



**TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS**
Building Homes. Strengthening Communities.

2012

**Multifamily Programs
Procedures Manual**
(including the Tax Credit Procedures Manual)

221 East 11th Street
Austin, Texas 78701

2012 Multifamily Application Procedures Manual

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HTC Information Guide

Overview of the Tax Credit Program

The tax credit program was created by the United States Congress to be administered by the principal state housing agency of each state on behalf of the Internal Revenue Service. Housing Tax Credits are called “low income housing tax credits” in the Internal Revenue Code. By restricting the rents that may be charged for rental units built or rehabilitated using tax credits, the credits benefit individuals and families who qualify to be tenants. Qualification is based on income. Rent restrictions may call for some units to have rents appropriate for tenants with incomes at 60% or 50% of area median gross income. The restrictions may be even lower if the applicant chooses, but in general, qualified tenants typically have incomes that are at or below 60% of the median gross income in the county where the tax credit development is located.

Developers apply to the state housing agencies for tax credits to profit from the construction of rental units. The developers obtain cash equity for construction by partnering with large financial institutions that create investment funds of tax credits in which investors can buy shares entitling them to use the credits in “payment” of federal income taxes. As an example of how developments are financed by the credits, consider that a developer awarded tax credits by the state might take a payment of 80 cents per dollar of tax credit from the partner financial institution. The institution (syndicator) would establish a tax credit fund for investors, taking a fee for establishing and managing the fund. The credits that cost 80 cents (plus the fee to the syndicator) per dollar of credit would be used by the investor to reduce federal income taxes dollar for dollar. Thus, all participants would profit from the development. Details of the brief outline just stated are given in the remainder of this guide.

Statutes, regulations and rules.

The tax credit program was created by the Tax Reform Act of 1986. Funds were first available to the real estate development community in 1987. Section 42 of the Internal Revenue Code, as amended, is the federal law that governs the program, but the program is administered in each state by a state housing agency. The Code, Treasury Regulations and IRS Revenue Rulings state the federal rules to be followed by the state agencies, development owners and investor/taxpayers. However, in each state, the applicable state housing agency creates a “qualified allocation plan” (“QAP”) describing the process of applying for tax credits, persons and types of rental property that are eligible and rules for constructing and operating developments financed by tax credits. Federal law permits

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the QAP to be more, but not less, stringent than the federal rules. The Texas QAP is more stringent than the federal rules.

Availability of development financing from tax credits in Texas.

The tax credit program provides hundreds of millions of dollars per year to Texas for the development of affordable housing. The program is exclusively for rental housing. Although some government and quasi-governmental organizations use program funds, the money is used overwhelmingly for developments that are designed, constructed and operated by the private sector, not by government. Tax credits are available from two sources; the “credit ceiling” based on the size of the state’s population; and in connection with the “volume cap” associated with tax-exempt bond issues in which the bonds finance at least 50% of the cost of land and buildings in the development. Bond financed developments apply under a non-competitive process, and tax credits are, generally, automatically available in conjunction with tax-exempt bond financing. Applications associated with the credit ceiling must participate in the program via a competitive application round that only occurs once a year.

Applying for tax credits.

One function of the QAP is to define an application procedure that, in effect, results in an annual contest among applicants for the state’s tax credits under the credit ceiling. If the applicant for tax credits is successful in competing with the other applicants, he (an applicant may be a natural person or an organization) will receive a commitment from the housing agency for not more than the amount of credits necessary to build, or acquire and rehabilitate, a development whose operation will be financially feasible. Underwriters in the state agency estimate the amount of credits needed for financial feasibility and the amount of conventional and other types of financing that the development can support. The tax credit program is profitable for applicants and investors because an applicant that is successful in the “contest” “sells” the credits at a discount to investors who then use the credits at face value to pay federal income taxes.

The way tax credits are used.

Since the inception of the tax credit program, the system of financing developments with tax credits has become well organized. The ownership of a tax credit development is almost always vested in a limited partnership. Limited partnerships are comprised of a general partner and one or more limited partners. The general partner is responsible to the limited partners for the day to day operations of the partnership’s business and legally liable for the consequences of those operations. The limited partners are the investors in the partnership’s business. The limited partners may not interfere in the operation of the business except to remove and replace the general partner. Both the general partner and limited partner may be individuals (natural persons) or business organizations.

Prior to closing a construction loan and initiating construction, the successful applicant is typically both the general partner and the limited partner in the development owner. At the time of finalizing negotiations for a construction loan, the applicant will generally finalize negotiations with one of many large national financial institutions, and the institution will take over the limited partner interest. Most commonly, the limited partner of the limited partnership that owns the tax credit property will be another limited partnership. The general partner of this secondary limited partnership is typically the national financial corporation or institution that, among other business interests, specializes in the “syndication” of tax credit investments. In essence, the syndicator buys the credits, packages the credits into investment funds and sells shares in the funds to

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large individual, corporate and institutional investors. The creation of tax credit investment funds that are managed by large institutions enables the existence of a secondary market for tax credits, and shares in the funds may be bought and sold by investors. The syndicator, as general partner of the entity that is the limited partner of the development owner, must watch over the general partner of the development owner to assure that all of the rules of the Code and QAP are followed. Failure to construct and operate the rental property in compliance with the rules may invalidate some or all of the credits, causing losses to investors and to the syndicator.

Amount of tax credits a development can obtain – GAP and Eligible Basis.

Under the Code and the QAP, development proposals must be underwritten so that no development is allocated more credits than necessary to make the development financially feasible. The amount of credits allocated must be the lower of two calculations, the eligible basis method calculation and the “GAP” calculation. The **GAP** calculation is quite simple. The financing necessary to fill the gap between total development cost and financing available from all sources other than tax credits (excluding owner’s equity) is, basically, the answer provided by the GAP calculation. The dollar amount available through syndicating the credit establishes the amount of credits necessary to fill the gap. The cents on the dollar that a syndicator will pay for credits associated with a particular development is derived from commitment letters or letters of interest from syndication firms.

The **eligible basis** calculation is more complex. If a prospective developer submits a successful tax credit application, the tax credits that the proposed development is eligible to receive typically are determined by the eligible basis calculation. In the eligible basis method, the credits are calculated based on the amount of qualified development costs that are incurred in acquiring and constructing the development. These qualified development costs are called “eligible basis.” In general, development costs are eligible basis if the costs are associated with depreciable improvements that are constructed or installed in the process of building new rental units and associated improvements or rehabilitating an existing rental property. The cost of the existing improvements in a property acquired for rehabilitation is also eligible basis.

The amount of the credits calculated based on the eligible basis may be affected by the location of the development, and the amount **will** be affected by the percentage of units in the development that are tax credit units instead of market rate units (the “applicable fraction”) and the “applicable federal rate” (also called the “applicable percentage”) that has been calculated and published by the Treasury Department for the month in which the tax credit buildings are placed in service. Developments built in qualified areas listed in §50.5(d) of the 2012 QAP are eligible for a 30% increase in the eligible basis upon which the tax credits are calculated. After any applicable adjustment is applied, the percentage of affordable (tax credit) units within the development or the percentage of total rentable square feet devoted to tax credit units, whichever is less, is used to multiply the adjusted eligible basis (at this point the “eligible basis” has become the “adjusted basis” in tax credit jargon) to arrive at the “qualified basis”. Finally, the qualified basis is multiplied by the “applicable federal rate”, also called the “applicable percentage” to arrive at the tax credits that the development may receive.

The applicable federal rate or applicable percentage is an important part of calculating tax credits because it can, to some extent, be controlled by the applicant. Two applicable federal rates are published monthly by the Treasury Department. The lower of the two

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rates is often called the 4% rate (and also called the 30% rate) and has historically varied from about 3% to just less than 4%. The higher of the two rates is often called the 9% rate (and also called the 70% rate) and has varied just below 8% to just below 9%. The Housing and Economic Recovery Act of 2008, set the applicable federal rate of not less than 9% for the competitive program for any new buildings placed in service after the enactment of the bill and by December 31, 2013. The 4% rate must always be used as the multiplier of the qualified basis if the qualified basis originated from the cost of existing improvements acquired for rehabilitation (often called acquisition basis).

In addition to the options above, the applicable percentage may be controlled by another method. The percentage may be irrevocably “locked-in” soon after an applicant is chosen for an award of tax credits. Locking-in the rate is accomplished in conjunction with either of two types of agreements, depending on whether the award of tax credits resulted from an application in the competitive allocation round or in connection with a development receiving tax-exempt bond financing. In the former case, a “carryover allocation agreement” committing the applicant to place the proposed development in service within two years of the award of tax credits contains a checkbox to signify that the applicant is locking-in the rate as the rate effective in the month that the applicant and the Department sign the agreement. In the case of tax-exempt bond issues, an “election statement” may be signed by the applicant locking the rate as the rate effective in the month that the tax-exempt bonds are issued. If not locked-in, the applicable percentage for both applicants in the competitive round or “bond” applicants will be the percentage in effect in the month in which the improvements are placed in service (ready for occupancy).

Expertise is needed to participate in the tax credit program.

As the foregoing discussion indicates, a substantial amount of expertise is necessary to structure the financing and other aspects of a tax credit development so that the development produced and the return on capital to investors is optimized. The Department does not advise applicants about the optimal or most effective strategies for obtaining and using tax credits. Before applying, applicants should always have consulted a professional tax advisor who has substantial expertise that is specific to the tax credit program. Specific expertise is necessary to determine optimal financing strategies and which costs of application and development can be claimed as eligible basis. Besides housing tax credits, the financing of a development might include grants or loans from the federal HOME program, federal Community Development Block Grant (CDBG) funds for constructing infrastructure, and other federally subsidized below market rate loans. All of the types of funds just named complicate the issue of structuring the financing of a tax credit development.

More About How Tax Credits Are Used by Development Owners

Under the Code, tax credits may be used as dollar-for-dollar payment of federal income taxes. Only the owners of a Housing Tax Credit development may use credits. A credit is subtracted after the amount of tax is calculated. In this form, a credit differs from a deduction or adjustment. The use of tax credits is limited by the application of the passive loss provisions and other restrictions that exist in the Code. Some types of corporations may be able to utilize an unlimited amount of tax credits to offset their federal tax liability. Because an individual real estate owner typically cannot use all of the tax credits he or she may obtain on a development against his or her own tax liability, the tax credits awarded

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to a restricted development will usually not be useful unless outside investors acquire ownership interests in the development. As explained above, the term “syndication” is used to describe the process of structuring the financial arrangements and securing the investors who will join in a partnership and own the development.

Through a syndication, a limited partnership is created whereby the limited partners exchange initial equity for the benefits of the tax credits and possibly residual cash flow from the operation of the development over time. The syndications may be created by using either individual taxpayers as the limited partners or obtaining equity capital from a single corporate sponsor.

What Properties Qualify for Tax Credits?

To be considered for tax credits, the proposed property must undergo new construction, rehabilitation or acquisition and rehabilitation. The minimum requirements necessary to qualify any building for rehabilitation under the tax credit program as referenced in Section 42(e)(3) of the Code are:

1. the expenditures are allocable to one or more low income units or substantially benefit such units; and
2. the amount of such expenditures over any 24 month period must be not less than 20 percent of the adjusted basis of the building; **or** the qualified basis, when divided by the number of low income units in the building, is, under the Code, \$6,000 or more. (Under the Texas QAP, the amount of direct hard cost incurred in the rehabilitation must be at least \$20,000 for each tax credit unit.)

Each development must include a minimum percentage of units to be set aside for eligible low income tenants. The rent charged on the units set aside must also be restricted.

Pursuant to Section 42(g)(1) of the Code, a qualified low income housing development means any development for residential rental occupancy if the development meets the requirement of **either**:

1. **20** percent or more of the residential units in such development are both rent restricted and occupied by individuals whose income is **50** percent or less of area median gross income¹; **or**
2. **40** percent or more of the residential units in such development are both rent restricted and occupied by individuals whose income is **60** percent or less of area median gross income¹.

It is important to note that once an election is made, it is irrevocable. Tax credits may only be claimed on the units that have been set aside for participation under this program. It is possible for development owners to set aside 100% of any development for consideration under the tax credit program and in doing so claim the maximum amount of tax credits eligible for the development. While 60% of area median income is the highest level at which a tenant may qualify for a tax credit unit, owners who choose the 20% at 50%

¹ This determination is made using the median gross income tables published annually by the U.S. Department of Housing and Urban Development.

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AMGI option above must restrict 100% of the tax credit units in the development to occupancy by tenants who qualify at 50% of area median income.

Tax credit units must be rent restricted. The Code citation that pertains to rent restrictions can be found in Section 42(g)(2). A residential unit is considered rent restricted if the gross rent does not exceed 30 percent of the imputed income limitation applicable to the unit. An example is given later in this guide.

Credit Period, Compliance Period and Extended Housing Commitment

The following time periods apply to any development owner that utilizes tax credits under Section 42 of the Code:

Credit Period - With respect to a building within a Development, the period of ten taxable years beginning with the taxable year the building is placed in service or, at the election of the Development Owner, the succeeding taxable year, as more fully defined in the Code, §42(f)(1)

Compliance Period - With respect to a building, the period of 15 taxable years, beginning with the first taxable year of the Credit Period pursuant to the Code, §42(i)(1).

Extended Low Income Housing Commitment - No tax credits will be allocated to any building unless an extended low income housing commitment between the development owner and the housing credit agency is in effect. The requirements that must be met by this commitment are set forth in Section 42(h)(6) of the Code. The period that is to be covered by the extended low income housing commitment in the State of Texas is at least 15 years from the close of the compliance period (Section 42(h)(6)(D) of the Code). Therefore, the development will be required to maintain its affordable housing characteristics for a period of 30 years. There are however two provisions for the early release of the extended low income housing commitment:

1. Pursuant to Section 42(h)(6)(E)(i)(I) of the Code, the extended low income housing commitment shall terminate on the date the development is acquired by foreclosure (or instrument in lieu of foreclosure) unless the Secretary of the Treasury determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate the extended use period. However, under the preceding provision, the development owner may not evict or terminate the tenancy (other than for good cause) of an existing tenant of any low income unit, or increase the gross rent with respect to such unit that is not otherwise permitted under the tax credit program, for a period of not less than three years. The citation that establishes this requirement may be found in Section 42(h)(6)(E)(ii) of the Code; and
2. Pursuant to Section 42(h)(6)(E)(i)(II) of the Code, if at the close of the 14th year of the compliance period the development owner provides the Department with a written request to find a purchaser to acquire its interest in the low income portion of the building. The Department will then be given a period of one year to find such a purchaser and offer the property at a pre-determined purchase price. If no such purchaser comes forward to acquire the low income portion of the property by the end of the one year period, then the extended low income housing

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commitment will be released. The specific Code references pertaining to this process may be found in Sections 42(h)(6)(F), (G), (H), and (I).

How to Request Tax Credits

The Texas Department of Housing and Community Affairs is the only entity in the State of Texas that has the authority to allocate tax credits under the Housing Tax Credit Program. Applications and all information necessary to apply are available throughout the year on the home page of the HTC Program on the TDHCA website. Applications must be completed on behalf of a proposed development owner and submitted to the Department for consideration within the time limits applicable to the particular year's Application Cycle as posted on the website.

Applications must be presented to the Department in conformity with the Housing Tax Credit Qualified Allocation Plan and Rules (the "QAP") during a published application acceptance cycle. All application cycles will be published in the Texas Register. Information about the cycles is also available by contacting the staff of the Multifamily Finance Production Division at any time.

To be considered for tax credits, developments must conform to the requirements of Section 42 of the Code. If an application is submitted for a development that does not meet the requirements of Section 42 of the Code, the Department will reject the application.

The Department has produced an Application Submission Procedures Manual that contains the necessary information and instructions for filing a tax credit application. The procedures outlined within the Application Submission Procedures Manual must be followed exactly as stated for the application to be considered.

As required by §2306.111 of the Texas Government Code, the Department will use a regional allocation formula to distribute credits from the State Housing Credit Ceiling. This formula establishes targeted tax credit amounts for each of the thirteen state service regions and is discussed in §50.6(a) of the 2012 QAP. The Department also utilizes set-aside categories for the allocation of tax credits. The actual set-aside categories and percentages associated with each are discussed in §50.6(b) of the 2012 QAP. Applications will compete against those other applications within their own set-aside category and/or state service region, as opposed to competing against all applications submitted.

When filing an application, the development owner must submit to the Department certain required documentation. All of the threshold items specified in §50.8 of the 2012 QAP are **mandatory requirements** that must be provided at the time of application submission for an application to receive consideration.

§50.9(a) of the 2012 QAP establishes the selection criteria, which establish the various policy initiatives set forth by the Department under the tax credit program. The selection criteria are a series of questions concerning development location, housing needs characteristics, development characteristics, sponsor characteristics, participation of local tax-exempt organizations, tenant populations with special housing needs, and public housing waiting lists. Additional documentation may be required on certain selection criteria. Maximum scores for each selection criteria are also incorporated into the rules

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under §50.9(a) of the 2012 QAP. The Department makes no assumptions concerning the eligibility of a property to receive points for certain selection criteria items for which the applicant did not initially claim the eligible score.

Tax-Exempt Bond Financed Developments

Applications for developments which receive at least 50% of their financing from the proceeds of tax-exempt bonds which are subject to the state volume cap as described in the Code, §42(h)(4)(B) are also subject to evaluation under the QAP and Department Rules. Such developments must meet all the threshold requirements stipulated in the most recently approved QAP and Department Rules. Such developments must also demonstrate consistency with the bond issuer's local Consolidated Plan. If the Department determines that all requirements have been met, the Board, shall authorize the Department to issue an appropriate notice to the sponsor that the development satisfies the requirements of the QAP and Department Rules in accordance with IRC §42(m)(1)(D).

Calculation of the Tax Credit Amount and the Maximum Allowable Rents

Probably the most common mistake in filing an application is the calculation of the maximum tax credit amount or the maximum monthly rental rate. In an attempt to minimize the number of incorrect allocation requests, an example of actual application pages and [sample](#) HUD median income information are provided to demonstrate the method of calculating both tax credit and monthly rental amounts.

In conjunction with determining a development's maximum eligible tax credit amount, the Department will review the feasibility of the proposed property and its potential to remain a viable low income housing development throughout the compliance period. These issues also enter into the Department's final decision concerning the prospects of allocating tax credits to any development.

In determining the maximum amount of tax credits that a development may receive, the Department will utilize three basic methods of calculation. The first method considers the total qualified basis attributable to the property. Qualified basis is the amount of depreciable capital improvements to be made to the property during the development process multiplied by the applicable fraction which is equal to the lesser of the percentage of units set aside for occupancy by low income tenants under this program or the percentage of floor space attributable to the low income set aside units. A more in depth discussion pertaining to the applicable fraction will be provided later in this guide.

It is important that applicants who do not wish to set aside 100 percent of their available units for occupancy by low income tenants observe the applicable fraction requirement, as this factor must be adhered to in determining the maximum tax credit amount.

