The 2005 Low-Income Housing Tax Credit Qualified Allocation Plan
For the State of North Carolina

I. INTRODUCTION

The Qualified Allocation Plan (the Plan) has been developed by the North Carolina Housing Finance Agency (the Agency) as administrative agent for the North Carolina Federal Tax Reform Allocation Committee (the Committee) in compliance with Section 42 of the Internal Revenue Code of 1986, as amended (the Code). For purposes of the Plan, the term "Agency" shall mean the Agency acting on behalf of the Committee, unless otherwise provided.

The Plan was reviewed in one public hearing and met the other legal requirements prior to final adoption by the Committee. The staff of the Agency was present at the hearing to take comments and answer questions.

The Agency will only allocate low-income housing tax credits in compliance with the Plan. The Code requires that the Plan contain certain elements. These elements, and others added by the Committee, are listed below.

A. Selection criteria to be used in determining the allocation of federal low-income housing tax credits:
   1. Project location and site suitability.
   2. Market demand and local housing needs.
   3. Serving the lowest income tenants.
   4. Serving qualified tenants for the longest periods.
   5. Design and quality of construction.
   6. Financial structure and long-term viability.
   7. Use of federal project-based rental assistance.
   8. Use of mortgage subsidies.
   9. Experience of development team and management agent(s).
   10. Serving persons with disabilities and the homeless.
   11. Willingness to solicit referrals from public housing waiting lists.
   12. Tenant populations of individuals with children.
   13. Projects intended for eventual tenant ownership.
   14. Projects that are part of a Community Revitalization Plan.

B. Threshold, underwriting and process requirements for project applications and tax credit awards.

C. Description of the Agency's compliance monitoring program, including procedures to notify the Internal Revenue Service of noncompliance with the requirements of the program.

An allocation of tax credits does not constitute a representation or warranty that the ownership entity or its owners will qualify for or be able to use the tax credits. The Agency's interpretation of the Code is not binding on the Internal Revenue Service, and the Agency neither represents nor warrants to any owner, equity investor, Principal or other program participant how the Internal Revenue Service will interpret or apply any provision of the Code. Each owner and its agents should consult its own legal and tax advisors.

In the process of administering the low-income housing tax credit and Rental Production Program (RPP), the Agency will make decisions and interpretations regarding project applications and the Plan. Unless otherwise stated, the Agency is entitled to the full discretion allowed by law in making all such decisions and interpretations.

II. SET-ASIDES, AWARD LIMITATIONS AND COUNTY DESIGNATIONS

No county or project will be awarded tax credits for new construction exceeding $1.5 million unless doing so is necessary to meet another set-aside requirement of this Plan. No county will be awarded more than two projects under the rehabilitation set-aside. The Agency may waive the county-based limits for revitalization efforts characterized by a high degree of committed public subsidies (such as HOPE VI) or implementation of a disaster relief plan.

The Agency may allocate 2005 tax credits outside of the normal process to projects that: 1) address the loss of housing due to the effects of a natural disaster, 2) allow the Agency to comply with U.S. Department of Housing and Urban Development (HUD) regulations regarding timely commitment of funds, 3) prevent the loss of federal investment, 4) provide housing for underserved populations and/or 5) are part of a settlement agreement of legal action brought against a local government. The total amount of such allocation(s) shall not exceed $1,000,000. The Agency may also make a forward commitment of the next year's tax credits in an amount necessary to fully fund projects with a partial award or to any project application that was submitted in a prior year if such application meets all the minimum requirements of the Plan in the year credits are to be allocated. In the event that credits are returned or the state receives credits from the national pool, the Agency may elect to carry such credits forward, make an award to any project application (subject only to the nonprofit set aside), or a combination of both.

The limitations on awards listed above and those contained in Sections II(A), II(B) and II(D)(1) may be exceeded in order to completely fund a project request.

A. REHABILITATION SET-ASIDE

The Agency will award up to the lesser of the following amounts to projects proposing rehabilitation of existing housing: 1) twenty percent (20%) of the state's total federal tax credit ceiling, or 2) the amount required for ten projects. Rehabilitation projects will not be eligible for credits other than in this set-aside. These awards will be based on the criteria listed in Section IV(H) and are not subject to the geographic set-asides. Adaptive re-use projects and entirely vacant residential buildings will be considered new construction.

B. NEW CONSTRUCTION SET-ASIDES

1. HOPE VI PROJECTS

(a) The Agency will make awards of 2005 tax credits and forward commitments of 2006 tax credits to HOPE VI projects that apply in the 2005 cycle. The total amount of 2005 tax credits awarded to such projects will not exceed $3 million. The Agency will make forward commitments of 2006 tax credits for the remaining HOPE VI project applications, provided such proposals meet all Plan requirements. HOPE VI applications submitted in 2006 will be for forward commitments from the 2007 ceiling.

(b) The Agency may set conditions for the awards and forward commitments that exceed those described in the Plan. (Examples include timing of phases and making improvements to surrounding property.)

(c) Public housing authorities (PHAs) involved in more than one application will be required to indicate their priorities.

(d) The Agency will determine what qualifies as a HOPE VI project under this Section II(B)(1). The relevant factors for this determination include, but are not limited to:

(i) the proposal's need for mixed-finance approval from HUD,

(ii) participation by entities involved in the overall HOPE VI effort, and

(iii) proximity to the site of former public housing.

2. OTHER NEW CONSTRUCTION PROJECTS

The Agency has established geographic set asides for the ranking and selection of new construction projects. The Agency reserves the right to revise the available credits in each set-aside. Tax credits and RPP funds available for new construction projects will be distributed as follows:

WEST: 20%	CENTRAL: 35%	METRO: 20%	EAST: 25%

WEST		CENTRAL		METRO	EAST	
Alexander	Jackson	Alamance	Lincoln	Durham	Beaufort	Johnston
Alleghany	Macon	Anson	Montgomery	Forsyth	Bertie	Jones
Ashe	Madison	Cabarrus	Moore	Guilford	Bladen	Lenoir
Avery	McDowell	Caswell	Orange	Mecklenburg	Brunswick	Martin
Buncombe	Mitchell	Chatham	Person	Wake	Camden	Nash
Burke	Polk	Cumberland	Randolph		Carteret	New Hanover
Caldwell	Rutherford	Davidson	Richmond		Chowan	Northampton
Catawba	Surry	Davie	Rockingham		Columbus	Onslow
Cherokee	Swain	Franklin	Rowan		Craven	Pamlico
Clay	Transylvania	Gaston	Scotland		Currituck	Pasquotank
Cleveland	Watauga	Granville	Stanly		Dare	Pender
Graham	Wilkes	Harnett	Stokes		Duplin	Perquimans
Haywood	Yadkin	Hoke	Union		Edgecombe	Pitt
Henderson	Yancey	Iredell	Vance		Gates	Robeson
		Lee	Warren		Greene	Sampson
					Halifax	Tyrrell
					Hertford	Washington
					Hyde	Wayne
						Wilson

New construction applications will be awarded credits starting with those earning the highest scoring totals within each geographic set-aside and continuing in descending score order through the last project that can be fully funded. The remaining credits from all four geographic set-asides are then:

(a) allocated to one or more of the following i) the next highest scoring new construction application(s) statewide, ii) awards made outside the normal process as described above, or iii) to one or more rehabilitation applications that meet the requirements of Section IV(H), and/or

(b) carried forward and applied to the next year's federal tax credit ceiling.

C. NONPROFIT AND CHDO SET-ASIDES

If necessary, the Agency will adjust the awards under the Plan to ensure that the overall allocation results in:

1. ten percent (10%) of the state's federal tax credit ceiling being awarded to projects involving tax exempt organizations (nonprofits) and

2. fifteen percent (15%) of the Agency's HOME funds being awarded to projects involving Community Housing Development Organizations certified by the Agency (CHDOs).

Specifically, credits that would have been awarded to the lowest ranking project(s) that do(es) not fall into one of these categories will be awarded to the next highest ranking project(s) that do(es) until the overall allocation(s) reach(es) the necessary percentage(s).

In order to qualify under subsection (C)(1) above, an application must either not involve any for-profit Principals or comply with the material participation requirements of the Code, applicable federal regulations and Section VI(A)(2). In order to qualify under subsection (C)(2) above, an application must meet the requirements of subsection (C)(1) above, 24 CFR 92.300(a)(1) and any other regulation regarding the federal CHDO set-aside. The Agency may determine that the requirements of the federal CHDO set-aside have been or will be met without implementing this subsection.

D. LIMITATION OF AWARDS TO PRINCIPALS

1. Any Principal will be limited to an award of a) not more than fifteen percent (15%) of the total tax credits available and b) two rehabilitation projects under Section II(A). Rehabilitation awards will count against the fifteen percent (15%) total.

2. Each PHA will be limited to two (2) tax credit awards per annual award cycle, including all HOPE VI activity. Forward commitments will be counted in the following year's cycle (thus one PHA may have four awards over two years). This limitation:

   (a) includes entities that are related to the PHA, including (but not limited to) those with an overlap between the board and/or staff of the PHA,

   (b) applies where the PHA or related entity meets the definition of Principal or either of the two will have a right of first refusal, and

   (c) does not apply where the only involvement of the PHA or related entity is as a lender or a provider of project-based rental assistance.

   The application of this Section II(D)(2) on project proposals, entities and their participation will be determined by the Agency.

