

1996 QUALIFIED ALLOCATION PLAN
STATE of MICHIGAN
LOW INCOME HOUSING TAX CREDIT PROGRAM

I. Approval of Qualified Allocation Plan

Pursuant to Section 42(m)(1)(A) of the Internal Revenue Code of 1986, as amended, and Section 22b(4) of Public Act 346 of 1966, of the State of Michigan, as amended, the Qualified Allocation Plan shall be prepared by the Authority, submitted to the legislature, and approved by the Governor after notice to the public and public hearing. Notice of the public hearing shall be published in four newspapers of general circulation throughout the state at least fourteen days prior to the public hearing. Comments received shall be taken into consideration and a written summary of such comments shall be provided to the Governor of the state together with the request for approval of the Plan. Low income housing tax credit dollars shall be allocated in accordance with this Plan, or any amendments thereto.

II. Compliance Monitoring and Notification of Noncompliance

Owners receiving a tax credit allocation shall be required to follow the requirements outlined in the Authority's Requirements and Procedures for Monitoring Compliance.

A. Owner Responsibilities

Owners must keep records on file for six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period must be kept for six years (with extensions) for filing the federal income tax return for the last year of the compliance period. These records must include: the total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each unit); the percentage of residential rental units in the buildings that are low-income units; the rent charged on each residential rental unit in the building; the number of occupants in each low-income unit if rent is determined by the number of occupants in each unit; the low-income unit vacancies in the building and information that shows when and to whom the next available units were rented; income certifications of each low-income tenant and the documentation to support the certification; the eligible basis and qualified basis of the building at the end of the first year of the credit period; and the character and use of the nonresidential portion of any building included in the project's eligible basis.

Owners must submit to the Authority on an annual basis the following: an Owner Certification Form certifying that for the preceding twelve month period the project met certain conditions outlined in Section 42; a Tenant Income/Rent Record stating the number of qualifying units; information on each low-income tenant, the number of bedrooms in each unit, the rent charged for each unit, and any other information as set forth on the form.

B. Authority Responsibilities

Each year the Authority will review the Owner Certification Forms and Tenant Income/Rent Reports for compliance with program requirements.

The Authority will annually, for each year of the compliance period, select a minimum of 20% of the tax credit projects, the owners of which will be required to submit detailed information on tenant income and rent for 20% of the low-income units in each project/building.

The Authority retains the right to perform an on-site inspection of any low-income building at any time during the compliance period for low-income housing tax credit.

The Authority shall retain records of noncompliance or failure to certify for 6 years after its filing of a Form 8823. The Authority shall retain all certifications and records for not less than 3 years from the end of the calendar year in which they are received.

C. Notification of Noncompliance

Should any of the submissions required herein, including the Owner Certification, the Tenant Income/Rent Report, and/or income certifications, supporting documentation, and rent records, not be submitted in a timely fashion, or should there be omissions, the Authority shall, within 45 working days, notify the owner in writing, requesting such information. The owner will have 20 working days in which to provide the information, after which the Authority shall notify the Internal Revenue Service of the owner's failure to provide the required information.

Should the Authority discover, as a result of an inspection or review, or in any other manner, that the project is not in compliance with Section 42, or that credit has been claimed or will be claimed for units which are ineligible, the Authority shall notify the owner within 45 working days. The owner will have 20 working days in which to commence appropriate action to cure such noncompliance. The owner shall have a maximum of 90 days from the date of notice to the owner to cure the noncompliance. The Authority shall notify the Internal Revenue Service, utilizing Form 8823, no later than 45 days after the end of the correction period, and no earlier than the end of the correction period, of the nature of the noncompliance and will indicate to the Service whether or not the owner has made appropriate corrections. In extraordinary circumstances, and only if the Authority determines that there is good cause, an extension of up to six months to complete a cure for noncompliance may be granted.