The second method of determining a development's maximum eligible tax credit amount is commonly referred to as the Equity/Funding Gap Method. Under this method, the Department analyzes the total development costs associated with the creation or rehabilitation of the development. The Department will then analyze the total sources of funding (development financing) to be obtained to meet these development costs. The resulting difference between the cost of development and available development

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financing is the Equity/Funding Gap. After the Equity/Funding Gap has been determined, the Department will then calculate the amount of tax credits necessary to satisfy this gap during the credit period.

The third method of determining the annual allocation amount is to utilize the requested amount submitted by the applicant. Through the utilization of these three methods, the Department attempts to maximize the issuance of the total tax credit authority available. The lesser of the annual allocation amounts derived from the three methods of calculation is utilized by the Department.

Qualified Basis Determination

Example 1 - Calculation of credits for a “standard” development

The development cost schedule shown in Figure 1.1 represents a “standard” development whose eligible basis amount will not be adjusted for such items as inclusion of market income units, site location, and use of below market rate federal loans.

Those sections of the development cost schedule shown in Figure 1.1 that are shaded means that qualified basis may not be claimed for that particular cost category under either the acquisition or new construction/rehabilitation components. Please note that the figures provided in Figure 1 represent a simplified example. **Typically not all of the development cost for each line is includable in eligible basis because some of the work may have been associated with non-eligible activities.**

Figure 1.1

Category	Total Development Costs	Eligible Basis	
		Acquisition	Rehab./New Construction
(1) ACQUISITION			
Site acquisition cost	\$ 250,000		
Existing building acquisition cost	\$ 100,000	100,000	
(2) Sitework			
On-Site work	\$ 875,000	\$ 0	\$ 875,000
Off-Site improvements	\$ 0		
(3) Construction Hard Costs			
New structures	\$ 0	\$ 0	\$ 0
Rehabilitation hard costs	\$ 4,375,000	\$ 0	\$ 4,375,000
Accessory structures	\$ 0	\$ 0	\$ 0
(4) Contractor Fees & General Requirements²			
General requirements (6% max limit)	\$ 315,000	\$ 0	\$ 315,000
Contractor overhead (2% max limit)	\$ 105,000	\$ 0	\$ 105,000
Contractor profit (6% max limit)	\$ 315,000	\$ 0	\$ 315,000
(5) Contingencies			
Construction contingency	\$ 117,000	\$ 0	\$ 117,000
(6) Professional Fees			
Architect, design	\$ 60,900	\$ 0	\$ 60,900

² General Requirements, Contractor Overhead and Contractor Profit eligible basis amounts cannot exceed 15% of the eligible basis associated with “On-Site Work” + “Construction Hard costs”.

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Architect, supervision	\$ 26,100	\$ 0	\$ 26,100
Real estate attorney	\$ 5,000	\$ 0	\$ 5,000
Engineer/survey	\$ 28,165	\$ 0	\$ 28,165
(7) Interim Financing Fees and Cost			
Hazard Insurance	\$ 7,500	\$ 0	\$ 7,500
Liability Insurance	\$ 7,500	\$ 0	\$ 7,500
Payment Bond	\$ 0		
Performance Bond	\$ 0	\$ 0	\$ 0
Credit report	\$ 0		
Construction loan interest	\$ 143,000	\$ 0	\$ 143,000
Origination fees	\$ 27,000	\$ 0	\$ 27,000
Bridge loan expense	\$ 0	\$ 0	\$ 0
Credit enhancement fees	\$ 0	\$ 0	\$ 0
Inspection fees	\$ 12,000	\$ 0	\$ 12,000
Title & recording	\$ 55,000	\$ 0	\$ 55,000
Legal fees	\$ 30,000	\$ 0	\$ 30,000
Real estate taxes	\$ 17,000	\$ 0	\$ 17,000

*This table is a sample only, reflecting only general categories in a cost breakdown. It does not reflect all of the line items included in the required Cost Schedule.

Most of the cost items above are self-explanatory. Only several specific cost items will be discussed in greater detail below.

Category 1 (Acquisition) of the development cost schedule pertains to the cost to acquire the land and buildings that will comprise the affordable housing development. Due to the fact that tax credits are only eligible to be claimed on depreciable capital improvement, the cost of the land may not be included towards the qualified basis, and as such needs to be discounted from the total purchase price when determining qualified basis. The instances in which acquisition tax credits will be eligible to be claimed will be more thoroughly discussed during a later portion of this guide. The Department will require that the applicant supply either a current real estate tax valuation, clearly showing the percentage of total property value attributable to the land, or a purchase contract that clearly references the amount of the purchase price that is attributable to the land.

The syndication costs, as provided for in category 11 of the development cost section, relate to any and all expenditures associated with the syndication of the tax credits.

Regarding developer fees in category 12, the Department will not allow the applicant to claim more than 15 percent of total eligible basis as a developer's fee. When considering this amount, the total of both developer overhead and developer fee combine to represent developer fees. Consequently, the sum of these two line items when divided by total basis for both acquisition and rehabilitation/new construction, shall not exceed the maximum level. When an application represents both acquisition and rehabilitation, as the example depicts, and the applicant elects to claim a developers fee on both the acquisition of the buildings and their subsequent rehabilitation, then the applicant must claim the developers fees which would be allowable for both categories of costs, instead of placing all of the developers fees under the rehabilitation category. Eligibility of developers fees is discussed further in the underwriting guidelines later in this Information Guide. Developers fee may be earned on non-eligible basis activities (adjusted for the reduction

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of federal grants, B.M.R. loans, historic credits, etc.) not inclusive of the developer fees themselves, but only 15% of eligible basis items may be included in basis for the purpose of calculating developments credit amounts.

The total of each category of expenditure represents total residential costs associated with the development of the affordable housing property. Where applicable, the costs provided for within the development cost section of the uniform application should be consistent with the amounts specified within the development costs estimate submitted to the Department in accordance with the Uniform Application required under Section 50.9 of the QAP.

Upon the completion of the cost items specified within the development cost section of the application form, the applicant will then deduct the following items from the total residential costs:

1. **All federal grant proceeds used to finance development costs** - Pursuant to Section 42(d)(5)(A) of the Code, any grant of which any portion is funded with Federal funds, will require that the eligible basis for that property be reduced by the amount of such grant. Simply stated this means that if a property receives a Federal grant then the amount of that grant must be subtracted from the total eligible basis prior to the determination of tax credit amounts.
2. **Below market rate (B.M.R.) federal loans used to finance development costs** Pursuant to Section 42(i)(2)(B) of the Code, those developments that are to receive financing, the source of which is from Federal funds, with an interest rate that is below the applicable federal rate, then the development owner must reduce the total residential costs by the amount of the principal of such financing. The alternative to this provision is for the development owner to reduce the applicable percentage from nine percent to four percent. A demonstration will be provided below for this scenario.
3. **Non-qualified non-recourse financing** - The provisions for this reduction are provided for within Section 42(k) of the Code pertaining to the At-Risk Rules. Generally speaking, non-qualified non-recourse financing is considered to be non-recourse seller financing. In the instance where a development owner acquires a property and as a portion of this acquisition price, the purchaser provides a note to the seller, the amount of such financing provided for within this note would be deducted from the total residential costs. This provision would not apply to RTC seller financing under their affordable housing disposition program.
4. **Non-qualified portion of higher quality unit** - Pursuant to Section 42(d)(3) of the Code, in the instance where there exists a disproportionate standard between the quality of the non-set aside low income units and those units set aside for affordable tenancy, the development owner must deduct the costs associated with those higher quality units away from the total residential costs.
5. **Historic Tax Credit** - In the instance where a property receives both historic tax credits and Housing Tax Credits, then the amount of the historic tax credits must be deducted from the rehabilitation portion of the total residential costs prior to the determination of the Housing Tax Credit amount.

Through the deduction of the above listed items, the applicant would reduce the total residential costs associated with the creation of the affordable housing and filter them into what is referred to as total eligible basis, which is covered in Section 42(d) of the Code.

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To take the property from total eligible basis to total qualified basis, the applicant must apply the applicable fraction. The applicable fraction is defined in Section 42(c)(1)(B) of the Code as the smaller of either the unit fraction or floor space fraction as discussed below:

1. **Unit Fraction** - Pursuant to Section 42(c)(1)(C) of the Code, the unit fraction equals the amount of low income units divided by the total number of units (vacant or occupied) within the property.

$$\text{Low Income Units} \div \text{Total Units} = \text{Unit Fraction}$$
2. **Floor Space Fraction** - Pursuant to Section 42(c)(1)(D) of the Code, the floor space fraction equals the total floor space attributable to the low income units divided by the total floor space (whether or not occupied) of the property.

$$\text{Low Income Floor Space} \div \text{Total Floor Space} = \text{Floor Space Fraction}$$

By multiplying the total eligible basis as previously determined by the applicable fraction, the applicant will arrive at the total qualified basis of the property. To determine the maximum amount of tax credits that will be allowed under the qualified basis determination, the applicant will be required to multiply the total qualified basis by the applicable percentage.

For purposes of the initial analysis of the application under this program, the applicant should utilize four percent as the applicable percentage on allowable acquisition costs and new construction/rehabilitation costs that will utilize some form of below market rate federal subsidy, as provided for in Section 42(i)(2)(A) of the Code. For all other new construction/rehabilitation costs, the applicant will utilize nine percent as the applicable percentage.

At either the date on which the building is placed into service, as defined in IRS Advance Notice 88-116, or at the election of the development owner, the Department will fix the applicable percentage as in effect on either of the above two dates, pursuant to Section 42(b)(2) of the Code. The applicable percentage is set each month by the Secretary of the Treasury. A historical perspective of the movement of the applicable percentage from the inception of the tax credit program may be reviewed by the applicant in the reference manual.

As shown in Fig. 1.2 below, the development:

- does not have any funding sources that would require a reduction in the amount of “Total Eligible Basis.”
- is not located in an area that qualifies for the “High Cost Area Adjustment.”
- is comprised entirely of tax credit units so the applicable fraction is 100%.

Figure 1.2

TOTAL DEVELOPMENT COSTS (Carried forward from Fig. 1.1)	\$ 8,047,472	\$ 115,000	\$ 7,419,472
(14) Deduct from Basis:			
All federal grant proceeds used to finance costs in eligible basis		\$ 0	\$ 0
B.M.R. loans used to finance cost in eligible basis		\$ 0	\$ 0
Non-qualified non-recourse financing		\$ 0	\$ 0
Non-qualified portion of higher quality units [42(d)(3)]		\$ 0	\$ 0
Historic Credits (on residential portion only)		\$ 0	\$ 0

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TOTAL ELIGIBLE BASIS	\$ 115,000	\$ 7,419,472
High Cost Area Adjustment (130% for QCTs and DDAs)		100 %
TOTAL ADJUSTED BASIS	\$ 115,000	\$ 7,419,472
Applicable Fraction	100 %	100 %
TOTAL QUALIFIED BASIS	\$ 115,000	\$ 7,419,472
Applicable Percentage	4.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS REQUESTED	\$4,600	\$667,752

As can be seen in Fig. 1.2, the “Total Qualified Basis” amount has not been modified from the amount of eligible “Total Residential Costs” shown at the end of Fig. 1.1. The maximum annual amount of tax credits that may be claimed under the qualified basis determination would be \$672,352 (\$4,600 + \$667,752).

Utilizing the same total residential costs as provided in Fig. 1.1, the Department will now provide examples of how to determine the maximum amount of tax credits, through the qualified basis method, under a number of various scenarios.

Example 2 - Developments Located in either a Difficult Development Area (DDA) or Qualified Census Tract (QCT).

Under certain circumstances, properties located in either difficult development areas or qualified census tracts may be eligible to have their new construction/rehabilitation eligible basis increased by 130%, as provided for in Section 42(d)(5)(C) of the Code. The increase to eligible basis, for properties located in either a difficult development area or qualified census tract, is not allowable on any acquisition basis. The definition of these two areas are provided for below:

1. **Qualified Census Tract** - Pursuant to Section 42(d)(5)(C)(ii) of the Code, a qualified census tract is defined as any census tract that is designated by the Secretary of Housing and Urban Development (HUD) and, for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25%.
2. **Difficult Development Area** - Pursuant to Section 42(d)(5)(C)(iii) of the Code, a difficult development area is defined as any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, and utility costs relative to area median gross income.
3. The Secretary of Housing and Urban Development designates those areas that will receive the additional benefits inherent by increasing the eligible basis. On an annual basis, the Department receives a listing of these qualified census tracts and difficult development areas and provides the information to you in the Reference Manual.
4. As shown in Fig. 2.1, the development:
 - does not have any funding sources that would require a reduction in the amount of “Total Eligible Basis.”
 - is located in an area that qualifies for the “High Cost Area Adjustment.”
 - is comprised entirely of tax credit units so the applicable fraction remains is 100%.

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Figure 2.1

TOTAL ELIGIBLE BASIS (Carried forward from Fig. 1.2)	\$ 115,000	\$ 7,419,472
High Cost Area Adjustment (130% for QCTs and DDAs)		130 %
TOTAL ADJUSTED BASIS	\$ 115,000	\$ 9,645,314
Applicable Fraction	100 %	100 %
TOTAL QUALIFIED BASIS	\$ 115,000	\$ 9,645,314
Applicable Percentage	4.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS REQUESTED	\$4,600	\$868,078

In this example, the new adjusted eligible basis for the rehabilitation portion of the total residential costs has been increased from \$7,419,472 to \$ 9,645,314, which accounts for the 130% increase that increases the credit award by \$200,321.

Developments That Receive Federal Subsidy.

Developments that will receive a grant which is funded in whole or in part through Federal funds will be required to reduce the credit percentage associated with the new construction/rehabilitation qualified basis or remove the funding source from eligible basis.

The most common occurrence that leads to this reduction is the use of financing from the Texas Rural Development Agency under its Section 515 program. This program provides long term mortgage financing at a subsidized interest rate of one percent. This type of property would fall under the requirement that its applicable percentage be reduced from nine percent to four percent.

As shown in Fig. 3.1, the development:

- has a federal below market rate loan of \$200,000 that the terms of would require a reduction in the amount of “Total Eligible Basis” or a reduction in the “Applicable Percentage.”
- is not located in an area that qualifies for the “High Cost Area Adjustment.”
- is comprised entirely of tax credit units so the applicable fraction is 100%.

Figure 3.1

TOTAL ELIGIBLE BASIS (Carried forward from Fig. 1.2)	\$ 115,000	\$ 7,419,472
High Cost Area Adjustment (130% for QCTs and DDAs)		100 %
TOTAL ADJUSTED BASIS	\$ 115,000	\$ 7,419,472
Applicable Fraction	100 %	100 %
TOTAL QUALIFIED BASIS	\$ 115,000	\$ 7,419,472
Applicable Percentage	4.00%	4.00%
TOTAL AMOUNT OF TAX CREDITS REQUESTED	\$4,600	\$296,779

In Figure 3.1, the applicable percentage was reduced from the initial nine percent to four percent, in accordance with Section 42(b)(2)(B) of the Code. The reduction in the applicable percentage decreased the tax credit amount on the rehabilitation from \$667,752 to \$296,779.

As an alternative, the applicant could have chosen to deduct the total principal amount of the federal below market interest rate financing from total eligible basis, and in doing so,

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be permitted to utilize an applicable percentage of nine percent against the eligible rehabilitation costs. The determination as to which method should be utilized is strictly up to the applicant. The Department will not be responsible for providing consultation concerning this decision to an applicant. This scenario is depicted in Figure 3.2.

Figure 3.2

TOTAL DEVELOPMENT COSTS (Carried forward from Fig. 1.2)	\$ 8,047,47 2	\$ 115,000	\$ 7,419,472
(14) Deduct from Basis:			
All federal grant proceeds used to finance costs in eligible basis		\$ 0	\$ 0
B.M.R. loans used to finance cost in eligible basis		\$ 0	\$ 200,000
Non-qualified non-recourse financing		\$ 0	\$ 0
Non-qualified portion of higher quality units [42(d)(3)]		\$ 0	\$ 0
Historic Credits (on residential portion only)		\$ 0	\$ 0
TOTAL ELIGIBLE BASIS		\$ 115,000	\$ 7,219,472
High Cost Area Adjustment (130% for QCTs and DDAs)			100 %
TOTAL ADJUSTED BASIS		\$ 115,000	\$ 7,219,472
Applicable Fraction		100 %	100 %
TOTAL QUALIFIED BASIS		\$ 115,000	\$ 7,219,472
Applicable Percentage		4.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS REQUESTED		\$4,600	\$649,752

In Figure 3.2, the “Total Eligible Basis” amount was reduced by the \$200,000 loan. The reduction in the “Total Eligible Basis” resulted in the decreasing of the tax credit amount on the rehabilitation from \$667,752 to the current level of \$649,752.

It is important to note that some forms of Community Development Block Grant (CDBG) and HOME financing where the applicant clearly is required to repay the awarded funds are not considered under the provisions of a below market federal loan, as provided for in Section 42(i)(2)(D) and (E) of the Code respectively.

Example 4 - Developments That Elect to Set Aside Less Than 100% of the Available Units. As stated previously, prior to calculating the qualified basis for any development, the development owner must first multiply the eligible basis by the applicable fraction. Under the four scenarios provided above, the development owner set-aside 100% of the available units for occupancy by persons or families of low and very low income.

For an example which describes the Applicable fraction for a mixed income development, the Department will assume the unit breakdown and square footage shown in Fig. 4.1.

Figure 4.1

# of Bedrms.	# of Units	Unit Size(NRSF)	Total NRSF
Tax Credit Units			
1	17	700	11,900
2	25	900	22,500
3	8	1,100	8,800
	50		43,200
Market Rate Units			

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1	8	700	5,600
2	25	900	22,500
3	17	1,100	18,700
	50		46,800
Total Units	100		90,000

To determine the applicable fraction, the applicant will need to perform both the unit fraction and floor space fraction calculations.

The formula for determining the unit fraction is:

$$\text{Low Income Units} \div \text{Total Units} = \text{Unit Fraction}$$

By utilizing this formula, the corresponding unit fraction for the unit composition and set-aside portions provided above would be 50% ($50 \div 100 = 50\%$). The formula for determining the floor space fraction once again is:

$$\text{Low Income Floor Space} \div \text{Total Floor Space} = \text{Floor Space Fraction}$$

Consequently, the appropriate floor space fraction for the unit composition and set-aside portions as provided above would be 48% ($43,200 \div 90,000 = 48\%$).

Upon the completion of these two calculations, the applicant would utilize the lesser of the unit fraction or floor space fraction. In the case of this example, the applicable fraction would be 48%. The applicant must use the applicable fraction against both the acquisition and new construction/rehabilitation categories to properly calculate the maximum allowable tax credit amount. Only that portion of the development that is set-aside for usage under this program may receive the benefits of the tax credits. Consequently, since the applicant in this example chose to set-aside only 48% of the property for tenancy by low and very low income persons and families, they may only be allocated that amount of tax credits that corresponds to the elected set-aside. As a result of this reduction in the applicable fraction, the qualified basis was reduced which leads to the reduction in the amount of tax credits that the development owner could claim.

