
TENNESSEE HOUSING DEVELOPMENT AGENCY

Low-Income Housing Tax Credit

Qualified Allocation Plan

1997

TENNESSEE HOUSING DEVELOPMENT AGENCY

LOW-INCOME HOUSING TAX CREDIT QUALIFIED ALLOCATION PLAN

1997

Part I: Introduction

The Tennessee Housing Development Agency ("THDA") is responsible for administering the Low-Income Housing Tax Credit program in Tennessee. The Low-Income Housing Tax Credit program was created by the Tax Reform Act of 1986 under Section 42 of the Internal Revenue Code of 1986, as amended ("Section 42"), to encourage the construction and rehabilitation of housing for low and moderate income individuals and families. Pursuant to Section 42(m) as amended by the Omnibus Budget Reconciliation Act of 1989, THDA is required to develop a Qualified Allocation Plan ("Allocation Plan") to define the process by which it will allocate Low-Income Housing Tax Credits ("Tax Credits") across the state of Tennessee.

This document is the Allocation Plan required by Section 42. This Allocation Plan incorporates all requirements of Section 42 unless more stringent requirements, as permitted under Section 42, are expressly stated. A public hearing was held to solicit comments. "**Exhibits**" are documents which accompany this Plan and which provide additional information. "**Attachments**" are forms or documents which must be submitted as part of the Application. Exhibits, the Application, and Attachments are all considered part of the Allocation Plan. The Allocation Plan has been approved by the THDA Board of Directors and the Governor of Tennessee.

Part II: Goals And Objectives

The goal of this Allocation Plan is to use the Tax Credits allocated to Tennessee for 1997 to the fullest extent possible to create, maintain, and preserve affordable rental housing for low and very low-income households. Specific objectives of this Allocation Plan are to:

1. Make rental units affordable to households with as low an income as possible and for the longest time period possible;
2. Encourage the construction or rehabilitation of rental units in the areas of Tennessee with the greatest need for affordable housing;
3. Encourage development of congregate housing or single room occupancy units for special needs populations including persons who are homeless, persons with disabilities, and persons who are elderly;
4. Discourage allocation of Tax Credits to developments for which Tax Credits are not necessary to create, improve, or preserve rental housing for low-income persons;
5. Allocate only the minimum amount of Tax Credits necessary to make a development financially feasible and to ensure its viability as a qualified low-income development throughout the Credit period;
6. Give priority to developments with the maximum investment from private, non-governmental sources;
7. Encourage Non-Profit entities to develop rental housing for low and very low income households; and
8. Encourage energy efficient construction and rehabilitation.

Part III: Tax Credits Available

A. Total 1997 Tax Credits

The total amount of Tax Credits available for allocation in Tennessee for 1997 is the total of the following:

1. \$1.25 x Tennessee's population;
2. Unallocated credits from previous year;
3. Any returned credit from previous years; and
4. Any amount allocated to Tennessee by the IRS from the National Pool.

For purposes of calculating the initial Non-Profit Set-Aside, and the Urban and Rural Set-Asides, the amount against which the percentages will be applied will be the sum of items 1 and 2 above.

B. Non-Profit Set-Aside

1. Ten percent (10%) of the total amount of Tax Credits available for allocation in Tennessee is reserved for qualified Non-Profit applicants (the "Non-Profit Set-Aside") pursuant to Section 42(h)(5). Only qualified Non-Profits (see Part VI. A. of this Plan) will be considered for an allocation of Tax Credits from this Non-Profit Set-Aside.
2. Initially, ten percent (10%) of the sum of Part III. A. 1. and 2. is reserved for the Non-Profit Set-Aside.
3. After this initial Non-Profit Set-Aside is completely allocated, other qualified Non-Profit applicants who have not received allocations will be included and considered, along with other applicants, for either the Urban Set-Aside or the Rural Set-Aside, whichever is appropriate.
4. **THDA reserves the right to make additional allocations of Tax Credits from any available Set-Aside to qualified Non-Profit applicants to meet the requirements of Section 42 (h)(5).**

C. Bicentennial Neighborhoods Set-Aside

1. As part of Tennessee's Bicentennial celebration, THDA is implementing the Bicentennial Neighborhoods Initiative (BNI). The BNI is intended to foster the rehabilitation and preservation of existing neighborhoods or the creation of new neighborhoods that will continue Tennessee's heritage of community spirit and cooperation. Only qualifying developments located in Bicentennial Neighborhoods expressly designated by THDA will qualify for the Bicentennial Neighborhoods Set-Aside.
2. Up to \$500,000 in 1997 Low-Income Housing Tax Credits will be set aside for qualifying developments in THDA designated Bicentennial Neighborhoods (the "Bicentennial Neighborhoods Set-Aside"). Any amount of Tax Credits allocated to developments in Bicentennial Neighborhoods will be deducted from the amount of tax credits set-aside for developments in the appropriate related category (Non-Profit, or Urban or Rural, based on county in which the development is located, as described below).
3. After the Bicentennial Neighborhoods Set-Aside is completely allocated, other qualified applicants for developments in Bicentennial Neighborhoods who have not received allocations will be included and considered, along with other applicants, for either the Urban Set-Aside or the Rural Set-Aside, whichever is appropriate.

D. Urban And Rural Set-Asides

The Urban Set-Aside and the Rural Set-Aside are designed to improve geographic distribution of Tax Credits. These Set-Asides are based on the population of Tennessee residents in the twenty-six (26) urban counties and the sixty-nine (69) rural counties.

