
TENNESSEE HOUSING DEVELOPMENT AGENCY

Low-Income Housing Tax Credit

Qualified Allocation Plan

1998

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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 Allocation 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 1998 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;
8. Encourage energy efficient construction and rehabilitation; and
9. Allocate Tax Credits fairly.

Part III: Tax Credits Available

A. Total Tax Credits

The total amount of Tax Credits available for allocation in Tennessee for 1998 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 any of the other Set-Asides, the amount against which the percentages will be applied will be the sum of items 1., 2., and 3. above.

B. Set-Asides

Each development may be identified as qualifying for a special allocation of Tax Credits, called a "Set-Aside." A development may qualify for consideration in one or more of the Set-Asides, if all of the qualifying conditions are met. For example, a development may qualify for consideration in the Non-Profit Set-Aside, the Small Development Set-Aside, and the Rural Set-Aside. Many other combinations are also possible. Each of the Set-Asides, together with qualifying conditions, are described below. The method by which these Set-Asides will be applied in the reservation process is described in Part VII F. of this Plan.

1. Non-Profit Set-Aside
 - a. Qualified Non-Profits (see Part IV A. of this Plan) will be considered for an allocation of Tax Credits from the Non-Profit Set-Aside.
 - b. Ten percent (10%) of the total amount of Tax Credits available for allocation in Tennessee is reserved for qualified Non-Profit applicants pursuant to Section 42(h)(5).
 - c. **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).**
2. Bicentennial Neighborhoods Set-Aside
 - a. 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.
 - b. Up to \$500,000 in 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, Small Developments, or Urban or Rural, as applicable).

3. HOPE VI Set-Aside

- a. Up to five percent (5%) of the sum of Part III A. 1., 2. and 3. will be set-aside for developments developed as part of HOPE VI grants.
- b. In order to qualify for the HOPE VI Set-Aside, the applicant must demonstrate that the proposed development would provide housing units which are an essential element of a HUD-approved HOPE VI Revitalization Program for public housing. The units must be specifically identified in the approved HOPE VI application and/or Revitalization Plan. To document qualification for this Set-Aside, the application must include with the initial application:
 1. A copy of the HOPE VI Revitalization Grant Assistance Award (form HUD-1044), which identifies the Public Housing Authority (PHA) receiving the grant; and
 2. A letter from the Executive Director of that PHA certifying that: (i) the proposed development is identified in the PHA's approved HOPE VI application or in its Revitalization Plan; (ii) the housing units are an essential element of that Plan; and (iii) the tax credits for the development are an essential component of the financing plan for the PHA's HOPE VI program.
- c. Any amount of Tax Credits allocated to HOPE VI developments will be deducted from the amount of Tax Credits set-aside for developments in the appropriate related category (Non-Profit, Bicentennial Neighborhoods, Small Developments, Urban, or Rural) as applicable.

4. Small Developments Set-Aside

- a. The Small Developments Set-Aside is intended to improve distribution of Tax Credits among developments of varying sizes and to ensure that developments developing smaller numbers of units receive full consideration. To be eligible for consideration in the Small Developments Set-Aside, the development must be 25 or fewer total units on a single site.
- b. Up to five percent (5%) of the sum of Part III A. 1., 2. and 3. will be set-aside for developments with 25 or fewer units on a single site.
- c. Any amount of Tax Credits allocated to developments in the Small Developments Set-Aside will be deducted from the amount of Tax Credits set-aside for developments in the appropriate related category (Non-Profit, Small Developments, or Urban or Rural, as applicable).

5. Urban And Rural Set-Asides

- a. 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-seven (27) urban counties and the sixty-eight (68) rural counties.
- b.
 1. To be eligible for consideration in the Urban Set-Aside, the development must be located in one the urban counties of Tennessee (Metropolitan Statistical Area or "MSA" counties) shown on **Exhibit 1** to this Allocation Plan.
 2. Sixty-eight percent (68%) of the sum of Part III A. 1., 2. and 3. above after the Non-Profit Set-Aside is deducted is available for allocation to developments in the Urban Set-Aside.
- c.
 1. To be eligible for consideration in the Rural Set-Aside, the development must be located in one of the rural counties of Tennessee shown on **Exhibit 1** to this Allocation Plan.

2. Thirty-two percent (32%) of the sum of Part III A. 1., 2. and 3. above after the Non-Profit Set-Aside is deducted is available for allocation to developments located in the Rural Set-Aside.