III. Statutory Set-Asides

The legislature of the State of Michigan has statutorily created certain "set-asides" (see Section 22b(5) of P.A. 346 of 1966, as amended), based on housing needs within the state. The following set-aside percentages of the state's total credit ceiling for a calendar year have been established:

Qualified nonprofit organization pursuant to
Section 42 of the Internal Revenue Code - - - - - not less than 10%
Rural Housing Service Projects - - - - - not less than 5%
Housing projects in eligible distressed areas - - - - - not less than 30%
Housing projects for the elderly - - - - - not less than 10%
 (Defined as projects in which 100% of the units will be occupied by a single person who is 55 years of age or older or a household in which at least one member is 55 years of age or older and all other members are 50 years of age or older)

With the exception of the nonprofit set-aside, if the amount of low income housing tax credit dollars set aside in these categories has not been allocated before October 1 of the year in which that credit amount is authorized, the Authority may reapportion unallocated credit amounts thereafter. For purposes of meeting these set-asides, projects will be counted in only one category.

Applications, when received, will be placed into the appropriate set-aside categories, if applicable, for scoring in accordance with the selection criteria set forth in the Plan.

IV. Funding Rounds and Availability of Credit

There will be two funding rounds with the percentage of tax credit dollars available to be reserved as follows:

<u>Application Due Date</u>	<u>Expected Award Date</u>	<u>Percentage of Tax Credits Available</u>
April 1	May 15	50%
August 1	September 15	40%

To the extent that there is available tax credit after September 15, Reservations and Carryover Allocations may be awarded to projects that have been determined in a previous funding round to be eligible for credit, but for which no credit was previously available. If there are no such projects, or if sufficient credit is or becomes available, a fourth funding round will be held no later than November 1 for projects that demonstrate ability to obtain a Carryover Allocation no later than December 31 of the calendar year.

The remaining 10% of credit shall be available until October 1 for Authority-financed troubled projects that meet the requirements for allocation under this Plan, or for projects of six units or less that meet the requirements for allocation under this Plan, or for increases in eligible basis not in excess of 5% beyond those amounts initially Reserved. Authority-financed troubled projects and projects with an increase in basis of no more than 5% will not be subject to funding rounds. All projects will be required to request additional credit prior to October 1.

Generally, no more than 10% of the state's annual credit ceiling shall be allocated to acquisition and rehabilitation of already existing non "troubled" low income units.

Applications must be received in the Authority's Lansing office by the application due date of the funding round. In the event that date falls on a Saturday, Sunday, or a public holiday, applications will be due the next work day.

The Authority will attempt to screen applications for eligibility and scoring within 30 days of receipt. Reservation awards are expected to be made on or about May 15 and September 15.

V. Eligibility Requirements

When an application is received, it shall first be reviewed for eligibility to be scored and ranked. In order to be eligible for scoring and ranking, the application must be on a completed form prescribed by the Authority, and must include the following information, unless waived by the Authority for good reason:

- 1) Evidence of site control and ability to keep same for the shorter of 180 days from the date of application submission or until December 31.
- 2) Evidence from the municipality of the property's current zoning designation and what, if any, steps are in process to obtain proper zoning for the proposed development; evidence from the municipality and/or utility companies regarding the availability of utilities.
- 3) Level I environmental review in accordance with ASTM standards or, if determined by the Level I or MSHDA, a Level II together with remediation plan if necessary, costed in detail and accounted for in the sources and uses statement. Projects may be rejected if the Level 1 does not meet ASTM standards or if the Authority determines that additional testing is necessary.
- 4) Evidence of submission of application(s) to a mortgage lender(s): in the case of a RHS project, the completed AD 622 form; in the case of conventional financing, documentation from the lender(s) stating that a formal application for construction and permanent financing has been submitted and is under serious consideration; and in the case of a MSHDA financed project, evidence that the project has been accepted for processing.
- 5) For projects of over 30 units, a market study completed in accordance with MSHDA guidelines. For projects of 6 to 30 units, rent comparables and an analysis which relates to the project application. In all cases, the market analysis must be acceptable to the Authority. This may result in adjusted rents for purposes of feasibility. Projects may be rejected if the market study is deemed insufficient by the Authority.
- 6) Pro forma financial projections.
- 7) Sources and uses of funds statement.
- 8) Title Insurance Commitment dated within 6 months of the date of the application submission.
- 9) Documentation of federal tax-exempt status, or documentation of application for such, if applying under the non-profit set-aside.

Less than complete applications will be deemed ineligible and will be returned to the applicant without being ranked or scored.