E. COUNTY INCOME DESIGNATIONS

Pursuant to N.C.G.S. § 105-129.42(c) the Agency is responsible for designating each county as High, Moderate or Low Income. Five criteria were used for making this determination:

- County median income
- Poverty rate
- Percent of population in rural areas
- Regional growth patterns
- Enterprise area tier (one through five)

Each county was considered as a whole and evaluated relative to others in the state. Based on this process, the Agency designates counties as follows:

HIGH	MODERATE		LOW		
Alamance	Alexander	Henderson	Alleghany	Graham	Pasquotank
Cabarrus	Brunswick	Lee	Anson	Greene	Pender
Catawba	Buncombe	Lincoln	Ashe	Halifax	Perquimans
Chatham	Burke	Moore	Avery	Hertford	Richmond
Durham	Caldwell	Nash	Beaufort	Hoke	Robeson
Forsyth	Carteret	Onslow	Bertie	Hyde	Rockingham
Guilford	Cleveland	Person	Bladen	Jackson	Rutherford
Iredell	Craven	Pitt	Camden	Jones	Sampson
Johnston	Cumberland	Polk	Caswell	Lenoir	Scotland
Mecklenburg	Dare	Randolph	Cherokee	Macon	Surry
New Hanover	Davidson	Rowan	Chowan	Madison	Swain
Orange	Davie	Stanly	Clay	Martin	Tyrrell
Union	Franklin	Stokes	Columbus	McDowell	Vance
Wake	Gaston	Transylvania	Currituck	Mitchell	Warren
	Granville	Watauga	Duplin	Montgomery	Washington
	Harnett	Wayne	Edgecombe	Northampton	Wilkes
	Haywood	Wilson	Gates	Pamlico	Yancey
		Yadkin			

III. DEADLINES AND FEES

A. APPLICATION AND AWARD SCHEDULE

The following schedule will apply to the 2005 application process for 9% tax credits. Applicants seeking a tax exempt bond allocation and 4% tax credits should refer to the application schedule in **Appendix G**.

January 7	Deadline for submission of preliminary applications (12:00 noon, no exceptions)
February 28	Market analysts will mail studies to the Agency and applicants
March 11	Notification of final site scores
March 18	Deadline for market-related project revisions
March 25	Market analysts will mail comments on revisions to the Agency and applicants
April 15	Notification of market scores and initial evaluation of rehabilitation projects
May 6	Deadline for full applications (12:00 noon, no exceptions)
August	Notification of final reservations

The Agency reserves the right to change the schedule as necessary.

B. APPLICATION AND ALLOCATION FEES

1. All applicants are required to pay a nonrefundable fee of $5,260 at the submission of the preliminary application. This fee covers the cost of the market study or physical needs assessment and a $1,060 preliminary application processing fee (which will be assessed for every electronic application submitted). The Agency may charge additional fee(s) to cover the cost of direct contracting with other providers (such as appraisers).

2. All applicants are required to pay a nonrefundable processing fee of $1,060 upon submission of the full application.

3. Entities receiving 9% credit awards are required to pay a nonrefundable allocation fee equal to the greater of:

   (a) 0.52% of the project's total qualified basis (line 58 on the Project Development Costs page) or,

   (b) seventy-five hundred dollars ($7,500).

   The allocation fee must be paid to the Agency upon the earlier of return of the reservation letter or carryover allocation agreement. Failure to return the required documentation (such as ownership entity information) and fee by the date specified may result in cancellation of the tax credit reservation. The fee for entities receiving tax-exempt bond volume is specified in **Appendix G**.

4. If expenses for legal services are incurred by the Committee or Agency to correct mistakes of the Owner which jeopardize use of the tax credits, such legal costs will be paid by the Owner in the amount charged to the Agency or the Committee.

5. The Agency will not process applications or other documentation relating to any Principal who has an outstanding balance of fees owed.

NOTE: The nonrefundable processing fee will be increased by two percent (2%) each year.

C. MONITORING FEES

The following must be paid prior to the issuance of a federal form 8609:

Project Type	Federal Credits Only	Federal and State Tax Credits
Tax credit projects without an Agency loan, including projects using tax-exempt bond financing and 4% credits	$425 per unit	$525 per unit
Projects using RD 515 financing without RPP funding	$250 per unit	$350 per unit
Projects receiving an RPP loan, regardless of RD financing.	$500 per unit	$600 per unit
Projects including market-rate units, regardless of other financing.	$500 per unit	$600 per unit

The monitoring fee is applied to **all units in a project**, including all market rate units and units reserved for managers or other personnel.

IV. SELECTION CRITERIA AND THRESHOLD REQUIREMENTS

Each new construction project will be ranked and evaluated using the points and criteria described in Sections IV(A), IV(B), IV(C), IV(D), IV(E), IV(F) and IV(G) below. The Agency will not accept a full application where the preliminary application does not meet all site and market threshold requirements.

Applications must meet all threshold requirements and receive 200 points to be considered for award and funding. Projects applying under Section II(B)(1) (the HOPE VI set-aside) must receive 220 points. The minimum point threshold for tax-exempt bond financing applications is 160 points. Even with an allocation of bond authority, projects must meet the minimum score and threshold requirements to be eligible for tax credits. Rehabilitation projects will not receive point scores but instead will be evaluated using the criteria listed in Section IV(H) (thus all references to receipt of points only apply to new construction projects). All threshold requirements also apply to rehabilitation projects unless otherwise noted. Scoring and threshold determinations made in prior years are not binding on the Agency for the 2005 cycle.

A. SITE AND MARKET EVALUATION (MAXIMUM 155 POINTS)

1. SITE EVALUATION (MAXIMUM 140 POINTS)

(a) Site scores will be based on the following factors. Each will also serve as a threshold requirement: the Agency may remove an application from consideration if the site is sufficiently inadequate in one of the categories. Evaluation of sites will involve a relative comparison with other applications in the same geographic set-aside, with an emphasis on those the Agency considers to be within the same market area. Criteria involving consideration of land uses will focus on the area within approximately one-half mile. The Agency will consider revitalization plans and other proposed development based on certainty, extent and timing. Where appropriate, the score for a particular category will reflect the project's tenant type (family/elderly/special needs).

(i) NEIGHBORHOOD CHARACTERISTICS (MAXIMUM 40 POINTS)
- Trend and direction of real estate development and area economic health.
- Physical condition of buildings and improvements.
- Concentration of affordable housing.

(ii) SURROUNDING LAND USES AND AMENITIES (MAXIMUM 65 POINTS)
- Suitability of surrounding development
- Land use pattern is residential in character (single and multifamily housing) with a balance of other uses (particularly retail and amenities).
- Availability, quality and proximity of services, amenities and features: grocery store; mall/strip center; gas/convenience; basic health care; pharmacy; schools/athletic fields; day care/after school; supportive services, public park, library, hospital,

community/senior center, basketball/tennis courts, fitness/nature trails, public swimming pool, restaurants, bank/credit union, medical offices, professional services, movie theater, video rental, public safety (fire/police).

- Effect of industrial, large-scale institutional or other incompatible uses, including but not limited to: wastewater treatment facilities, high traffic corridors, junkyards, prisons, landfills, large swamps, distribution facilities, frequently used railroad tracks, power transmission lines and towers, factories or similar operations, sources of excessive noise, and sites with environmental concerns (such as odors or pollution).
- Amount and character of vacant, undeveloped land.

(iii) SITE SUITABILITY (MAXIMUM 35 POINTS)

- Adequate traffic controls (stop lights, speed limits, turn lanes, etc.).
- Burden on public facilities (particularly roads).
- Access to mass transit (if applicable).
- Degree of on-site negative features and physical barriers that will impede project construction or adversely affect future tenants; for example: power transmission lines and towers, flood hazards, steep slopes, large boulders, ravines, year-round streams, wetlands, and other similar features (for adaptive re-use projects- suitability for residential use and difficulties posed by the building(s), such as limited parking, environmental problems or the need for excessive demolition).
- Similarity of scale and aesthetics/architecture between project and surroundings.
- Visibility of buildings and/or location of project sign(s) in relation to traffic corridors.

(b) General Site Requirements

- Sites must be sized to accommodate the number and type of units proposed. Required zoning must be in place by the full application submission date, including any special use permits, traffic studies, conditional use permits and other land use requirements.
- The applicant or a Principal must have site control by the preliminary application deadline, which may be evidenced by a valid option, contract or warranty deed. The documentation of site control must include a plot plan.
- Utilities (water, sewer and electricity) must be available with adequate capacity to serve the site. Sites should be accessed directly by existing paved, publicly maintained roads. If not, it will be the applicant's responsibility to extend utilities and roads to the site. In such cases, the applicant must explain and budget for such plans at the preliminary application stage, as well as document the applicant's right to perform such work through, for example, language in the real estate option/contract, separate contract or consent by the city or town.

2. MARKET ANALYSIS (MAXIMUM 15 P0INTS)

(a) The Agency will contract directly with market analysts to perform studies for new construction projects. Applicants may interact with market analysts in order to make appropriate project design and targeting adjustments. Applicants will have an opportunity to revise their project (unit mix, targeting) based on the market analyst's recommendations; such revisions may increase the market score. Any revisions must be submitted in writing to both the market analyst and to the Agency, following the schedule in Section III(A).

(b) A project will not receive tax credits or RPP funding if it is in the same market area as previously funded tax credit or RPP projects (including earlier phases of the same overall development) which have not reached stabilized occupancy or a recent history of high vacancy rates. The Agency will only waive these limitations if it determines there is a strong demand for all units involved. The Agency will limit the number of projects awarded in the same application round to those that it determines can be supported in the market.

(c) A maximum of fifteen (15) points may be awarded to applications for new construction projects using the following criteria, each of which will also serve as a threshold requirement.
- The project's required market share, or the percent of income qualified households seeking housing that the project would need to capture to achieve stabilized occupancy.
- The number of months between project completion and stabilized occupancy.
- The vacancy rate at comparable properties (what qualifies as a comparable will vary based on the circumstances).
- The project's affect on existing or awarded 9% tax credit properties.

(d) The Agency is not bound by the conclusions or recommendations of the market analyst(s), and will use its discretion in evaluating the criteria listed in this Section. For rehabilitation and 100% special needs projects, the applicant must submit a market study that meets the requirements of Section 42(m)(1)(A)(iii) of the Code prior to issuance of a carryover allocation (unless the Agency requires an earlier submission date).