C. 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: Eligibility Requirements

A. Applicants

1. All applicants who wish to apply for Tax Credits through the Non-Profit Set-Aside must provide information satisfactory to THDA demonstrating compliance with the requirements of Section 42 (h) (5) and compliance with ALL of the following:
 - a. The organization must be a *bona fide* non-profit organization, as evidenced by the following:
 1. The organization must be an IRS 501(c)(3) or 501(c)(4) entity recognized by the IRS and must provide evidence (with the initial application) of such recognition from the IRS;
 2. The organization must provide (with the initial application) a current Certificate of Existence from the Tennessee Secretary of State's Office;
 3. The organization must provide **Attachment 4** (with the initial application) as evidence that the organization: (i) was not formed by one or more individuals or for-profit entities for the principal purpose of being included in the Non-Profit Set-Aside; (ii) is not to be controlled by a for-profit organization; and (iii) does not have any staff member, officer or member of the board of directors who will materially participate, directly or indirectly, in the proposed development as or through a for-profit entity;
 - b. The organization must be materially participating (regular, continuous and substantial involvement) in the development and operation of the development throughout the "compliance period" (as defined in Section 42(i)(1)) as evidenced by the following:
 1. The organization has been engaged in the business of fostering low-income housing in Tennessee for a minimum of two years prior to this application for Tax Credits; and
 2. The organization must (directly or through a partnership), prior to the reservation of Tax Credits: (i) own all of the general partnership interests of the ownership entity of the development; or (ii) own alone or with other non-profits who meet all of the requirements of this Part IV.A.1. 100% of the stock of a corporate ownership entity of the development; or (iii) own alone or with other non-profits who meet all of the requirements of this Part IV.A.1. 100% of the stock of a corporation that is the sole general partner of the ownership entity of the development;
 - c. The organization must meet all of the requirements of this section and Section 42(h)(5), and counsel for such an organization must so certify (Submit **Attachment 4** with initial application).
2. All applicants who do not meet the requirements specified above for a qualified Non-Profit organization will be placed in the Urban Set-Aside, the Rural Set-Aside, the HOPE VI Set-Aside, the Bicentennial Set-Aside, or Small Development Set-Aside as applicable.
3. Applicants must not be affiliated with any 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.

B. Developments

1. Eligible Developments

To be eligible for Tax Credits, a proposed development must meet all of the following:

- a. The development must be a qualified low-income housing development 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.
- b. 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 are not eligible for an allocation of Tax Credits.**
- c. Proposed developments that include acquisition of existing properties must meet Section 42(d)(2) (10-year rule). An opinion of counsel in the form of **Attachment 3** is required as part of the Initial Application.

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 development-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 that have been part of "Bargain Sales" with a "step-up" in sales price paid to an intervening Non-Profit;
- c. Developments that contain units that are not for use by the general public, including, but not limited to, hospitals, nursing homes, sanitariums, life care facilities, trailer parks, or intermediate care facilities for persons with mental and physical disabilities;
- d. Developments in which continual or frequent nursing, medical, or psychiatric services are provided. Examples include, but are not limited to, hospitals, nursing homes, sanitariums, life care facilities, trailer parks, or intermediate care facilities for persons with mental and physical disabilities.

C. Existing, Incremental, and New Developments

1. Applications for developments which have received reservations/allocations of Tax Credits under the 1997 Plan and which are not proposing additional housing units will be considered "existing" developments. Developments which have received reservations/allocations of Tax Credits under the 1997 Plan but which are proposing additional housing units will be considered "incremental" developments. All other developments will be considered "new" developments.
2. "Incremental" developments will be reviewed, evaluated and scored based solely on the costs, characteristics, and other elements of the development attributable to the housing units added pursuant to the application submitted for Tax Credits. None of the costs, characteristics, and other elements attributable to the existing development will be considered, evaluated, or scored. If Tax Credits are allocated to an "incremental" development, the limitations by county, by development, and by developer specified in Part V A. of this plan will apply, based on the cumulative amount of Tax Credits allocated to the entire development for 1997 and 1998.
3. If there are sufficient qualified applications for "new" developments and/or "incremental" developments, applications for "existing" developments will not be reviewed or scored, and the application fee will be returned.

4. If Tax Credits are allocated to an “existing” development, the limitations by county, by development, and by developer specified in Part V A. and the limits on developer’s fees, builder’s fees, and development cost per unit specified in Part IV B. 1. b., will apply, based on the cumulative amount of Tax Credits allocated to the entire development for 1997 and 1998 and the cumulative costs of the development.