VI. Selection Criteria

A. Project Location

The legislature of the State of Michigan has statutorily created two "set-aside" categories for use of the tax credit based on a project's location. These are the 5% Rural Housing Service set-aside, and the 30% set-aside for projects located in "eligible distressed areas" as defined in P.A. 346 of 1966, as amended. The purpose of these set-asides is to assure that the low income housing tax credit will be used to create and to preserve affordable housing opportunities for both urban and non-urban citizens of the State. Additionally, the "housing needs score" (see below) takes into account project location. Consequently, no specific points are awarded hereunder for geographic area.

B. Housing Needs Characteristics

All applications will be scored for housing needs characteristics, which will be based on three housing related and two socioeconomic indicators derived from the most recently available census data. These indicators are: overcrowding, age of housing stock, value of owner-occupied non-condominium housing, poverty status of households, and unemployment rates. These indicators will be used to determine a census tract's relative housing distress in relation to other census tracts in the state, and a point score derived and assigned to each project as follows:

Needs Score	Points Awarded
50	20
40-49	15
30-39	10
20-29	5

Proposals in which more than 50% of the units will serve families or are undesignated in localities which do not have assisted housing projects serving family tenants (or are undesignated) at or below 50% of area median income . . .

10 Points

Proposals in which more than 50% of the units will serve elderly tenants in localities which do not have assisted elderly housing projects serving tenants at or below 50% of area median income . . .

10 Points

C. Locality/Neighborhood

A project application which submits evidence of local support in the form of tax abatement may receive from 1 to 10 points for an elderly project and from 1 to 20 points for a family project.

Letter of support from local municipality	
Elderly project . . .	1 Point
Family project . . .	2 Points
Letter from municipality stating date that tax abatement is expected to be approved	
Elderly project . . .	5 Points
Family project . . .	10 Points
Project specific tax abatement ordinance in place	
Elderly project . . .	10 Points
Family project . . .	20 Points
An application which is submitted in accordance with an approved local neighborhood preservation plan for an effectively treatable area . . .	10 Points
An application for a project that is to be located within the boundaries of an Empowerment Zone or Enterprise Community . . .	20 Points
A maximum of 50% of the annual tax credit authority will be reserved for these projects in any calendar year.	
An application for a project located in a county which currently has fewer than 100 tax credit eligible units . . .	10 Points

D. Project Characteristics

Preference will be given to projects serving the lowest income tenants and projects obligated to serve qualified tenants for the longest time periods. Additionally, the creation of additional low income units within the state is the highest priority in Michigan, while the preservation of existing low income units which are in need of significant repair in order to achieve or maintain the habitability of the units, or projects which have a high probability of being converted to market rate units is another stated priority in Michigan. Therefore, project applications will be given points for the following:

Projects creating additional low income units, both newly constructed units and the addition of units to low income stock through rehabilitation where units have been unavailable for low income occupancy for at least one year . . .

20 Points

The preservation of already existing low income units which are within 2 years of any permitted prepayment or equivalent loss of low income use restrictions and which will remain low income for the longer of fifteen years or the length of the mortgage . . .

15 Points

-OR-

The preservation of already existing low income units provided the rehabilitation will repair or replace components that are i) in immediate need of repair or replacement or ii) substantially functionally obsolete or will provide modifications or betterments consistent with new code requirements or the Authority's design requirements . . .

15 Points

ACQUISITION CREDIT WILL ONLY BE ALLOCATED TO PROJECTS WHICH MEET ONE OF THE TWO PRESERVATION CATEGORIES DESCRIBED ABOVE.

Use of federal, state, or local subsidies where the credit is needed to make a project feasible or to serve very low income families (e.g., HOME, CDBG, etc.). Evidence of the subsidy must be submitted with the application and will be compared to other applications utilizing similar subsidy types . . .

Projects utilizing federal, state, or local sources for 10% - 40% of the project costs . . .

5 Points

Projects utilizing federal, state, or local sources for more than 40% of the project costs

...

10 Points

The maximum permitted number of tax credit assisted units in any project is 150, except for rehabilitation projects utilizing already existing structures. Sponsors may submit an application for the second phase of a project only after 90% occupancy has been achieved in the first phase.

E. Sponsor Characteristics

No one sponsor will be eligible to receive Reservations for more than an aggregate of 20% of the annual total available tax credit dollars during the first two funding rounds. Should there be available credit thereafter, either recaptured or unallocated, it may be allocated without regard to the percentage of total credits already reserved or allocated during that calendar year.

No one sponsor will be allowed to submit more than five new applications in each funding round.