(e) Applications for 100% special needs housing also will be eligible to earn points under this Section. The score will be based on the needs analysis component of the targeting plan. Any points would be determined during the full application review process.

B. RENT AFFORDABILITY (MAXIMUM 55 POINTS)

1. FEDERAL RENTAL ASSISTANCE (MAXIMUM 10 POINTS)

(a) A maximum of ten (10) points will be awarded for a firm commitment of federal project-based rental subsidies for at least twenty percent (20%) of total project units. Applicants proposing to convert tenant-based Housing Choice Vouchers (Section 8) to a project-based subsidy (pursuant to 24 CRF Part 983) must submit a letter from the issuing authority in a form approved by the Agency.

(b) Applicants must include a written agreement between the owner and a PHA. The agreement must commit (i) the PHA to include the development in any listing of housing opportunities where households with tenant-based subsidies are welcome, and (ii) the project's management agent to actively seek referrals from the PHA to apply for units at the proposed development. If the PHA refuses to cooperate for any reason, an explanation must be submitted as well as a statement of commitment by the applicant to seek referrals from the PHA. This requirement does not apply to projects with rental assistance provided through RD.

2. MORTGAGE SUBSIDIES AND LEVERAGING (MAXIMUM 30 POINTS)

(a) Only loans from the following sources will be considered:
- the local PHA,
- Community Development Block Grant (CDBG) Small Cities program funds (for on-site improvements only),
- HUD Section 108, 202 or 811,
- Federal Home Loan Bank Affordable Housing Program,
- local government housing development funds and
- RD Section 515.

Other sources of public funding may qualify **PROVIDED THEY ARE APPROVED IN WRITING IN ADVANCE** by the Agency. (Approval of a particular source in prior years does not meet this requirement.) In order to qualify, loans must be listed as a source in the full application, comply with the requirements of Section VI(B)(6)(b), and either:

(i) have a term of at least twenty (20) years and an interest rate less than or equal to two percent (2%) or

(ii) have a term of at least forty (40) years, an interest rate of the long-term applicable federal rate (AFR) and a source that is a “below market federal loan” under Section 42(i)(2)of the Code.

(b) Adjustments to the purchase price of the land by the seller, uncommitted RPP funds or other Agency loans, state credits and bond financing are not considered sources of mortgage subsidy.

(c) Applications will be awarded five (5) points for having a commitment of at least $100,000 in qualifying mortgage subsidy funds. Projects will earn a greater amount of points based on the total amount of funds per unit, as described below:

Funds/Unit	Points	$10,000	20
$5,000	10	$11,000	22
$6,000	12	$12,000	24
$7,000	14	$13,000	26
$8,000	16	$14,000	28
$9,000	18	$15,000	30

The calculation includes all units and amounts will not be rounded up. The funds-to-unit ratio initially approved by the lending source determines the score, unless a subsequent change results in fewer points. The amount of subsidy provided by a local government will be reduced by the amount that the project budget includes the following: any impact, tap or related fees charged by that local government and/or the cost of land sold by that local government in excess of the market value determined under Section VI(A)(4). For example, a project involving the following:

- 48 tax credit units and 16 market rate units,
- a commitment of $925,000 in qualifying funds, $150,000 of which are from the city and
- tap fees of $100,000 charged by the same city to the project

will receive 24 points [(925,000 - 100,000) / 64 = $12,891 per unit].

(d) Projects funded entirely with equity and state tax credits (no grants or debt sources other than deferred developer fees) will be awarded 15 points. Any deferred fee must comply with Section VI(B)(5). These points and those awarded under subsection (B)(2)(c) above are mutually exclusive.

(e) Applications for NC Division of Community Assistance (DCA) CDBG funds must be submitted at the same time as the Agency’s full application deadline and must be committed by June 11, 2005. Commitment of other local government funds may be delayed with prior approval by the Agency.

3. TENANT RENT LEVELS (MAXIMUM 15 POINTS)

(Projects will be monitored for rent and occupancy restrictions for the period indicated in the extended use agreement.)

Applicants should understand that electing to meet the requirements of this Section will reduce the number of potential tenants for certain units, which may be reflected in the market score. The application may earn points under one of the following scenarios:

(a) If the project is in a High Income county:
- Ten (10) points will be awarded if at least twenty-five percent (25%) of qualified units will be affordable to and occupied by households with incomes at or below thirty percent (30%) of county median income.

- Five (5) points will be awarded if at least fifty percent (50%) of qualified units will be affordable to and occupied by households with incomes at or below forty percent (40%) of county median income.

(The two options for point scoring in this subsection (3)(a) above are mutually exclusive.)

(b) If the project is in a Moderate Income county:
- Fifteen (15) points will be awarded if at least twenty-five percent (25%) of qualified units will be affordable to and occupied by households with incomes at or below forty percent (40%) of county median income.
- Ten (10) points will be awarded if at least fifty percent (50%) of qualified units will be affordable to and occupied by households with incomes at or below fifty percent (50%) of county median income.

(The two options for point scoring in this subsection (3)(b) above are mutually exclusive.)

(c) If the project is in a Low Income county, fifteen (15) points will be awarded for projects in which at least forty percent (40%) of qualified units will be affordable to and occupied by households with incomes at or below fifty percent (50%) of county median income.

(d) In order to be eligible for tax credits, applications for new construction tax exempt bond projects must meet one of the following requirements:
- at least ten percent (10%) of total units will be affordable to and occupied by households with incomes at or below fifty percent (50%) of county median income, or
- at least five percent (5%) of total units will be affordable to and occupied by households with incomes at or below forty percent (40%) of county median income.

(e) Ten (10) points will be awarded to applications for new construction tax exempt bond projects that meet one of the following requirements:
- at least twenty percent (20%) of total units will be affordable to and occupied by households with incomes at or below fifty percent (50%) of county median income, or
- at least ten percent (10%) of total units will be affordable to and occupied by households with incomes at or below forty percent (40%) of county median income.

4. COMMITMENT TO EXTEND LOW-INCOME OCCUPANCY

Applicants must agree to record a 30-year Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (Extended Use Agreement) stating that the owner (a) will not apply for relief under Section 42(h)(6)(E)(i)(II) of the Code, (b) will not refuse to lease any residential unit in the Project to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder, and (c) will comply with other requirements under the Code, Plan, other relevant statutes and regulations and all representations made in the project application. The Extended Use Agreement may also contain other provisions as determined by the Agency.

C. PROJECT DEVELOPMENT COSTS AND RPP LIMITATIONS

1. NEGATIVE POINTS FOR PROJECT DEVELOPMENT COSTS

The Agency will assess negative points to applications using either the following “per unit” or “per net square foot” standards (total replacement costs less land and reserves) outlined in **Chart A** below, whichever is less.

(a) The point structure in **Chart B** will apply to the following:
- detached single family or duplex developments with 25 units or less,
- 100% severe mobility impairment housing,
- HOPE VI projects,
- unique downtown circumstances and
- projects utilizing historic tax credits.

RPP loan funds will be limited by HOME Per-Unit Subsidy Limits and HOME Per-Unit Cost Limits. Copies of all executed change orders must be submitted to the Agency.

(b) In addition to land and reserves, the following will be subtracted from total replacement costs before the calculation in this Section IV(C) is made (each as determined by the Agency):
- equity raised from historic preservation tax credits,
- water and sewer tap fees and impact fees (provided that the applicant has included documentation from the local government verifying the amount of fees required) and
- the costs directly associated with a Community Service Facility.

The Agency may waive all negative points for projects that include residential building(s) with both steel and concrete construction and at least four (4) stories of housing (adaptive re-use projects are not eligible for this waiver).

(c) Chart A and Chart B:

CHART A			
Per Unit	OR	Per Net Sq. Ft.	Points
$78,000		$78	-4
$81,000		$81	-6
$84,000		$84	-8
$87,000		$87	-10
$90,000		$90	-15
$93,000		$93	-20
$96,000		$96	-30
$99,000		$99	-40

CHART B			
Per Unit	OR	Per Net Sq. Ft.	Points
$90,000		$90	-4
$93,000		$93	-6
$96,000		$96	-8
$99,000		$99	-10
$102,000		$102	-15
$105,000		$105	-20
$108,000		$108	-30
$111,000		$111	-40

Note: The Agency may compare what is represented in 2005 applications with the actual cost of construction as reflected in the final cost certification. In the event that a project's actual costs would have resulted in negative points that were not assessed in the 2005 cycle, those points may be applied to the application(s) of any Principal involved in any future year.

2. RESTRICTIONS ON RPP AWARDS

To receive an RPP loan, projects must not a) have total replacement costs (less reserves) per unit in excess of $90,000 b) request RPP loan funds in excess of the following amounts per unit: $15,000 in High Income counties; $20,000 in Moderate Income counties; $25,000 in Low Income counties or c) include market-rate units. Subsection (C)(2)(b) above does not apply to projects with funds committed by RD. Subsection (C)(2)(a) above does not apply to projects eligible for Chart B. The total RPP loan amount cannot exceed $1 million per project.

D. CAPABILITY OF THE PROJECT TEAM

1. DEVELOPMENT EXPERIENCE

(a) At least one Principal must have successfully developed, operated and maintained in compliance either (i) one North Carolina low-income housing tax credit development or (ii) eight separate low-income housing tax credit developments totaling in excess of 200 units. The development(s) must have been placed in service between December 1, 1997 and January 1, 2004. (The Agency may waive this requirement for applicants with adequate experience in the North Carolina tax credit program.) Such Principal must:

- be identified in the preliminary application,
- become a general partner or managing member of the ownership entity, and
- remain responsible for overseeing the development and operation of the project for a period of two (2) years after placed in service.

This requirement will not apply to HOPE VI developments. The Agency will determine what qualifies as successful and who can be considered as involved in a particular project.

(b) All owners and Principals **must** disclose all previous participation in the low-income housing tax credit program. Additionally, all owners and Principals that have participated in an out of state tax credit allocation must complete the Authorization for Release of Information form and send it to each state identified.