D. Initial Application Requirements

1. Required documentation must be submitted by application deadline.

To be eligible to apply for Tax Credits, all documentation listed below is required and must be submitted in accordance with Part VII A. and C. on or before the application deadline specified in Part VII B. **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:

- a. Submit a complete Initial Application form with content, formatting and pagination identical to that of the attached initial application, with original signatures, required attachments and documentation, and two complete copies on or before the application deadline;
 - b. Include all appropriate fees with the Initial Application;
 - c. Have control of the property for the development proposed in the Initial Application specified in Part VII B. Applicants must provide evidence of control in the form of a recorded warranty, quit claim, or trustee deed, or acceptable evidence demonstrating acquisition through the power of eminent domain in the name of the ownership entity identified in the Initial Application, a contract for sale executed by the ownership entity identified in the Initial Application and from the owner of record of the property for the development proposed in the Initial Application, or an executed option to purchase executed by the ownership entity identified in the Initial Application and the owner of record of the property for the development proposed in the Initial Application. Assignments of contracts or options will not be accepted;
 - d. Submit **Attachment 2** to allow THDA to verify that any and all developments the ownership entity or its partners are presently, or have been involved with within the last year in an ownership capacity, are in compliance with Section 42;
 - e. 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);
 - f. Submit documentation required in Part IV A. 1. of this Allocation Plan to be considered a qualified Non-Profit organization;
 - g. Demonstrate that development costs per unit do not exceed the limit established in Part IV B. 1.b.
2. A minimum score of 200 points as determined by THDA must be obtained in Part VIII, Selection Criteria and Scoring to be considered as an eligible application to compete for Tax Credits.
 3. **The scoring review process in Part VII E. does not apply to the documentation required in Part IV D.**

Part V: 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 Tax Credits that may be allocated to developments in any one **urban** county shall not exceed one million five hundred thousand dollars (**\$1,500,000**). The maximum amount of Tax Credits that may be allocated to developments in any one **rural** county shall not exceed one million dollars (**\$1,000,000**). **Exhibit 1** of the application identifies urban and rural counties.
2. By Development -- The maximum amount of Tax Credits that may be allocated to a single development 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 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.
4. Tax Credits allocated to a development as part of a HOPE VI project as defined in Part III 3. for the HOPE VI Set-Aside will not be counted against the limit by county or by developer.

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 VI: Limits On Developer's and Consultants Fees, Contractor's Profit, Overhead, and General Requirements

A. Limit on Developer's Fees

1. The developer and consultant fees cannot exceed five percent (5%) on that portion of eligible basis attributable to acquisition (before the addition of the fees), and cannot exceed fifteen percent (15%) of that portion of eligible basis attributable to new construction or to rehabilitation (before the addition of the fees). If the application reflects developer and consultants fees in excess of two percent (2%) on the eligible basis attributable to the acquisition cost of the development, the application is ineligible for points under Part VIII D.
2. 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 fifteen percent (15%) of eligible basis on that portion of the development attributable to acquisition (before the addition of the fees), and cannot exceed twenty-five percent (25%) of that portion of eligible basis attributable to new construction or to rehabilitation (before the addition of the fees).

B. Limit On Builder's Fees

1. 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%)

Part VII: Allocation Process

A. Initial Application Submission

An applicant must submit a complete original Initial Application form with content, formatting and pagination identical to that of the attached Application, along with two complete copies, a certified check for the appropriate application fee, and all supporting documentation as required in Part IV D. 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. Initial Application Period and Deadlines

- **Applications will be accepted beginning at 8:30 a.m. Central Standard Time on March 23, 1998, 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 30, 1998.**
- **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 (in any color ink except black) where signatures are required. No photocopies, telecopies, or other reproductions of documents with signatures will be accepted on these forms and documents.

D. Scoring, Ranking, and Notice to Applicants

1. Applications will be evaluated and scored according to the information submitted in the Initial Application and the selection criteria and scoring stated in this Plan.
2. Notice of the score assigned to their application and initial ranking of their application within the applicable Set-Aside Category will be mailed to applicants by May 15, 1998.

E. Scoring Review

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 received by THDA no later than 4:00 p.m. Central Daylight Time June 1, 1998. The request for review must identify the **scoring** item to be reviewed, **the information in the Initial Application relevant to that item**, and the reason the applicant thinks that the scoring was in error. The request for review must contain no more than two 8 1/2 X 11 inch pages, with print on one side of each page, typed in 12 point font or larger (or legibly hand written). Requests not meeting this format will not be considered. No information submitted after the application deadline will be considered.
3. The Executive Director of THDA and the Chair 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, Executive Director, Board or the Chair during this review period.** Notice of the final decision will be mailed to the applicant no later than June 15, 1998.
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 reserved according to the procedures below.

F. Final Ranking of Applications

THDA will reserve 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.