Previous successful participation by sponsor(s) in the low income tax credit program or other programs producing low-income housing

The following points will be awarded under the highest applicable category, not under multiple categories.

- Projects of 6 units or less placed in service for 3 years in states other than Michigan **1 Point**
- Projects of 6 units or less placed in service for 3 years in Michigan **2 Points**
- Projects over 6 units placed in service for 1 - 3 years in states other than Michigan **3 Points**
- Projects over 6 units placed in service for 1 - 3 years in Michigan **5 Points**
- Projects over 6 units placed in service for 3 years in states other than Michigan **7 Points**
- Projects over 6 units placed in service for 3 years in Michigan **10 Points**

Previous successful participation by management agent in managing low income housing, with at least 3 years of experience

The following points will be awarded under the highest applicable category, not under multiple categories.

- Management of projects of 6 units or less for at least 3 years **1 Point**
- Management of projects over 6 units for at least 3 years in states other than Michigan **3 Points**
- Management of projects over 6 units for at least 3 years in Michigan **5 Points**

Poor previous participation on the part of the sponsor. This includes, but is not limited to, failure to utilize a Commitment or Allocation of credit, failure to meet requirements necessary to obtain a Carryover Allocation after notification has been provided to the Authority that the requirements would be met, inability to complete a previous project

within three years of first submission, failure to submit Owner's Certification and monitoring information, repeated failure to submit required documentation in a timely manner . . .

This will be in effect for a one year time period.

20 Negative Points

Projects submitted from sponsors that currently have projects that are out of compliance will not be accepted until the non-compliance is corrected.

Poor previous participation on the part of the management agent. This may include, but is not limited to, failure to provide correct information on monitoring reports, failure to verify and/or calculate tenant income and rents in accordance with federal regulations . . .

This will be in effect for a one year time period.

10 Negative Points

Affirmative Fair Housing Marketing Plan

The Fair Housing Act prohibits discrimination in the sale, rental, financing, or other services related to housing on the basis of race, color, religion, sex, handicap, familial status, or national origin. Under the act, the Authority has a duty to administer programs which affirmatively advance fair housing. To assist the Authority in this duty, applications that include a formal Affirmative Fair Housing Marketing Plan may be eligible to receive points. This plan is designed to assure that persons who are members of racial or ethnic groups (who would not otherwise apply for occupancy in a housing project because of existing neighborhood racial or ethnic patterns, site locations, or other factors) are made aware of the available housing, feel welcome to apply for the housing, and have the opportunity to rent the housing.

The Affirmative Fair Housing Marketing Plan (AFHMP) shall at a minimum address the following issues:

Identification of the target population (racial or ethnic group(s)) least likely to apply to the project within the market area.

Identification of concrete and credible outreach efforts including a budget designed to carry out the AFHMP.

Identification of what positions within the management company will carry the responsibility to implement the AFHMP.

Description of the level of minority employment within the management agency and what are the company's fair housing, equal employment policies.

Description of what the management company's previous experience has been in implementing AFHMPs . . .

1 - 5 Points

F. Participation of Local Nonprofit Organizations

The Authority desires to maximize the participation of local nonprofit organizations in the creation of affordable housing opportunities throughout the State of Michigan, and to this end has created several programs for such participation. Local nonprofit organizations that are currently involved in housing in the area in which the project is to be located and that are part of the ownership entity, and participate in the on-going management of the project during the entire low-income use period will receive the following points . . .

10 Points

G. Tenant Populations with Special Housing Needs

Points will be given in this category as follows:

Projects designed to meet large, low income family needs by having units of three bedrooms or more for at least 5% of the total project will receive . . .

5 Points,

and one additional point per percentage of 3 bedroom units to a maximum of 10 points.

Projects in which 50% of the units serve developmentally disabled persons under a qualified program of the Michigan Department of Community Health . . .

20 Points

Projects in which 100% of the units are for transitional housing and/or homeless . . .

20 Points

Projects serving elderly residents of the state are subject to the elderly set-aside in the Authority's statute.

H. Public Housing Waiting Lists

Projects of over 6 units located within a market area of 8 miles from a community in which there is a local public housing authority must commit in writing to such local public housing authority (or, in the event there are multiple such authorities, to one of them) to include such households on the waiting list for public housing in the applicant pool and to give them consideration, as well as describe the marketing effort to do so, or receive . . .