1. Sixty-four percent (64%) of the sum of Part III. A. 1 and 2 above after the Non-Profit Set-Aside is deducted is available for allocation to developments located in the urban counties of Tennessee (Metropolitan Statistical Area or "MSA" counties) shown on **Exhibit 1** to this Allocation Plan (the "Urban Set-Aside").
2. Thirty-six percent (36%) of the sum of Part III. A. 1 and 2 above after the Non-Profit Set-Aside is deducted is available for allocation to developments located in the rural counties of Tennessee shown on **Exhibit 1** to this Allocation Plan (the "Rural Set-Aside").
3. **THDA reserves the right to revise the amount of Tax Credits available for each Set-Aside based on requirements imposed by Congress or the IRS.**

Part IV: Limitations On Amount Of Tax Credits Allocated

A. By County, Development, and Developer or Related Party

It is THDA's policy to encourage distribution rather than concentration of Tax Credits. Therefore, the following limitations on Tax Credits will apply:

1. By County -- The maximum amount of 1997 Tax Credits that may be allocated to developments in any one county shall not exceed one million five hundred thousand dollars **(\$1,500,000)**.
2. By Development -- The maximum amount of 1997 Tax Credits that may be allocated to a single development or project shall not exceed five hundred thousand dollars **(\$500,000)**. THDA reserves the right, in its sole discretion, to determine whether applications received reflect a single development or multiple developments for the purpose of applying this limitation.
3. By Developer or Related Party -- The maximum amount of 1997 Tax Credits that may be allocated to a single applicant, developer, owner, or related party shall not exceed one million dollars **(\$1,000,000)**. THDA reserves the right, in its sole discretion, to determine whether related parties are involved for the purpose of applying this limitation.

B. For Financial Feasibility

Section 42(m)(2) requires that THDA not allocate more Tax Credits than necessary for the financial feasibility of a development and its viability as a qualified low-income housing development. THDA reserves the right, in its sole discretion, to reject applications for Tax Credits when THDA determines the proposed development is not financially feasible or does not need Tax Credits. THDA also reserves the right, in its sole discretion, to allocate an amount of Tax Credits less than the amount requested in an application. THDA's determination of financial feasibility shall not be construed to be a representation or warranty by THDA as to the feasibility, viability, or lack thereof, of any development.

Part V: Allocation Process

A. Application Submission

Submit an application, a certified check for the appropriate application fee, and all supporting documentation within the established application period (see below). Applications must be identified as a “Tax Credit Application” and delivered to:

**Tennessee Housing Development Agency
Suite 1114
404 James Robertson Parkway
Nashville, TN 37243-0900**

Applications may be delivered to THDA by mail, in person, by courier, or by other means of physical delivery. **(Applications by express delivery services should be sent to the address above but at Zip Code 37219-1505.)** Telecopy, facsimile, or other transmission or delivery of “copies” or “representations” of the application or other documents **will not be accepted.**

THDA assumes no responsibility for late delivery or delivery to locations other than stated above. **Only those applications arriving at the location stated above and within the established application period will be considered for Tax Credits.**

B. Application Period and Deadlines

- **Applications will be accepted beginning at 8:30 a.m. Central Standard Time on March 24, 1997, at the address stated above. No applications will be accepted prior to this date and time or at any other location.**
- **No applications will be accepted after 1:00 p.m. Central Standard Time on March 31, 1997.**
- **No documents, clarifications to documents, Attachments, or any other materials required in the application or in support of the application will be accepted after the application deadline.**
- **Failure to deliver a fully completed application together with all required supporting materials prior to the application deadline will result in the application being rejected as incomplete.**

C. Original Signatures Required

All forms and documents provided by THDA to be completed as part of the application must bear **original** signatures where signatures are required. No photocopies, telecopies, or other reproductions of documents with signatures will be accepted on these forms and documents.

D. Rejection of Applications

THDA **will reject** any application that is not:

1. Consistent with the goals and objectives of this Allocation Plan;
2. Proposing an eligible development;
3. Complete by the application deadline;
4. From a qualified Non-Profit for purposes of the Non-Profit Set-Aside;
5. In satisfaction of the threshold criteria; or
6. Financially feasible.

All other applications will be reviewed and scored according to the procedures and criteria in this Plan.

E. Scoring, Ranking, and Notice to Applicants

1. Applications will be evaluated and scored according to the information submitted in the application and the scoring criteria stated in this Plan.
2. Applicants will be notified by May 16, 1997, in writing, of the score assigned to their application and initial ranking of their application within the applicable Set-Aside Category.

F. Challenges to Scoring

1. Any applicant who thinks that an error may have been made in scoring may submit, **in writing**, a request for review to the Executive Director of THDA.
2. Any request for review must be submitted within ten working days from the date of the written notification described in E. 2. above. The request for review must identify the scoring item challenged, **the information in the application relevant to that item**, and the reason the applicant thinks that the scoring was in error. No information submitted after the application deadline will be considered.
3. Within ten working days of receipt of a request for review, a committee composed of the Executive Director of THDA, the Chair of THDA, and the Chair of the Policy and Programs Committee of THDA will review the request, evaluate the application based on the request, and determine the final scoring for the application. **The applicant should not initiate any contact with THDA staff or the review committee during this review period.** The applicant will be notified promptly, in writing, of the committee's final determination.
4. No further review of scoring, ranking, or allocation of Tax Credits will be made.
5. After final determination of scores for all applications, the applications will be ranked and Tax Credits allocated according to the procedures below.