Figure 4.2

TOTAL ADJUSTED BASIS (Carried forward from Fig. 1.1)	\$ 115,000	\$ 7,419,472
Applicable Fraction	48%	48%
TOTAL QUALIFIED BASIS	\$55,200	\$3,561,347
Applicable Percentage	4.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS REQUESTED*	\$2,208	\$320,521

In figure 4.2., the use of the 48% applicable fraction reduces the amount of the tax credits requested from \$672,352 (as calculated in Figure 2.1) to \$322,729.

Equity Funding Gap

The equity/funding gap takes into consideration the total sources and uses of funds required for the completion of the new construction, rehabilitation or acquisition and subsequent rehabilitation of a particular property. The basis for this form of analysis may be found in Section 42(m)(2)(B) of the Code, which states the housing credit agency should determine that level of tax credits that will be necessary for the development to be financially feasible as a qualified low income housing development throughout the credit period. In arriving at this determination, the housing credit agency is instructed to review the sources and uses of funds and the total financing planned for the development

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(Section 42(m)(2)(B)(i) of the Code) and also any proceeds or receipts expected to be generated by reason of tax benefits (Section 42(m)(2)(B)(ii) of the Code) or the syndication of the tax credits.

The Department, through the process of determining the eligible basis of a particular property, has already accomplished the function of determining the total development costs associated with the completion of the property. §50.8(7) of the 2012 QAP requires that the development owner supply information concerning the proposed financing to be utilized towards the completion of the proposed development, that will be used in this calculation to offset the anticipated development costs.

The final component of the equity/funding gap calculation is the determination of the proceeds to be received through the syndication of the tax credits. In arriving at this determination, the Department will assume that the typical property will receive an equity amount equal to the current market rate for every dollar in tax credits allocated to the property. The equity factor used by the Department will assume the discounting which the investor will apply to the tax credits and also the cost associated with the arrangement of the limited partnership group through a syndication firm. The Department will utilize the equity/funding gap approach even in the instance where the development owner chooses not to sell the benefits of the tax credits to a potential limited partner.

Prior to discussing the formula for determining the level of tax credits that might be eligible under the equity/funding gap approach, the Department will provide some definitions or clarification pertaining to the components of the formula.

- **Total Residential Costs** - The total residential costs are those development costs for both the acquisition and/or new construction/rehabilitation categories. It is important to note that this calculation utilizes those development costs that are considered ineligible under the qualified basis determination.
- **Total Sources of Funds** - The total sources of funds includes all proposed or current funding that will be utilized on the development. In arriving at the total sources of funds the Department will be considering the permanent financing as opposed to interim financing. In the instance where grants are to be considered on a particular development, the applicant must include the initial amount of the grant as a source of funds under this calculation.
- **Syndication Factor** - The anticipated value of the tax credits to the development owner. This is the percentage of each dollar that the syndication firms will pay for the tax credits. As previously stated the syndication factor will be assumed to be at the current market rate.

The basic formula for the equity/funding gap is as follows:

Step 1: Total Residential Costs - Total Sources of Funds = Equity Funding Gap

Step 2: Equity Funding Gap ÷ Syndication Factor = Total Value of Tax Credits

Step 3: Total Value of Tax Credits ÷ 10 years = Annual Value of Tax Credits

In conducting this example, the Department will utilize components of the development cost schedule provided in Figure 1.1. In the calculation of the equity/funding gap, the costs used to reference the total uses of funds is the total residential costs, which in the previous example totaled \$8,047,472. The Department will assume that the applicant was successful in obtaining mortgage financing equaling \$3,500,000.

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Figure 5.1

Total Residential Costs (from Fig. 1.1)	\$8,047,472
Less: Total Sources of Funds	\$3,500,000
= Equity Funding GAP	\$4,547,472
/ Syndication Factor	0.72
= Total Value of Tax Credits	\$6,315,933
/ 10 Years	10
= Annual Value of Tax Credits	\$631,593

As shown in figure 5.1, under the equity/funding gap approach, it would be assumed that through the provision of \$631,593 per year in tax credits for the next ten years, that the applicant could transfer the benefits of these credits to a limited partner for \$.72 on the dollar and receive \$4,547,472 in equity capital that would offset the initial equity requirement.

The development owner will be eligible for the lower amount of tax credits generated by the qualified basis and equity funding gap approaches.

Determining the Maximum Allowable Rent to be Charged on a Set-Aside Unit

As previously discussed in the section “What Must An Applicant Do To Qualify for Tax Credits” section, the development owner must agree to set-aside a certain percentage of the units for occupancy by persons of low and very low income. The units that are to be set-aside for low and very low income occupancy must also be rent restricted.

The portion of the Code that pertains to rent restrictions is Section 42(g)(2). In general, the rent that is allowed to be charged to a person or family of low and very low income under the tax credit program shall not exceed 30 percent of the imputed income limitation applicable to the units that is set-aside.

In Section 42(g)(2)(C) of the Code, imputed income limitation is considered to be the income that would apply to individuals occupying a unit if the number of individuals that occupied the unit were determined as follows:

1. in the case where the unit does not have a separate bedroom, one individual; and
2. in the case where the unit has one or more separate bedrooms, 1.5 individuals for each separate bedroom.

Figure 6.1 shows how the imputed income limitation parameters are utilized.

Figure. 6.1

Number of Bedrooms	Imputed Income Limitation
Efficiency	1 person
One Bedroom	1.5 persons
Two Bedrooms	3 persons
Three Bedrooms	4.5 persons, etc.

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Once the imputed income limitation is determined for the various unit types in the development then the process of calculating the maximum monthly rental rate can commence.

In calculating the maximum monthly rental rate that could be charged on a low income set-aside unit, it has previously been stated that said rent may not exceed 30% of the imputed income limitation applicable to the unit. Within this 30%, the applicant must discount any and all allowances for utilities that the tenant is responsible for paying directly to the service provider, pursuant to Section 42(g)(2)(B)(ii) of the Code.

HTC rent limits include an allowance for the cost of utilities (heat, lights, air conditioning, water, sewer, oil or gas). In developments where the owner pays all utilities, no adjustment in the HTC rent limits are needed to determine the maximum rent that can be charged for a tax credit unit. In developments where tenants pay all or a portion of their own utilities, the rent established for a tax credit unit must not exceed the applicable HTC rent limit for that unit. Depending on whether or not the HTC development receives additional assistance from other programs (such as FmHA, Section 8), owners may be required to use predetermined utility allowances. Owners of conventionally financed buildings may either rely upon local PHA determined utility allowances or calculate allowances themselves. If owners choose to determine utility allowances themselves, they must be able to document calculations as described in Treasury Regulation Section 1.42-10.

In this demonstration, the Department will calculate the maximum monthly rent that could be charged for both a one and two bedroom unit if the property were being set-aside for occupancy by persons and families at or below 50% of area median income. The Department will assume that the property is located in Abilene, Texas in performing the necessary calculations.

Figure 6.2. Example of Income and Rent Limits for Abilene, TX MSA

	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
50%	14,250	16,300	18,300	20,350	22,000	23,600	25,250	26,850
60%	17,000	19,560	21,960	24,420	26,400	28,320	30,300	32,220
	Efficiency	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	5 Bedroom		
50%	356	381	457	529	590	651		
60%	427	458	549	635	708	781		

To arrive at the imputed income limit for a 1.5 person family, the applicant must add the one person income figure to the two person income figure and divide by a factor of two. The resulting number will represent the imputed income limitation for a 1.5 person family. The same basic process would be used to determine an imputed income limitation for either a 4.5 or 7.5 person family.

Figure 6.3 Imputed Income Calculation

Unit Type	1 Bedroom	2 Bedroom
Imputed Income Limit.	1.5 persons	3 persons
Income Determination:		
One Person Income at 50%	\$14,250	18,300
Two Person Income at 50%	\$16,300	
Sum of the above	\$30,550	

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Divided by	/2	
Imputed income	\$15,275	18,300

Maximum Rent Determination:

Imputed Income	\$15,275	18,300
Refer to the Maximum Rent Limit Table for persons at 50%	\$381	\$457
Less Utility Allowance	- \$50	-\$75
Maximum Monthly Rental Rate	\$331	382

Under this demonstration, it is assumed that the tenants within the development will be required to pay for their utilities and the resulting allowance for the community in question for the sake of this example, \$50 is the utility allowance for a one bedroom unit and \$75 for the two bedroom unit. Consequently, the maximum monthly rental rate that could be charged to a person or family under the 50% median income requirement for a one and two bedroom unit would be \$331 and \$382 respectively. In the instance where the development owner would pay all necessary utilities, thereby relieving the tenant from the requirement to separately pay for the utilities, the maximum monthly rental rate could be as much as \$381 for a one bedroom unit and \$457 for a two bedroom unit. The process for calculating the appropriate rents for persons at the 60% income level would be identical except that the 60% limits would be used in the calculation.

The calculation of the maximum rental rate establishes the ceiling that may be charged under the requirements of the tax credit program, and not what should be charged to any particular tenant. The applicant must continue to be sensitive to the prevailing market rates in establishing the rents, all the while being conscious of the maximum rental rate that is allowed for under the tax credit program.

The imputed income limitation calculated in the process of determining maximum rental rates does not establish the maximum family income that a prospective tenant may earn and still qualify for the housing unit. The determination as to any particular tenants ability to qualify for a unit is limited to their income in relationship to the established HUD median income tables that corresponds to the number of people that will reside within the housing unit.

Developments Located in QCT's, DDA's, or Certain Targeted Texas Counties

The Department has elected to provide certain special benefits to those applicants that produce housing in either qualified census tracts, difficult development areas or specifically targeted Texas counties. Those properties that are to be considered in either a qualified census tract or difficult development must conform to the provisions as set down within Section 42(d)(5)(C) of the Code. The definitions for both a qualified census tract and difficult development area were provided in the section dealing with the calculation of qualified basis.

Validating the Allocation of Tax Credits by Year End

After the Department determines the feasibility of a development as an affordable housing development, and the maximum level of tax credits that are eligible to be claimed,

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those developments that pass all of the necessary tests will be presented to the Board of Directors of the Department for their consideration. Only the Department's Board of Directors may approve the commitment of any tax credits to a proposed housing development application.

Development owners receiving a commitment of housing tax credits will be required to satisfy all of the conditions present within the commitment, including but not limited to the full payment of any and all commitment fees as provided for in §50.14 of the 2012 QAP, prior to the expiration date provided therein. Once all of these conditions have been met, it is required that the development owner either complete the necessary new construction/rehabilitation (commonly referred to as placing the units into service) or file for a carryover allocation prior to the end of the calendar year. A carryover allocation will allow the development owner 24 months from the close of the calendar year in which said carryover allocation is issued to complete the necessary rehabilitation or new construction and place the buildings into service, pursuant to IRS Notice 88-116. Failure on the part of the development owner to either place the units into service or file for a carryover allocation by the specified expiration date stated in the commitment notice would result in the termination of the tax credits from the Department.

Carryover and 10% Test

The specific regulations pertaining to carryovers are within Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6, both of which are within the reference manual. The specific requirements by the Department pertaining to carryover eligibility is further described in detail in the Carryover Allocation Procedures Manual. All portions of the Carryover Allocation Procedures Manual must be adhered to when filing for a carryover allocation with the Department.

A property would qualify for a carryover only if the requirements of the Carryover Allocation Procedures Manual have been met. The following outlines basic qualification procedures for carryover allocations. A carryover allocation occurs when the development owner has not and will not be finishing the rehabilitation or new construction portion of the development prior to the end of the year in which the tax credit commitment is issued.

1. Commitment fee specified in the commitment notice has been received by the Department.
2. All conditions and requirements to the commitment notice have been satisfactorily cleared with the Department.

No later than six months after the execution of the Carryover Allocation Document, the development owner must show that the basis in the development is more than 10% of the development owner's reasonable anticipated basis in the development (as of the end of the second calendar year succeeding the allocation year). Basis means the taxpayers adjusted basis of land and depreciable property that is reasonably expected to be part of the development, whether or not such amounts are includible in the eligible basis of the buildings in the development under Section 42(d) of the Code.

What is Required to Place the Development in Service?

The final IRS Forms 8609 are issued to development owners who complete their rehabilitation or new construction. For development owners applying for acquisition and

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rehabilitation tax credits, the acquisition of the property must occur in the year the development receives its allocation of tax credits. If the development will be completed prior to the end of the calendar year in which it receives its commitment notice for tax credits, the development owner must cost certify the development prior to the expiration date stated in the commitment notice. The following outlines the basic requirements of cost certifying a development for final allocation:

1. All conditions and requirements to the commitment notice have been satisfactorily cleared with the Department.
2. Commitment fee and Compliance Monitoring fee specified in the commitment notice have been received by the Department.
3. Benefits and burdens of ownership have been transferred to the development owner and the federal tax I.D. number has been established.
4. The Declaration of Land Use Restrictive Covenants Document has been correctly prepared, executed and filed in the appropriate county real property records.
5. The Department has been presented with a cost certification audit and evidence that the new construction or rehabilitation work has been completed.
6. The development owner has attended a compliance monitoring workshop conducted by the Department and has received a certificate of completion from the Department for said workshop.

Development owners must adhere and comply with all portions of the Cost Certification Procedures Manual to be considered for the final allocation of the IRS Forms 8609. Development owners should allow a minimum of eight weeks for processing of the IRS forms 8609.

Areas of Difficulty Experienced by Applicants to the Tax Credit Program

To provide you as much information as possible concerning the tax credit program, the Department will cover some of the typical areas in the program that have given previous applicants difficulty.

1. **Failure on the part of the applicant to provide the Department with sufficient information in order for it to reach a determination concerning the application.** If the applicant does not submit sufficient information to the Department in order for a determination to be made as to either priority of the application, eligibility of the property under the requirements of the tax credit program, maximum amount of tax credits that may be permitted on the property, etc., then the Department will be delayed in processing the application. If the deficiencies under this scenario are not adequately addressed by the applicant, the property may be terminated by the Department.
2. **Failure on the part of the applicant to properly calculate the maximum amount of tax credits that might be eligible on the property.** By not properly calculating the amount of tax credits that are eligible to be claimed on any property, the applicant may either overestimate or underestimate the potential tax credit allocation. If plans and forecasts dealing with the financial structure of the development are taken into consideration, under the assumption that the initial applicants tax credit estimates are correct, and the Department subsequently recalculates the tax credit amount at a lower level, then the development owner would be faced with the prospect of re-analyzing the

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transaction to determine the willingness to proceed under the new tax credit amounts.

3. **Failure on the part of the applicant to properly calculate the maximum amount of rents that would be allowable under the tax credit program.** When the applicant improperly calculates the maximum rental rates that may be charged under this program, and in doing so, bases the proforma operating estimates on the incorrect rental rate, the reduction in the maximum allowable rental amount may adversely affect the long term estimates of operating performance, and possibly reduce the properties viability under the tax credit program.
4. **Failure on the part of the applicant to properly satisfy the necessary year end requirements of the tax credit program.** As stated previously in this guide, the development owner is required to either place the units into service or file the necessary documentation to receive a carryover allocation of the tax credits prior to the end of the calendar year. Should the development owner receive a commitment of tax credits and fail to perform under either of these two alternative by the end of the calendar year, then the Department will terminate the tax credit commitment.
5. **Failure on the part of the applicant to adhere to application cycle deadlines or supplemental notice deadlines issued from the Department.** The applicant is advised to adhere to the deadlines with regards to any application cycle and any notice issued with regards to the property whereby the Department is requesting additional information To complete its analysis of the property.
6. **The applicant fails to provide the Department with a completed application package.** As stated earlier in this guide, the Department will not take the responsibility of insuring that all selection criteria issues, which would be eligible to be claimed on a certain property, have been provided in a satisfactory manner. It is the responsibility of the development owner to claim those selection criteria points that the application is eligible to receive. The Department will take the responsibility of either confirming or denying the claims made by the development owner with regards to the application exhibits.
7. **Application fails to score a sufficient number of points to be considered for tax credits.** When the application fails to score sufficient selection criteria points during a given application cycle, the application may not be considered for tax credits during that application cycle. This possibility takes on new meaning when the application cycle in which the development owner is competing in is the last cycle of any given program year. The failure to be considered during that final cycle could mean that the property will not be considered during that program year.
8. **The applicant fails to provide the Department with all of the information as requested within the threshold criteria** (§50.8 of the 2012 QAP). In order for an application to be considered for scoring and possible review by an underwriter, a development must first demonstrate that it meets the threshold criteria as set forth in this section of the Rules. Consequently, the failure on the part of the development owner to supply the information requested in the threshold criteria will force the delay in the underwriting process of the development and may cause the development application to be terminated.
9. **Failure on the part of the applicant concerning the purpose and benefits to be received from tax credits.** Tax credits are an ingredient that, when combined with other forms of financing, will foster the creation of affordable housing. The tax credit is a component of the overall financing package and not the whole

Conclusion

As stated in the first portion of this guide, the Department's intention in providing this information is to familiarize you with the requirements of the tax credit program. While the Department is sure that each person may have specific questions that this guide may not have sufficiently addressed, we hope that the information will provide an adequate foundation upon which you may build your understanding of this program.

The Department always stands ready to assist you in understanding the tax credit program and the means by which an application is to be presented. The Department will offer direct assistance to any individual that requires this service in the preparation of the tax credit application. However, the Department will not take the responsibility of completing the application package for you.

The Department looks forward to your continuing interest in the tax credit program and in the creation of decent, safe, and sanitary affordable housing for the citizens of the State of Texas.

Pre-Application (for Competitive HTC only)

What you will learn in this section:

- ✓ Pre-Application delivery instructions
- ✓ Pre-Application assembly instructions
- ✓ How to fill out the electronic Pre-Application file
- ✓ Required Pre-Application exhibits

Pre-Application Delivery Instructions

Deliver To: Multifamily Finance Division
(Overnights) Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Regular Mail: P.O. Box 13941
Austin, Texas 78711

Please note that the Applicant is solely responsible for proper delivery of the Application. Late deliveries will **not** be accepted.

Competitive Application Cycle

The Pre-Application must be received by TDHCA no later than 5:00 p.m. on Tuesday, January 10, 2012. If you wait until January 10, 2012 for walk-in delivery, tables will be set up in one of the Department's conference rooms for Application receiving from 8:00 a.m. to 5:00 p.m. No assembly, copying or formatting of Pre-Applications will be allowed on TDHCA grounds. These tasks must be performed prior to arrival at TDHCA.

Mailed or courier packages must be received by TDHCA on or before 5:00 p.m. Tuesday, January 10, 2012. TDHCA shall not be responsible for any delivery failure on the part of the Applicant. If the Applicant chooses to use a postal or courier service to deliver the Pre-Application to TDHCA and such service fails to deliver the Pre-Application by the deadline, then the Pre-Application will be deemed by TDHCA as untimely and will not be accepted.

4% Tax Credit Applications

Instructions for bond Pre-Applications with the Department as the Issuer can be found at: <http://www.tdhca.state.tx.us/multifamily/bond/index.htm>. Applications for inducement are accepted monthly.

