inspections of any Credit development through the end of the compliance period, including any extended use period. IRS regulations mandate that at least once every three (3) years, WHEDA must conduct on-site inspections of all buildings in the development and review at least 20 percent (20%) of the development's low-income units. An inspection includes a physical inspection of any building and units in the development, as well as a review of the records described in Section (a) above.

As provided in the Code, WHEDA and Rural Development have entered into a Memorandum of Understanding ("MOU") whereby developments financed by Rural Development will be inspected by Rural Development. Rural Development will provide the result of such reviews to WHEDA.

d. WHEDA will provide prompt written notice to the owner of a Credit development if WHEDA does not receive the required certifications or discovers through inspection, review or any other manner, that the development is not in compliance with the provisions of Section 42. In general, the owner will have an opportunity to correct noncompliance within **90 days** from the date of notification to the owner. However, the owner will have not more than **30 days** from the date of written notification in which to submit any missing report(s), information, or documentation. This includes, but is not limited to: Unit Status Report, annual Owner's Certificate of Continuing Compliance, utility allowance documentation, initial information, and fees. During the correction period, an owner must supply any missing certifications and bring the development into compliance with the provisions of Section 42. WHEDA may extend the correction period for up to six (6) months if it determines there is good cause for granting an extension.

e. WHEDA is required to file Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance, with the Internal Revenue Service no later than 45 days after the end of the correction period described above, including any extension, whether or not the noncompliance or failure to certify is corrected.

f. Compliance with the requirements of Section 42 is the responsibility of the owner of the development for which the Credit is allowable. WHEDA's obligation to monitor for compliance does not make WHEDA liable for an owner's noncompliance. WHEDA will charge an annual fee to the development for conducting compliance monitoring. The annual fee is due March 15 of each year during the compliance period. WHEDA will also charge an initial compliance monitoring fee payable after the Form 8609 is issued. This initial compliance monitoring fee shall apply to all buildings placed in service after January 1, 2001. A late charge will be assessed for documentation or fees that are not received by the due date. WHEDA's "Compliance Monitoring Fee Schedule" and "Compliance Monitoring Fee Policy" is included in WHEDA's "Tax Credit Program Compliance Monitoring Manual" and the Qualified Allocation Plan. Fees will be charged on all units within each development and drawn via ACH agreement. Monitoring fees are as follows:

   <u>Initial compliance fees for all buildings placed in service after January 1, 2001</u>:
   The initial compliance fee for developments of 15 or fewer units is $750. For developments of 16 or more units, the fee is $50 per unit with a maximum of $5000.

   <u>Paper Unit Status Reports:</u>

Rural Development	$50/ per unit per annum
WHEDA-financed	$50/ per unit per annum
All Other	$50/ per unit per annum

   <u>Electronic Unit Status Reports:</u>

Rural Development	$20/ per unit per annum
WHEDA-financed	$20/ per unit per annum
All Other	$35/ per unit per annum

III. PUBLIC REVIEW PROCESS FOR THE QUALIFIED ALLOCATION PLAN

WHEDA will convene public hearings to receive oral and/or written comments regarding this Plan. After the hearings, the Plan will be presented to the WHEDA Board Members or their Assignees and the Governor of the State of Wisconsin for approval.

IV. MODIFICATIONS TO THE QUALIFIED ALLOCATION PLAN

WHEDA may modify this Plan to facilitate the allocation of Credit. WHEDA's Executive Director may make modifications deemed necessary to facilitate the administration of the Credit program or to address unforeseen circumstances. The Executive Director is also authorized to waive any conditions not mandated by Section 42 of the Code on a case-by-case basis for good cause. To the extent that anything contained in this Plan does not meet the minimum requirements of Federal law or regulation, such law or regulation shall take precedence over this Plan. WHEDA reserves the right and shall have the power to allocate Credit to a development irrespective of points scored, if such intended allocation is: 1) in compliance with the Code; 2) in furtherance of the housing priorities stated herein; and 3) determined by WHEDA to be in the best interests of the citizens of the State of Wisconsin.

WHEDA reserves the right to make changes to the QAP as it deems necessary, including changes to fee structure. Such changes will be available for public comment and approved by WHEDA’s board.

V. STATEMENT OF POLICY

The Code requires that the Plan provide selection criteria that include: (i) development location, (ii) housing needs characteristics, (iii) development characteristics, including whether the development includes the use of existing housing as part of a community revitalization plan, (iv) sponsor characteristics, (v) tenant populations with special housing needs, (vi) public housing waiting lists, (vii) tenant populations of individuals with children, and (viii) developments intended for eventual tenant ownership.

The Plan must: (i) set criteria used to determine housing priorities which are appropriate to local conditions, (ii) give preference to: (I) developments serving the lowest-income tenants, (II) developments obligated to serve qualified residents for the longest period, and (III) developments located in qualified census tracts, the development of which contributes to a concerted community revitalization plan. The Agency must provide a procedure to monitor for noncompliance, notify the IRS of noncompliance and monitor for noncompliance with habitability standards through regular site visits.

The Plan may also include other criteria WHEDA deems appropriate, and except for the inclusion of the specified preference items, WHEDA has discretion with regard to the relative weight of these criteria. WHEDA is also given the discretion to determine the appropriate amount of Credit allocated to developments selected under the plan. In developing this Plan, WHEDA considered the Wisconsin Consolidated Plan as well as its experience in creating affordable housing throughout Wisconsin.

WHEDA is responsible for allocating only the amount of Credit to a given development required to make that development economically feasible. This decision shall be made solely at the discretion of WHEDA, but in no way represents or warrants to any person that the development is, in fact, feasible or viable.