(c) The Agency reserves the right to determine that a particular development team does not meet the threshold requirement of this Section due to differences between its prior work and the proposed project. Particularly important in this evaluation is the type of subsidy program used in the previous experience (such as tax-exempt bonds, RD).

2. MANAGEMENT EXPERIENCE

The management agent must have at least a) one similar tax credit project in their current portfolio and b) one staff person serving in a supervisory capacity with regard to the project who has been certified as a tax credit compliance specialist. Such certification must be from an organization accepted by the Agency (refer to the list in **Appendix C**). None of the persons or entities serving as management agent may have in their portfolio a project with material or uncorrected non-compliance beyond the cure period. The management agent listed on the application must be retained by the ownership entity for at least two (2) years after project completion, unless the agent is guilty of specific nonperformance of duties.

3. PROJECT TEAM DISQUALIFICATIONS

The Agency may disqualify any owner, Principal or management agent, who:

(a) has been debarred or received a limited denial of participation in the past 10 years by any federal or state agency from participating in any Agency multifamily development program;

(b) within the past ten years has been in a bankruptcy, an adverse fair housing settlement, an adverse civil rights settlement, or an adverse federal or state government proceeding and settlement;

(c) has been in a mortgage default or arrearage of three months or more within the last five years on an FHA-insured project, an RD funded rental project, a tax-exempt bond funded mortgage, an Agency loan, a tax credit project or any other publicly subsidized project (resolution of all outstanding Agency concerns regarding the default or arrearage may be considered in assessing disqualification);

(d) has been involved within the past ten years in a project which previously received an allocation of tax credits but failed to meet standards or requirements of the tax credit allocation and/or failed to fulfill one of the representations contained in an application for tax credits (this includes returning an allocation of tax credits to the Agency after the carryover agreement has been signed);

(e) has been found to be directly or indirectly responsible for any other project in which there is uncorrected noncompliance more than three months from the date of notification by the Agency or any other state allocating agency;

(f) interferes with a tax credit application for which it is not an owner or Principal at public hearing or other official meeting; or

(g) is not in good standing with the Agency.

E. UNIT MIX AND PROJECT SIZE

1. Ten (-10) points will be subtracted from any project where more than twenty percent (20%) of the total units are market-rate units. This penalty will not apply where, as of the full application, the rents for all market rate units are at least five percent (5%) higher than the maximum allowed for a unit at 60% AMI and the market study indicates that such rents are feasible.

2. New construction 9% credit projects may not exceed 100 units.

3. New construction bond financed projects may not exceed 180 units.

The Agency reserves the right to waive the penalties and limitations in this Section IV(E) for proposals that reduce low-income and minority concentration, and subsection IV(E)(3) for proposals that are within a transit station area as defined by the Charlotte Region Transit Station Area Joint Development Principles and Policy Guidelines.

F. SPECIAL CRITERIA AND TIEBREAKERS (MAXIMUM 30 POINTS)

1. HUD AND RD PROGRAMS (MAXIMUM 15 POINTS)

(a) Fifteen (15) points will be awarded to projects that have an obligation of funds from RD Section 515, the HUD 202 or 811 programs, including project based rental assistance appropriate for the project.

(b) Five (5) points will be awarded to applications that (i) include a written commitment under the RD Section 538 program and (ii) can demonstrate that the guarantee will benefit the project.

2. COMMUNITY REVITALIZATION PLANS (MAXIMUM 10 POINTS)

Ten (10) points will be awarded to applications if all of the following apply:

(a) the project is within the area identified by a community revitalization plan (CRP);

(b) the project is in a Qualified Census Tract and/or the CRP is primarily focused on an existing residential neighborhood;

(c) the project is consistent with and contributes to the CRP; and

(d) meets one of the following sets of criteria: (i) the CRP was officially adopted by a local government after January 1, 1998, there is a specific timetable and funding commitment; and some of the progress or improvement described in the CRP is visibly evident, (ii) the activities described in the CRP are well underway, with at least some having been completed, or (iii) the proposed project includes a Community Service Facility.

3. UNITS FOR THE MOBILITY IMPAIRED (MAXIMUM 5 POINTS)

Five (5) points will be awarded to projects designed to increase the stock of housing accessible to those with mobility impairments. To receive bonus points, five percent (5%) of all project units must:

(a) be fully accessible according to the standards set forth in Volume 1-C (1999) of the North Carolina State Building Code, (Chapter 30, Multi-Family Dwellings),

(b) have at least one bathroom with a toilet located in a five foot by five foot clear floor space (may overlap with the five foot turning diameter described in Chapter 30), with no overlapping elements or fixtures; the toilet must be positioned in a corner with the centerline of the toilet bowl 18 inches from the sidewall, and

(c) have at least one bathroom with a 36 inch by 60 inch (minimum size) curbless, roll-in shower. Such showers must also meet the requirements for accessible controls as required by Volume 1-C.

At least one unit in each class of fully accessible units must meet the above requirements. Unit classes are measured by the number of bedrooms, pursuant to Volume 1-C (1999) of the North Carolina State Building Code (Chapter 30, Section 30.3.2.) These units are in addition to mobility impaired units required by federal and state law (including building codes).

4. TARGETING PLANS

All projects will be required to target the greater of five (5) units or ten percent (10%) of the total units to persons with disabilities or homeless populations. (The five unit minimum does not apply to applications without federal project-based rental assistance.) Projects that are targeting units under this Section are not required to provide onsite supportive services or a service coordinator. Project owners must demonstrate a partnership with a local lead agency and submit a Targeting Plan for review and certification by the N.C. Department of Health and Human Services (DHHS).

At a minimum, Targeting Plans must include:

(a) A description of how the development will meet the needs of the targeted tenants including access to supportive services, transportation, proximity to community amenities, etc.

(b) A description of the experience of the local lead agency and their capacity to provide access to supportive services, and to maintain relationships with the management agent and community service providers for the duration of the compliance period.

(c) A Memorandum of Understanding (MOU) between the developer(s), management agent and the lead local agency. The MOU will include:

(i) A commitment from the local lead agency to provide, coordinate and/or act as a referral agent to assure that supportive services will be available to the targeted tenants.

(ii) The referral and screening process that will be used to refer tenants to the development, the screening criteria that will be used, and the willingness of all parties to negotiate reasonable accommodations to facilitate the admittance of persons with disabilities into the development.

(iii) A communications plan between the development management and the local lead agency that will accommodate staff turnover and assure continuing linkages between the development and the local lead agency for the duration of the compliance period.

(d) Certification that participation in supportive services will not be a condition of tenancy (not required for projects where all of the units are providing transitional housing for the homeless).

(e) Agreement that for a period of ninety (90) days after the initial rent-up period begins, the number of units specified in the application for persons with disabilities will be held vacant other than for such population(s).

(f) Agreement to maintain a separate waiting list for persons with disabilities and prioritizing these individuals for any units that may become vacant after the initial rent-up period, based upon the minimum number of units specified in the application.

(g) Agreement to affirmatively market to persons with disabilities.

(h) Agreement to include a section on reasonable accommodation in property management's application for tenancy.

(i) Agreement to accept Section 8 vouchers or certificates (or other rental assistance) as allowable income as part of property management income requirement guidelines for eligible tenants and not require total income beyond that which is reasonably available to persons with disabilities currently receiving SSI and SSD benefits.

The requirements of this Section IV(F)(4) may be fully or partially waived to the extent the Agency determines that they are not feasible. A detailed description of the elements to be addressed in the Targeting Plan is included in **Appendix D**. Applicants will agree to complete the requirements of this Section IV(F)(4) and **Appendix D** by the earlier of July 29, 2006 or four months prior to the project's placed in service date. (The Agency may set additional interim requirements.) This Section IV(F)(4) does not apply to tax-exempt bond applications.

5. TIEBREAKER CRITERIA

The following will be used to award credits in the event that the final scores of more than one project are identical.

(a) First Tiebreaker - The project requesting the least amount of federal tax credits per unit based on the Agency's equity needs analysis.

(b) Second Tiebreaker - Tenants with Children: Projects that can serve tenant populations with children. Developments will qualify for this designation if at least twenty-five (25%) of the units are three or four bedrooms. This tiebreaker will only apply where the market study shows a clear demand' for this population (as determined by the Agency).

(c) Third Tiebreaker - Tenant Ownership: Projects that are intended for eventual tenant ownership. Such developments must utilize a detached single family site plan and building design and have a business plan describing how the project will convert to tenant ownership at the end of the 30-year compliance period.

In the event that a tie remains after considering the above tiebreakers, the project requesting the least amount of federal tax credits will be awarded the credits.

G. DESIGN STANDARDS (MAXIMUM 80 POINTS)

All proposed measures must be shown on the plans or in specifications in the application in order to receive points.

1. A maximum of eighty (80) points will be awarded for new construction projects based on the following criteria.

(a) Site plan considerations: A maximum of fifteen (15) points will be given for projects which
- Propose an attractive, scattered building layout focusing on visual appeal and privacy;
- Propose exterior amenities, including the following: resident garden plots; playground; tot lot; basketball court; volleyball court; walking trails; fitness stations; gazebo/arbor; picnic area with tables/grilles; horseshoe pit; shuffleboard; car care area with vacuum; fenced ball field; swimming pool; covered drive-through at entry; flag pole; sitting areas; covered drop off at entry; large fountain; tennis court; irrigated lawns; garages/covered parking; bike racks; bus shelter; creating accessible walks linking buildings to each other, to common areas and to parking; having large open spaces for recreational activities, having a well-designed entry to the site with attractive signage, lighting and landscaping

- Propose interior amenities, including the following: screened porch; sunroom with chairs; exercise room; exam room; reading room/library; game/craft room; resident computer center; TV room; beauty salon; vending area; storage for elderly projects; a Community Service Facility; providing high-speed Internet access (involves both a data connection in the living area of each unit that is separate from the cable/telephone connection and support from a project-wide network or a functional equivalent).