20 Negative Points

Similarly, projects of over 6 units in areas where there is no local public housing authority must commit in writing to the Authority's area Section 8 Existing office to include households on the Section 8 Existing waiting list for assisted housing in the applicant pool and to give them consideration, as well as describe the marketing effort to do so or receive . . .

20 Negative Points

I. Bonus Points

Bonus points for projects creating additional low income units may be awarded for a project's Readiness to Proceed as evidenced by submission at application stage of all of the following: firm commitment and certification of all federal, state, and local subsidies which will apply to the project; firm commitment for permanent financing which is accepted by the sponsor; all necessary local approvals, including zoning, site plan approval, and tax abatement; commitment of equity financing which states the amount of equity to be paid, the timing of such payments, the amount of credit expected by the investor, and which is accepted by the sponsor; formation of ownership entity (documentation submitted to the Corporation & Securities Bureau, where applicable). Projects receiving points under this category will be required to proceed to closing and disbursement of the construction loan or equity syndication proceeds within 90 days; or in the event no construction financing is to be involved, construction must begin within 90 days. Failure to close within this time period may result in forfeiture of the Reservation, or upon payment of an additional 1% of the annual credit amount, an extension of up to 30 days will be given. Twenty-five points will be awarded in this category.

Projects that have obtained a firm commitment for construction financing will receive the following points . . .

Projects receiving Readiness to Proceed points will not be awarded points under this category.

5 Points

A project application that includes evidence from the municipality that the proposed site is already properly zoned for the intended use . . .

Projects receiving Readiness to Proceed points will not be awarded points under this category.

5 Points

A project application that includes evidence from the municipality that the proposed site has received site plan approval . . .

Projects receiving Readiness to Proceed points will not be awarded points under this category.

5 Points

J. Preference Points

Once a project application has been scored according to the above Selection Criteria, additional preference points will be awarded based on the statutory preferences of Section 42 of the Internal Revenue Code. The following preference points will be available, it being understood that the sponsor must demonstrate that the project will be financially feasible at the levels chosen:

For each year beyond the initial 15 years that the owner agrees, through the vehicle of a recorded use restriction, to serve qualified low income tenants in at least the original minimum set aside percentage, the application will receive 1 point, up to a maximum of 30 points for 45 years, or 35 points if in perpetuity.

Preference points for projects serving the lowest income tenants will be awarded insofar as the owner also agrees to restrict the rents for such percentage of tenants below the minimum set-asides to 30% of the applicable household income for the applicable bedroom size. For example, if an owner under this preference elects to provide 10% of the units for people having incomes no greater than 20% of area median income, that owner must agree to restrict the rents for that 10% of units to 30% of 20% of area median income. The lower rent targeting must be evenly distributed among bedroom types. Preference points will be awarded in accordance with the following table:

P	L					
E	O	70	35	70	105	140
R	W	60	30	60	90	120
C	E	50	25	50	75	100
E	I	40	20	40	60	80
N	N	30	15	30	45	60
T	C	20	*10	20	30	40
	O	10	* 5	10	15	20
O	M		50	40	30	20
F	E					

P E R C E N T
O F
M E D I A N I N C O M E

Proposals which are economically feasible and exceed the targeting stated in this chart will be awarded additional points on a pro-rata basis.

*Available only for developments which are 100% assisted by the LIHTC program.

VII. Reasonableness of Costs

The Authority will perform an evaluation of the project costs to determine reasonableness as compared to other projects in similar areas. Generally, costs in excess of 110% of the Department of Housing and Urban Development's 221(d)(3) Mortgage Limit for the area will not be permitted to be included in basis (although such costs are not prohibited). However, in unusual and well documented cases, costs in excess of these limits may be included in eligible basis. Unusual cases may include, but are not limited to, small size projects, projects located in qualified census tracts or in an Empowerment Zone, Enterprise Community locations, projects with deep rent targeting, projects sponsored by local nonprofit organizations, or difficult substantial rehabilitation projects. However, in all cases, costs includable in eligible basis shall not exceed the greater of 110% of the HUD 221(D)(3) Mortgage Limit or \$87,000 per unit.

In conducting its evaluations, the Authority will apply the following reasonableness standards in regard to fees:

Developer Fee - Fees will be limited to 15% of total development costs. This is calculated as 15% of the total development cost minus the developer fee.