1. Non-Profit Set-Aside:

- a. Based on the final scoring of applications, THDA will list, in ranking order, all developments qualifying in the Non-Profit Set-Aside, and will reserve Tax Credits beginning with the highest ranking application in the initial Non-Profit Set-Aside and will proceed down the ranking until the point is reached where the last complete reservation can be made. **No partial reservations of Tax Credits will be made, except pursuant to Part VII F. 6. c. 2.** (The limitations by county, by development, and by developer specified in Part V A. above, will apply.) If there are not enough Tax Credits remaining in the initial Non-Profit Set-Aside to reserve the full amount requested for 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 reservation will be drawn from the Rural and Urban Set-Asides in amounts proportional to the Urban and Rural Set-Aside amounts.

- b. After the initial Non-Profit Set-Aside is completely reserved, other qualified Non-Profit applicants who did not receive a reservation will be included and considered, along with other applicants, for the Bicentennial Neighborhoods Set-Aside, the HOPE VI Set-Aside, the Small Developments Set-Aside, the Urban Set-Aside, or the Rural Set-Aside, whichever is applicable.
 - c. **Tax Credits remaining in the initial Non-Profit Set-Aside after all of these steps will not be reserved for other applications.**
- 2. Bicentennial Neighborhoods Set-Aside:
 - a. If Non-Profit applications which are also eligible as Bicentennial Neighborhoods applications are reserved Tax Credits from the initial Non-Profit Set-Aside, the amounts so reserved will count toward meeting both the Non-Profit Set-Aside and the Bicentennial Neighborhoods Set-Aside.
 - b. If there are additional applications for the Bicentennial Neighborhoods Set-Aside, THDA will list, in ranking order, qualified applications and will make reservations beginning with the highest ranking application and will proceed down the ranking until the point is reached when the last complete reservation can be made from the Set-Aside amount. **No partial reservations of Tax Credits will be made, except pursuant to Part VII F. 6. c. 2.** (The limitations by county, by development, and by developer specified in Part V A. above, will apply.) Reservations made to 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.
 - c. After the Bicentennial Neighborhoods Set-Aside is completely reserved, other qualified applicants for developments in Bicentennial Neighborhoods who have not received a reservation will be included and considered, along with other applicants, for the HOPE VI Set-Aside, the Small Developments Set-Aside, the Urban Set-Aside, or the Rural Set-Aside, as applicable.
- 3. HOPE VI Set-Aside:
 - a. If there are applications remaining for the HOPE VI Set-Aside, THDA will list, in ranking order, qualified applications and will make reservations beginning with the highest ranking application and will proceed down the ranking until the point is reached when the last complete reservation can be made from the Set-Aside amount. **No partial reservations of Tax Credits will be made, except pursuant to Part VII F. 6. c. 2.** (The limitations by development specified in Part V A. above, will apply.) Reservations made to 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.
 - b. After the HOPE VI Set-Aside is completely reserved, other qualified applicants for developments related to HOPE VI developments which have not received a reservation will be included and considered, along with other applicants, for either the Small Developments Set-Aside, the Urban Set-Aside, or the Rural Set-Aside, as applicable.
- 4. Small Developments Set-Aside:
 - a. If there are applications remaining for the Small Developments Set-Aside, THDA will list, in ranking order, qualified applications and will make reservations beginning with the highest ranking application and will proceed down the ranking until the point is reached when the last complete reservation has been made from the Set-Aside amount. **No partial reservations of Tax Credits will be made, except pursuant to Part VII F. 6. c. 2.** (The limitations by county, by development, and by developer specified in Part V A. above, will apply.) Reservations made to 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.

- b. After the Small Developments Set-Aside is completely reserved, other qualified applicants for developments qualifying as Small Developments which have not received a reservation will be included and considered, along with other applicants, for either the Urban Set-Aside or the Rural Set-Aside, as applicable.

5. Rural and Urban Set-Asides:

THDA will then list remaining qualified applications, in ranking order, in the Rural and Urban Set-Asides and will make reservations to qualified applications beginning with the highest ranking 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 reservation in each Set-Aside category has been made. **No partial reservations of Tax Credits will be made, except pursuant to Part VII F. 6. c. 2.** (The limitations by county, by development, and by developer specified in Part V A. above, will apply.)