Other amenities may be used, but will require Agency approval prior to full application. In order to receive points, the items listed above must be clearly indicated on the site drawings.

(b) Building and floor plan design: A maximum of forty-five (45) points will be given for projects which

- Propose creative and versatile architectural designs. Examples of exterior building designs include broken roof lines, front gables, dormers or front extended facades, wide banding and vertical and horizontal siding applications, some brick veneer, front porches and attractive deck rail patterns.
- Propose open, flowing floor plans. Examples include spacious kitchens, bathrooms, living rooms and dining rooms, dwelling units that exceed minimum square footages, bedrooms that exceed minimum square footages, bathrooms that are large with vanities and open floor spaces, kitchens that provide an abundance of counter top working space and cabinets, availability of storage space other than bedroom closets, and the adequacy of closet space, including large walk-in closets.

(c) Construction characteristics: A maximum of twenty (20) points will be given to projects which

- Propose low maintenance, high durability, energy efficient products, and quality components. Examples include: High-grade vinyl or VC tile in kitchens, bathrooms, entryways, and laundry areas.
- Propose energy efficient components that exceed Agency and/or building code minimum standards.
- Propose measures to provide good attic and roof ventilation, use vinyl or aluminum windows and steel insulated exterior doors.
- Propose to use quality exterior siding, such as vinyl, hardiplank, or brick veneer and have pre-finished aluminum exterior trim, including fascia, soffit, and porch posts.

2. Completion of previously approved projects: Negative points will be assessed for projects with owners or Principals of prior project(s) that were not built in accordance with the plans and specifications on which such prior project(s') Design Standards score was based, if deviation from such plans and specifications results in conditions that would justify a reduction in that prior project(s') original Design Standards score(s). The number of negative points assessed to the project in the current year will be equal to the cumulative number of points by which each such prior project's original Design Standards score would have been so reduced to reflect the deviation, adjusted to reflect any change in the scale of the Design Standards scoring. For example, if the reduction in the prior project's Design Standards score as a result of the deviation from its plans and specifications is determined to be 10 points based on a scale of 50 maximum Design Standards points at the time such prior project was awarded credits, if there is a current scale of 100 maximum Design Standards points, the negative points assessed to the current project based on that prior project's deviation from its plans and specifications would be 20 points. Design and construction changes approved in writing by the Agency will not result in any negative points assessed under this Section.

3. The minimum threshold requirements for design are found in **Appendix B** and must be used for all projects receiving tax credits and/or RPP funding. These minimum requirements include, but are not limited to, standards in the following areas: on-site postal and laundry facilities; community/office space; on-site parking and refuse collection areas; exterior and interior building design; plumbing and electrical provisions; heating, ventilating and air conditioning provisions; sitework; bedrooms, bathrooms and kitchens; provisions for all elderly housing; provisions for sight and hearing impaired residents; Fair

Housing, Americans with Disabilities Act and the North Carolina State Accessibility Code requirements; and additional architectural requirements for renovation of existing apartment projects.

H. CRITERIA FOR SELECTION OF REHABILITATION PROJECTS

1. THRESHOLD REQUIREMENTS

In order to be eligible for funding under Section II(A), a project must:

(a) have either (i) committed mortgage subsidies from a local government in excess of $5,000 per unit or (ii) federal project-based rental assistance for at least thirty percent (30%) of the total units,

(b) have been placed in service on or before December 31, 1986,

(c) require rehabilitation expenses in excess of $15,000 per unit (as supported by a physical needs assessment approved by the Agency),

(d) not have an acquisition cost in excess of sixty percent (60%) of the total replacement costs, and

(e) not be feasible using tax exempt bonds (as determined by the Agency).

The assessment must be performed by a licensed architect or engineer and involve the physical inspection of the site, amenities, dwelling units and any common areas. Rehabilitation expenses include hard construction costs directly attributable to the project, excluding costs for a new community building, as calculated using lines 2 through 7 (less line 6) in the Project Development Cost Description.

The thresholds and criteria for rehabilitation applications utilizing tax exempt bonds are in **Appendix G**.

2. EVALUATION CRITERIA

The Agency will evaluate applications based on the following criteria, which are listed in order of importance. Each one will serve both to determine allocations and as a threshold requirement; the Agency may remove an application from consideration if the proposal is sufficiently inadequate in any of the categories. For purposes of making awards, the Agency will not consider subsections (e) through (i) below if the outcome is determined by the criteria in subsections (a) through (d).

(a) The Agency will give the highest priority to applications proposing to rehabilitate the state's most distressed existing housing. However, buildings that are deteriorated to the point of requiring demolition will not be eligible for credits under this Section.

(b) The Agency will give priority to applications that propose a scope of work appropriate to the building(s), as reflected in the Physical Needs Assessment. (Proposals may not involve unnecessary work.) Specifically, proposals should involve the following:

- Making "common areas" handicap accessible, creating or improving sidewalks, installing new roof shingles, adding gutters, sealing brick veneers, applying exterior paint, and resurfacing or re-paving parking areas.
- Improving site and exterior dwelling lighting, landscaping/fencing, and installing high-quality vinyl or hardiplank siding.
- Adding gables, porches, dormers or roof sheds.
- Use energy-efficient related products to replace inferior ones, including insulated windows and doors, and adding additional insulation.
- Improving heating and cooling units, plumbing fixtures, water heaters, toilets, sinks, faucets and tub/shower units.
- Improving quality of interior conditions and fixtures, including carpet, vinyl, interior doors, painting, drywall repairs, cabinets, appliances, light fixtures and mini-blinds.

- Where possible, upgrading bathrooms pursuant to Section IV(F)(3).

(c) Applications will have a reduced likelihood of being awarded credits to the extent that the purpose is to subsidize an ownership transfer.

(d) Shortcomings in the above three criteria will be mitigated to the extent that a tax credit allocation is necessary to prevent i) conversion of units to market rate rents or ii) loss of government resources (including past, present and future investments).

(e) The Agency will give priority to applications that have mortgage subsidy resources committed as part of the application.

(f) Applications will have priority to the extent that the rehabilitation improvements are a part of a community revitalization plan and/or will benefit the surrounding community. However, projects in severely distressed areas will have a reduced likelihood of being awarded credits.

(g) Applications will have a reduced likelihood of being awarded credits based on the number of tenants that would be permanently relocated (including market-rate).

(h) The Agency will give preference to applications based on the quality of and degree of effort proposed in the temporary and permanent relocation plans.

(i) While allocation of rehabilitation tax credits is not subject to any regional set-aside, the Agency will consider the geographic distribution of this resource and will attempt to avoid a concentration of awards in any one area of the state.

I. PRIORITY FOR ALLOCATION OF BOND CAP

Applicants proposing to use tax-exempt bonds with 4% tax credits must meet all of the requirements of the Plan and **Appendix G** (incorporated herein by reference) to claim such credits. The Committee will allocate the multifamily portion of the state's tax-exempt bond authority in the following order of priority:

1. Projects that serve as a component of an overall HOPE VI revitalization effort.

2. Rehabilitation projects.

3. Adaptive re-use projects.

4. Other new construction projects.

Applications will only be allocated bond authority if there is enough remaining after awarding all eligible applications in higher priority levels. Within each category, allocation priority will be based on the relevant scoring and threshold requirements of Section IV.

V. APPLICATION PROCEDURES AND REQUIREMENTS

A. GENERAL

1. The Agency may require applicants to submit any information, letter or representation relating to Plan requirements or point scoring as part of the application process. Unless otherwise noted, the Agency may elect to not consider information submitted after the relevant deadline.

2. Any failure to comply with an Agency request under subsection (A)(1) above or any misrepresentation, false information or omission in any application document may result in disqualification of that application and any other involving the same owner(s), Principal(s), consultant(s) and/or application preparer(s). Any misrepresentation, false information or omission in the application document may

result in a revocation of a credit allocation.

3. The Agency may elect to treat applications involving more than one site or population type (family/elderly) as separate for purposes of the Agency's preliminary application process. Each application would require a separate initial application fee. Projects may be considered one application in the full application submission if all sites are secured by one permanent mortgage and are not intended for separation and sale after receipt of the tax credit allocation.

B. APPLICATION PROCESS

1. Applications, correspondence and supporting materials may be submitted to the Agency as follows:

Deliver to:	Mail to:
North Carolina Housing Finance Agency	North Carolina Housing Finance Agency
Rental Investment	Rental Investment
3508 Bush Street	P.O. Box 28066
Raleigh, NC 27609	Raleigh, NC 27611-8066

2. The Agency will notify the appropriate unit of government about the project after submission of the full application. The Agency reserves the right to reject applications opposed in writing by the chief elected official (supported by the council or board), but is not obligated to do so.

3. Applicants may be assessed a fee of up to $500 for each instance of failure to comply with a written requirement of the tax credit application process (whether or not such requirement is in the Plan).

4. The Agency will send site score information to each applicant (upon request) after publication. The market analyst will send studies to the Agency and applicant.

VI. GENERAL REQUIREMENTS

A. GENERAL THRESHOLD REQUIREMENTS FOR PROJECT PROPOSALS

1. Projects with Historic Tax Credits: Buildings either must be on the National Register of Historic Places or approved for the State Housing Preservation Office's study list at the time of the full application. Evidence of meeting this requirement should be provided.

2. Nonprofit Set-Aside: For purposes of being considered as a nonprofit sponsored application under Section II(C), at least one nonprofit entity (or, where applicable, its qualified corporation) involved in a project must: (a) be qualified under Section 501(c)(3) or (4) of the Code, (b) be domesticated in North Carolina for at least 12 months prior to submitting an application, (c) materially participate, as defined under federal law, in the acquisition, development, ownership, and ongoing operation of the property for the entire compliance period, (d) have as one of its exempt purposes the fostering of low-income housing, (e) own, directly or indirectly, an equity interest in the applicant and (f) be a managing member or general partner of the applicant.