Builder Profit - 6% of construction contract.

Builder Overhead - 2% of construction contract.

General Requirements - 6% of construction contract.

Consultant Fees (excluding "consultants" normally used in the development process, such as market analysis, environmental consultants, etc) - Must be included in and paid from the developer fee.

Identity of Interest - If an identity of interest exists between the sponsor and the general contractor, incentive fees may only be paid to the extent that they are included in the above mentioned fee limitations. A general contractor may act as a subcontractor and may be entitled to additional overhead and profit otherwise payable to an independent subcontractor. However, the general contractor's overhead, profit, and general requirements that may be included as allowable project costs are limited to the percentages noted above.

VIII. First Evaluation and Award of Reservations

Project applications which include all required information and documentation and receive a score of at least 50 points will be eligible to be evaluated for receipt of a Reservation of tax credit. Prior to this evaluation, the preferences set forth at Section 42(m)(1)(B)(iii), namely projects serving the lowest income tenants, and projects obligated to serve qualified tenants for the longest periods will be considered. Project applications will then be evaluated and the highest priority for Reservation of tax credit will be given to those projects as to which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries, unless granting such a priority would impede the development of projects in hard-to-develop areas.

The evaluation will consider the project's economic feasibility and financial viability over the credit period and will consider project costs and expenses, together with the sources and uses of resources.

Once the Authority has conducted the evaluation and determined the amount of tax credit to be reserved, it will issue a Reservation on its prescribed form to the applicant.

Reservations issued in the first two funding rounds shall be valid for 120 days, at which time all documentation required for a Commitment will be submitted to the Authority. All projects with a valid Reservation or Commitment will be required to obtain a Placed-In-Service or Carryover Allocation no later than December 31 of the same calendar year. In unusual circumstances, and for good cause shown, an extension of the Reservation of up to 30 days may be granted.

The Authority, at the time it issues the Reservation, shall notify the chief executive officer of the locality in which the project is to be located of the proposal, and shall give reasonable opportunity for comment by that chief executive officer.

Reservations, Commitments, and/or Carryover Allocations are non-transferable either to another entity or within the same entity where there is a change in control or general partner interests, except with the express written consent of the Authority, it being the explicit intention of this plan to prevent one party from obtaining such a Reservation, Commitment, and/or Carryover Allocation in order to sell or "broker" its interest in the proposal (except for syndication purposes). Because all representations made with respect to the sponsor, its experience and previous participation are material to the evaluation made by the Authority, it is not expected that the Authority's consent will be granted for such transfers unless a new application is submitted and scores no less than the original application.

IX. Evaluation of Developments Subject to Subsidy Layering

MSHDA, as Michigan's sole housing credit agency for the administration of the low income housing tax credit, plans to accept the delegation of subsidy layering reviews of projects receiving tax credit and "assistance" from HUD'S Office of Housing. This delegation was authorized by Section 911 of the 1992 Housing Act and final administrative guidelines, pursuant to which the reviews will be conducted, were published in the federal register on December 15, 1994. Until such time as guidelines are published and MSHDA accepts such delegation, MSHDA will not be performing subsidy layering reviews for projects receiving assistance under HUD'S Offices of Public and Indian Housing and Office of Special Needs Assistance Programs.

In connection with the subsidy layering evaluations performed by MSHDA as the housing credit agency, the following standards will be applied:

1. Builder's Profit - (All percentages relate to the construction contract amount, excluding overhead and profit) MSHDA may evaluate using up to 6% builder's profit, 2% builder's overhead, and 6% general requirements.
2. Sponsor Profit/Developer Fee - (Percentages relate to the total development costs as defined by MSHDA) MSHDA may evaluate using 10% of the project's total development costs, or, where it makes a finding that certain special market or risk factors enumerated below are applicable to the project and justify a higher developer fee, it may evaluate reflecting a developer fee of 10%-15% of total development costs. Special market or risk factors which may be considered by MSHDA in conducting such evaluations include, but are not limited to, small size projects, projects located in qualified census tracts or in Empowerment Zone, Enterprise Community locations, projects with deep rent targeting, projects sponsored by local non-profit organizations, or difficult substantial rehabilitation projects.
3. Syndication Expenses - The total expenses, excluding bridge loan costs, incurred by the sponsor in obtaining cash from the sale of project interest to investors through public offerings will generally be evaluated as not exceeding 15% of gross syndication proceeds but may, in the event that MSHDA determines special market or risk factors to be involved, be evaluated up to 24% of gross syndication proceeds. Similarly, MSHDA will generally evaluate private offering expenses at 10% of gross syndication proceeds, excluding bridge loan costs, but may use a figure of up to 15%.