G. Final Ranking of Applications and Allocation of Tax Credits

THDA will allocate the available amount of Tax Credits in the Non-Profit Set-Aside, in the Bicentennial Neighborhoods Set-Aside, in the Rural Set-Aside, and in the Urban Set-Aside, based on the final scores assigned to each application and the amount of Tax Credits determined by THDA to be appropriate, according to the following procedures and provisions. **No partial allocations of Tax Credits will be made.**

1. Non-Profit Set-Aside:

- a. THDA will rank qualified applications in the initial Non-Profit Set-Aside and will make allocations beginning with the highest scoring application and will proceed down the ranking until the point is reached where the last complete allocation has been made. **No partial allocations of Tax Credits will be made.** (The limitations by county, by development, and by developer specified in Part IV. A. above, will apply.) If there are not enough tax credits remaining in the initial Non-Profit Set-Aside to make a complete allocation to the next Non-Profit application in line, the difference between the balance remaining in the initial Non-Profit Set-Aside and the amount needed to make a full allocation will be drawn from the Rural and Urban Set-Asides in amounts proportional to the Urban and Rural Set-Aside amounts.
- b. Qualified applications in the initial Non-Profit Set-Aside who did not receive allocations of tax credits will then be added to the Urban and Rural Set-Aside applications, as appropriate based on the county in which the development is located.
- c. If there are not enough qualified applications to allocate the entire amount of Tax Credits in the initial Non-Profit Set-Aside, and if there are qualified Non-Profit applications in Bicentennial Neighborhoods, these qualified Non-Profit Bicentennial Neighborhoods applications will be included in the ranking of Non-Profit applications and allocated Tax Credits from the initial Non-Profit Set-Aside. Only the highest scoring qualified Non-Profit Bicentennial Neighborhoods applications will be included sufficient to ensure full allocations of Tax Credits from the initial Non-Profit Set-Aside.
- d. If there are Tax Credits remaining in the initial Non-Profit Set-Aside after all of these steps, these Tax Credits can not be allocated to other applications.**

2. Bicentennial Neighborhoods Set-Aside:

- a. If there are not enough qualified applications to allocate the entire amount of Tax Credits in the initial Non-Profit Set-Aside, and if there are qualified Non-Profit applications in Bicentennial Neighborhoods, these qualified Non-Profit Bicentennial Neighborhoods applications will be included in the ranking of Non-Profit applications and allocated Tax Credits from the initial Non-Profit Set-Aside. Only the highest scoring qualified Non-Profit Bicentennial Neighborhoods applications will be included sufficient to ensure full allocations of Tax Credits from the initial Non-Profit Set-Aside.
- b. If Non-Profit applications are allocated Tax Credits from the initial Non-Profit Set-Aside, the amounts so allocated will count toward meeting both the Non-Profit Set-Aside and the Bicentennial Neighborhoods Set-Aside.
- c. If there are additional applications for the Bicentennial Neighborhoods Set-Aside, THDA will rank qualified applications and will make allocations beginning with the highest scoring application and will proceed down the ranking until the point is reached when the last complete allocation has been made from the Set-Aside amount.

No partial allocations of Tax Credits will be made. (The limitations by county, by development, and by developer specified in Part IV. A. above, will apply.) Any allocation made to such applications pursuant to this subsection will be deducted from the Rural and Urban Set-Asides as appropriate based on the county in which the development is located.

- d. Qualified applications for the Bicentennial Neighborhoods Set-Aside who did not receive allocations of tax credits will then be added to the Urban and Rural Set-Aside applications, as appropriate based on the county in which the development is located.

3. Rural and Urban Set-Asides:

THDA will then rank qualified applications in the Rural and Urban Set-Asides and will make allocations to qualified applications beginning with the highest scoring application in each Set-Aside and will proceed down the rankings in each Set-Aside category until the point is reached where the last complete allocation in each Set-Aside category has been made. **No partial allocations of Tax Credits will be made.** (The limitations by county, by development, and by developer specified in Part IV. A. above, will apply.)

4. Combining Remaining Tax Credits and Remaining Applications:

- a. Any Tax Credits remaining in the Rural Set-Aside and the Urban Set-Aside after steps 1, 2, and 3 above are complete will be combined with any other Tax Credits that are unallocated for any reason (from Part III. A. 3. and 4. above).
- b. All remaining qualified applications will then be ranked in two final lists: Non-Profit and Other. **Throughout the remainder of the allocations, THDA will ensure that at least ten percent (10%) of Tax Credits have been allocated to Non-Profit applications, even if a lower scoring Non-Profit application must be allocated Tax Credits before a higher-scoring Other application.** THDA will allocate any remaining Tax Credits to the remaining applications beginning with the highest scoring application, subject to the priority for Non-Profit applications, and continuing down the lists until the last complete allocation is made. **No partial allocations of Tax Credits will be made.** (The limitations by county, by development, and by developer specified in Part IV. A. above, will apply.)
- c. If the steps above leave THDA with insufficient Tax Credits to make a complete allocation to the next highest scoring application, THDA will hold the Tax Credits remaining until enough Tax Credits have been recaptured or returned for a complete allocation to be made. THDA will then make a complete allocation to the next highest scoring application (The limitations by county, by development, and by developer specified in Part IV. A. above, apply.)
- d. **If there are Tax Credits remaining in the Non-Profit Set-Aside after all qualified Non-Profit applications have received allocations of Tax Credits, these Tax Credits can not be allocated to other applications.**

H. Notification of Applicants of Allocation of Tax Credits

THDA will notify, in writing, each successful applicant of an initial reservation of Tax Credits (the "Reservation Notice"). The final amount of Tax Credits allocated to each successful applicant will be determined in connection with a Carryover Allocation and in connection with an evaluation at the time the development is placed in service, in compliance with Section 42(m)(2)(C).

I. Carryover Allocation

A development with a Reservation Notice but which will not be complete by December 31, 1997, may be eligible for a Carryover Allocation. In order to qualify for a Carryover Allocation, the applicant/developer must have ownership of the property on or before December 31, 1997, and must have spent a minimum of ten percent (10%) of the reasonably expected basis in the development on or before December 31, 1997. To file for a Carryover Allocation, the owner must, no later than December 1, 1997:

1. Complete a Carryover Allocation Application (**Form furnished by THDA**);
2. Submit the Cost Certification (**Form furnished by THDA**) for the ten percent (10%) test;
3. Submit a copy of the recorded warranty deed;
4. Submit any other development specific materials THDA may request; and
5. Execute a Carryover Allocation document (**Form furnished by THDA**).