   The Agency reserves the right to make a determination that the nonprofit owner is not affiliated with or controlled by a for-profit entity or entities other than a qualified corporation. There can be no identity of interest between any nonprofit owner and for-profit entity, other than a qualified corporation.

3. Environmental Hazards: All projects involving use of existing structures must submit a hazardous material report which provides the results of testing for asbestos containing materials, lead based paint, Polychlorinated Biphenyls (PCBs), underground storage tanks, petroleum bulk storage tanks, Chlorofluorocarbons (CFCs), and other hazardous materials. The testing must be performed by professionals licensed to do hazardous materials testing. A report written by an architect or building contractor or developer will not suffice. A plan and projected costs for removal of hazardous materials must also be included.

4. Appraisals: The Agency will not allow the project budget to include more for land costs than the lesser of its appraised market value or the purchase price. Any project budgeting more than $15,000 per acre toward land costs must submit with the full application a real estate "as is" appraisal that is a) dated no more than six (6) months from the full application deadline, b) prepared by an independent, state certified appraiser and c) complies with the Uniform Standards of Professional Appraisal Practice. The Agency may require appraisals in its discretion where cost per acre is below this amount. Appraisals for rehabilitation and adaptive re-use projects must break out the land and building values from the total value.

5. Concentration: Projects cannot be in areas of minority and low-income concentration (measured by comparing the percentage of minority and low-income households in the site's census tract with the community overall). The Agency may make an exception for projects in economically distressed areas which have community revitalization plans with public funds committed to support the effort.

6. Displacement: In every instance of tenant displacement, the applicant must supply with the full application a plan describing how displaced persons will be relocated, including a description of the costs of relocation. The applicant is responsible for all relocation expenses, which must be included in the project's development budget. Applicants must also comply with either the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if using RPP or federal funds, or **Appendix F** if not.

7. Tax Information Authorization: Applicants must submit an executed IRS Form 8821 with their full applications; every owner should submit a separate form.

8. Feasibility: The Agency will not allocate tax credits or RPP funding to an application that will have difficulty being completed and/or operated for the compliance period. Examples include projects that may not secure an equity investment or maintain adequate cash flow.

B. UNDERWRITING THRESHOLD REQUIREMENTS

The following minimum financial underwriting requirements apply to all projects. Projects that cannot meet these minimum requirements, as determined by the Agency, will not receive credits or RPP funding.

1. Loan Underwriting Standards:

   (a) Projects applying for tax credits only will be underwritten with rents escalating at three percent (3%) and operating expenses escalating at four percent (4%).

   (b) All projects will be underwritten assuming a constant seven percent (7%) vacancy and must reflect a 1.15 Debt Coverage Ratio (DCR) for the term of any debt financing on the project. Projects with less than forty (40) units must also demonstrate $150 per unit per year of net cash flow for the first fifteen (15) years. This does not apply to projects with rental assistance provided through RD.

   (c) RPP loans will be underwritten using a twenty (20) year term and a two percent (2%) interest rate. The Agency may, in its discretion, alter these terms to ensure project feasibility. Rents for projects utilizing HOME funds will not exceed the Fair Market Rents established by HUD. Underwriting of applications with a commitment from RD will incorporate the requirements of that program, and any RPP loan will have a 30 year term (fully amortizing) and zero percent (0%) interest.

   (d) The Agency may determine that the interest rate on a loan must be reduced where an application shows an excessive amount accruing towards a balloon payment.

2. Operating Expenses:

   (a) New construction (excluding adaptive re-use): $2,300 per unit per year not including taxes, reserves and resident support services.

(b) Renovation (includes rehabilitation and adaptive re-use): $2,500 per unit per year not including taxes, reserves and resident support services.

(c) Owner projected operating expenses will be used if they are higher than Agency minimums. The proposed management agent (or management staff if there is an identity of interest) must sign a statement (to be submitted with the full application) agreeing that the operating expense projections are reasonable.

3. Equity Pricing:

The Agency will conduct a survey of tax credit equity investors to determine appropriate pricing assumptions. Projects will be underwritten using the greater of this amount and the applicant's projection.

Equity should be calculated net of any syndication fees. Bridge loan interest typically incurred by the syndicator to enable an up front payment of equity should not be charged to the project directly, but be reflected in the net payment of equity. Equity should be based on tax credits to be used by the investor(s), excluding those allocated to the Principals unless these entities are making an equity contribution in exchange for the tax credits.

4. Reserves:

(a) Rent-up Reserve: Required for all except bond financed projects. A reasonable amount must be established based on the projected rent-up time considering the market and target population, but in no event shall be less than $300 per unit. These funds must be available to the management agent to pay rent-up expenses incurred in excess of rent-up expenses budgeted for in the project development costs. The funds are to be deposited in a separate bank account and evidence of such transaction provided to the Agency 90 days prior to the expected placed in service date. All funds remaining in the rent-up reserve at the time the project reaches ninety-three (93%) occupancy must be transferred to the project operating reserve account.

For those projects receiving loan funds from RD, the 2% initial operating and maintenance capital established by RD will be considered the required rent-up reserve deposit.

(b) Operating Reserve: Required for all projects except those receiving loan funds from RD. The operating reserve will be the greater of a) $1,500 per unit or b) six month's debt service and operating expenses, and must be maintained for the duration of the low-income use period.

Projects receiving RPP funds must capitalize the operating reserve account prior to the RPP loan closing. The Agency must approve any withdrawals from the operating account to meet project's operating deficits.

The operating reserve can be funded by deferring the developer's fees of the project. If this method is utilized, the deferred amounts owed to the developer can only be repaid from cash flow if all required replacement reserve deposits have been made. For tax credit projects where no RPP loan applies, the operating reserve can be capitalized by an equity pay in up to one year after certificate of occupancy is received. This will be monitored by the Agency.

(c) Replacement Reserve: All new construction projects must budget replacement reserves of $250 per unit per year. Rehabilitation and adaptive re-use projects must budget replacement reserves of $350 per unit per year. The replacement reserve must be capitalized from the project's operations, escalating by four percent (4%) annually. Projects with an RPP loan must have Agency approval of withdrawals for capital improvements throughout the term of the loan.

In both types of renovation projects mentioned above, the Agency reserves the right to increase the required amount of annual replacement reserves if the Agency determines such an increase is warranted after a detailed review of the project's physical needs assessment.

For those projects receiving RD loan funds, the required funding of the replacement reserve will be established, administered and approved by RD, and the replacement reserve will not escalate annually.

Funds remaining in the operating and replacement reserve accounts at the end of the RPP loan term must be used for project maintenance costs approved by the Agency or applied against the loan.

5. Deferred Developer Fees:

Developer fees can be deferred to cover a gap in funding sources as long as:

(a) the entire amount will be paid within ten (10) years and meets the standards required by the IRS to stay in basis,

(b) the deferred portion does not exceed fifty percent (50%) of the total amount as of the full application, and

(c) payment projections do not negatively impact the operation of the project.

Each of these will be determined by the Agency. Nonprofit organizations must include a resolution from the Board of Directors allowing such a deferred payment obligation to the project. The developer may not charge interest on the deferred amount in excess of the long term AFR.

6. Financing Commitment:

(a) For all projects proposing **private** permanent financing, a letter of intent is required. This letter must clearly state the term of the permanent loan is at least eighteen (18) years, how the interest rate will be indexed and the current rate at the time of the letter, the amortization period, any prepayment penalties, anticipated security interest in the property and lien position. The interest rate must be fixed and no balloon payments may be due for eighteen (18) years. The bank must complete a cover letter using the format approved by the Agency, and submit it with the letter of intent. Applicants must submit a letter of commitment for financing within 90 days of receiving an award of tax credits.

(b) Other than as stated in Section IV(B)(2)(e), all projects proposing **public** permanent financing, binding commitments are required to be submitted by the full application due date. All loans must have a fixed interest rate and no balloon payments for at least eighteen (18) years after project completion. A binding commitment is defined as a letter, resolution or binding contract from a unit of government. The same terms described for the letter of intent (using the format approved by the Agency) from a private lender must be included in the commitment.

(c) Applications may only include one set of proposed funding sources; the Agency will not consider multiple financial scenarios. A project will be ineligible for allocation if any of the listed funding sources will not be available in an amount or under the terms described in the application. The Agency may, in its discretion, waive this limitation if the project otherwise demonstrates financial feasibility.

7. Developer/Builder Fees:

(a) Developer's fees shall be a maximum of fifteen percent (15%), or a lesser percentage adjusted for project size as described below. The Agency calculates developer's fees by adding lines 2-37 less lines 8 and 9 from the Project Development Cost Description in the application and multiplying by the applicable percentage to determine the maximum allowable developer fee.

up to 64 units	15%
65-112 units	12.5%
113 units plus	10%

In addition to the fees described above, a maximum developer's fee of four percent (4%) is allowed on the acquisition cost of buildings (not including land value/cost).

(b) Builder's general requirements shall be limited to six percent (6%) of hard costs.

(c) Builder's profit and overhead shall be limited to ten percent (10%) (8% profit, 2% overhead) OF TOTAL HARD COSTS including general requirements.

(d) Where an identity of interest exists between the owner and builder, the builder's profit and overhead shall be limited to eight percent (8%) (6% profit, 2% overhead).

8. Consulting Fees: Consulting fees for a project must be paid out of developer fees, so that the aggregate of any consulting fees and developer fees is no more than the maximum developer fee allowed to that project.

9. Architects' Fees: The architects' fees, including design and inspection fees, shall be limited to four percent (4%) of the total hard costs plus general requirements, overhead, profit and construction contingency (total of lines 2 through 10 on the Project Development Cost Description).

10. Investor Services Fees: Investor services fees must be paid from net cash flow and not be calculated into the minimum debt coverage ratio.

11. Project Contingency Funding: All new construction projects shall have a hard cost contingency line item of NO MORE THAN three percent (3%) of total hard costs, including general requirements, builder profit and overhead. Rehabilitation and adaptive re-use projects shall include a hard cost contingency line item of NO MORE THAN six percent (6%) of total hard costs.