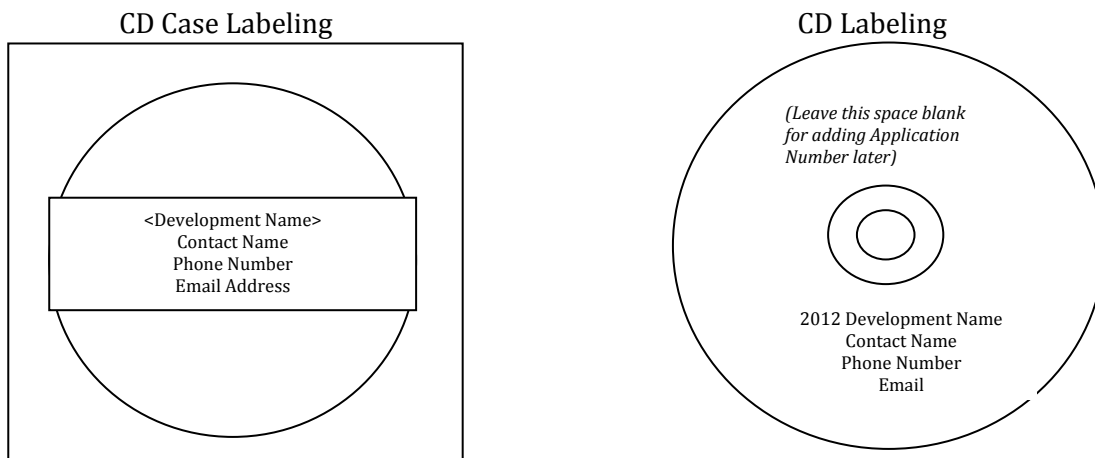
2012 Multifamily Application Procedures Manual

Pre-Application Assembly Instructions

For each Pre-Application the Applicant must ensure execution of all necessary forms and supporting documentation, and place them in the appropriate order according to this manual. All Pre-Application materials must be submitted in electronic format only, unless specifically noted otherwise. The Applicant must deliver (by 5:00 PM on January 10, 2012):

1. One VIRUS-FREE CD-R in a protective hard plastic case containing the following:
 - o A complete Microsoft Excel based 2012 Multifamily Uniform Pre-Application file; and
 - o A complete, executed PDF copy of the 2012 Multifamily Uniform Pre-Application file with all attachments and supporting documentation;
2. One complete hard copy of the 2012 Payment Receipt with check attached for the correct Pre-Application Fee, made out to "Texas Department of Housing and Community Affairs"; and
3. One completed and fully executed 2012 Electronic Application Filing Agreement.

Label the CD protective case with a standard label containing the typed-in development name and the Applicant's name with email address to contact. Leave 2" above the label for a TDHCA Project Number label that will be added later by TDHCA. **PLEASE DO NOT ATTACH ADHESIVE LABEL TO THE CD ITSELF.** Rather, write the requested information legibly on the printed side of the CD itself with a felt-tip pen. Refer to labeling illustrations below. **Double-check the CD to verify that it contains the properly named virus-free application files.**



Instructions for Completing the Electronic Pre-Application

If submitting a Pre-Application, all applicants are required to use the 2012 Uniform Pre-Application file provided by TDHCA at (<http://www.tdhca.state.tx.us/multifamily/applications.htm>).

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1. To download the electronic Pre-Application file, right-click on the link at the website provided above, select "Save Target As" and choose the storage location on your computer. The Excel file should be named in the following format -- <Development Name-Pre-Application>.xls (e.g. Austin_Crossing_Pre-Application.xls)
2. Please do not transfer tabs from one Pre-Application file to another, even if it is for the same Pre-Application. If you plan to submit more than one Pre-Application, please make additional copies of the 2012 Uniform Pre-Application file **after** completing portions of the Pre-Application that are common to all of your applications and **before** completing any portions that are not common to all of your applications.
3. Fill in only the areas shaded in yellow. All other cells not shaded in yellow are for Department use only and have been pre-formatted to automatically calculate information provided by the Applicant and are locked. Applicants may view any formulas within the cells. Applicants may not add additional columns or rows to the spreadsheets.
4. All questions are intended to elicit a response, so please do not leave out any requested information. If references are made by the Applicant to external spreadsheets those references must be removed prior to submission to TDHCA as this may hamper the proper functioning of internal evaluation tools and make pertinent information unavailable to TDHCA.
5. When entering phone, fax and cellular numbers or zip codes, enter numbers only with no blank spaces, parenthesis or hyphens, these cells are pre-formatted. Phone, fax and cellular numbers will require area codes.
6. This electronic Pre-Application has been designed so that some information, such as development name, development address, city, etc. need only be entered once. In order to take advantage of this feature, the user must enter information in the order in which it is requested. If you see a "#VALUE" or "DIV/0" in a cell do not worry. These values will disappear upon data entry in other tabs.
7. Be sure to save the file as you fill it out!

If you have difficulty downloading the files from the website, contact Jason Burr at (512) 475-3986, or jason.burr@tdhca.state.tx.us.

Instructions for Converting the Excel file to PDF

Once the Excel Pre-Application file is completed and you are ready to convert the file to PDF, follow these instructions:

Excel 2007 Users:

1. Click the **Microsoft Office Button**  , point to the arrow next to **Save As**, and then click **PDF or XPS**.
2. In the **File Name** list, type or select a name for the workbook.
3. In the **Save as type** list, click **PDF**.

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4. If you want to open the file immediately after saving it, select the **Open file after publishing** check box. This check box is available only if you have a PDF reader installed on your computer.
5. Next to **Optimize for**, do one of the following, depending on whether file size or print quality is more important to you:
 - If the workbook requires high print quality, click **Standard (publishing online and printing)**.
 - If the print quality is less important than file size, click **Minimum size (publishing online)**.
6. Click **Options**. Under **Publish What** select **Entire Workbook** and click **OK**.
7. Click **Publish**.

Excel 1997-2003 Users:

1. With the Excel file open go to the Adobe PDF drop-down box from the task bar (if using Excel 2007 click on "Acrobat" tab in the task bar).
2. Select "Convert to Adobe PDF" from the drop-down list (Excel 2007- select "Create PDF").
3. The Adobe PDFMaker box will appear. On the left hand side of the box all of the sheets within the Excel file will be listed and you will be prompted to select the sheets you would like to convert to PDF. Once the sheets you want to convert are selected click on the "Add Sheets" button to move those sheets over to the right-handed side of the Adobe PDFMaker box, this will list the sheets selected to be converted to PDF.
4. Once all sheets you have selected appear on the right-hand side under "Sheets in PDF" click on the "Convert to PDF" button.
5. You will be prompted to create a name and save the PDF file. The PDF file should be named in the following format -- <Development Name_Pre-Application>.pdf (e.g. Austin_Crossing_Pre-Application.pdf).
6. A pop-up box will appear that asks "Do you want to proceed without creating tags?" Click Yes.

Remember that there are forms that require a signature. Once you have executed all required documents scan them and re-insert the scanned forms back into the order required.

Once the file has been converted to PDF and all executed forms have been re-inserted into its appropriate location within the file, you will need to create Bookmarks. Bookmarks may or may not have already been created as part of the conversion process. You will need to designate or re-set the locations. To correctly set the Bookmark locations you must have the PDF file open in Adobe Acrobat. Click on the Bookmark icon located on the left-hand side of the Adobe Acrobat screen, or go to the task bar and select these options in the following order: **View** → **Navigation Panels** → **Bookmarks**.

2012 Multifamily Application Procedures Manual

If a Bookmark has already been created for each tab within the Excel file, simply re-set the bookmarks to the correct locations. It is likely that the bookmark has already been created and named according to the names of the tabs. This is ok. Should you need to re-set the location for the Bookmarks, go to the first page of each separately labeled tab. You will then right-click on the corresponding Bookmark for the tab you are currently viewing. Select **Set Destination** and a pop-up box will appear asking you the following: "Are you sure you want to set the destination of the selected bookmark to the current location?" Select **Yes**.

If Bookmarks were not already created within the Excel file, then you will need to create these Bookmarks. Go to **Document** → **Add Bookmark**. Right-click on the first Bookmark and re-name it for the appropriate tab (for example: Tab 2- Pre-App Submission Form, etc.). You will then need to set the location of the Bookmark by going to the first page of each form or exhibit, right click on the corresponding Bookmark and select **Set Destination**. A pop-up box will appear asking you the following: "Are you sure you want to set the destination of the selected bookmark to the current location?" Select **Yes**.

If after conversion of the Excel file to PDF you have extra blank pages of any exhibit, you can delete those pages in order to limit the size of the file. To delete any extra, unnecessary pages identify the page number(s) you want deleted. On the Adobe Acrobat Task Bar click on Document and select Delete Pages from the drop down list. A box will appear prompting you to select which page(s) you would like to delete. Enter the page numbers to be deleted and hit OK.

The PDF formatted file must be checked for the following prior to submission:

- ✓ All tabs and/or volumes must be correctly bookmarked
- ✓ Files should average less than 100 kilobytes per page
- ✓ Files must be readable with free PDF file viewers including Adobe Reader and be compatible with Adobe Reader 5.0 and above
- ✓ Files should be saved so that "Fast Web View" (or page at a time downloading) is enabled
- ✓ Text within the PDF file should be searchable using the "Find" command in the PDF viewer

If you have any questions on using or experience difficulties with the Microsoft Excel based application, contact Raquel Morales via email at raquel.morales@tdhca.state.tx.us.

Required Forms and Exhibits for the Pre-Application

Submission of a Pre-Application is not required; however, submitting a Pre-Application qualifies the Application for six (6) points, if all pre-application threshold requirements are met, notwithstanding the requirements under §50.9(b)(14). These points would not be available otherwise.

During the review process an Administrative Deficiency will be issued to an Applicant in cases where a clarification, correction or non-material missing information is needed to resolve inconsistencies in the original Pre-Application. It is important that Applicants take extra care in completing and compiling all required documentation for the Pre-Application submission.

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There are seven tabs in the Pre-Application Excel workbook that represent separate spreadsheets for Applicant use. The complete PDF Pre-Application file must be submitted in the order presented in the Excel file and detailed below. Note that some tabs in the workbook act as a placeholder for purposes of reminding Applicants of the unbound documents that must be provided within the Application (*Applicants are encouraged to print out a blank version of each tab beforehand to be aware of all contents*):

❖ **Tab 1: Pre-Application Certification**

- The form must be signed by the Applicant or person with authority to execute documents on the Applicant's behalf and must be dated and notarized. **NOTE: No hard copy is required, only a scanned copy of the fully executed and notarized document within the final PDF is required.**



❖ **Tab 2: Competitive HTC Pre-Application Submission Form**

- Please fill in all yellow highlighted cells of the form.
- **Set-Aside Information** – select all set-asides for which the Pre-Application is being submitted. You may select more than one.
- **Allocation Information** – select the allocation for which the Pre-Application is being submitted from the drop-down list provided. You may refer to the 2012 HTC Site Demographics reference material to confirm Urban or Rural designation for the proposed Development location.
- **Construction Type** – select the proposed construction type.
- **Units** - enter the total number of low income and market rate units proposed. The total number of units will auto-sum.
- **Target Population** – select the proposed target population from the drop-down list provided.
- **Requested Credits**- enter amount of housing tax credits being requested.
- **Ownership Entity**- enter the name and address information for the ownership entity as well as information for a second contact for the Pre-Application.

❖ **Tab 3: Pre-Application Self Scoring Form**

- Enter numbers only in yellow cells. This spreadsheet is pre-formatted with an auto-sum feature for values entered to calculate a total Self Score.
- No evidence to substantiate the points reflected on this form is required at Pre-Application.
- **NOTE:** Pursuant to §50.7(b)(2)(A) of the 2012 QAP, an Applicant may not adjust the Self-Scoring Form in an Administrative Deficiency without a specific request from the Department. Therefore, it is important that care is taken when requesting points.

❖ **Tab 4: Legal Description**

- Submit a legal description of the Development Site behind this tab. A metes and bounds or lot and block numbers legal description will be acceptable.



❖ **Tab 5: Applicant Disclosure**

- This form has been added to provide the Applicant an opportunity to identify any issues relating to eligibility of an application. Applicants should disclose any information as it relates to the site or the individuals involved in the proposed

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application that may render the Pre-Application ineligible. Information provided in this form will be subject to review and consideration by the Department.

❖ **Tab 6: Public Notifications Information Form**

- While the Applicant is not required to notify the US Representative of the district containing the development, the Department is required to notify this elected official. Therefore, please identify the appropriate US Representative on this form where prompted.
- Single Member District – If the city council and/or county commission is a single-member district body, check the box to indicate this and list the single district representative in the space provided; you do not have to list the other members. **** the Applicant is required to notify all members of the city council and/or county commission even if the proposed development will be located in a single-member district. In other words, while you do not have to list all members for purposes of this Pre-Application, you must notify ALL members.**
- Both Single Member and At-large District – If the city council or county commission has both district-based and at-large members, indicate so on the form and list the single district representative in the space provided and all at-large members in the spaces provided for all representatives.
- At-large District – List all representatives in the spaces provided.
- Additional copies of this form have been provided in a separate tab titled “Extra Public Notif Form” should additional spaces be required.



NOTE!

❖ **Tab 7: Certification of Notifications at Pre-Application Form**

- All four main boxes on the form must be checked.
- The Applicant will need to be identified at each certification. For example, at each certification that begins with “I (we), _____, certify that:” the blank space is intended to identify the Applicant that is certifying to the information selected. Therefore, the individual must be the Applicant or the person that has the authority to sign on behalf of the Applicant.
- Please note the following:
 - Sample Neighborhood Organization Request Format and Public Notification Format (Written) available in the 2012 Templates file located on the Department’s website at: <http://www.tdhca.state.tx.us/multifamily/applications.htm>
 - Request for a list of Neighborhood Organizations must be made by December 19, 2011 -- §50.7(d)(3)(A)(i).
 - Notifications must be made no later than the date the Pre-Application is submitted to the Department.
 - Notifications should be made using a form of delivery that can be tracked. While it is not required to be submitted behind this tab, Applicants must keep evidence of all notifications made and provide this evidence to the Department upon request at any time during the Application review.
- Notifications must be made using the language outlined in the *Neighborhood Organization Request Format* and *Public Notifications Format (Written)* available in the 2012 Templates file located on the Department’s website at: <http://www.tdhca.state.tx.us/multifamily/applications.htm>
- Remember to sign and notarize this form and include a scanned version of the executed document within the final PDF.

Application

What you will learn in this section:

- ✓ Application delivery instructions
- ✓ Application assembly instructions
- ✓ How to fill out the electronic Application file
- ✓ Required Application exhibits
- ✓ Public viewing of Pre-Applications and Applications

Application Delivery Instructions

Deliver To: Multifamily Finance Division
(overnights) Texas Department of Housing and Community Affairs
 221 East 11th Street
 Austin, Texas 78701

Regular Mail: P.O. Box 13941
 Austin, Texas 78711

Please note that the Applicant is solely responsible for proper delivery of the Application. Late deliveries will **not** be accepted.

Competitive Application Cycle

The Application must be received by TDHCA no later than 5:00 p.m. on Thursday, March 1, 2012. If you wait until March 1, 2012 for walk-in delivery, tables will be set up in one of the Department's conference rooms for Application receiving from 8:00 a.m. to 5:00 p.m. No assembly, copying or formatting of Applications will be allowed on TDHCA grounds. These tasks must be performed prior to arrival at TDHCA. **All required supplemental reports must be submitted simultaneously with the application** (unless otherwise noted).

Mailed or courier packages must be received by TDHCA on or before 5:00 p.m. Thursday, March 1, 2012. TDHCA shall not be responsible for any delivery failure on the part of the Applicant. If the Applicant chooses to use a postal or courier service to deliver the Application to TDHCA and such service fails to deliver the Application by the deadline, then the Application will be deemed by TDHCA as untimely and will not be accepted.

4% Tax Credit Applications

Applications for Bond Financed Developments can be submitted throughout the year. Submission of these Applications is based on the Bond Review Board Priority designation and the 60-day deadlines posted on the Departments website at the following link: <http://www.tdhca.state.tx.us/multifamily/htc/index.htm>.

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Application Assembly Instructions

For each Application the Applicant must ensure execution of all necessary forms and supporting documentation, and place them in the appropriate order according to this manual. All Application materials must be submitted in electronic format only, unless specifically noted otherwise. The Applicant must deliver:

1. One VIRUS-FREE CD-R in a protective hard plastic case containing the following:
 - the completed, active Microsoft Excel based 2012 Multifamily Uniform Application; and
 - the completed, executed PDF copy of the 2012 Multifamily Uniform Application with all attachments;
2. **One VIRUS-FREE CD-R in a protective hard plastic case containing a complete, single file, searchable copy of the following 3rd party reports:**
 - Phase I Environmental Site Assessment,
 - Property Condition Assessment (where applicable), and
 - Appraisal (where applicable)
 - If the Market Study is available on March 1st, it may be included on CD with all other 3rd party reports.
3. Completed hard copy of the 2012 Payment Receipt. Attach check for the correct Application Fee made out to "Texas Department of Housing and Community Affairs"; and
4. Completed and fully executed 2012 Electronic Application Filing Agreement (**ONLY REQUIRED IF NOT SUBMITTED AT PRE-APPLICATION**).

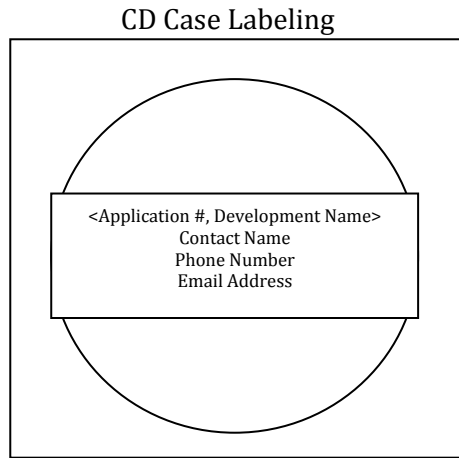


The Market Study is not due to the Department until Monday, April 2, 2012; however, the supplemental report should be submitted in the same format as described above for all other supplemental reports.

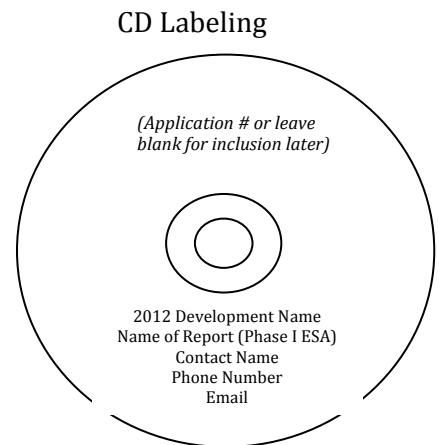
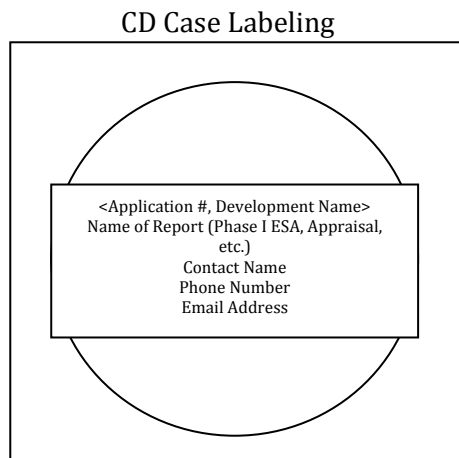
Label the CD protective case with a standard label containing the typed-in development name, application number (if assigned at Pre-Application) and the Applicant's name with email address to contact. If an application number has not previously been assigned or a Pre-Application was not submitted for the same Development Site, leave 2" above the label for a TDHCA Application Number label that will be added later by TDHCA. **PLEASE DO NOT ATTACH ADHESIVE LABEL TO THE CD ITSELF.** Rather, write the requested information legibly on the printed side of the CD itself with a felt-tip pen. Refer to labeling illustrations below. **Double-check the CD to verify that it contains the properly named virus-free application files.**

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CD LABELING INSTRUCTIONS FOR APPLICATION



CD LABELING INSTRUCTIONS FOR SUPPLEMENTAL REPORTS



Instructions for Completing the Electronic Application

The Application consists of 8 Parts. All parts are required for each funding program unless otherwise noted.