WHEDA's review of documents submitted in connection with this allocation is for its own purposes. By allocating the Credit, WHEDA makes no representations to the applicant, owner, or any other entity regarding adherence to the Code, Treasury regulations, or any other laws or regulations governing Low–Income Housing Tax Credit.

No member, officer, agent, or employee of WHEDA shall be personally liable concerning any matters arising out of, or in relation to, the allocation of the Credit. WHEDA reserves the right to revoke Credit in the case of misrepresentations made to WHEDA by any member of the development team.

VI. NONCOMPLIANCE & PREVIOUS PERFORMANCE

WHEDA will review the compliance history and overall performance of members of the development team. The development team is defined as the developer, applicant, owner, management agent, contractor, general partner or managing member of the ownership entity, or any related entity which controls, is controlled by, or under common control with any of the foregoing. Noncompliance may result in any member of the development team being denied participation in the Credit Program. All compliance fees owed by any member of the development team must be paid in full and compliance reports must be current before WHEDA will process an application. WHEDA will reject applications and bar the development team from program participation for at least one year if the development team has submitted information to WHEDA, that when verified by WHEDA or other third-party review, is found to materially affect the qualified basis of the building. **A development team is ineligible to compete for Credit in 2008 if they have: 1) failed to make the required 10% expenditure for two or more allocations in the five calendar years preceding the application; 2) returned Credit for two or more allocations in the previous five calendar year period(s); 3) not made satisfactory progress on existing allocations; or 4) been issued an IRS form 8823 with line 10(j) marked as "out of compliance." Line 10(j) states: "Project is no longer in compliance nor participating in the low-income housing tax Credit program (attach explanation)".**

VII. WHEDA EMERGING BUSINESS PROGRAM

The WHEDA Emerging Business (WEB) Program encourages involvement of small businesses owned, operated, and controlled by persons who are at an economic disadvantage. For low income housing Tax Credit developments in the counties of Brown, Dane, Dodge, Fond du Lac, Jefferson, Kenosha, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, or Waukesha, the WEB participation goal is set at 25 percent of hard costs. This dollar goal may be satisfied by emerging businesses providing services in the following categories: hard costs for the actual physical costs of construction, including general contracting, grading, excavation, concrete, paving, framing, electrical, carpentry, roofing, masonry, plumbing, painting, asbestos removal, trucking, and landscaping ***and*** the following soft costs: planning, architectural and engineering fees.

Developers of Tax Credit developments in these counties must use their best efforts to meet the WEB participation goal and report to WHEDA their results. **Failure to use best efforts to meet these goals may result in being barred from participating in the program**. WHEDA encourages developers in other counties to include WEB participation in their Tax Credit developments. A business qualifies for WEB participation if it is certified as: 1) a Disadvantaged Business Enterprise by the Wisconsin Department of Transportation; 2) an Emerging Business Enterprise by the City of Milwaukee; 3) a Minority Business under the Minority Business Certification Program by the Wisconsin Department of Commerce; or 4) has a comparable certification acceptable to WHEDA from a state or local government or agency. WHEDA will provide a facilitator, at its expense, to help the developer meet these goals.

VIII. WHEDA INTERNET SITE

The following materials will be made available on WHEDA's Internet site at www.wheda.com, or within WHEDA's LIHTC On Line Application system (LOLA). A Delegated Administrator Agreement must be submitted to and processed by WHEDA to obtain access to LOLA.

- Amended 2007-2008 Qualified Allocation Plan
- 2008 Low Income Housing Tax Credit Application and Attachments
- Market Study Guidelines
- Approved List of Market Study Providers
- Approved List of Capital Needs Assessment Providers
- Updates on Wisconsin's Tax Credit Program
- List of Reservations for the Current Year
- List of Applicants for the Current Year
- Income and Rent Limits
- Applicable Federal Tax Credit Percentages
- Archived Documents from previous Tax Credit cycles

IX. TAX CREDIT ALLOCATION FEES

WHEDA will charge fees for filing, reviews, extensions, document revisions as follows. These fees must be paid in full before further processing of the application.

LIHTC Application Fees - Competitive and Noncompetitive

24 units or fewer:	**$1,000**
Over 24 units:	**$2,000**

WHEDA Multifamily Loan Application Addendum**

24 units or fewer:	**$250**
Over 24 units:	**$500**

(this fee is waived if the Tax-exempt LIHTC application is submitted)

Competitive: Reservation, Carryover, Post-Reservation Agreements
Noncompetitive: Tax-Exempt Tier One, Tier Two Letter

Reservation, Carryover or Post-Reservation Agreement	5.0% of the annual Credit amount per Agreement
Tier One or Tier Two Agreement	2.5% of the annual Credit amount per Agreement

Fees for Document Reissuance

Document	**First Reissuance**	**Each Subsequent Reissuance**
Reservation/Tier 1 Letter	$250	$500
Carryover/Post Reservation or Tier 2 Letter	$250	$500
8609(s) -10 or fewer buildings	$250	$500
8609(s) -11 or more buildings	$500	$1,000
Amended Carryover Agreement	$500	$500

Fees for Time Extensions (30 day minimums. Not pro-rata)

Post-Award Documentation	1.00% of annual Credit awarded per 30-day extension
Post Reservation/Carryover Application (Review 2)	1.00% of annual Credit reserved per 30-day extension
10% Test	1.00% of annual Credit allocated for a 30-day extension
Construction Commencement	1.00% of annual credit allocated for a 30-day extension
8609 Application (Review 3)	$1,000 if not received within 180 days of placed in service date