12. Project Ownership: There must be common ownership between all units and buildings within a single project for the duration of the compliance period.

13. Section 8 Project-Based Rental Assistance: For all projects that propose to utilize Section 8 project-based rental assistance, the Agency will underwrite the rents according to the tax credit and HOME limits. These limits are based on data published annually by HUD. If the Section 8 contract administrator is willing to allow rents above these limits, the project may receive the additional revenue in practice, but Agency underwriting will use the lower revenue projections regardless of the length of the Section 8 contract.

    Given the uncertainty of long-term federal commitment to Section 8 rental assistance, the Agency considers underwriting to the more conservative revenue levels to best serve the project's long-term financial viability.

14. Any water, sewer, and tap fees charged to the project must be entered on a separate line item of the Project Development Costs page. Any application that does not include these costs must provide a letter from the local provider that no fees will be charged.

VII. POST-AWARD PROCESSES AND REQUIREMENTS

A. GENERAL REQUIREMENTS

1. The tax credit reservation amount will be the total anticipated qualified basis amount multiplied by eight and one half percent (8.5%), or three and three quarters percent (3.75%) for the 4% credit. The actual tax credits allocated will be the lesser of the tax credits reserved, the applicable federal rate multiplied by

qualified basis (as approved by the Agency), or the amount determined by the Agency pursuant to its evaluation as required under Section 42(m)(2) of the Code.

2. Ownership entities must a) expend ten percent (10%) of the project's reasonably expected basis by a date to be determined by the Agency and b) submit to the Agency a completed carryover agreement and cost certification by a date to be determined by the Agency. (This requirement also applies to projects with partial allocations.) Failure to meet these deadlines will preclude the project from participation in the state credit program. Pursuant to Section VI(B)(6), the Agency may determine that an awarded application listing state tax credits as a source of funding is ineligible for allocation due to failure to comply with the requirements of this Section. Projects will be required to elect a project-based allocation.

3. Once approved, the ownership entity will proceed to acquire, construct or rehabilitate the project. The ownership entity is required to update the Agency on the progress of development by submitting a Project Status Report. Sixty days prior to occupancy, the Agency must be notified in writing of the targeted project completion date. Upon completion for occupancy, the ownership entity must notify the Agency and furnish a completed Final Cost Certification form. The cost certification must include all project costs along with a certification for any subsidies the project will receive. Final IRS Section 1.42-17 Regulations effective January 1, 2001 require that the taxpayer of all projects in excess of ten units, which are placed in service after January 1, 2001, regardless of the year of credit allocation, submit a schedule of project costs accompanied by a Certified Public Accountant's (CPA) audit report that details the project's total costs as well as those that may qualify for inclusion in eligible basis under Section 42(d) of the Code. A third party CPA verification is required for cost certification on two or more units. The Agency may require an independent cost analysis.

4. Projects must meet all applicable federal, state and local laws and ordinances, including the Code and Fair Housing Act; the Agency may treat any failure to do so as a violation of the Plan.

5. Allocated credits may also be returned to the Agency under the following conditions as further described in Treasury Regulation Section 1.42-14: (a) credits have been allocated to a project building that is not a qualified building within the time period required by the Code, for example, because it is not placed in service within the period required under the Code, (b) credits have been allocated to a building that does not comply with the terms of its allocation agreement, (c) credits have been allocated to a project that are not necessary for the financial feasibility of the project, or (d) by mutual written agreement between the allocation recipient and the Agency. Returned credits may include credits previously allocated to project that fails to meet the 10% test under Section 42(b)(1)(E)(ii) of the Code after close of calendar year in which allocation was made. Credits that are returned before October 1 in any calendar year are treated as credits returned in that calendar year, and all or a portion of such credits will be reallocated to the next highest ranked project(s) without a full allocation in that region and in that calendar year, pursuant to the terms of the Plan or, in the Agency's discretion, when appropriate and possible, carried over for allocation in the next calendar year. With respect to credits that are returned after September 30 in any calendar year, all or a portion of such credits may also be reallocated to the next ranked project(s) without a full allocation in that calendar year pursuant to the terms of the Plan, or all or a portion of such credits may be treated by the Agency, in its discretion, where appropriate and possible, as credits that are returned on January 1 of the succeeding calendar year to be allocated in that year.

   By the time of the earlier of the date the project is placed in service, in the case of a carryover allocation, or by the 10% cost certification qualifying expenditures must have been incurred in the ownership entity's name or incurred by the ownership entity pursuant to a reimbursement agreement with a third party and such third party has incurred such expenditures by the time of 10% cost certification.

6. The Agency may conduct construction inspections for adherence to approved final plans and specifications.

7. The owner of the project must sign and record the Extended Use Agreement in the county in which the project is located by the end of the first year after the tax credits are allocated. The owner must have

good and marketable title at that time, and must obtain the consent of any lienholder on the project property recorded prior to the Extended Use Agreement (other than a lienholder relative to the financing of the construction of the project that by its terms will be cancelled within one year of the last building in the project being placed in service) to be bound by the terms of this Extended Use Agreement.

8. The Agency may revoke credits after the project has been placed in service in accordance with the Code if the Agency determines that the owner has failed to implement all representations in the application to the Agency's satisfaction.

9. Federal form 8609 will not be issued until:

   (a) the owner and/or management company produces evidence of attending a low-income housing tax credit compliance seminar sponsored either by the Agency or a sponsor acceptable to the Agency <u>within the last 12 months;</u>

   (b) the Agency confirms that the monitoring fees have been paid and that the project has adhered to all representations made in the application (including design elements); and

   (c) the project demonstrates that it will meet all relevant Plan requirements.

   The Agency may require evidence of escrowed funds to complete landscaping.

10. In making application for tax credits, the applicant agrees that the Committee, the Agency, and their designees will have access to any information pertaining to the project. This includes having physical access to the project, all financial records and tenant information for any monitoring that may be deemed necessary to determine compliance with the Code. Applicants are advised that the Agency, on behalf of the Committee, is required to do compliance monitoring and to notify the IRS and the owner of any discovered noncompliance with tax credit laws and regulations, whether corrected or uncorrected. The Agency intends to conduct desk audits and monitoring visits of projects for the purpose of evaluating continuing compliance with tax credit regulations, selection criteria used to award bonus points, ensuring that the project continues to provide decent, safe and sanitary housing. The Agency will periodically modify monitoring procedures to ensure compliance with the requirements set forth in the Code and from time to time amended.

NOTE: Applicants are advised that some portion or all of a project's application may be subject to disclosure to the public under the North Carolina Public Records Act.

B. STATE TAX CREDITS

As the administrative agent for state credit refunds issued under N.C.G.S. § 105-129.42, the Agency has a responsibility to ensure that ownership entities do not receive resources ahead of corresponding value being created in the project. Therefore the following restrictions will apply to the state tax credit refund program.

1. Loan Option: Loans made by the Agency pursuant to N.C.G.S. § 105-129.42(d) will not be closed until the outstanding balance on the first-tier construction financing exceeds the total state credit amount; the entire loan must be used to pay down a portion of the then existing construction debt.

2. Direct Refund Option: The Agency and ownership entity will enter into an escrow agreement with regard to the refund dollars. The agreement will state, among other reasonable limitations, that issuance of the funds under N.C.G.S. § 105-129.42(g)(1) will not occur until all of the following requirements have been met:

   (a) at least fifty percent (50%) of the activities included in the project's eligible basis have been completed;

(b) the Agency and local government inspector have conducted their framing inspections and approved all buildings (including community facilities); and

(c) the outstanding balance on the first-tier construction financing exceeds the total state credit amount (the entire refund must be used to pay down a portion of the then existing construction debt).

Applicants must indicate which of the two options will apply to the project as part of the full application process; such decision may not be changed for the carryover allocation. Ownership entities will have to fully comply with the Plan, including Section VII(A)(2), to be eligible for participation in the state tax credit program. The Agency may adopt other policies regarding the state tax credit after adoption of the Plan. Owners, partners, members, developers or other Principals (and their affiliated entities) that are involved in a violation of any state tax credit requirement or fail to place a project in service after taking a loan or refund may, in the Agency's discretion, be assessed up to forty (-40) negative points or disqualified from participation in Agency programs.

C. COMPLIANCE MONITORING

Applicants will be required to utilize the TCR Online Internet reporting system (or other system as designated by the Agency) to update the Agency database on project and building information and unit activity. The database should be updated within 30 days of any change in information. Applicants will also be required to submit to the Agency a copy of the IRS form 8609 and Schedule A filed with the IRS for the first year credits are claimed.

The Agency will conduct on-site inspections and desk audits of at least one third of the projects under its jurisdiction. If projects are determined to be in noncompliance, monitoring may occur more often. The desk audit and inspection will include a project review of twenty percent (20%) of the units for the following:

- Tenant eligibility certifications
- Supporting eligibility documentation
- Leases
- Rent record (including utility documentation)
- Compliance with supportive services commitments
- Compliance with special populations targeting requirements (if applicable)
- Compliance with other commitments made in the application
- Inspection for compliance with HUD Uniform Physical Condition Standards

All projects, at a minimum, are expected to meet HUD's Section 8 Uniform Physical Condition Standards and comply with local and state health and building codes throughout the compliance period. A Memorandum of Understanding (MOU) has been executed with RD to accept their physical inspections in lieu of performing the inspection. The Agency will determine when to utilize the MOU. In any event, the Agency will continue to monitor compliance documentation.

The Agency monitor rent levels relative to current median income levels. The Agency may require a window of affordability in calculating rents; owners should refer to the relevant Qualified Allocation Plan.