If submitting an Application, all Applicants are required to use the 2012 Uniform Application file provided by TDHCA at (<http://www.tdhca.state.tx.us/multifamily/applications.htm>).

1. To download the electronic Application file, right-click on the link at the website provided above, select "Save Target As" and choose the storage location on your computer. The Excel file should be named in the following format -- <Application #_Development Name>.xls (e.g. 12001_Austin_Crossing.xls). If an Application number has not been previously assigned then the file should be named as follows -- <Development Name>.xls (e.g. Austin_Crossing.xls).

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2. Please do not transfer tabs from one Application file to another, even if it is for the same Application. If you plan to submit more than one Application, please make additional copies of the 2012 Uniform Application file **after** completing portions of the Application that *are common* to all of your Applications and **before** completing any portions that are not common to all of your Applications.
3. Fill in only the areas shaded in yellow. All other cells not shaded in yellow are for Department use only and have been pre-formatted to automatically calculate information provided by the Applicant and are locked. Applicants may view any formulas within the cells. Applicants may not add additional columns or rows to the spreadsheets.
4. All questions are intended to elicit a response, so please do not leave out any requested information. If references are made by the Applicant to external spreadsheets those references must be removed prior to submission to TDHCA as this may hamper the proper functioning of internal evaluation tools and make pertinent information unavailable to TDHCA.
5. This electronic Application has been designed so that some information, such as application number and/or development name need only be entered once. In order to take advantage of this feature, the user must enter information in the order in which it is requested. If you see a “#VALUE” or “DIV/0” in a cell do not worry. These values will disappear upon data entry in other tabs.
6. Be sure to save the file as you fill it out!

If you have difficulty downloading the files from the website, contact Jason Burr at (512) 475-3986, or jason.burr@tdhca.state.tx.us.

Instructions for Converting the Excel file to PDF

Once the Excel Application file is completed and you are ready to convert the file to PDF, follow these instructions:

Excel 2007 Users:

Click the **Microsoft Office Button**  , point to the arrow next to **Save As**, and then click **PDF or XPS**.

1. In the **File Name** list, type or select a name for the workbook.
2. In the **Save as type** list, click **PDF**.
3. If you want to open the file immediately after saving it, select the **Open file after publishing** check box. This check box is available only if you have a PDF reader installed on your computer.
4. Next to **Optimize for**, do one of the following, depending on whether file size or print quality is more important to you:
 - If the workbook requires high print quality, click **Standard (publishing online and printing)**.

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- If the print quality is less important than file size, click **Minimum size (publishing online)**.
- 5. Click **Options**. Under **Publish What** select **Entire Workbook** and click **OK**.
- 6. Click **Publish**.

Excel 1997-2003 Users:

1. With the Excel file open go to the Adobe PDF drop-down box from the task bar (if using Excel 2007 click on "Acrobat" tab in the task bar)
2. Select "Convert to Adobe PDF" from the drop-down list (Excel 2007- select "Create PDF")
3. The Adobe PDFMaker box will appear. On the left hand side of the box all of the sheets within the Excel file will be listed and you will be prompted to select the sheets you would like to convert to PDF. Once the sheets you want to convert are selected click on the "Add Sheets" button to move those sheets over to the right-handed side of the Adobe PDFMaker box, this will list the sheets selected to be converted to PDF.
4. Once all sheets you have selected appear on the right-hand side under "Sheets in PDF" click on the "Convert to PDF" button.
5. You will be prompted to create a name and save the PDF file. The PDF file should be named in the following format -- <Application #_Development Name>.pdf (e.g. 11001_Austin_Crossing.pdf). If an Application number has not been previously assigned then the file should be named as follows --<Development Name>.pdf (e.g. Austin_Crossing.pdf)
6. A pop-up box will appear that asks "Do you want to proceed without creating tags?" Click Yes.

Remember that there are forms that require a signature. Once you have executed all required documents scan them and re-insert the scanned forms back into the order required.

Once the file has been converted to PDF and all executed forms have been re-inserted into its appropriate location within the file, you will need to create Bookmarks. Bookmarks may or may not have already been created as part of the conversion process. You will need to designate or re-set the locations. To correctly set the Bookmark locations you must have the PDF file open in Adobe Acrobat. Click on the Bookmark icon located on the left-hand side of the Adobe Acrobat screen, or go to the task bar and select these options in the following order: **View** → **Navigation Panels** → **Bookmarks**.

If a Bookmark has already been created for each tab within the Excel file, simply re-set the bookmarks to the correct locations. To re-set the location for the Bookmarks, go to the first page of each separately labeled form/exhibit. You will then right-click on the corresponding Bookmark for the form/exhibit you are currently viewing. Select **Set Destination** and a pop-up box will appear asking you the following: "Are you sure you want to set the destination of the selected bookmark to the current location?" Select **Yes**.

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If Bookmarks were not already created within the Excel file, then you will need to create these Bookmarks. Go to **Document** → **Add Bookmark**. Right-click on the first Bookmark and re-name it for the appropriate form or exhibit. You will then need to set the location of the Bookmark by going to the first page of each form or exhibit, right click on the corresponding Bookmark and select **Set Destination**. A pop-up box will appear asking you the following: "Are you sure you want to set the destination of the selected bookmark to the current location?" Select **Yes**.

Tabs within the Excel Application workbook have been color coded to distinguish between "Parts" of the Application consistent with this manual. Additionally, beside each bulleted item a label to use for purposes of bookmarking the final PDF Application file is include in parentheses.

If after conversion of the Excel file to PDF you have extra blank pages of any exhibit, you can delete those pages in order to limit the size of the file. To delete any extra, unnecessary pages identify the page number(s) you want deleted. On the Adobe Acrobat Task Bar click on Document and select Delete Pages from the drop down list. A box will appear prompting you to select which page(s) you would like to delete. Enter the page numbers to be deleted and hit OK.

The PDF formatted file must be checked for the following prior to submission:

- ✓ All tabs and/or volumes must be correctly bookmarked
- ✓ Files should average less than 100 kilobytes per page
- ✓ Files must be readable with free PDF file viewers including Adobe Reader and be compatible with Adobe Reader 5.0 and above
- ✓ Files should be saved so that "Fast Web View" (or page at a time downloading) is enabled
- ✓ Text within the PDF file should be searchable using the "Find" command in the PDF viewer

If you have any questions on using or experience difficulties with the Microsoft Excel based application, contact Raquel Morales via email at raquel.morales@tdhca.state.tx.us.

Part 1- Basic Development Information

❖ Application Certification Form (Pt 1- Application Certification)

- The form must be signed by the Applicant or person with authority to execute documents on the Applicant's behalf and must be dated and notarized. **NOTE: No hard copy is required, only a scanned copy of the fully executed and notarized document within the final PDF is required.**

❖ Resolutions (Pt 1- Resolutions)

- This worksheet serves only as a placeholder and will not allow you to enter data.
- Place any and all resolution(s) for the proposed development behind this tab. **Please include a cover page before each resolution identifying the QAP reference, as appropriate, for which it is being submitted. For example, if you are submitting a resolution to meet the requirements under "The Commitment of Development Funding by a Unit of General Local Government or Governmental Instrumentality" label the cover page with the appropriate QAP reference: "Resolution submitted for §50.9(b)(5)(A)(v)."**



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❖ Activity Overview (Pt 1- Activity Overview)

- Enter data in yellow highlighted cells.
- Make the appropriate selections for “Target Population” and “Construction Type.”
- Applicant Information should include a second contact for person who is responsible for Application.

❖ Funding Request (Pt 1- Funding Request)

- **Program Allocation and Set-Aside:** select the appropriate TDHCA Program(s) and Set-Aside for which the Application is being submitted.
 - When applying for more than one Department program at one time be sure that the funding cycle and/or NOFA for each program is open and accepting applications at the time the HTC Application is being submitted. **Do not** include a request for funds for a program that does not have a NOFA open at the time the Application is submitted.
 - For Housing Tax Credits, when selecting either “Rural” or “Urban” as the allocation be sure to confirm this designation with the 2012 HTC Site Demographics Characteristics Report.
- **Program Eligible Activities:** select the activities under the appropriate TDHCA program(s) for which the Application is being submitted.
 - Up to two activities may be selected ONLY if one of the activities is also Acquisition.
- **Funding Request:** enter the amounts requested for each TDHCA Program, and the terms requested (if applicable).
 - The maximum annual Housing Tax Credit amount per Competitive HTC Application is \$2,000,000.
 - **The amount of tax credits requested cannot exceed 150% of the amount available in the sub-region based on estimates released by the Department on December 1. To see the maximum funding request allowed per Region go to the 2012 HTC Applicant Request/Award Limits and Estimated Regional Allocation (PDF) located at <http://www.tdhca.state.tx.us/multifamily/docs/12-HTC-AwardLimitsEstRegAlloc.pdf>.**
 - Only reflect funds requested from the Texas Department of Housing and Community Affairs. For example, if HOME funds are anticipated from a local entity (not TDHCA), **DO NOT** include those HOME funds here as they are not being requested from the Department.
- **Previously Awarded State and Federal Funding:** indicate whether the site or activity has previously been funded with TDHCA funds or other federal funding.



❖ Development Narrative (Pt 1-Dev Narrative)

- This worksheet serves only as a placeholder and will not allow you to enter data.
- For **New Construction Developments**, include the Target Population, the number of Units, the number of residential and non-residential buildings, and the size of the Development Site.
- For **Adaptive Reuse Developments**, the narrative must include a description of the Development, as it exists prior to any renovation, and a description of the proposed Development.
 - Pre-renovation description:
 - The number of existing buildings, and description of buildings' pre-renovation use

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- The size of the existing Development Site
- Proposed development description:
 - The number Units proposed in each building
 - The number of Units by Unit type (i.e. 1 bedroom, 1 bathroom)
 - The Target Population for the proposed Development
- For proposed **Rehabilitation (including or excluding Reconstruction, whichever applies)** of Existing Residential Developments, the narrative must include a description of the Existing Residential Development, including:
 - The number of existing residential and non-residential buildings
 - The number of Units by Unit type (i.e. 1 bedroom, 1 bathroom)
 - The size of the existing Development Site
 - The Target Population for the proposed Development
 - Describe any demolition of residential buildings and reconstruction of buildings for residential use
 - The number of proposed residential and non-residential buildings
 - The number of proposed Units by Unit type (i.e. 1 bedroom, 1 bathroom)
 - The size of the proposed Development Site

The information provided in the Development Narrative must be consistently identified throughout all appropriate Application Exhibits.

❖ **Populations Served (Pt 1- Populations Served)**

- All cells highlighted in yellow require data entry by the Applicant. Note that cells highlighted in gray will auto-calculate based on data entered here and in *Part B, Rent Schedule*. Therefore, a “**DIV/0!**” will appear upon entry of the “# of Designated Units” in this worksheet. The worksheet is protected and will not allow you to manipulate the cells that are gray. Once data is entered into the Rent Schedule the cells will calculate the correct percentage.
- The Department will use this form to test that the proposed Development does not violate the Integrated Housing Rule, which prohibits the set aside of more than 18% of units for persons w/disabilities for developments with 50 units or more; or prohibits the set-aside of more than 36% of the units for persons w/disabilities for developments with less than 50 units.
 - Use this calculation to check
$$(\text{___ \# of units for Persons with Disabilities} / \text{___ total \# of units} = \text{___} \%)$$

❖ **Low Income Election, Applicable Percentage Election & Set-Aside Eligibility (Pt 1- LI Election/App Percentage/Set-Aside)**

- Part A. Qualified Low Income Housing Project Election
 - **Important:** Once a set-aside election is made, it is irrevocable.
 - If election is made for 20/50, make sure all units are 50% units on the *Rent Schedule*.
- Part B. Applicable Percentage Election (Competitive HTC Only)
 - Applicant must select one box for the applicable percentage rate to be utilized for underwriting purposes at Application.
- Part C. 9% HTC Confirmation of Set-Aside and Allocation Eligibility (**Competitive HTC Developments ONLY**)
 - **At-Risk Set-Aside** (Competitive HTC Developments applying under the At-Risk Set-Aside ONLY)



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- Evidence that the development has received the benefit of a subsidy from at least one of the following must be submitted (Note: if more than one is received as a subsidy on the Development, all must be checked on the form):
 - ✓ Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. §17151);
 - ✓ Section 236, National Housing Act (12 U.S.C. §1715z-1);
 - ✓ Section 202, Housing Act of 1959 (12 U.S.C. §1701q);
 - ✓ Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. §1701s);
 - ✓ Section 8 Additional Assistance Program for housing Developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;
 - ✓ Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development;
 - ✓ Sections 514, 515. and 516, Housing act of 1949 (§42 U.S.C. §§1484, 1485 and 1486);
 - ✓ Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. §42); and/or
 - ✓ Section 538, Housing Act of 1949 only if the Development involves the Rehabilitation of an existing property that has received and will continue to receive as part of the financing of the Development federal assistance provided under §515 of the Housing Act of 1949.
- Evidence must show that at least one of the subsidies or benefits expire within two (2) years of July 31, 2012; is eligible for prepayment; or is eligible to request a qualified contract under Section 42. **This information must be flagged within the documentation submitted.**
- Evidence for a qualified contract must be provided in the form of a copy of the recorded LURA, the first year's IRS Forms 8609 for all buildings showing Part II completed and, if applicable, documentation from the original Application regarding the right of first refusal.
- An Application for a Development that includes the demolition of the existing Units will not qualify as an At-Risk Development unless the redevelopment will include the same site.
- Amendments submitted while the Application is under review that would enable the Development to qualify as an At-Risk Development will not be accepted.



Applications under the State Housing Credit Ceiling involving a nonprofit General Partner, regardless of whether the Application was submitted under the Nonprofit Set-Aside, and in which the proposed Development will receive some financial or tax benefit for the involvement of the nonprofit General Partner, must submit all documents described in §50.8(12) of the 2012 QAP and indicate the nonprofit status on the Carryover Agreement and IRS Forms 8609.

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- **Non-Profit Set-Aside**
 - Applicant is only eligible to compete under the Nonprofit Set-Aside Allocation if the organization's 501(c)(3) or (4) designation is in place at the beginning of the Application Acceptance Period. Evidence of IRS designation will be required in Part 4 of the Application.
 - Applicant must make an affirmative election to be treated under the Nonprofit Set-Aside or NOT to be treated under this Set-Aside. The Applicant will be required to make one election.
 - Nonprofit set aside is selected in the *Funding Request* form and all documentation required under Part IV of the Application is provided.
 - Evidence that the nonprofit has more than 50% interest in the general partner is required.
- **USDA Set-Aside** (Competitive Housing Tax Credit Developments applying under the USDA Set-Aside ONLY)
 - Development is Rural;
 - Development must be financed through existing TRDO-USDA §515 funds from USDA that retain the §515 loan and restrictions;
 - TRDO-USDA §538 program **not eligible** for USDA set-aside;
 - Evidence required for Rehabilitation (including Reconstruction) Developments financed under existing §515 loans: an Application must have evidence from the state office of RHS of its financing or intent to finance.

Part 2- Development Plan and Budget

❖ **Rent Schedule (Pt 2- Rent Schedule)**

- Gross Rent cannot exceed the HUD maximum rent limits unless documentation of project-based rental assistance is provided. The unit mix and net rentable square footages must be consistent with the site plan and architectural drawings.
- If any non-rental income is included, describe the source(s) of the income. "Misc" income is not an acceptable description. If you do not include a description but include an amount for non-rental income, the cells will turn RED to remind you to enter a description.
- If the Development includes loft/efficiency Units, label these Units as "0" bedrooms as provided in the drop-down list.
- Additional rows are hidden should more rows be required. To do this select Rows 50 and 58, right click on mouse and select "Unhide."
- Formatting has been included to help the user enter the unit types from smallest to largest based on "# of Bedrooms" and "Unit Size", then within the same "# of Bedrooms" and "Unit Size" from lowest to highest "Rental Income/Unit". If "# of Bedrooms", "Unit Size", or "Rent Collected/Unit" cells turn RED, this indicates the order of the unit types in the schedule is INCORRECT.
 - If you have any questions or experience problems with this please contact Real Estate Analysis for assistance.
- If applying for TDHCA HOME funds the column titled "HOME Unit Designation (Rent/Inc)" has been updated this year to include not only the HOME Unit designation but also includes the Income level required for each HOME Unit designation.
- **4% Tax-Exempt Bond Developments ONLY.**

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Space has been added under the “Development Name” to identify the Private Activity Bond Priority. If applying for 4% Housing Tax Credits and Tax-Exempt Bonds, the bond priority must be designated, as submitted to the Bond Review Board, regardless of Bond Issuer. The priority designations include the following:

- Priority 1(a): Set-aside 50% of the Units at 50% AMFI and 50% of the Units at 60% AMFI.
- Priority 1(b): Set-aside 15% of the Units at 30% AMFI and 85% of the Units at 60% AMFI.
- Priority 1(c): Set-aside 100% of the Units at 60% AMFI for Developments located in a census tract with a median income that is higher than the median income of the county, MSA or PMSA in which the census tract is located.
- Priority 2: Set-aside 80% of the Units at 60% AMFI; up to 20% of the Units can be at market rate.
- Priority 3: Includes any qualified residential rental Development. Market rate Units can be included under this priority. Applying for 4% HTC not required under this priority.

❖ Utility Allowances (Pt 2- Utility Allow)

- Drop down lists are provided to identify “Who Pays” for the utility service and what type of “Energy Source” will be used.
- If Development is all bills paid, utilities and energy source is still required.
- **Remember to include your support documentation** (i.e., Current PHA utility allowances sheet or local utility provider estimate specific to development) that clearly identifies the utility costs included in the estimate and the effective date of the documentation.

❖ Annual Operating Expenses (Pt 2- Operating Exp)

- You must describe any “Other” cost included in any of the expense categories. “Misc” expense is not an acceptable description. If you do not include a description but include an amount for non-rental income, the cells will turn RED to remind you to enter a description.