4. MSHDA will, in its evaluation, apply an applicable market rate, expressed in cents netted per dollar of credit as of the project's placed in service date in calculating maximum low income housing tax credit, valuing all payments, whether by installment or in one lump sum. This applicable market rate will be based upon factors including the project's market value, comparable, contemporary syndications, and MSHDA's judgment regarding market trends. Where a higher than usual ownership percentage is retained, the following will apply: if an owner retains between 5-50% interest, an additional \$.10 will be added to the applicable market rate, and if ownership of over 50% is retained, an additional \$.20 will be added to the market rate used for the evaluation.

With regard to these standards, MSHDA may choose to evaluate using less than the standards set forth herein.

A limited number of exceptions to standards 1 through 3 above (up to the greater of 10% of the total number of projects reviewed under this procedure in any calendar year, or 5 projects, may be granted with specific approval from the governing board of MSHDA). These exceptions will only be considered where extraordinary circumstances relating to the market or risk factors mentioned above warrant excluding the project from the standards.

X. Second Evaluation and Commitment

Prior to the expiration of the Reservation, the sponsor must submit to the Authority acceptable evidence of the following:

- 1) Firm commitment and certification as to the full extent of all federal, state, and local subsidies which will apply to the project.
- 2) Firm commitment for permanent financing (for RHS projects, the 1944-51; for conventional financing, a letter of commitment from the lender which is accepted by the sponsor, or signed mortgage documents; for MSHDA financing, a copy of the Mortgage Loan Commitment).
- 3) Necessary local approvals, including zoning, site plan approval, and tax abatement.
- 4) Commitment of equity financing which states the amount of equity to be paid, the timing of such payments, the amount of credit expected by the investor, and which is accepted by the sponsor.
- 5) Project schedule (updated).
- 6) Pro-forma financial information (updated).
- 7) Sources and uses statement (updated).
- 8) Formation of ownership entity (Documentation received by the Corporation & Securities Bureau, where applicable).

Upon receipt of this information, the Authority will conduct a second financial evaluation of the project based on updated information, and will, unless for good cause shown, issue a Commitment to the applicant in the amount the Authority deems necessary and reasonable.

If the Authority, in its evaluation, determines that the value of the credit is less than the applicable market rate, the Authority determined applicable rate will be used to determine the amount of equity. If the value of the credit is greater than the applicable market rate, and would result in a reduction of credit because of the funding gap, the sponsor will be allowed to place the additional proceeds into a project escrow account for at least five years, after which time, if not needed for the project, may be taken out as a developer fee.

Commitments of tax credit authority shall be valid until December 31 of the calendar year in which the Commitment is issued, at which time it is expected that the project will have received a Placed-In-Service or Carryover Allocation.

If changes to the Low Income Housing Tax Credit Program as enacted by Congress in any given calendar year so dictate, Reservations and/or Commitments of such authority may be subject to different expiry dates depending on the nature of any changes in the federal program.

XI. Carryover Allocations

A Carryover Allocation will be available to projects that have received a Reservation and/or Commitment of tax credit and that provide evidence, acceptable to the Authority and in accordance with any applicable federal regulations, from a Certified Public Accountant no later than December 1 that more than 10% of the project's reasonably anticipated basis has been incurred in the year in which the Carryover Allocation is issued. Projects receiving a Reservation after October 1 will be given until December 15 to submit appropriate documentation.

Notification must be provided to the Authority no later than November 1 of the calendar year, or November 15 for projects receiving a Reservation after October 1, of the sponsor's intent to receive the Carryover Allocation. Credit will be rescinded if notification is not provided by the above-mentioned dates.

In the event that a Commitment has not been issued prior to issuance of a Carryover Allocation, all requirements for the Commitment must be fulfilled within 120 days of the issuance of the Reservation or the Carryover Allocation shall become null and void. In the event that "Readiness to Proceed" points have been awarded to the project prior to issuance of a Carryover Allocation, all requirements must be met within 90 days of the issuance of the Reservation or the Carryover Allocation shall become null and void.