J. Recapture Of Tax Credit Reservations / Allocations and Reallocation

1. A Reservation Notice or a Carryover Allocation will be canceled by THDA if conditions imposed in connection with the Reservation Notice or Carryover Allocation have not been fully satisfied within the deadlines established in the Reservation Notice. Any such cancellation means that the Tax Credits referred to in the Reservation Notice or Carryover Allocation are no longer available.
2. A recipient of a Reservation Notice may voluntarily return Tax Credits. Any such return means Tax Credits are no longer available for such development.
3. Any Tax Credits returned either by cancellation of a Reservation Notice / Carryover Allocation (see item 1. above) or by voluntary return (see item 2. above) will be made available as follows:
 - a. Any Tax Credits returned before October 1, 1997, will be reallocated to other qualified applications for 1997 Tax Credits as provided in this Plan;
 - b. Any Tax Credits returned on or after October 1, 1997, will be allocated pursuant to an allocation plan for 1998, if available.

K. Extension of Deadlines in Reservation Notice -- Written Requests

An extension of deadlines established in the Reservation Notice may be requested, **in writing**, to the Executive Director of THDA. The Executive Director, at his(her) sole discretion, may grant such requests if the applicant documents good cause for the request and demonstrates that new deadlines can be met. Deadlines established in Section 42 cannot be waived or extended.

L. Status Reports

All developments with a Reservation Notice shall provide status reports as requested in a format prescribed by THDA, outlining progress toward completion. Information requested will be development specific, and may include such items as zoning approvals, firm debt and/or equity financing commitments (conditioned only on receipt of Tax Credits), and construction progress.

M. Tax Credits Allocated to Specific Entities and Properties

THDA reserves and allocates Tax Credits to entities or individuals as these are identified in the original application, for specific properties as these are identified in the original application. Any changes relating to ownership or to properties may result in recapture of Tax Credits by THDA, in its sole discretion.

N. Final Cost Certification

In determining the initial amount of Tax Credits to be allocated, THDA will use the costs, incomes, and expenses submitted in the application. Following completion of construction, a certification of actual costs, incomes and expenses, including actual syndication profits must be submitted to THDA. This final certification of costs must come from an independent CPA licensed in Tennessee

O. Final Allocation/Placed in Service

When a development is placed in service, THDA will make a final allocation of Tax Credits and will issue IRS form 8609 only after receipt and evaluation by THDA of the following:

1. Final Application **(Form furnished by THDA);**
2. Applicant's Verification Form for each building in the development **(Form furnished by THDA);**
3. Final Cost Certification (See Part V. N Above) **(Form furnished by THDA);**
4. Original Recorded Land Use Restrictive Covenants **(Form furnished by THDA);**
5. Copy of the recorded warranty deed indicating ownership;
6. Copy of closing document or Deed of Trust
7. Certificate of Occupancy for each building;
8. Required Compliance Monitoring Fee; and
9. LIHTC Certificate of Compliance Training **(Form furnished by THDA).**
10. An irrevocable gross rent floor election **(Form furnished by THDA).**

THDA reserves the right to make adjustments in the amount of Tax Credits finally allocated based on the information submitted and Section 42 requirements.

Part VI: Eligibility Requirements

A. Applicants

1. All applicants who do not meet the requirements specified below for a qualified Non-Profit organization must compete for Tax Credits from the Urban Set-Aside, the Rural Set-Aside, or the Bicentennial Set-Aside, as applicable.
2. All applicants who wish to apply for Tax Credits through the Not-Profit Set-Aside must provide information satisfactory to THDA demonstrating compliance with the requirements of Section 42 (h) (5) and demonstrating the following:
 - a. The organization has its primary office in Tennessee;
 - b. The organization has been engaged in the business of fostering low-income housing in Tennessee for a minimum of two years prior to application for Tax Credits;

- c. The organization meets the requirements of Section 42(h)(5) and counsel for such an organization must so certify on (Submit **Attachment 4** with initial application). In general, a qualified Non-Profit organization must have an IRS 501(c)(3) or 501(c)(4) Certificate and must materially participate in the development and management of the development.
- d. The organization must provide a current Certificate of Existence from the Tennessee Secretary of State's Office and the IRS Certificate designating the type of Non-Profit organization.

B. Developments

1. Eligible Developments

To be eligible for an allocation of Tax Credits, a development must be a qualified low-income housing project as defined in Section 42(g), containing qualified low-income buildings as defined in Section 42(c)(2) and low-income units as defined in Section 42(i)(3). THDA, in its sole discretion, may require opinions from relevant counsel regarding transitional housing for the homeless, single room occupancy units, service provision or other matters in connection with a determination of eligibility.

2. Ineligible Developments

The following types of developments **are not eligible** for an allocation of Tax Credits:

- a. Developments presently having or proposed to have project-based subsidies under the Section 8 Moderate Rehabilitation program, unless the subsidies are tied to developments utilizing the Stewart B. McKinney Homeless Assistance Act;
- b. Developments affiliated with any person affiliated with a development that received a prior allocation of Tax Credits which failed to comply with Section 42. Ineligibility due to noncompliance shall be determined by THDA at its sole discretion;
- c. Developments that have been part of "Bargain Sales" with a "step-up" in sales price paid to an intervening Non-Profit;
- d. Developments that contain units that are not for use by the general public, including, but not limited to, hospitals, nursing homes, sanatoriums, life care facilities, trailer parks, or intermediate care facilities for persons with mental and physical disabilities;
- e. Developments in which continual or frequent nursing, medical, or psychiatric services are provided. Examples include, but are not limited to, hospitals, nursing homes, sanatoriums, life care facilities, trailer parks, or intermediate care facilities for persons with mental and physical disabilities.

C. Existing, Incremental, and New Projects

- 1. Applications for projects which have received reservations/allocations of Tax Credits within the prior five years and which are not proposing additional housing units will be considered "existing" projects. Projects which have received reservations/allocations of Tax Credits within the prior five years but which are proposing additional housing units will be considered "incremental" projects. Projects which have not previously received reservations/allocations of Tax Credits will be considered "new" projects.
- 2. "Incremental" projects will be reviewed, evaluated and scored based solely on the costs, characteristics, and other elements of the project attributable to the housing units added. None of the costs, characteristics, and other elements attributable to the existing project will be considered, evaluated, or scored. If Tax Credits are allocated to an "incremental"

project, the limitations by county, by development, and by developer specified in Part IV. A. above, will apply, based on the cumulative amount of Tax Credits allocated to the entire project.