6. 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 through 5 above are complete will be combined with any other Tax Credits that are unallocated for any reason (from Part III A. above).
- b. All remaining qualified applications will then be listed, in ranking order, in two final lists: Non-Profit and Other. **Throughout the remainder of the reservations, THDA will ensure that at least ten percent (10%) of Tax Credits have been reserved to Non-Profit applications, even if a lower ranking Non-Profit application must be reserved Tax Credits before a higher-ranking Other application.** THDA will reserve any remaining Tax Credits to the remaining applications beginning with the highest ranking application, subject to the priority for Non-Profit applications, and continuing down the lists until the last complete reservation is made. **No partial reservations of Tax Credits will be made, except pursuant to Part VII. F. 6. c. 2.** (The limitations by county, by development, and by developer specified in Part V A. above, will apply.)
- c.
 1. If the steps above leave THDA with insufficient Tax Credits to make a complete reservation to the next highest ranking application, THDA will hold the Tax Credits remaining until enough Tax Credits have been recaptured or returned for a complete reservation to be made. THDA will then make a complete reservation to the next highest ranking application (The limitations by county, by development, and by developer specified in Part V A. above, apply.)
 2. If the Tax Credits remaining are likely to exceed one percent (1%) of the total Tax Credits available for reservation, thereby eliminating THDA from applying for Tax Credits from the National Pool in a subsequent year, then any remaining Tax Credits shall be offered as a partial reservation to the next highest ranking applicant, pursuant to this section, until the Tax Credits are accepted. (The limitations by county, by development, and by developer specified in Part V A. above, apply.) Acceptance of a partial reservation according to this provision would not classify a development as an “existing” application in subsequent years, but any limitation on Tax Credits per development in subsequent years would apply to any such partial reservation.

7. **Tax Credits remaining in the Non-Profit Set-Aside after all qualified Non-Profit applications have received reservations of Tax Credits, can not be reserved to other applications.**

G. Reservation Notice

THDA will notify, in writing, each successful applicant of an initial reservation of Tax Credits (the “Reservation Notice”). In determining the initial amount of Tax Credits to be reserved, THDA will use the costs, incomes and expenses submitted in the initial application and considered to be reasonable. The final amount of Tax Credits allocated to each successful applicant may vary from the amount specified in the Reservation Notice. Allocations 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 accordance with Section 42(m)(2).

A Reservation Notice will be canceled by THDA if conditions imposed in connection with the Reservation Notice 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 are no longer available.

H. Additional Information and Documentation Required

The Reservation Notice will specify what additional information and documentation is required and will specify a date by which such information and documentation must be submitted to THDA. At a minimum, the applicant will be required to provide the following information and documentation by the date(s) specified in the Reservation Notice:

1. Firm commitment letters for construction financing, permanent financing, and competitive state or Federal loans or grants (i.e.: AD-622 for USDA/RD [formerly FmHA]; SAMA letter for HUD 221(d)(4)) in a form acceptable to THDA;
2. Most recent utility allowance documents (from USDA/RD [formerly FmHA], HUD, local PHA, or utility company) demonstrating the basis for calculations of utility costs for the size and type of units proposed;
3. Evidence from each servicer that all necessary utilities (i.e.: electricity, gas (if proposed development utilizes gas), sewer, and water) are available at the site;
4. Evidence from the appropriate municipal authority demonstrating that current zoning permits the development as proposed (as new construction, acquisition and rehabilitation, or rehabilitation only);
5. Local Government Official Review Form (**Attachment 5**) with correct information regarding the proposed development to be forwarded by THDA to the appropriate local government official as their notice and opportunity to comment;
6. Disclosure forms for each member of the development team listed in **Attachment 10** (required regardless of whether points in Part VIII C. 4. are claimed). Original signatures (any color ink except black) are required;
7. Detailed information about the syndication transaction;
8. For applications receiving points under Part VIII B.2., Part VIII B.3. and/or Part VIII E., certification from the design architect or construction contractor, as applicable;
9. For applications requesting acquisition Tax Credits for five or more units, an “as is” market rate appraisal not including Tax Credit benefits. 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;** and

10. For applications proposing developments with five or more units, a market study performed by an **independent third party**. This study must address the need and demand for the type of housing proposed, the market feasibility of the proposed rent structure and must be in a form acceptable to THDA. For applications proposing rehabilitation, the market study must include a complete and detailed work plan showing all necessary and contemplated improvements and the projected cost. **Market studies must be less than six months old at the time of submission in order to be acceptable.**

I. Carryover Allocation

A development with a Reservation Notice but which will not be placed in service by December 31, 1998, 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 1, 1998, and must have spent a minimum of ten percent (10%) of the reasonably expected basis in the development on or before December 1, 1998. To file for a Carryover Allocation, the owner must, no later than December 1, 1998:

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 showing ownership by the ownership entity identified in the Initial Application;
4. Submit any other development specific materials THDA may request;
5. Execute a Carryover Allocation document (**Form furnished by THDA**); and
6. Make an irrevocable gross rent floor election (**Form furnished by THDA**).