❖ 15 Year Pro Forma (Pt 2- 15YR Proforma)

- Any deferred developer’s fee must be shown to be fully repaid by year 15. The initial year one operating expenses divided by effective gross income must be less than 65%.
- You must describe any “Other” debt service included in the proforma. If you do not include a description but include an amount, the cells will turn RED to remind you to enter a description.
- **Please remember that this form is and will remain locked. Therefore, any deviations for assumptions made in this pro forma should be detailed by way of a written explanation and provided behind this form.**



NOTE

❖ Building/Unit Type Configuration (Pt 2- Bldg/Unit Config)

- Units and sizes must be consistent with the *Rent Schedule*. Note that validations have been included in this exhibit in order to check for consistency between these two exhibits.
- Unit configuration per building must conform to building floor plans and site plan matrix.

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- Number of residential buildings must conform to the Development Narrative and site plan.
- The “Building Label” must be completed for each building type.
- If a Qualified Elderly Development with air conditioned, elevator-served corridors, provide the square footage of these corridors where requested.
- If a Supportive Housing Development, provide the square footage of air conditioned, elevator served corridors and square footage of common areas where requested.



❖ **Development Cost Schedule (Pt 2- Dev Cost Schedule)**

- **This form has been revised to require only the contact name and phone number for the person providing the cost estimate for the Hard Costs.**
- For purposes of the Applicable Percentage to be used for underwriting at Application, the Applicant will make an election in Part 1 of the Application in the *LI Election, Applicable Percentage Election & Set-Aside Eligibility* form.
- The “Owner’s Requested Credits” cell is automatically calculated from data reflected in the “Calculated Credits” cell; however, this cell remains unlocked to allow the Applicant to change this data if necessary.
 - If you include a 130% High Cost Area Adjustment in your cost schedule be sure you meet one of the criteria identified in §50.5(e) of the 2012 QAP to qualify for the basis boost.
- You must describe any “Other” costs reflected in the Cost Schedule. If you do not include a description but include an amount, the cells and/or text within the cells will turn RED to remind you to enter a description.

❖ **Offsite Costs Breakdown (Pt 2- Offsite Costs)**

- This form is only applicable if offsite costs are included in the *Development Cost Schedule*.
- The total Offsite Costs entered in this exhibit must match the amount reflected in the *Development Cost Schedule*.
- If more rows are needed for additional costs than provided, highlight Rows 21 and 35, right click on mouse and select “Unhide” to provide more rows.
- Must be signed with seal by a registered engineer.

❖ **Site Work Costs (Pt 2- Site Work Costs)**

- This form is only applicable if the subtotal site work cost from the *Development Cost Schedule* is above \$9,000 per unit (excluding demolition costs).
- The total Site Work Costs entered in this exhibit must match the amount reflected in the *Development Cost Schedule (excluding demolition costs)*.
- If more rows are needed for additional costs than provided, highlight Rows 21 and 35, right click on mouse and select “Unhide” to provide more rows.
- In addition, the following documentation must be provided behind this form:
 - A detailed cost breakdown prepared by a Third Party engineer, and
 - A letter from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible.

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Part 3- Development Financing

❖ Summary Sources and Uses of Funds (Pt 3- Sources & Uses)

- There are five categories of funding included, within each category a drop-down list will appear for the appropriate selection.
- For each source identified you are required to include the interest rate, amortization, term and syndication rate, where applicable. **THE INFORMATION INCLUDED HERE MUST BE CONSISTENT WITH THE FINANCING NARRATIVE, TERM SHEETS, AND DEVELOPMENT COST SCHEDULE.**
- Financing participants must be listed in the right-hand column. This column has been formatted to allow for size adjustment if necessary.
- Must include priority of lien, interim, and permanent financing.
- Total sources of funds must equal the total uses of funds reflected in the *Development Cost Schedule*.

❖ Financing Narrative & Term Sheets (Pt 3- Narrative & Term Sheets)

- This worksheet serves only as a placeholder and will not allow you to enter data.
- Financing Narrative
 - Sources and amounts of funds referenced in this narrative must match the *Summary Sources and Uses of Funds* form, term sheets for interim and permanent financing and term sheets for syndication of tax credits.
 - The narrative should identify any non-traditional financing arrangements; use of funds with respect to the Development; funding sources including construction, permanent, bridge loans, rents, operating subsidies, and replacement reserves; and commitment status of funding sources for the Development.
- Term Sheets
 - Evidence must be consistent with the *Summary Sources and Uses of Funds* and Financing Narrative
 - Include term sheets for interim and permanent financing that is consistent with other parts of the Application, and is provided in one or more of the forms identified in §50.8(8)(C)(i) of the 2012 QAP and includes the requirements set forth in §50.8(8)(C)(II).
 - Any federal, state or local gap financing, whether soft or hard debt must be identified at the time of Application.
 - **If requesting funds through another TDHCA program (i.e., HOME) the program must be on a concurrent funding period with the current tax credit Application Round and evidence of a complete and receipted application from the other Department program must be obtained no later than March 1st.**
 - If Development is financed through more than 5% Development Owner contributions provide the required documentation described in §50.8(8)(C)(i)(IV) of the 2012 QAP.
 - Include term sheets for syndication of tax credits that include the requirements set forth in §50.8(8)(C)(iii) of the 2012 QAP.
 - **NOTE:** No syndication costs should be included in the Eligible Basis.



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Part 4- Development Ownership

❖ **Applicant and Developer Ownership Chart (Pt 4- Org Charts)**

- This worksheet serves only as a placeholder and will not allow you to enter data.
- Use form as template
- Owner organization chart shows the Development Owner, General Partner, Special Limited Partner and Guarantor (as applicable) and includes the following:
 - Name and ownership percentage of each entity;
 - Trusts include the trustee and must list all beneficiaries that have the legal ability to access, control, or direct activities of the trust and are not just financial beneficiaries;
 - Nonprofit entities, public housing authorities and publicly traded corporations show name of organization, individual board members and executive director;
 - In cases of to-be-formed instrumentalities of PHAs where the board members and executive director remain to be determined, the PHA itself is shown.
- Developer organization chart shows the structure of the Developer and includes the following:
 - Any person receiving more than 10% of the Developer Fee;
 - Nonprofit entities, public housing authorities and publicly traded corporations show name of organization, individual board members and executive director.

❖ **List of Organizations with an Ownership or Special Interest in the Applicant (Pt 4- List of Orgs)**

- Only organizations are listed on this form.
- Every organization listed on the organizational chart must be included in this form.
- This exhibit currently allows for up to eighteen (18) separate organizations, however only 9 appear in view. Should the additional five slots be required select rows 176 and 349, right-click and select Unhide for the additional spaces.
- Natural persons will only be reported on this form if they directly own an interest in the Development Owner rather than owning an interest as members of an organization with an ownership interest.
- Submit as many pages of the form as necessary to report all applicable organizations (and all natural persons with direct interests as owners, Developers, Guarantors or recipients of more than 10% of the developer fee).

❖ **List of Principals of Organizations with an Ownership or Special Interest in the Applicant (Pt 4- List of Principals)**

- Every natural person listed on the organizational chart and the executive director and all board members of nonprofit organizations and PHAs must be included.
 - Be sure to list all organizations and natural persons that are “Special Cases.”
 - Be sure that every entity listed in the left-hand column does not have a “Principal” listed by it on the same line (i.e. each line should contain the name of only one organization or if it is a “special case,” one natural person).
 - Be sure to indicate any previous participation with funding from TDHCA.

❖ **Evidence of Nonprofit Participation (Pt 4- NP Participation)**

- All nonprofit Applicants or Principals must complete this form regardless of the level of ownership or the Set-Aside applied under.
- The worksheet currently allows for up to twenty-four (24) members to be listed.



❖ **Additional Nonprofit Documentation (Pt 4- Add'l NP Docs)**

The additional documentation requirements identified in this section must only be completed if the Applicant is eligible to compete under the Nonprofit Set-Aside Allocation pursuant to §2306.6706, the organization's 501(c)(3) or (4) designation is in place at the beginning of the Application Acceptance Period and the Applicant makes an affirmative election in Part 1- LI Election/App Percentage/Set-Aside to compete under the Non-Profit Set-Aside.

Applications involving a 501(c)(3) or (4) nonprofit General Partner that DO NOT elect to be treated under the Nonprofit Set-Aside only need to submit the IRS determination letter described below.

Tax Exempt Bond Applications only need to submit the first item below.

- IRS determination letter which states that the nonprofit organization is a §501(c)(3) or (4) entity. ***This designation must be in place as of the beginning of the Application Acceptance Period.*** If the organization is a Qualified Nonprofit Organization as defined in the tax code, notwithstanding any apparent limitations in the QAP about the particular parts of the code under which a nonprofit may qualify, submit an IRS determination letter.
- Third Party legal opinion – Note: A sample *Legal Opinion Letter for Nonprofit Set-Aside Applicants* is available in **Templates** on the Department's website.
 - Must state that the nonprofit is not affiliated with, or Controlled by, a for-profit;
 - Must state that the nonprofit is eligible under the QAP to apply in the Nonprofit Set-Aside and that basis for that opinion. In a typical ownership structure, **eligibility as defined by §50.8(12) of the 2012 QAP requires the nonprofit to be the Managing General Partner of the Development Owner** and, also, to meet the requirements of the IRS Code, §42(h)(5);
 - Must state that one of the exempt purposes of the nonprofit must be to provide low-income housing;
 - Must state that the nonprofit prohibits any member of its board, except a member that is also the executive director, from receiving compensation for participation; and
 - Must state that the Qualified Nonprofit Development will have the nonprofit or its nonprofit affiliate be the Developer or co-Developer as evidenced in the development agreement.
- Financial Statement - The nonprofit's most recent financial statement as prepared by a Certified Public Accountant
- Certification of Residence- a certification that a majority of the board members reside:
 - In the State of Texas if the Development is in a Rural Area, or
 - Within 90 miles of the Development if it is not in a Rural Area.

❖ **Previous Participation and Background Certification (Pt 4- Prev Participation)**

- The form must be completed for each entity and natural person shown on the organizational chart and in the *List of Principals of Organizations with an Ownership or Special Interest in the Applicant* form that has any previous participation with funding from TDHCA.

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- For nonprofit entities, public housing authorities and publicly traded corporations, a separate exhibit must be completed for the entity, individual board members and executive director.
- Must be completed for any Person receiving more than 10% of the Developer fee.
- **This form is required of all persons or entities, regardless of whether the person or entity has previous experience with TDHCA funding.**
- **If the Person or entity has previous experience with housing tax credit developments or other state or federal programs administered by other states, this information must be disclosed and the person or entity must authorize the parties overseeing such assistance to release compliance histories to the Department.**
- For “Term of Participation or Contract Begin/End“ please enter the time period a person’s or entity’s role in each property identified began and ended. This goes for any developments that a person or entity might have been involved with originally, but have since been transferred to over to another person or entity.
- If the person’s or entity’s role in a property or service related activity has not ended then leave this area blank.
- The worksheet currently allows for up to fifteen (15) separate certifications. However, only two full certifications are in view. If additional certifications are needed select Rows 210 and 1576, right-click on your mouse and select Unhide. The additional 13 certifications will then appear and you will have to re-set your print area before you convert your file to PDF.

❖ **Development Team Members (Pt 4- Dev Team)**

- Enter information as requested.

❖ **Experience Certificate (Pt 4- Experience Cert)**

- Applicants utilizing an Experience Certificate that was issued by the Department in 2009 or thereafter for a Principal of the Development Owner, General Partner, Developer, or General Contractor must provide a copy of the certificate behind this tab.
- If a Principal of the Development Owner, General Partner, Developer or General Contractor for the Application is seeking an Experience Certificate from the Department, the **2012 Experience Certification Request Form**, along with the required documentation to establish experience must be submitted to the Department within the Application behind this placeholder tab.

OR

Experience documentation **may be submitted prior to the March 1st** Application deadline. If the experience documentation is submitted prior to the March 1st deadline, the documentation should be submitted electronically on a CD-R or via the Department’s FTP server (if one has been set up for the Application). The Department will make every effort to respond within 30 days. However, if an experience certificate is not issued before March 1st include a copy of the 2012 Experience Certification Request Form and all required documentation in this section of the application and include a statement that TDHCA determination is still pending.

- The *2012 Experience Certification Request Form* is located in the Multifamily Housing section of the TDHCA Website or at: <http://www.tdhca.state.tx.us/multifamily/applications.htm>



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❖ **9% Applicant Credit Limit Documentation and Certification Parts I and II (Pt 4- Credit Limit Docs)**

- In general, each Person and entity listed on the Development Owner's and the Developer's organizational charts should be listed on Part I.
- For each Person or entity listed in Part I, you must submit a separate Part II for that Person or entity.
 - Up to 25 separate persons or entities may be entered in Part I, but only 15 slots are in view. If you require the additional slots select Rows 47 and 67, right-click on your mouse and select Unhide.
 - A Part II will automatically be created for each person listed in Part I. There are currently five separate Part II forms in view, however should you need additional Part II forms simply select Rows 394 and 1674, right-click on your mouse and select Unhide. The additional Part II forms will appear. Remember that you will have to re-set your print area for this worksheet before you convert the file to PDF.
- Must be provided for all Executive Directors and Board Members of Nonprofits.

❖ **Certification of Principal or Development Owner (Pt 4- Cert of Principal)**

- The form has been updated to include additional certifications pursuant to the 2012 QAP as well as to provide that each individual that signs a certification identify for which organization/entity that individual is signing on behalf of. Up to four spaces are provided if individual is signing on behalf of more than one organization/entity.
- Remember to disclose any issues of ineligibility, if not previously disclosed to the Department at the time of Pre-Application. This includes any issues that may have been identified in a previous application round.
- The signature portion of this form has been revised so that each organization/entity for which the individual is signing on behalf of is identified.
- For corporations, including corporate entities that control the Applicant, Development Owner or Developer, the authorized representative and any Principals must sign this form.



NEW

Part 5- Development Site

❖ **Site Information Form (Pt 5- Site Info)**

- Section 1: indicate whether the Development Site is currently zoned for its intended use. If appropriate zoning is not in place at the time of Application submission, provide a brief explanation of the steps taken to obtain appropriate zoning.
- Section 2: enter 11-digit census tract number (use 2010 census tract number) and ensure its accuracy as staff will verify this information.
 - **Applicant must place behind this form:**
 - a census tract map with 11-digit number and Development Site marked on map; and
 - a street level map with Development Site marked on map
- Section 3: select from the drop-down list provided the Development Site's current flood zone designation.
- Section 4: provide all information requested. You must identify all of the sellers of the proposed Property for the 36 months prior to the first day of the Application



NOTE

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Acceptance Period and their relationship, if any, to members of the Development team behind this form.

❖ **Readiness to Proceed- Threshold (Pt 5- Readiness to Proceed)**

The items bulleted below must be submitted behind this placeholder tab.

IMPORTANT: for Applications involving Scattered Sites, please compile all the bulleted items below, using the line number in the *Scattered Site Information Form* as an identifier for each site. For example, if you have five different scattered sites, provide the site control, zoning, etc. for Site #1 in a group, and the same for Site #2, etc.

• Evidence of Site Control

- Site control must be valid the entire period of time the Application or any Commitment or Determination Notice is pending.
- Site control must be in the name of the Development Owner or reflect an ability to transfer the rights to the Development Owner.
- Evidence of site control must be in one of the forms described under §50.8(8)(A) of the 2012 QAP.
- If a contract is provided as evidence of site control, the closing date must be highlighted or flagged.
- If the closing date is contingent upon other dates within the purchase contract, provide an outline of these dates that arrive at the current closing date identified.
- Contract must have an address, legal description, or property description that matches the city, county and/or zip code indicated in the *Activity Overview and Applicant Information* form.
- Contract must be signed by both seller and buyer.
- Proof of consideration, as specified in contract, must be submitted. (for example, a completed escrow receipt from the title company signed by the escrow agent) **USDA and related party transactions are exempt from this requirement.**
- For **scattered sites**, if you are submitting multiple contracts, deeds, etc. each one must meet all of the requirements of §50.8(8)(A) of the 2012 QAP. Each must clearly have the address identified and be consistent with the *Scattered Site Information* form (i.e. If the Development consists of 3 parcels of land, 3 contracts/deeds, etc. must be provided or one form of site control must clearly identify and cover all 3 parcels).
- For identity of interest transactions, submit documentation requirements described in §1.32 of the Real Estate Analysis Rules.

• Evidence of Zoning

- Zoning must match representation made in the *Site Information* form.
- Evidence must include official description or definition of the zoning claimed or proposed and must have been prepared and executed not more than six months prior to the close of the Application Acceptance Period for 9% (letters must be dated after September 1, 2011). For 4% applications- evidence must not be more than 6 months prior to the submission of Parts 1 through 4 of the Application.
- For **New Construction, Adaptive Reuse or Reconstruction** Developments that are to be located in an area with a zoning ordinance, a letter from the

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chief executive officer of the Unit of General Local Government or another local official with appropriate jurisdiction stating that the Development:

- is permitted under the zoning ordinance; or
- that the Applicant is in the process of seeking appropriate zoning.

Refer to §50.8(8)(B) of the 2012 QAP for more detailed requirements to be included in the evidence provided to the Department.

- For **New Construction, Adaptive Reuse or Reconstruction** Developments that are to be located in an area with **NO** zoning ordinance, a letter from the chief executive officer of the Unit of General Local Government or another local official with appropriate jurisdiction stating that the Development:

- is located within the boundaries of a Unit of General Local Government that has no zoning; or
- is consistent with local housing policy adopted by the Unit of General Local Government or is located within the boundaries of a Unit of General Local Government that has no zoning or formally adopted local housing policy (for Developments located in Harris County **ONLY**).

Refer to §50.8(8)(B) of the 2012 QAP for more detailed requirements to be included in the evidence provided to the Department.

- For **Rehabilitation** Developments (excluding Reconstruction), documentation of current zoning is required. Refer to §50.8(8)(B) of the 2012 QAP for more information.

- *Title Commitment or Title Policy*

- Title commitment, policy, or status report if on Tribal Land must be provided.
- If documentation is more than six months old as of the day the Application Acceptance Period closes a letter from the title company/Bureau of Indian Affairs indicating that nothing further has transpired on the policy, commitment, or status report must be provided.
- For **scattered sites**, a title for each separate site must be submitted. Each must have the site clearly identified. It must be consistent with the site control document submitted for the same piece of property as well as the *Scattered Site Information* form (i.e. if the Development consists of 3 parcels of land, 3 separate labeled titles must be provided).

- ❖ **Architect Certification Form (Pt 5- Architect Cert)**

- Must be signed and dated; scanned signature is acceptable, no hard copy of this certification will be required.
- Required for all Development types (i.e. New Construction, Rehabilitation, etc.); no exceptions.

- ❖ **Unit and Common Amenities (Threshold) (Pt 5- Unit/Common Amenities)**

- Part 1. Unit Amenities- check the appropriate box based on the program the Application is being submitted for (i.e. Tax-Exempt Bond or Competitive HTC).
- The 2012 QAP includes a provision for Unit Amenities **ONLY** that awards a base score to Developments proposing Rehabilitation (excluding Reconstruction) or Supportive Housing. Therefore, this form has been formatted with validations to check for these specific types of activities in order to auto-calculate the base score for a Development where appropriate.