3. If there are sufficient qualified applications for “new” projects and/or “incremental” projects, applications for “existing” projects will not be reviewed or scored, and the application fee will be returned.
4. If Tax Credits are allocated to an “existing” project, the limitations by county, by development, and by developer specified in Part IV. A. and the limits on developer’s fees, builder’s fees, and development cost per unit specified in Part XI. B., will apply, based on the cumulative amount of Tax Credits allocated to the entire project and the cumulative costs of the project.

Part VII: Threshold Criteria And Required Documentation

To be eligible to receive an allocation of Tax Credits, the following threshold criteria must be met and all required documentation listed below must be submitted on or before the application deadline. **Any application that does not include all required documentation by the application deadline will not be accepted for processing. The appropriateness and acceptability of documents will be determined by THDA, in its sole discretion.** The applicant must:

1. Submit a complete Application form with all required Attachments on or before the application deadline.
2. Include all appropriate fees, original signatures, and required documentation with the Application upon submission (See Initial Application Worksheet).
3. Have control of the property for the proposed development. Applicants must provide evidence of control in the form of a recorded deed, an executed contract for sale, or an executed option to purchase.
4. Provide commitment letters from lending entities for developments using competitive state or Federal loans or grants (i.e.: AD-622 for USDA/RD [formerly FmHA]; SAMA letter for HUD 221(d)(4)).
5. Provide evidence of a conditional loan commitment for the development in a form acceptable to THDA at the time of application. In order to qualify as a conditional commitment, the commitment must include, at a minimum, the following items:
 - a. Terms of the financing, including, but not limited to, the original amount of financing, amortization period, interest rate, balloon term and monthly payment.
 - b. Listing of all conditions which must be met prior to the issuance of a firm commitment or the closing of the financing and the date by which all conditions must be satisfied.
 - c. Commitment must be valid for at least 120 days after the application date.
6. Provide utility allowance documents (USDA/RD [formerly FmHA], HUD, PHA, utility company).
7. Provide evidence of all necessary utilities (i.e. gas, electricity, water, sewer, etc.) to site from each servicer. (Prior utility bills are not acceptable.)

8. Provide evidence from the appropriate municipal authority demonstrating that current zoning permits the development as proposed (new construction, acquisition and rehabilitation, rehabilitation only). If an existing property is currently a non-conforming use, the municipal authority must specify:
 - a. Nature of non-conformance.
 - b. Applicable destruction threshold.
 - c. Owner's rights to reconstruct in event of damage.
9. Submit verification from THDA in the form of **Attachment 2** that all such developments are in compliance with Section 42.
10. For acquisition of existing properties, provide counsel's opinion in the form of **Attachment 3** that the property complies with Section 42(d)(2)(B).
11. Submit documentation required in Part VI. A. of this Allocation Plan to be considered a qualified Non-Profit organization.
12. Submit a Market Study, if required, pursuant to Part XI. A. 2. of this Allocation Plan.
13. Submit **Attachment 5**, demonstrating notice to and an opportunity to comment by appropriate local officials.
14. Submit **Attachment 6**, if required to comply with THDA disclosure policies.
15. Demonstrate that development costs per unit do not exceed the limit established in Part XI. B.

Part VIII: Selection Criteria And Scoring

Applicants and applications that meet all eligibility requirements and satisfy all of the threshold criteria stated above will then be evaluated according to the selection criteria contained in this Part VIII. If the threshold criteria are met, THDA will score each application based on evaluation of the information provided in each application in comparison to the selection criteria stated in this Part VIII. A minimum of **300 points** of the 570 points available must be obtained to be considered a qualified application and to be included in the ranking of applications and allocation of tax credits specified in Part V. E.

Points will be awarded for Selection Criteria only if documentation, as required in this Allocation Plan and in the initial application, is submitted with the initial application and by the application deadline.

THDA will consider points claimed in connection with the following Selection Criteria to be representations and agreements of all relevant parties involved in the development reflected in the Application. THDA will rely on and seek enforcement of these representations and agreements with respect to any reservation or allocation of tax credits by all means available.

A. Development Location And Housing Needs: Maximum 125 Points

1. Developments located in counties where the annual median income is less than 80% of the state median (**Exhibit 2**): **25 points**
2. Developments in census tracts or in counties with the greatest rental housing need (**Exhibit 3**): **Maximum 25 points**

3. Developments in counties that have received the lowest aggregate per capita allocation of Tax Credits since 1987 (**Exhibit 4**): *Maximum 25 points*
4. Developments entirely and completely within a Qualified Census Tract(s) or a Difficult to Development Area(s) as designated by HUD (**Exhibit 5**): *50 points*