The amount of Tax Credits to be allocated by a Carryover Allocation will be determined by THDA in connection with an evaluation at the time a Carryover Allocation is requested and in accordance with Section 42(m)(2). This amount may vary from the Tax Credit amount reserved in the Reservation Notice.

A Carryover Allocation will be canceled by THDA if conditions imposed in connection with the Carryover Allocation have not been fully satisfied within the deadlines established in the Carryover Allocation. Any such cancellation means that the Tax Credits referred to in the Carryover Allocation are no longer available.

J. Recapture Of Tax Credits / Allocations and Reallocation

1. A Reservation Notice or a Carryover Allocation canceled by THDA for failure to fully satisfy conditions imposed in connection with the Reservation Notice or Carryover Allocation, respectively, means that the Tax Credits referred to in the Reservation Notice or Carryover Allocation are no longer available. Such Tax Credits are recaptured by THDA, without further notice, effective as of the deadline established in the Reservation Notice or Carryover Allocation, as applicable, which was not met.
2. A Reservation Notice may be voluntarily returned. Any such return means Tax Credits are no longer available for such development.
3. Any Tax Credits recaptured either by cancellation of a Reservation Notice or 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, 1998, will be reserved to other qualified applications for Tax Credits as provided in this Plan;
 - b. Any Tax Credits returned on or after October 1, 1998, will be reserved pursuant to an allocation plan for 1999, 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, so long as any such extension request is received on or before the deadline for which an extension is requested. In the sole discretion of the Executive Director, such requests may be granted if the applicant documents good cause for the request and demonstrates that new deadlines can be met. Deadlines established by Section 42 cannot be waived or extended.

L. Status Reports

All developments with a Reservation Notice shall provide status reports outlining progress toward completion as requested and in a format as prescribed by THDA. Information requested will be development specific and may include such items as construction progress.

M. 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 of actual costs, incomes and expenses, including actual syndication profits, from an independent CPA licensed in Tennessee **(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)**.

The amount of Tax Credits allocated when a development is placed in service will be determined by THDA based on an evaluation of the above required materials and in accordance with Section 42(m). This amount may vary from the amount reserved in the Reservation Notice or allocated in the Carryover Allocation. 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 VIII: Selection Criteria And Scoring

Applicants, applications and developments that meet all eligibility requirements stated in Part IV will then be evaluated according to the selection criteria contained in this Part VIII based on an evaluation of the information provided in each Initial Application. A minimum of **200 points** of the 445 points available is required for an application to be eligible for inclusion in the ranking of the applications for the purpose of the process described in Part VII F.

In this scoring process, points will be awarded only if an application is complete and contains all required documentation, as specified in the Allocation Plan, and is submitted by the application deadline.

A. Development Location And Housing Needs: Maximum 90 Points

1. Developments located in counties where the annual median income is less than 80% of the state median (**Exhibit 2**): **15 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 1993 (**Exhibit 4**): **Maximum 25 points**
4. Developments entirely and completely within a Qualified Census Tract(s) or a Difficult to Develop Area(s) as designated by HUD (**Exhibit 5**): **25 points**

B. Development Characteristics: Maximum 80 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 -- hard 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 -- hard 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**

For developments containing a combination of these characteristics, points will be prorated based on the percentage of units in each category.

2. Developments that promote energy conservation by meeting the standards of the Council of American Building Officials Model Energy Code. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or less, following the issuance of the Reservation Notice: **10 points**
3. Developments designed and built to meet a 15-year maintenance-free exterior standard. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or less, following the issuance of the Reservation Notice: **10 points**

4. Developments 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 financial grant, land grant or gift, land sold at less than full market value, subsidized loan, tax abatement, tax increment financing, deferral of taxes, tax freeze, taxation based on less than full value, post reimbursement of any expenses or fees, or any other non-private support or subsidy, except Tax Credits: **10 points**.

C. Sponsor Characteristics: Maximum 90 Points

1. Developer, applicant, owner, or all general partners of the ownership entity (or all stockholders of a corporation that is the owner or is a general partner of the ownership entity) for the proposed development 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 development failed to meet the minimum set-aside for low-income tenants.
2. Ability to finance the development: **Maximum 5 points; choose only one (Attachment 11)** of the Initial Application
 - a. Developments with a firm loan commitment for construction: **5 points**
 - b. Developments with a firm loan commitment for permanent financing: **5 points**
 - c. Developments with a firm commitment from lending entities for developments using competitive state or Federal loans or grants (i.e.: AD-622 for Rural Development (formerly FmHA); SAMA letter for HUD 221(d)(4)). **5 points**
3. Land Ownership: **10 points**