The county designation will be reviewed on an annual basis and published each year in the Plan. Tenant rents can not exceed the initial window of affordability from the original underwriting for the property without written permission of the Agency. In the event the county designation changes from low to high or high to low, requiring a change in the window of affordability, the Agency will not require a reduction in the existing rent structure. However, rent increases can only be implemented to the extent that they comply with the current required calculation. The Agency may waive this restriction if the ownership entity submits a written request and documentation demonstrating that the property will be financially jeopardized, and that it is unable to pay its operating expenses and debt service requirements while maintaining at least a 1.15 debt coverage ratio.

In mixed-use properties, 100% of the units may be monitored in any building receiving an allocation of tax credits.

The Agency will be monitoring projects to ensure the required monthly deposits to reserve for replacement accounts are made in accordance with the General Requirements.

During the compliance period the Committee and Agency reserve the right to perform an audit of any project that has received an allocation of tax credits. This audit may include an inspection of all buildings, and a review of all tenant records and any document relating to an application for an allocation of credits

The ownership entity of a low-income housing project must keep records (as defined below) for each building within a particular development. These records must be retained by the owner for a minimum of six (6) years beyond the owner's income tax filing date (plus any extensions) for that year. However, first year project records must be maintained for six (6) years beyond the tax filing date of the final year of the project's compliance period(21 years). The ownership entity must annually report to the Agency and maintain records for each qualified low-income building in the project showing:

- Total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each such unit)
- Percentage of residential rental units in the building that are low-income units
- Rent charged on each residential rental unit in the building (including utility allowances)
- The size of each low-income household
- Low-income unit vacancies in the building and documentation of when and to whom the next available units were rented
- Income certification and student status of each low-income tenant
- Documentation to support each low-income tenant's income certification
- Character and use of the nonresidential portion of each building included in the building's eligible basis (this includes separate facilities such as clubhouses or swimming pools whose eligible basis is allocated to each building)

Failure to report annually to the Agency is deemed as noncompliance and is reportable to the IRS.

It is the responsibility of the ownership entity to certify annually to the Agency that the project meets the requirements of whichever set-aside of the Code is applicable to the project. Failure to certify is deemed as noncompliance and reportable to the IRS. This annual certification requires that the ownership entity certify that:

- The project meets the minimum requirements of the 20/50% or 40/60% test under the Code
- There has been no change in the applicable fraction as defined in the Code for any building in the project
- The applicant has received an annual Tenant Income Certification from each low-income resident and documentation to support that certification; or in the case of a tenant receiving Section 8 housing assistance payments, a statement from the PHA certifying the household's size and amount of gross income; or the owner has a recertification waiver letter from the IRS in good standing that waives the requirement to obtain third party verifications at recertification and has received an annual Tenant Income Certification from each low-income household, and documentation to support the certification at their initial occupancy
- Each low-income unit was rent restricted in accordance with the Code
- All units in the project are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless)
- No finding of discrimination under the Fair Housing Act has occurred for the Project (a finding of discrimination includes an adverse final decision by HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a federal court)

- Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes, and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or unit in the project
- There has been no change in the eligible basis (as defined in the Code) of any building in the project since last certification
- All tenant facilities included in the eligible basis, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings
- If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income
- If the income of tenants of a low-income unit in the project increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size was or will be rented to residents having a qualifying income
- An extended low-income housing commitment was in effect, including the requirement that an ownership entity cannot refuse to lease a unit because the applicant holds a Section 8 voucher or certificate of eligibility; neither the ownership entity nor the management agent has refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment
- If the applicant received its credit allocation from the portion of the state ceiling set-aside for a project involving “qualified nonprofit organizations” under Section 42(h)(5) of the Code and its nonprofit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code
- There has been no change in the ownership or management of the project

The ownership entity of any exempted project must certify to the Agency on an annual basis that the project is in compliance with the requirements of the Code, Rural Development assistance or the tax-exempt bond financing guidelines, as applicable. The ownership entity must inform the Agency of any noncompliance or if the owner is unable to make one or more or the required certifications.

The Agency may elect to subcontract the compliance monitoring procedure to other agents.

In the event that any noncompliance with the Code is identified, a discrepancy letter detailing the noncompliance will be forwarded to the ownership entity and management company of the project.

The ownership entity must then respond in writing to the Agency within thirty (30) days after receipt of the discrepancy letter. The response must address all discrepancies individually and must indicate the manner in which corrections will be made. The owner will then have a cure period of sixty (60) days from the date of the discrepancy letter to correct the noncompliance and to provide the Agency with any required documentation or certification. The cure period may be extended for periods of up to six (6) months. Extensions will be based on a determination by the Agency that there is good cause for granting the extension.

The Agency will notify the Internal Revenue Service of any noncompliance within forty-five (45) days after the expiration of the cure period. All corrections made by the ownership entity within the cure period will be acknowledged within this notice. A copy of the applicant’s response to the noncompliance will accompany the notice to the IRS.

If a potential noncompliance is discovered during a compliance monitoring review, the ownership entity will be required to have its managing agent attend a compliance training session within two months following the compliance monitoring review.

VIII. DEFINITIONS

The terms listed below will be defined in the Plan as indicated below regardless of capitalization, unless the context clearly indicates otherwise. Terms used in the Plan but not defined below will have the same meaning as under the Code and IRS regulations.

Affiliate: As to any person or entity (i) any entity of which a majority of the voting interest is owned by such person or entity, (ii) any person or entity directly or indirectly controlling (10% or more) such person or entity, (iii) any person or entity under direct or indirect common control with any such person or entity, or (iv) any officer, director, employee, manager, stockholder (10% or more), partner or member of any such person or entity or of any person or entity referred to in the preceding clauses (i), (ii) or (iii).

Applicant: The entity that is applying for the tax credits and/or any RPP loan funds, as applicable.

Community Service Facility: Any building or portion of building that qualifies under Section 42(d)(4)(C)(iii) of the Code, Revenue Ruling 2003-77, and any Agency requirements for such facilities (which may be published as part of the Plan, an Appendix or separately).

Developer: Any individual or entity responsible for initiating and controlling the development process and ensuring that all, or any material portion of all, phases of the development process are accomplished. Furthermore, the developer is the individual or entity identified as such in the Ownership Entity Agreement and any and all Development Fee Agreements.

Displacement: The moving of a person and/or such person's personal property from their current residence.

Elderly Housing: Owners may choose one of the established definitions recognized under federal Fair Housing Law. Owners should read the law and obtain legal guidance to determine compliance.

Entity: Without limitation, any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, public agency or other entity, other than a human being.

Homeless Populations: People who are living in places not meant for habitation (such as streets, cars, parks), emergency shelters, or in transitional or supportive housing but originally came from places not meant for habitation or emergency shelters.

Housing Quality Standards: Minimum physical standards established by HUD.

Management Agent: Individual(s) or Entity responsible for the day to day operations of the development, which may or may not be related to the Owner(s) or ownership entity.

Market-Rate Units: Units that are not subject to tax credit restrictions; does not include manager units.

Material Participation: Involvement in the development and operation of the project on a basis which is regular, continuous and substantial throughout the compliance period as defined in Code Sections 42 and 469(h) and the regulations promulgated thereunder.

Net Square Footage: The outside to outside measurements of all finished areas that are heated and cooled (conditioned). Examples include hallways, community and office buildings, dwelling units, meeting rooms, sitting areas, recreation rooms, game rooms, etc. Breezeways, stairwells, gazebos and picnic shelters are examples of unconditioned outside structures that may not be used as net square footage.

Noncompliance (for purposes of deducting points from an application): An event occurring after June 30, 1993 that results in the issuance of an 8823 for any of the following: 1) Failure to maintain accurate records for each unit, 2) Failure to rent to a Section 8 voucher or certificate holder, 3) Rents for the development are not properly restricted, 4) The development has transient occupancy, 5) Any unit for which low-income housing tax credits were allocated is not available to the general public, 6) There are ineligible tenants found to be occupying qualifying units, 7) Failure of the development to maintain minimum housing quality standards, or 8) Failure to re-certify low-income tenants on an annual basis.

Owner(s): Person(s) or entity(ies) that own an equity interest in the Ownership Entity.

Ownership Entity: The ownership entity to which tax credits and/or any RPP loan funds will be awarded.

Ownership Entity Agreement: A written, legally binding agreement describing the rights, duties and obligations of owners in the ownership entity.

Person: Any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so requires.

Person with a Disability: An adult who has a permanent physical or mental impairment which substantially limits one or more major life activities as further defined in North Carolina's Persons with Disabilities Protection Act (N.C.G.S. § 168A-3 (7a)).

Principal: Principal includes (1) all persons or entities who are or who will become partners or members of the ownership entity, (2) all persons or entities whose affiliates are or who will become partners or members of the ownership entity, (3) all persons or entities who directly or indirectly earn a portion of the development fee for development services with respect to a project and/or earn any compensation for development services rendered to such project, which compensation is funded directly or indirectly from the development fee of such project, and such amount earned exceeds the **lesser of twenty-five percent (25%)** of the development fee for such project or **$100,000**, and (4) all affiliates of such persons or entities in clause (3) who directly or indirectly earn a portion of the development fee for development services with respect to any project in the current year and/or earn any compensation for development services rendered to any project in the current year, which compensation is funded directly or indirectly from the development fee of any such project, and such amount earned exceeds the **lesser of twenty-five percent 25%** of the development fee for such project or **$100,000**. For purposes of determining Principal status the Agency may disregard multiple layers of pass-through or corporate entities. A partner or member will not be a Principal where its only involvement is that of the tax credit equity investor.

Qualified Corporation: Any corporation if, at all times such corporation is in existence, 100% of the stock of such corporation is held by a nonprofit organization that meets the requirements under Code Section 42(h)(5).

Rehabilitation: Replacement of one or more major building components in one or more residential buildings. Major building components include roof structures, wall or floor structures, foundation, plumbing system, electrical system, central heating and cooling systems.

Rental Production Program (RPP): Agency loan program for multifamily affordable rental housing administered and serviced by the Agency.

Stabilized Occupancy: Maintenance of at least ninety-three percent (93%) occupancy for six consecutive months.