At no time will any project be allowed more than three calendar years from the date of initial application to project completion.

XII. Fees

All applications must be accompanied by cash or a check in an amount equal to \$100 plus \$5 for each proposed low income unit. This fee is non-refundable in any event, and will be applied to subsequent applications only if a project does not receive a Reservation because of the lack of available credit and the project is re-submitted for the next funding round within the same calendar year.

The Authority will charge a fee equal to 4% of the annual tax credit dollar amount awarded to a project. A sum equal to 2% of the annual tax credit dollar amount shall be submitted to the Authority at the time of Reservation. Should a project which has received a Reservation return that Reservation to the Authority within 90 days of its receipt, 50% of the fee already paid shall be refundable; however, after 90 days, 0% shall be refundable. The remaining 2% shall be paid at Commitment. Nonprofits may defer all but the initial application fee, until such time as closing on the equity contribution occurs.

Compliance monitoring fees will be charged for the credit period as follows:

All units for which an allocation of credit was not made by December 31, 1992 must pay the sum of \$125 per low income unit, which amount will cover the entire monitoring period and is payable prior to issuance of Form 8609. All units that received an allocation of credit prior to January 1, 1993, and all projects financed by MSHDA, may elect to submit a sum equal to \$10 per low income unit on an annual basis for the remainder of the credit period, or may opt to make one payment similar to that described above. Failure to submit the fee will be considered non-compliance.

XIII. Tax-Exempt Financed Projects Not Subject to State Volume Cap

In accordance with Section 42(m)(2)(D) of the Internal Revenue Code of 1986, as amended, projects which do not receive an allocation from the State's credit ceiling because they qualify under section 42(h)(4) by virtue of being financed with tax-exempt obligations issued after December 31, 1989, must satisfy the requirements for allocation of a housing credit dollar amount under this Plan, and shall be subject to the evaluations required herein, but shall not be subject to the funding rounds.

Authority projects financed with tax-exempt obligations shall be subject to the fees enumerated in Section XII above.

XIV. Subsequent Evaluations

The Authority will further evaluate the project at the time of making a Carryover Allocation and again, at the date the building is placed in service. When the project/building is placed in service, and prior to the issuance of an 8609, the owner must submit to the Authority acceptable evidence of the following:

- 1) Updated application.
- 2) Independent, third party cost certifications for projects of six or more units.
- 3) Certificates of occupancy, or equivalent for rehabilitation work.
- 4) Executed limited partnership agreement and all attachments.
- 5) Copy of permanent mortgage and other permanent financing sources.
- 6) Copy of deed to property showing partnership as owner, including correct property description.

XV. Signatories

Reservations, Commitments, and Allocations (including Carryover Allocations) will be made by the Authority's Executive Director or such person or persons as he shall designate.

XVI. Modifications to the Qualified Allocation Plan

To the extent necessary to facilitate the award of low income housing tax credits that would not otherwise be awarded, this plan may be modified by the Authority from time to time. The Executive Director may make minor modifications deemed necessary to facilitate the administration of the credit program or to address unforeseen circumstances. Further, the Executive Director is authorized to waive any conditions which are not mandated by Section 42 of the Internal Revenue Code on a case by case basis for good cause shown.

To the extent that anything contained in this Plan does not meet the minimum requirements of federal law or regulation, such law or regulation shall take precedence over this plan.

XVII. Clarification of Agency Role

In making its determination of the housing credit dollar amount necessary for the financial feasibility of a project and its viability as a qualified low income housing project throughout the credit period, the Authority will consider the sources and uses of funds and the total financing planned for the project, and any proceeds or receipts expected to be generated by reason of tax benefits. **HOWEVER, SUCH A DETERMINATION BY THE AUTHORITY SHALL NOT BE CONSTRUED TO BE A REPRESENTATION OR WARRANTY AS TO THE FEASIBILITY OR VIABILITY OF THE PROJECT.** Similarly, any monitoring of continuing compliance is being done by the Authority to assure that public purpose goals are being achieved and any failure to receive notice of noncompliance **SHOULD NOT BE RELIED UPON BY ANY OWNERS OR THEIR INVESTORS AS A WARRANTY OR REPRESENTATION BY THE AUTHORITY THAT THE PROJECT IS IN COMPLIANCE WITH APPLICATION REQUIREMENTS.**