A recorded warranty deed, quit claim deed, trustee deed, or acceptable evidence demonstrating acquisition through the power of eminent domain showing ownership by the ownership entity identified in the application.
4. Disclosure Forms (**Attachment 10** of the Initial Application) that meet the following requirements:
 - a. To be eligible for points in this Part VIII C.4., all development team members must be identified in **Attachment 10** of the Initial Application and a complete, executed disclosure form (**Attachment 6**) must be submitted for each such development team member. If **Attachment 10** is incomplete or otherwise reflects that a development team member has not been selected at the time the Initial Application is submitted, a complete, executed disclosure form (**Attachment 6**) must be submitted for each member of the development team identified on **Attachment 10**, however, NO POINTS will be awarded. NO PARTIAL POINTS will be awarded.
 - b. To receive points, all members of the development team must be identified in **Attachment 10** and the disclosure form (**Attachment 6**) for each member must meet all of the following requirements: **25 points**
 1. Responses for each question on each disclosure form (**Attachment 6**) must be entered.
 2. No felony convictions of any type within the last ten (10) years.
 3. No fines, suspensions or debarment involving financial or housing activities within the last five (5) years by any federal agency.

4. Not currently in bankruptcy.
5. Currently valid licenses from the relevant regulatory authority in the State of Tennessee. Each disclosure form must include any state (Tennessee or other state) license numbers relevant to the profession of the development team member to whom the disclosure form relates. Points will only be awarded if all members of the development team who are required to have state licenses have current, valid licenses from the State of Tennessee.
6. No suspensions of required state licenses (Tennessee or any other state) within the last ten (10) years.
7. Each disclosure form must bear the original signature of the development team member to whom the form relates.
- c. Required Disclosure Forms for all development team members must reflect no discrepancies or incomplete items, both as determined in the sole discretion of THDA.
- d. Development team member changes **MUST** be reported to THDA and each new development team member must submit a complete, executed Disclosure Form that meet the standards specified above. THDA will evaluate all such documentation to determine whether a change made will affect scoring resulting in a loss of Tax Credits.

D. Developer's Fees: Maximum 30 Points

1. Applications reflecting developer's and/or consultant's fees (as defined in Part VI A.) based on eligible basis attributable to acquisition costs in excess of 2%: **0 points**
2. Applications reflecting developer's and/or consultant's fee (as described in Part VI A.) based on eligible basis attributable to acquisition costs of 2% or less and developer's and/or consultant's fees based on eligible basis attributable to rehabilitation or new construction (see Part VI A.) with the following limits:

<u>Developer's Fee for New Construction and Rehabilitation Costs Only</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 50 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%	5 points
b. 20%-29%	10 points
c. 30% or more	15 points

2. At least twenty percent (20%) of the units designed in compliance with ADA standards for persons with disabilities. Certification from the design architect will be required on developments of 11 units or more, from contractor on 10 units or less, following the issuance of the Reservation Notice and confirmation from the supervising architect prior to issuing the IRS Form 8609: **25 points;**
3. At least fifty percent (50%) of the units designed for single room occupancy: **15 points;**
4. At least twenty percent (20%) of the units intended for occupancy by the elderly (minimum age 62 years): **25 points.**

The applicant must submit evidence of client source (e.g. letter from referring agency, marketing plan, etc.). This information will be checked in future years against existing

records by THDA's compliance staff. An application may meet the requirements for more than one of the preceding special needs categories, but **no more than 50 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 50 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: **50 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: **25 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 which will give a priority to persons on Public Housing Waiting lists or to persons with Section 8 Certificates or Vouchers.

I. Participation of Local Tax Exempt Organizations: Maximum 5 points

Applicants must document participation from local tax-exempt organizations with involvement in the community where the development will be located by submitting a letter from the local tax-exempt organization indicating what their involvement in the development will be, that their charter and bylaws allows the activity or service, and their prior experience in the community where the development will be located: **5 points**

J. Local Government Support: 20 points

1. The applicant must submit a copy of a resolution adopted by the local legislative body which acknowledges the development. The resolution must:
 - a. Identify the development by citing the name of the applicant and the developer;
 - b. Cite the exact location of the development;
 - c. Cite the number of units being developed; and
 - d. Acknowledge that the development will provide affordable housing.
2. If the development is entirely within a city, the resolution must come from the legislative body of the city; if the development is entirely outside the limits of any city in the county, the resolution must come from the county legislative body; if the development is partly within a city and partly outside the limits of the city, there must be resolutions from both the city and the county.

K. Tie Breaker

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

L. Scoring Summary

Complete and submit with Initial Application.