B. Development Characteristics: Maximum 125 Points

1. Development of rental units: *Maximum 50 points*
 - a. New Construction: *50 points*
 - b. Conversion of a building from use other than housing (i.e. school, office building, warehouse, etc.) to affordable rental housing: *40 points*
 - c. Preservation of existing affordable rental housing (major rehabilitation -- rehabilitation costs equal to more than 50% of total development cost): *for rehabilitation only, 20 points; for acquisition and rehabilitation, 25 points*
 - d. Preservation of existing affordable rental housing (minor rehabilitation -- rehabilitation costs equal to at least 25% but less than or equal to 50% of total development cost): *for rehabilitation only, 10 points; for acquisition and rehabilitation, 15 points*
2. Applicant's ability to proceed with the development: *Maximum 30 points*
 - a. Developments that are 100% complete and have been placed in service in 1997 prior to the application for Tax Credits: *30 points*
 - b. Developments that are substantially complete (90%) prior to the application for Tax Credits: *20 points*.
 - c. Developments with a firm loan commitment for construction: *10 points*
 - d. Developments with a recorded deed, demonstrating ownership: *5 points*
3. Developments that promote energy conservation by meeting the standards of the Council of American Building Officials Model Energy Code. Submit a letter with initial application from the development architect certifying that the development, following construction or rehabilitation, will meet this Code. If the development contains fewer than 10 units, a letter from the development contractor certifying that the development meets the Code will be acceptable: *10 points*
4. Developments designed and built to meet a 15-year maintenance-free exterior standard. Submit a letter with initial application from the development design architect certifying that the development, following construction or rehabilitation, will meet this standard. If the development contains fewer than 10 units, a letter from the development contractor certifying that the development meets this standard will be acceptable: *10 points*
5. Projects funded entirely from private sources. The application must demonstrate that the total development cost is funded solely from private sources (through loans and equity) and that there is no need or expectation of any governmental funding, subsidy, or support through grant, subsidized loan, tax abatement, tax increment financing, deferral of taxes, tax freeze, taxation based on less than full value, or any other non-private support or subsidy, except Tax Credits: *25 points*.

C. Sponsor Characteristics: Maximum 100 Points

1. Experience of developer with developing housing, especially low-income rental housing, in the past five (5) years (since January 1, 1992). Points will be awarded based on a calculation of a **Weighted Experience Score**. (Attachments 8 and 9) The **Weighted Experience Score** will be calculated by giving:
 - a. Full credit for Tax Credit units placed in service in Tennessee (as evidenced by IRS Form 8609);
 - b. One-half credit for other units developed in Tennessee or for Tax Credit units developed in other states (as evidenced by IRS Form 8609); and
 - c. One-quarter credit for other units developed in other states.

Maximum 50 points, according to the following schedule:

<u>Weighted Experience Score</u>	<u>Points</u>
1) Score of 200 or more	50 points
2) Score of 100-199	40 points
3) Score of 50 - 99	30 points
4) Score of 11 - 49	20 points
5) Score of 1 - 10	10 points

2. Developer, applicant, owner or general partner of owner with regard to which none of the following has occurred in Tennessee in the past two years: **50 points**
 - a. A reservation of Tax Credits was made yet the Carryover Allocation was never obtained;
 - b. A Carryover Allocation was made yet the development never received an IRS Form 8609.
 - c. An allocation of Tax Credits was made but the property failed to meet the minimum set-aside for low-income tenants.

D. Developer's Fees: Maximum 30 Points

Applications will be awarded points for developer's fees (as defined in Part XI. B. 1. of this Allocation Plan) within the following structure:

<u>Developer's Fee</u>	<u>Points</u>
a. 0% - 4.99%	30 points
b. 5% - 9.99%	20 points
c. 10% - 13%	10 points

E. Special Housing Needs: Maximum 100 Points

1. Development with units designed for large families, (i.e., three or more bedrooms):

<u>Percent of Units</u>	<u>Points</u>
a. 10%-19% (but not fewer than five units)	5 points
b. 20%-29% (but not fewer than ten units)	10 points
c. 30% or more (but not fewer than 15 units)	15 points

2. At least twenty percent (20%) of the units (but not fewer than ten units) designed for persons with disabilities: **50 points**;

3. At least fifty percent (50%) of the units (but not fewer than ten units) designed for single room occupancy: **15 points**; or
4. At least twenty percent (20%) of the units (but not fewer than ten units) intended for occupancy by the elderly (minimum age 62 years): **50 points**.

The applicant must submit evidence of client source (e.g. letter from referring agency, marketing plan, etc.). An application may meet the requirements for more than one of the preceding special needs categories, but **no more than 100 points will be awarded**.

A unit may not be counted as satisfying more than one special needs category. That is, a unit which is intended for occupancy by the elderly may not also be counted as a unit designed for persons with disabilities. Each unit may be counted only once, in only one category.

F. Lowest Income Preference: Maximum 60 Points

1. Election to set aside a minimum of twenty percent (20%) of the units for households with incomes no higher than fifty percent (50%) of the area median income: **60 points**
2. Election to set aside a minimum of ten percent (10%) of the units for households with incomes no higher than fifty percent (50%) of the area median income: **30 points**

G. Extended Use Preference: Maximum 20 Points

A binding commitment to extend the low-income occupancy requirement beyond 15 years:

Number of Years of Extended Use	Points
a. At least 5 years	20 points
b. At least 4 years, but less than 5 years	15 points
c. At least 3 years, but less than 4 years	10 points

H. Public Housing Waiting Lists: Maximum 10 Points

Marketing plans, lease-up plans, or operating policies and procedures will give a priority to persons on Public Housing Waiting lists or to persons with Section 8 Certificates or Vouchers.

I. Tie Breaker

In the event there is a tie between two or more applications at the cutoff for receipt of a Tax Credit allocation, the development requiring the least Tax Credits per unit will be given priority. If a tie remains, a committee composed of the Executive Director of THDA, the Chair of THDA, and the Chair of the Policy and Programs Committee of THDA will, in the committee's sole discretion, determine which application will be given priority.

J. Scoring Summary

Complete and submit with initial application.

Part IX: Program Fees

NOTE: ALL FEES ARE NOT REFUNDABLE

A. Application Fee

<u>Number Of Units</u>	<u>Application Fee</u>
1-4	\$ 300
5-50	\$ 600
51-100	\$ 1,000
101 +	\$ 15 per unit

The Application Fee must be submitted with the Initial Application, and is **not refundable**, except as provided in Part VI. C. 3.