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- Part 2. Common Amenities- check the appropriate box for the number of points required based on the total number of Units proposed for the Development.
- All Unit and Common Amenities will not be identified at Application. The Applicant will only need to commit to provide the minimum number of points to meet Threshold and/or scoring but will identify the specific amenities to be provided at the time the LURA is recorded.



NOTE

For non-contiguous scattered site housing, *excluding non-contiguous single family sites*, the threshold test will be applied based on the number of Units per individual site.

For purposes of clarifying how the test will be applied for single family scattered site developments, the threshold test for Common Amenities will NOT be applied based on the number of units per site. The Applicant will need to address the Common Amenities to be provided at the Development by one of the following methods:

- The number of points to meet Threshold based on the **total** number of Units in the Development and provided in a centrally located area accessible and available to ALL tenants; or
- The number of points to meet threshold based on the **total** number of Units in the Development and provided at each single family Unit; or
- Any other alternative will require a waiver by the Governing Board. Example: The number of points to meet Threshold based on the number of Units per individual site.

❖ **Specifications and Amenities (Pt 5- Specs & Amenities)**

- Required for all Development types (i.e. New Construction, Rehabilitation, etc.); no exceptions.
- Applicant must enter all data requested.

❖ **Development Design Items (Pt 5- Architectural Drawings)**

- Architectural drawings -- §50.8(6)(A) through (C).
 - The **SITE PLAN** should:
 - be consistent with the number of Units and Unit mix specified in the *Rent Schedule*;
 - be consistent with the number of buildings and building types specified in the *Building/Unit Configuration*;
 - identify all residential and common buildings;
 - clearly delineates the flood plain boundary lines and shows all easements;
 - indicates possible placement of detention/retention pond(s) if applicable; and
 - indicates the location of the parking spaces
 - for **scattered sites**, a site plan for each site must be provided. Each one must meet the requirements listed above. Each must clearly have the address and legal description stated and be consistent with the *Scattered Site Information* form (i.e. if the Development consists of 3 parcels of land, 3 separate sets of plans should be provided).

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- The **BUILDING FLOOR PLANS and ELEVATIONS** should:
 - be provided for each type of residential building and each common area building; and
 - clearly depict the height of each floor; and
 - clearly depict a percentage estimate of the exterior composition; and
 - clearly depict the square footage of the common areas.
 - **Adaptive Reuse Developments** should provide building floor plans that:
 - delineate each Unit by number, type and area consistent with those reflected in the *Rent Schedule*; and
 - photos of each elevation of the existing building depicting the height of each floor; and
 - depict a percentage estimate of the exterior composition.
 - **Rehabilitation Developments** must provide building floor plans and elevations only where Unit configurations are being altered.
 - **Rehabilitation Developments** must provide photographs of elevations and if elevations are proposed to be altered then after renovation drawings must also be submitted.
 - for **scattered sites**, building floor plans for each site must be provided and must meet the requirements listed above.

- The **UNIT FLOOR PLANS** should:
 - be provided for each Unit type;
 - reflect Net Rentable square footage that is consistent with that area reflected in the *Rent Schedule* and the *Building/Unit Configuration*;
 - Adaptive Reuse Developments only provide Unit floor plans for each distinct typical Unit type (i.e. one-bedroom, two-bedroom) and for all Unit types that vary in Net Rentable Area by 10% from the typical Unit.
 - For **scattered sites**, unit floor plans for each site must be provided. Each one must meet the requirements listed above.

- ❖ **Scattered Site Information (Pt 5- Scattered Site Info)**
 - Must be completed if the Development consists of more than one site. List every site individually as a separate line item. Use the corresponding line number as an identifier in later exhibits. Only cells highlighted in yellow require data entry by the Applicant. This worksheet currently allows for up to 60 scattered sites but rows are hidden. If you need additional rows select Rows 47 and 68, right click on your mouse and select “Unhide.”

- ❖ **Acquisition and Rehabilitation Information (Pt 5- Acq/Rehab Info)**
 - Part A- Low Income Use Restrictions or Subsidies: if rental assistance, operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, provide related contract or agreement securing those funds or proof of application for such funds which identifies:
 - Source of funds
 - Annual amount of funds
 - Number of Units receiving funds
 - Term and expiration date of contract or agreement

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- Part B- Repositioning of Existing Developments
 - This section will be utilized to determine eligibility of points under 50.9(b)(20), so answer questions as accurately as possible.
 - Provide a plan or description of the intentional lease-down or relocation of tenants off-site.

- Part C- Acquisition of Existing Buildings
 - Applications requesting acquisition credits require an Appraisal (see §50.8(14)(D) that must separately state the value of land and buildings. (Note that acquisition credits are only given for buildings, not land. Furthermore, demolishing a building would disqualify it from receiving acquisition credits.)
 - The separately appraised values of land and buildings must be consistent with the values that are stated in the *Development Cost Schedule* of the Application and with the settlement statement or audited financial statements related to the acquisition.
 - Refer to the Department’s Real Estate Analysis Rules for detailed information regarding allowed costs and expenses.
 - Identity of Interest Transactions
 - Documentation requirements for identity of interest transactions can be found in §1.32, 2012 Real Estate Analysis Rules



- ❖ **Occupied Development Information (Pt 5- Occupied Dev Info)**
 - Occupied Developments undergoing Rehabilitation or **Rehabilitation including Reconstruction** must provide:
 - at least **ONE** of the following:
 - Historical monthly operating statements for 12 consecutive months ending not more than three (3) months from the first day of the Application Acceptance Period; or
 - The two most recent consecutive annual operating statement summaries; or
 - The most recent consecutive six months of operating statements and the most recent available annual operating summary; or
 - All monthly or annual operating summaries available.
 - A current rent roll (not older than June 2011 for 9% or not more than 6 months prior to the date Parts 1 through 4 of the Application are submitted for 4%) that includes the following:
 - Terms and rates of lease
 - Rental rate
 - Unit mix
 - Tenant names or vacancy

The sample rent roll below illustrates the information to be included

Date:				As of:
Unit	Unit Type	Tenant Name	Rental Rate	Tenant Pays
101	1/1- 630sf	Jones	\$450	\$450
102	1/1- 630sf	Smith	\$450	\$400
103	1/1- 690sf	Travis	\$470	\$470
104	2/1- 720sf	Wright	\$470	\$450
105	2/1- 720sf	Vacant	\$600	\$0

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- Written explanation of the process used to notify and consult with the tenants in preparing the Application.
- For Qualified Elderly Developments, the number of existing tenants qualified under the Target Population elected must be identified.
- Relocation plan outlining relocation requirements and a budget with an identified funding source must be submitted.
- Compliance with the Uniform Relocation Act, if applicable.
- Evidence that the relocation plan has been submitted to the appropriate legal or governmental agency, if applicable.
- For Identity of Interest transactions, submit documentation required and described in §1.32 (relating to Underwriting Rules and Guidelines).

(Updated 2/10/2012)

❖ Third Party Market Study & PMA Map (Pt 5- Market Study Letter & Map)

- While the required third party Market Study is not due to the Department until April 1, 2012, Applicants are welcomed to submit this supplemental report prior to the deadline date.
- If the Market Study is not submitted until April 1, 2012, Applicants must submit the Market Study engagement letter and a map of the intended market area behind this placeholder form.

Part 6- Notifications

❖ Public Notification Information Form (Pt 6- Public Notifications)

- If a Pre-Application was submitted and no information has changed since Pre-Application, check the box that indicates no change. The rest of the forms may be left blank. **Note: in this case, although only boxes are required to be checked, these forms are required at Application, even if a Pre-Application was submitted.**
- If a Pre-Application was not submitted, if any of the information was changed, or if re-notifications were necessary, submit the form with updated information indicated.
NOTE: Since the information required to be included in the notices has been updated for 2012, re-notification will only be required if elected officials changed from pre-application to full application, or for total unit increases of greater than 10% from pre-application to full application.
- Single-member district: If the city council and/or county commission is a single-member district body, check the box to indicate this and list the single district representative in the space provided; you do not have to list the other members.
- Both single member and at-large district: If the city council or county commission has both district-based and at-large members, indicate such on the form and list the single district representative in the space provided and all at-large members in the spaces provided for all representatives.
- At-large district: List all representatives in the spaces provided.

❖ Certification of Notifications (Pt 6- Cert of Notifications)

- The form must be signed, dated and notarized. **Signature must not be older than January 21, 2012; Notifications must not be older than February 22, 2012.**

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- If a pre-application was submitted for the same Development, Applicant must select appropriate box under Part 1 of the certification (**Competitive HTC Developments ONLY**).
- If a pre-application was not submitted, Applicant must select appropriate boxes under Part 2 of the certification.
- The Applicant will need to be identified at each certification. For example, at each certification that begins with "I (we), _____, certify that:" the blank space is intended to identify the Applicant that is certifying to the information selected. Therefore, the individual must be the Applicant or the person that has the authority to sign on behalf of the Applicant.
- A new Part 3 has been included in this certification for Competitive HTC Developments only. Applicant should select this box **ONLY** if the statement is true for their Development. Keep in mind that if the Department receives community input from a qualifying Neighborhood Organization that meets the requirements of §50.9(b)(2) of the 2012 QAP, this may impact the final QCP score for the Application submitted.
 - **Templates** for *Request for Neighborhood Organizations* and *Public Notification Format* can be found on the Department's website.
 - Request for a list of Neighborhood Organizations must be made by:
 - ✓ January 20, 2012 for Competitive HTC Developments that did not submit a Pre-Application.
 - ✓ Not later than 14 days prior to submission of Parts 1 through 4 of the Application for Tax-Exempt Bond Developments
 - ✓ Notifications must be made no later than the date the Application is submitted to the Department.
 - ✓ Notifications cannot be older than 3 months from the first day of the Application Acceptance Period for 9% HTC applications, or not older than 3 months prior to the submission date of Parts 5 and 6 of the Tax-Exempt Bond Development Application as required by §50.8(9)(A).
 - ✓ Notifications should be made using a form of delivery that can be tracked in order to retain proof of delivery of the notifications to the prescribed entities.
 - ✓ Developments located in Extra Territorial Jurisdictions (ETJ) of a city are not required to notify city officials.



PART 7 –Scoring for Competitive HTC Applications

If you do not wish to claim points for an item then no documentation is needed. However, if you do wish to claim points for an item please read the requirements of each particular selection criteria to determine your eligibility prior to selecting the points in the self score form. If any new or updated forms or other Application documentation is submitted in response to an Administrative Deficiency notice at any time in the Department's review of the Application, the points claimed will be re-evaluated.



For 2012 no supporting documentation will be required UNLESS NOTED OTHERWISE IN EACH SECTION'S DESCRIPTION. Read each section carefully to make sure you place any supporting documentation where indicated.

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❖ **Applicant Self Score (Pt 7- Self Score)**

- Total self score will auto-calculate based on data entered in yellow cells for each point category.
- Points other than points under §50.9(b)(2)- Quantifiable Community Participation, §50.9(b)(6) – Community Support from State Representative or State Senator, and §50.9(b)(13) – Community Input other than Quantifiable Community Participation will only be awarded if requested on the *Applicant Self Score* form.
- All Applications, with the exception of TRDO-USDA Applications, must receive a final score totaling a minimum of 130, not including any points awarded or deducted pursuant to §50.9(b)(2), (6) and (13).

❖ **§50.9(b)(1)-Financial Feasibility of the Development (Maximum 28 points) (Pt 7- Financial Feasibility)**

- The supporting documentation for these points must be included in Part 3 of the Application under the *Financing Narrative and Term Sheets* section. However, the following additional information must be included within that documentation to qualify for these points:
 - 15-year pro forma identifying the following:
 - each of the first 5 years and every fifth year thereafter;
 - general growth factor applied to income and expense;
 - a minimum 1.15 DCR throughout the 15 years for all 3rd party lenders that require scheduled repayment; and
 - a statement in the term sheet that lender's assessment finds that the Development will be feasible for 15 years;
 - Developments maintaining existing TRDO-USDA financing must provide a current note balance or other form of acceptable documentation of the existing loan in addition to the documentation identified above.



If the lender uses the Department's form for the pro forma, the lender must sign and date the pro forma.

If at any time the Application is under consideration by the Department the lender changes, the Applicant must provide a subsequent letter from the new lender addressing the items identified above in order to remain eligible for the 28 points.

❖ **§50.9(b)(2)-Quantifiable Community Participation (Maximum 24 points)**

Note: Letters for points for Quantifiable Community Participation ("QCP") cannot be submitted with or within the Application. Moreover, QCP documentation submitted by an Applicant will **NOT** be reviewed for points. QCP documentation must be submitted directly by the Neighborhood Organization.

- The Quantifiable Community Participation (QCP) Information Packet can be found on the Multifamily Application webpage at: <http://www.tdhca.state.tx.us/multifamily/docs/12-QCP-Packet.doc> and at the Neighborhood Resources webpage at <http://www.tdhca.state.tx.us/housing-center/neighborhoods.htm>.
- In order to be considered for points, the Neighborhood Organization's QCP Information Packet must be postmarked or received by the Department no later than March 1, 2012. QCP Information Packets received after March 1, 2012 will

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NOT be considered for points but will be included in the Department's summary of public comment for the Board's information and consideration.

- **24 points** will be awarded for:
 - letters that meet the requirements of §50.9(b)(2) and detailed in the QCP Information Packet; and
 - letters that make a direct statement of support for the proposed development.
- **18 points** will be awarded for:
 - Applications for which **NO** Neighborhood Organizations exist. The Applicant will be required to certify to this fact in the Certification of Notifications form in Part 6 of the Application.
- **14 points** will be awarded for:
 - letters that do not meet the requirements of §50.9(b)(2) and detailed in the QCP Information Packet; or
 - letters that do not provide a reason for support or opposition; or
 - letters that are unclear even after correspondence with the Department; or
 - letters that are not received for an Application.
- **0 points** will be awarded for:
 - Letters that make a statement of opposition and clearly identify at least one reason for that opposition.

❖ §50.9(b)(3)-Income Levels of Tenants (Maximum 22 points)

- No supporting documentation is required. The Department will verify the Applicant's point request as reflected in the Self Score form and will test eligibility based upon the Development's location and the information reflected in Part 2 of the Application, particularly the *Rent Schedule*.
- Do not count employee Units in Low Income Units.
- If a Development is located in an area of the MSA of Houston, Dallas, Fort Worth, San Antonio or Austin that is **NOT** a Rural Area, an Application may qualify for either:
 - 22 points if at least 40% of the LI Units are set aside at or below a combination of 50% and 30% of AMGI in which at least 5% of the LI Units are at 30% AMGI; or
 - 20 points if at least 60% of the LI Units are set aside at or below 50% AMGI; or
 - 18 points if at least 10% of the LI Units are set aside at or below 30% of AMGI



Example: 120-unit (100% LI) development located in Arlington, TX:

- *Arlington is part of the Dallas/FW/Arlington MSA and is in an Urban area*
- *For 22 maximum points under §50.9(b)(3)(A):*
 - ✓ *40% of 120 units must be set aside at a combination of 30% and 50% AMGI = $120 \times .40 = 48$ units; AND*
 - ✓ *5% of 120 units must be set aside at 30% AMGI = $120 \times .05 = 6$*
 - ✓ *Rent Schedule should reflect, at a minimum, the following:*
 - 6 units at 30%*
 - 42 units at 50%*

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- If a Development is located in an area other than the areas listed in subparagraph (A) of this section, an Application may qualify for either:
 - 22 points if at least 20% of the LI Units are set aside at or below a combination of 50% and 30% of AMGI in which at least 5% of the LI Units are at 30% AMGI; or
 - 20 points if at least 30% of the LI Units are set aside at or below 50% AMGI; or
 - 18 points if at least 5% of the LI Units are set aside at or below 30% of AMGI

Example: 120-unit (100% LI) development located in Campbell City, TX:

- *Campbell is NOT part of a MSA and is in a Rural area*
- *For 22 maximum points under §50.9(b)(3)(B):*
 - ✓ *20% of 120 units must be set aside at a combination of 30% and 50% AMGI = $120 \times .20 = 24$ units; AND*
 - ✓ *5% of 120 units must be set aside at 30% AMGI = $120 \times .05 = 6$*
 - ✓ *Rent Schedule should reflect, at a minimum, the following:*
 - 6 units at 30%*
 - 18 units at 50%*

❖ **§50.9(b)(4)(A)-Size of the Units (Maximum 6 points)**

- No supporting documentation is required. The Department will verify the Applicant's point request as reflected in the Self Score form and will test eligibility based upon the information reflected in Part 2 of the Application, specifically in the *Rent Schedule*.
- The *Rent Schedule* should reflect the following minimum size requirements, as applicable, to score the maximum points and MUST be consistent with the unit floor plans provided in Part VI of the Application:
 - 600 square feet for Efficiency Units
 - 700 square feet for a non-elderly, one-bedroom Unit
 - 600 square feet for an elderly, one-bedroom Unit
 - 950 square feet for a non-elderly, two-bedroom Unit
 - 750 square feet for an elderly, two-bedroom Unit
 - 1,050 square feet for a three-bedroom Unit
 - 1,250 square feet for a four-bedroom Unit
- Applications involving Rehabilitation (excluding Reconstruction), Developments receiving funding from TRDO-USDA, or Developments Supportive Housing Developments will automatically be awarded 6 points **only if the points are requested in the Self Score form**.

❖ **§50.9(b)(4)(B)-Quality of the Units (Maximum 14 points)**

- No supporting documentation is required. The Department will verify the Applicant's point request as reflected in the Self Score form and will test eligibility based upon the information reflected in Part VI of the Application, particularly in the *Unit and Common Amenities* form.
- Applications involving scattered sites must have a specific amenity located within each Unit to qualify for points.

❖ **§50.9(b)(5)-Commitment of Funding by Governmental Instrumentality (Maximum 18 points)**

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- The supporting documentation for these points must be included in Part 3 of the Application under the *Financing Narrative and Term Sheets* section. However, the specific requirements to qualify for these points must be incorporated within that documentation.
 - Funding must be from a Unit of General Local Government or a Governmental Instrumentality with jurisdiction, as established in accordance with statute, in the same county or a contiguous county to the proposed Development. **The Department expects that such statutory jurisdiction be in place as of the beginning of the Application Acceptance Period.**
 - What qualifies as a Unit of General Local Government (UGLG) or Governmental Instrumentality (GI)?
 - UGLG:
 - City
 - Town
 - County
 - Village
 - Tribal reservation
 - Any other general purpose political subdivision of the State
 - GI:
 - Housing Finance Agencies
 - Housing Authorities
 - Economic Development Corporations
 - Councils of Government
 - Any other legal entities created by a Unit of General Local Government under statutory authority and is authorized to transact business for the Unit of General Local Government
 - What types of funding qualify?
 - Loans: must be structured as below market rate and be at least 100 basis points below the current market rate, have a term of at least 3 years and origination fees (including lender fees) equal to or less than 2% of the loan amount; **A statement from lender confirming that the fees are not greater than 2% and that basis points are 100 below market rate is required to be included within the term sheet provided.**
 - Grants:
 - In-kind contributions:
 - land donations – land must be under the control of the Applicant; full value of land contribution must be established by a 3rd party appraisal that is REQUIRED to be submitted in accordance with 50.8(14)(D) of the QAP.
 - tax exemptions- only counted for points if in addition to any exemption or abatement required under statute.
 - fee waivers- building permits, water tap fees, sewer tap fees, etc.
 - Value of in-kind contribution may only include the time period as of beginning of Application Acceptance Period (12/19/11) through the Development's placed in service date, with the exception of land contributions.
- NOTE:** if using in-kind contributions and the value calculated by the Applicant includes the time period between 12-19-2011 through the Development's placed in service date, BUT the Applicant elects to be able to PIS by 12/31/2013 for purposes of using the 9% applicable percentage, this is a problem!