Part IX: Developments to be Financed With Tax Exempt Bonds

A development financed with tax-exempt bonds may be eligible for an allocation of Tax Credits outside the competitive process. The development must meet the following conditions:

- A. If fifty percent (50%) or more of the aggregate basis of a development is financed with tax-exempt bonds, the development is eligible to apply for 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. Either counsel or a Certified Public Accountant licensed in Tennessee must certify to THDA that this financing requirement will be met.
- B. 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.
- C. Developments receiving Tax Credits pursuant to this Part IX will be subject to all fees and compliance requirements and procedures as described in this Allocation Plan.
- D. Tax Credit applications for developments pursuant to this Part IX may be submitted to THDA outside the application deadlines stated in this Plan.

Part X: 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 IV 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.
- 2. For all other applicants receiving a Reservation Notice, a Reservation Fee equal to 3.5% of the total annual Tax Credit amount approved by THDA is due by the date specified in the Reservation Notice.

3. **The Reservation Fee is not refundable.**

C. Fee to Amend Application During Reservation Period

1. If, following receipt of a Reservation Notice, an applicant requests any amendment or change with respect to information contained in the Initial Application, the change will be made only if other requirements in this Part X C. are met and upon receipt of a fee equal to the greater of one-half of one percent (0.5%) of the total amount of Tax Credits reserved or \$500.
2. Changes will be reviewed and considered by THDA **only** after a Reservation Notice has been issued, through the reservation period until Tax Credits are allocated to the applicant by the execution of the Carryover Allocation document.
3. No changes will be approved which would have, in any way, affected the eligibility for Tax Credits or the scoring of the Initial Application.
4. No amendment or change may be made to the ownership entity after a Carryover Allocation has been made.
5. No changes or amendments will be made to the Initial Application after the application deadline and during application submission and review.

D. 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 developments 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 XI: 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 will physically inspect units at every development to evaluate the suitability of the development 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 90-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 and 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 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 XII: Miscellaneous Provisions

A. Amendments

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

B. Tax Credits Allocated to Specific Entities and Properties

THDA reserves and allocates Tax Credits to entities or individuals as these are identified in the Initial Application, for specific developments located on property as these are identified in the Initial Application. Any changes relating to ownership or to properties may result in recapture of Tax Credits by THDA, in its sole discretion, unless such changes or amendments have been approved in accordance with Part X C.

C. Deadlines

Due to the competitive nature of the Tax Credit reservation and allocation process, time is of the essence of this Plan. Deadlines established in this Plan and set forth in Reservation Notices or Carryover Allocations will not be waived, except as set forth in this Plan. Deadlines required by Section 42 will not be waived. TAX CREDITS WILL BE RECAPTURED IF THERE IS A FAILURE TO MEET PLAN REQUIREMENTS BY ESTABLISHED DEADLINES. No person or entity shall be entitled to rely on any waiver or extension previously granted for the purpose of obtaining subsequent waivers or extensions.

D. Document Review

- 1. THDA will review and evaluate only those materials submitted in compliance with the requirements of this 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 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.

E. 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.

F. Representations and Warranties

Claiming points in connection with the Selection Criteria in Part VIII is a representation and warranty by the applicant and all parties connected with the development proposed in the application with respect to each and every Selection Criteria item for which points are claimed. The applicant and all parties connected with the development proposed in the application intend for THDA to rely on these representations and warranties for the purpose of complying with Section 42 and for awarding Tax Credits pursuant to this Plan. By submitting an application for Tax Credits, the applicant and all parties connected with the development proposed in the application acknowledge and agree that they are entering into a contract with THDA and that they intend for THDA to rely on and seek enforcement of these representations with respect to any reservation or allocation of Tax Credits by any and all means available, including specific performance of all such representations and warranties. In the event THDA seeks enforcement of the representation and warranties made by virtue of the submission of an application for Tax Credits, THDA shall be entitled to recover all costs, expenses and fees, including without limitation, court costs, attorneys fees and staff time, from the applicant or any other party connected with the development proposed in the application.

G. False Statements

Tennessee Code Annotated Section 13-23-133 makes it a Class E felony for any person to knowingly make, utter, or publish a false statement of substance or aid or abet another person in making, uttering, or publishing a false statement of substance for the purpose of influencing THDA to allow participation in the Tax Credit Program. Any and all statements contained in applications submitted to THDA for Tax Credits or otherwise made by an applicant or other person connected in any way with an application for Tax Credits are statements of substance.

Part XIII: 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 Tax Credits in this State, in conformance with Section 42 of the Internal Revenue Code of 1986, as amended.

Don Sundquist, Governor

Date