B. Reservation Fee

1. If the development owner requests Tax Credits from the Non-Profit Set-Aside, a Reservation Fee equal to 2.5% of the total annual Tax Credit amount approved by THDA is due at the time a Reservation Notice is issued to the development owner. **The Reservation Fee is not refundable.**
2. For all other requests for credits, a Reservation Fee equal to 3.5% of the total annual Tax Credit amount approved by THDA is due at the time a Reservation Notice is issued. **The Reservation Fee is not refundable.**

C. Monitoring Fee

1. When the development is placed in service, a compliance Monitoring Fee is due to THDA, payable in the form of a certified check (this fee also applies to USDA/RD [formerly FmHA] developments). The Monitoring Fee must be delivered to THDA prior to the release of IRS form 8609 for the development. The Monitoring Fees for projects receiving Tax Credits according to this Plan are as follows:

<u>Number Of Units</u>	<u>Monitoring Fee</u>
1-4	\$ 800
5 or more	\$ 200 per unit

2. Following the fifth year of monitoring for each development, THDA will evaluate the need for an additional Monitoring Fee. THDA may, at its sole discretion, charge a single **additional** Monitoring Fee not greater than the initial Monitoring Fee stated above. THDA will charge this additional Monitoring Fee only if the costs of monitoring for tax credit compliance, in the aggregate, appear likely to exceed the aggregate amount of initial Monitoring Fees collected. A decision by THDA to charge any such additional fee shall not constitute an amendment to this Plan.

Part X: Compliance Monitoring

Compliance monitoring procedures apply to all buildings placed in service in Tennessee which have received Tax Credits allocated under Section 42. The current compliance monitoring procedures and requirements are as follows:

- A. Owners must certify annually (Owner's Annual Certification of Compliance) under penalty of perjury that:
 - 1. The development meets the minimum requirements of the appropriately selected test (i.e. 40/60 or 20/50) per Section 42(g)(1);
 - 2. There was no change in the applicable fraction (as defined in Section 42(c)(1)(B)) of any building in the development;
 - 3. The owner has received an annual income certification from each low-income resident and has documentation to support that certification;
 - 4. Each low-income unit is rent restricted under Section 42(g)(2);
 - 5. All units in the development are for use by the general public and are used on a nontransient basis in compliance with Section 42(i)(3);
 - 6. Each building in the development is suitable for occupancy, taking into account local health, safety, and building codes;
 - 7. There has been no change in the eligible basis (as defined in Section 42(d)) of any building in the development;
 - 8. All resident facilities included in the eligible basis under Section 42(d) of any building in the development, such as a swimming pool, other recreational facilities, and parking areas, are provided on a comparable basis without charge to all residents of the development;
 - 9. If a low-income unit has been vacant during the year, reasonable efforts have been made to rent that unit to residents having a qualifying income and while the unit has been vacant no units of comparable or smaller size have been rented to residents not having a qualifying income;
 - 10. If the income of residents of a low-income unit in the development increased above the limit allowed in Section 42(g)(2)(D)(ii), the next available unit of a comparable or smaller size was rented to residents having a qualifying income;
 - 11. The development meets special provisions as outlined in the extended use clause of the Land Use Restrictive Covenant; and
 - 12. If the building is financed by USDA/RD (formerly FmHA) under the Section 515 program, the owner certifies that the building complies with the requirements for USDA/RD assistance.
- B. THDA will conduct yearly on-site inspections of no less than 20% of developments receiving Tax Credits to review the prior year's tenant files for adherence to Section 42 occupancy and rent restrictions, and to evaluate the suitability of units for occupancy, taking into account local health, safety, and building codes.
- C. During the site inspection a review will be conducted of the owner's marketing efforts and procedures for processing Section 8 applicants for occupancy.
- D. Developments which may be, but are not required to be, exempt from annual on-site monitoring are those developments financed by the USDA/RD 515 loan program.

- E. THDA will charge fees to cover the administrative expenses of monitoring compliance and other expenses incurred in carrying out its duties as the Housing Credit Agency including but not limited to reasonable fees for legal and professional services.
- F. Owners will be allowed a 30-day correction period to provide missing documentation or to correct noncompliance. This correction period begins the earlier of the date notification specifying the missing documentation or the noncompliance is mailed, or the date of the inspection at which the missing documentation or the noncompliance is noted. An extension of up to 90 days may be requested in writing. An extension not to exceed 180 days may be granted by THDA if it is determined that there are extreme circumstances beyond the control of the owner.
- G. THDA will notify the Internal Revenue Service of an owner's noncompliance or failure to certify compliance no later than 45 days after the end of the time allowed for correction, whether or not the noncompliance or failure to certify compliance is corrected. THDA will notify the Internal Revenue Service by filing form 8823 Low-Income Housing Credit Agencies Report of Noncompliance.
- H. THDA has the right to inspect any low-income development during the compliance period including but not limited to on-site inspections and review of all records relating to compliance with Section 42 requirements. THDA may require copies of the tenant certifications and supporting documentation to be forwarded to THDA.
- I. Awareness of Section 42 provisions and compliance with requirements of Section 42 are the responsibility of the owner of the building for which the Tax Credits are allocated. THDA's monitoring of compliance with Section 42 does not make THDA or the State of Tennessee liable for an owner's noncompliance.
- J. THDA shall be entitled to amend the compliance monitoring provisions of this Allocation Plan and its Low-Income Housing Tax Credit Program as required by applicable federal statutes or regulations as amended, from time-to-time. Such amendment is expressly permitted by this Allocation Plan, and the making of such amendment will not require further public hearings. THDA, in accordance with Section 42, may impose additional requirements at its discretion in order to fulfill the objectives of its housing initiatives.
- K. Owners or their representatives are required to attend compliance training sessions provided by THDA prior to receiving the final allocating document IRS form 8609.
- L. Owners or their management staff may be required to attend compliance training sessions provided by THDA after the final allocation and during the compliance period if it is determined that noncompliance exists which could be corrected by a better understanding of the requirements.

Part XI: Miscellaneous Provisions

A. Other Information Required

1. Applications for acquisition Tax Credits

- a. All applications requesting acquisition Tax Credits must include an opinion of counsel that the property complies with Section 42(d)(2) (10-year rule). This opinion must be submitted as part of the initial application in the form of **Attachment 3**.
- b. All applications requesting acquisition Tax Credits involving five or more units must submit a market rate appraisal not including Tax Credit benefits prior to the deadline established in the Reservation Notice. The appraisal must be performed by a Certified General Appraiser, licensed in Tennessee. The acquisition cost for Tax Credit purposes shall not exceed the lesser of the purchase price or the appraised value. **Appraisals must be less than six months old at the time of submission in order to be acceptable.**

2. Market Study

- a. All applications proposing developments with five or more units must include a market study performed by an **independent third party** as part of the initial application. This study must address need and demand for the type of housing proposed and market feasibility of the proposed rent structure in a form acceptable to THDA. This market study must include, but is not limited to:
 - 1) Description of neighborhood and site;
 - 2) Current and projected need - based on length of low-income housing waiting lists or other statistical information;
 - 3) Effective demand of those households at or below the established income limits;
 - 4) Identification of any competition with the proposed development in the same market area (e.g. Tax Credits, USDA/RD [formerly FmHA], HOME, or HOUSE). If the application is for more than ten units, adequate demand for additional units in that market area must be documented;
 - 5) Color photos of neighborhood and development.
- b. For applications proposing rehabilitation, a complete and detailed work plan showing all necessary and contemplated improvements and the projected cost must be submitted with the market study.

Market studies must be less than six months old at the time of submission in order to be acceptable.

3. Syndication Information

In order to evaluate the effects of syndication on the development and the amount of Tax Credits to be allocated, the following information must be provided (**Attachment 22**):

- a. Estimated per dollar return to be made from the sale of Tax Credits;
- b. When the funds are to be paid (e.g. at construction loan closing, initial occupancy, etc.);
- c. Type of offering and investors; and
- d. The names, addresses, and telephone number of the funds or syndicators investing in the Tax Credits.

If the actual profits from syndication are unavailable at the time of initial application, the anticipated amount per Tax Credit dollar must be indicated. Upon completion of the development, the actual syndication profits must be reported before final allocation as described in Part V. N. can be made.

B. Other Program Limits

1. Limit On Developer's Fees

- a. There is a limit on the amount of developer and consultant fees allowed in development basis. The fees cannot exceed 15% of total eligible basis (acquisition cost plus rehabilitation costs, new construction) before the addition of the fees.
- b. If the developer and contractor are related parties as defined in Section 42(d)(2)(D)(iii), then the combined fees for contractor's profit, overhead, and general requirements plus the developer's and consultant's fees cannot exceed 25% of eligible basis before the addition of the contractor's profit, overhead, and general requirements and the developer's and consultant's fees.
- c. Developers who will commit to set tenant rents at 90% of the maximum allowable will be allowed an additional 2% developer's and consultant's fee (total of 17% of eligible basis for non-related entities, and 27% of eligible basis for related entities).

2. Limit On Builder's Fees

The amount of builder's fees allowed in development basis shall be limited to fourteen percent (14%) of total construction cost. The structure of this fee may not exceed the following:

Builder profit:	may not exceed six percent (6%)
Builder overhead:	may not exceed two percent (2%)
<u>Builder general requirements:</u>	<u>may not exceed six percent (6%)</u>
Total builder's fees	may not exceed fourteen percent (14%)

3. Limit On Development Costs Per Unit

The total development cost per unit may not exceed the New Construction Acquisition Cost Limits in THDA's Homeownership Program (as of the application deadline) for the county in which the development is located (**Exhibit 6**). **Applications proposing developments with total development cost per unit higher than these limits will not be considered for an allocation of Tax Credits.**

C. Developments To Be Financed With Tax Exempt Bonds

1. Fifty percent (50%) or more of the aggregate basis of a development must be financed with tax-exempt bonds to obtain Tax Credits outside the competitive allocation process described in this Allocation Plan. If less than fifty percent (50%) of the aggregate basis of a development is financed with tax-exempt bonds, the competitive allocation process described in this Allocation Plan applies. Certification from counsel or CPA will be required.
2. Developments which are not subject to the competitive allocation process must, nevertheless, make application for Tax Credits to THDA in accordance with the requirements of this Allocation Plan and must be awarded an appropriate amount of Tax Credits as determined by THDA. Section 42 applies to such developments.

3. Developments financed with tax-exempt bonds and receiving Tax Credits outside the competitive allocation process of this Allocation Plan will be subject to compliance procedures as described in this Allocation Plan.
4. Tax Credit applications for developments financed with tax exempt bonds may be submitted to THDA outside the application deadlines stated in this Plan.

D. Amendments

THDA may amend any part of this Allocation Plan following public notice and approval by the THDA Board of Directors.

E. Document Review

1. THDA will review and evaluate only those materials submitted in compliance with the requirements of this Allocation Plan. THDA will not evaluate any materials submitted outside the deadlines established for submission of such materials and will assume no obligation to request additional information from applicants for purposes of completing or supplementing applications for Tax Credits. Review by THDA of documents submitted with applications or other documents submitted in connection with the Tax Credit Program or Allocation Plan is for THDA's own purposes and is not for the purpose of advising, certifying, representing or warranting to others as to the feasibility or viability of any proposed development.
2. THDA makes no representations or warranties to applicants, developers, owners or anyone else as to compliance with Section 42, Treasury regulations, or any other laws or regulations applying to Tax Credits.

F. No THDA Liability

No member, officer, agent, or employee of THDA shall have any personal liability with respect to any matters arising out of, or in relation to, the allocation of Tax Credits or the monitoring of properties which have received Tax Credits.

Part XII: Approval By The Governor

I, Don Sundquist, the Governor of the State of Tennessee, do hereby signify my approval of this Qualified Allocation Plan for the distribution of Federal Low-Income Housing Tax Credits in this State, in conformance with Section 42 of the Internal Revenue Code of 1986, as amended.

Don Sundquist, Governor

Date