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- The value of in-kind contribution must be reflected as a source of funding and be reflected as an offsetting use of funding in the *Development Cost Schedule*.
 - TDHCA HOME funds:
 - Only eligible if a NOFA is released and HOME funds are available.
 - A resolution, dated on or before March 1, 2012, from the Governing Body of the Unit of General Local Government must be submitted that authorizes the Applicant to act on behalf of the Governing Body of the Unit of General Local Government in applying for HOME funds from TDHCA for the particular Application (sample Resolution can be found in the **Templates** file located on the Multifamily Applications webpage)
 - New Development support or subsidy (rental or operating)
 - Development based rental or operating subsidies qualify as long as it is NEW rental or operating subsidy provided directly (not merely as administrator) by the UGLG or GI and includes a term of not less than 15 years.
 - Value should be determined by the using the full value of the NEW subsidy to be provided to the Development.
 - Section 8 HAP contract renewals with HUD as the originating source **DOES NOT** qualify.
 - Housing authorities that convert its Choice Voucher pool into project based vouchers **DOES** qualify
 - Funding must be attributed to low income Units
 - Evidence provided must be ONE of the following:
 - A resolution from the UGLG; or
 - A letter from the UGLG's Appropriate Local Official; or
 - An executed agreement with the UGLG or GI that will be providing the funding; or
 - If the funds have been applied for but not awarded, a letter from the funding source confirming receipt of application, funding availability and affirming that award results will be announced by August 1st.
 - If this option is used a statement from the Applicant must also be submitted confirming that requirements of 50.9(b)(5)(A)(vii) will be included if requesting a below market rate loan.
- OR
- If in the instance of a below market rate loan the Applicant has not applied for by March 1st, a statement from the Applicant setting forth when the application will be made and confirming that such loan will include the requirements of 50.9(b)(5)(A)(vii) must be provided in the Application.
 - Must include a statement that any funds committed were not first provided to the Unit of General Local Government by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application in order to be valid, unless the Applicant itself is a Unit of General Local Government or subsidiary.
 - Documentation from the UGLG of its jurisdiction as of December 19, 2011, if not a city or a county.

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❖ §50.9(b)(6)-Community Support from State Representative or State Senator (Maximum 16 points) (Pt 7- State Rep/Senator Letters)

- No supporting documentation is required; however, if the Applicant would like to include a copy of a letter received for this point item the letter may be submitted behind the placeholder tab provided. The Department will award points based upon letters received either in the Application or under separate cover.
- If the letter will come directly from the State Representative or State Senator, be sure these offices have the correct mailing address for the Department.
- **These letters must be submitted no later than May 1 and once submitted cannot be withdrawn or changed.**



❖ §50.9(b)(7)-Rent Levels of Units (Maximum 14 points)

In order for Applications to qualify for points under this item, the Application MUST have qualified for points under subsection (b)(3) of this section.

- No supporting documentation is required. The Department will verify the Applicant's point request as reflected in the Self Score form and will test eligibility based upon the Development's location and the information reflected in Part 2 of the Application, specifically the *Rent Schedule*.
- Do not count employee Units in Low Income Units.
- Applicants may qualify for the maximum points by combining 30% and 50% Units.
- If a Development is located in an area of the MSA of Houston, Dallas, Fort Worth, San Antonio or Austin that is **NOT** a Rural Area, an Application may qualify for either:
 - 2 points for every 5% of LI Units at rents and incomes at 50% of AMGI; or
 - 6 points for every 2.5% of LI Units at rents and incomes at 30% of AMGI. (NOTE: for this sub-paragraph an Application will receive the 14 point maximum if committing more than 5% of LI Units at rents and incomes at 30% of AMGI)



Example: Let's take the same 120-unit (100% LI) development located in Arlington, TX that we used for 50.9(b)(3)- Income Levels of Tenants, but with a slightly different unit breakdown as follows:

12 units at 30%

48 units at 50%

60 units at 60%

Under this scenario, the Application scores the maximum 14 points under (b)(7) because:

- *6 extra units at 30% were committed, amounting to an additional 5% and awarding the Application 12 points (6 points for every 2.5% of LI Units at 30% AMGI); and*
 - *6 extra units at 50% were committed, amounting to an additional 5% and awarding the Application 2 points (2 points for every 5% of LI Units at 50% AMGI)*
- If a Development is located in an area other than the areas listed in subparagraph (A) of this section, an Application may qualify for either:
 - 2 points for every 2.5% of LI Units at rents and incomes at 50% AMGI; or
 - 6 points for every 1% of LI Units at rents and incomes at 30% of AMGI.

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Example: Let's take same 120-unit (100% LI) development located in Campbell City, TX that we used for 50.9(b)(3)- Income Levels of Tenants, but with a slightly different unit breakdown as follows:

10 units at 30%

18 units at 50%

92 units at 60%

Under this scenario, the Application scores the maximum 14 points under (b)(7) because:

- 4 extra units at 30% were committed, amounting to an additional 3% and awarding the Application 14 points (6 points for every 1% of LI Units at 30% of AMGI. Note this Application can only receive the maximum 14 points)*

❖ **§50.9(b)(8)-Cost of the Development by Square Foot** (Maximum 12 points)

- No supporting documentation is required. The Department will verify the Applicant's point request as reflected in the Self Score form and will test eligibility based upon the information reflected in Part 2 of the Application, specifically the *Rent Schedule*, the *Building/Unit Type Configuration* and the *Development Cost Schedule*.
- Calculation of Cost per Square Foot:
 - Total Direct Hard Costs plus contractor profit, overhead and general requirements ÷ Total Net Rentable Area = Cost per Square Foot:
 - Applications qualify for 12 points if either A or B is satisfied below:
 - A. Total Direct Hard Costs plus contractor profit, overhead and general requirements do not exceed **\$95** per square foot **AND** direct construction costs (or building costs) do not exceed **\$80** per square foot for Qualified Elderly Developments, single family design, Supporting Housing Developments and Developments located in Central Business Districts, **UNLESS** the Development is located in a designated "First Tier County" in which case Total Direct Hard Costs plus contractor profit, overhead and general requirements do not exceed **\$97** per square foot **AND** direct construction costs (or building costs) do not exceed **\$82** per square foot.

OR

 - B. Total Direct Hard Costs plus contractor profit, overhead and general requirements do not exceed **\$85** per square foot AND direct construction costs (or building costs) do not exceed **\$70** per square foot for all other Developments, **UNLESS** the Development is located in a designated "First Tier County" in which case Total Direct Hard Costs plus contractor profit, overhead and general requirements do not exceed **\$87** per square foot **AND** direct construction costs (or building costs) do not exceed **\$72** per square foot.
 - Use the Total Direct Hard Cost found in *Development Cost Schedule*; and The Net Rentable Area square footage found in *Rent Schedule*. *
 - ✓ **Exception* – for the purposes of these points only, if a building is in a Qualified Elderly Development with an elevator or a Development with one or more buildings any of which have elevators serving four or



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more floors the NRA may include elevator served interior corridors. As it relates to this paragraph, an interior corridor is a corridor that is enclosed, heated and/or cooled and otherwise finished space. This additional NRA should be identified in *Building/Unit Type Configuration*.

- ✓ **Exception* – for the purpose of these points only, if the proposed Development is a Supportive Housing Development, the NRA may include elevator served interior corridors and may include up to 50 square feet of common area per Efficiency Unit. As it relates to this paragraph, an interior corridor is a corridor that is enclosed, heated and/or cooled and otherwise finished space. This additional NRA should be identified in *Building/Unit Type Configuration*.

- DO NOT round for total cost per square foot calculation.
- First Tier Counties are Aransas, Brazoria, Calhoun, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio and Willacy.
- There are specifically designated First Tier communities within Harris County that are east of State Highway 146 (Pasadena, Morgan's Point, Shoreacres, Seabrook and LaPorte). In order to qualify for the increased cost per square foot allowance in these communities, **a map must be submitted clearly showing that the Development Site is within the community.**



❖ **§50.9(b)(9)-Services to be Provided to Tenants (Maximum 10 points)**

- No supporting documentation is required. The Department will verify the Applicant's point request as reflected in the Self Score form.
- The specific services to be provided **DO NOT** need to be identified at the time of Application. However, by electing points the Applicant certifies that the Development will provide a combination of services which are listed, along with corresponding point values, in §1.1 Definitions and Amenities for Housing Program Activities and will be included in the LURA.



❖ **§50.9(b)(10)-Declared Disaster Areas (Maximum 8 points)**

- No supporting documentation is required.
- In October 2011 the Governor declared **all 254 counties in the State of Texas as disaster areas.**
- In other words, REQUEST the points in the Self Score form and you will receive them!!



❖ **§50.9(b)(11)-Additional Evidence of Preparation to Proceed (Maximum 7 points) (Pt 7- Add'l Evidence of Prep to Proceed)**

- **Supporting documentation must be provided behind this placeholder tab.**
- Applicants should refer to the 2012 QAP for a detailed description of the documentation requirements needed under paragraphs (A) and (B) of §50.9(b)(11).
- Paragraph (C) of this section allows Applications that were previously submitted in the preceding 3 Application Rounds (does not have to be consecutive) but ultimately not competitive enough to receive an award to score up to 2 points. The current Application must include:
 - the same number of Units;

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- some overlap of the original Development Site; and
- at least one Affiliate of the previous Applicant is an Affiliate of the current Applicant.
- The Applicant must include a statement behind this placeholder tab that includes:
 - the name of the previously submitted Application(s);
 - the location of the previously submitted Application(s);
 - the assigned TDHCA file number for the previously submitted Application(s); and
 - the year(s) the previously submitted Application(s) was submitted.
- **Terminated or withdrawn Applications do NOT qualify for these points.**



❖ **§50.9(b)(12)-Leveraging of Private, State and Federal Resources (Maximum 7 points)**

- The supporting documentation for these points must be included in Part 3 of the Application under the *Financing Narrative and Term Sheets* section. However, the specific requirements to qualify for these points must be incorporated within that documentation.
- Developments located outside of a QCT and meet the criteria below will be awarded 7 points.
- Developments located in a QCT and meet the criteria below will be awarded 6 points.
- Criteria required to satisfy points requested:
 - At least 5% of the total Units must be restricted to 30% AMGI (will be verified using the information reflected in the *Rent Schedule*); and
 - If a loan is used:
 - Loan must be primary source of debt with a first lien position, or if not in first lien position must be the largest source of funding;
 - Loan must have a minimum term of 15 years;
 - Loan origination fees cannot exceed 2% (*lender must make a statement in the term sheet attesting to this*);
 - Loan must be provided from a 3rd party, except when funds are federally sourced and passed-through a Governmental Instrumentality;
 - Loan must provide an economic benefit over a market rate transaction (*lender must make a statement in the term sheet attesting to this*)
 - If a permanent grant is used:
 - Grant must be largest source of funding;
 - Grant must be provided from a 3rd party, except when funds are federally sourced and passed-through a Governmental Instrumentality;
 - If funding for ongoing operations is used:
 - Rental subsidies not eligible;
 - Sources not directly offsetting Total Development Costs are not eligible;
 - Funds provided through local entities may qualify as long as original source of funds is from a private, state or federal source (a

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statement from local entity is required identifying original source of funds).

- A list of examples of sources that qualify can be found in §50.9(b)(12)(C).
 - Evidence to support point request must be in Part 3 of the Application under the *Financing Narrative and Term Sheets* section and should include:
 - A commitment from the funding source if available at the time of Application submission; or
 - A letter or term sheet from the funding entity (or lender) confirming that an Application for the source identified has been made and that the terms for funding meet the requirements of this section of the QAP.
- NOTE: if the Applicant intends to submit an application for funding for a source to be used for this point item, the Applicant must have already applied for the funding by March 1, 2012.**
- If a commitment is not available at the time of Application submission, the Applicant has until the Carryover documentation deadline to provide evidence of a commitment from the funding source. Sources may be substituted between Application and Carryover.

❖ **§50.9(b)(13)- Community Input other than Quantifiable Community Participation** (Maximum 6 points) (Pt 7- Input Other Than QCP)

If an Application was awarded 18 or 14 points under §50.9(b)(2) then that Application may qualify for up to 6 points under this section.

- Letters submitted within the Application should be placed behind the placeholder tab for this scoring item. The Department will award points based upon letters received either in the Application or under separate cover.
- An Application may receive **2 points** for each letter of support submitted from a community or civic organization that serves the community in which the Development Site is located.
 - The community or civic organization must provide documentation of its physical existence or services provided in the community in which the Development is located. Examples include, but are not limited to, listing of services and/or members, brochures, annual reports, etc, showing the organization's address and/or areas of operation. Letters of support from organizations not active in the same area as the Development will not be counted.
 - For purposes of this scoring item letters from the following organizations **DO NOT** qualify for these points:
 - Neighborhood organizations
 - Governmental entities (or organizations created by or funded by a governmental entity)
 - Taxing entities
 - Educational activities such as school districts, trade and vocational schools, charter schools and day care centers
 - Should an Applicant elect this option and the Application receives letters in opposition by March 1, 2012, then two points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community.

OR

- An Application may receive **6 points** for a letter of support, from a property owners association created for a master planned community whose boundaries

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include the Development Site that does not meet the requirements of a Neighborhood Organization for points under §50.9(b)(2).

OR

- An Application may receive **6 points** for a letter of support from a Special Management District, whose boundaries, as of March 1, 2012, include the Development Site and for which there is not a Neighborhood Organization on record with the county or state.

❖ **§50.9(b)(14)- Pre-Application Incentive Points (Maximum 6 points) (Pt 7- Pre-app Pts)**

- No other supporting documentation is required. The Department will verify the Applicant's point request as reflected in the Self Score form and determine eligibility based on the information in the pre-application for the same Development.
- To be eligible for these points the Application must:
 - Be for the identical Development Site, or reduced portion of the Development Site based on the legal description provided at pre-application; and
 - Have met the pre-application threshold criteria; and
 - Be serving the same Target Population as in the pre-application; and
 - By applying under the same set aside as indicated in the pre-application (set asides can be dropped between pre-application and application, but NO set asides can be added); and
 - Applicant must choose one of the options reflected on this form to either:
 - Request the pre-application points and have the Department cap the Application score at no greater than the 9 point increase regardless of the total points accumulated in the scoring evaluation; OR
 - Forfeit the pre-application points and that the Department evaluate the Application as requested in the self-score form.

❖ **§50.9(b)(15)-Developments in Census Tracts with Limited Existing HTC Developments (Maximum 6 points)**

- No supporting documentation is required. The Department will verify Applicant's point request as reflected in the Self Score form and will determine eligibility based upon evidence provided in Part 5 of the Application, specifically the *Site Information* form and the Census Tract map required to be submitted behind the *Site Information* form.
- Applications qualify for points if:
 - The Development is located in a census tract in which there are no other existing HTC Developments that serve the same Target Population (4 points);

OR

- The Development is located in a census tract in which there are no other existing HTC Developments (regardless of Target Population being served) (6 points).

❖ **§50.9(b)(16)-Development Location (Maximum 4 points) (Pt 7- Dev Location)**

- **Supporting documentation is required and should be placed behind this placeholder tab for this scoring item.** The Department will verify the Applicant's point request as reflected in the Self Score form and will determine



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eligibility based upon the evidence provided behind this placeholder tab as well as in other parts of the Application.

- **Applications submitted under the At-Risk set aside ARE NOT eligible for these points. (CLARIFIED IN 1/24/2012 REVISED MANUAL)**
- Qualified Elderly Developments only qualify for 3 points under option (A) High Opportunity Area; all other Developments qualify for 4 points under this option.
- Developments that qualify under options (C), (D) and (E) are eligible to receive 1 point.
- An application may receive points under one of (A) through (E) below:

A. Development is or will be located in a High Opportunity Area (HOA) as defined in the QAP. To be eligible for being located in a HOA the development must be:

- located in a census tract which has a median income that is above the median for that county (as designated in the HTC Site Demographics Characteristics Report); AND
- located in a census tract that has a 15% or less poverty rate, or for Regions 11 and 13 a poverty rate of 35% or less (as designated in the HTC Site Demographics Characteristics Report);

AND CHOOSE ONE FROM THE FOLLOWING:

- within ½ mile of an accessible transit stop for public transportation if it is available in the municipality or county where the Development will be located; OR
- located in an elementary school attendance zone that has an academic rating of “Exemplary” or “Recognized” as determined by the Texas Education Agency, as of the December 19, 2011.
 - An attendance zone does not include schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools. However, district-wide enrollment and only one elementary school is acceptable.

OR

B. Development is or will be located in a Central Business District (CBD) as defined in the QAP. To be eligible for being located in a CBD the development must be:

- Located in a city with a population of 50,000 or more; and
- Located in an area designated by the city as its Central Business District or Downtown Area; and
- The area designated by the city as its CBD or Downtown Area must include one or more commercial buildings of 10 stories or more.

OR

C. Development is or will be located in a Federal Enterprise Community, a Growth Zone or any other comparable community as designated by HUD and typically defined with census tract boundaries.

NOTE: these locations have previously been known as Empowerment Zones, Enterprise Communities or Renewal Communities. The Department will accept evidence that the Development is located in one of these areas to qualify for the points under this paragraph.

OR

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- D. Development is or will be located in an Economically Distressed Area as designated by the Texas Water Development Board or in a Colonia as of December 19, 2011.

NOTE: if claiming points for being located in a Colonia, the name of the Colonia must be identified.

OR

- E. The Application is not receiving points under §50.9(b)(5) relating to Commitment of Development Funding by a Unit of General Local Government or Governmental Instrumentality AND a resolution or ordinance of support from the Governing Body of the appropriate municipality or county is submitted with the Application.

- **EVIDENCE** to be submitted behind the placeholder tab for this item in the Application includes:

- A map of the defined area with the location of the Development identified (required for ALL Applications); and

THE FOLLOWING ADDITIONAL DOCUMENTATION AS APPLICABLE

- If selecting points under 50.9(b)(16)(A) and claiming that Development is located in an Elementary school attendance zone rated “Exemplary” or “Recognized,” documentation from the school stating that the Development Site is in the attendance zone of the school and verification that the school is rated Exemplary or Recognized as of 12/19/11 OR an attendance zone map from the school showing the location of the Development Site, name of the school and verification of rating.
- If selecting points under 50.9(b)(16)(B) and claiming that the Development is located in a Central Business District, a letter from the Appropriate Local Official of the city must be submitted and must:
 - Confirm the location of the proposed Development; and
 - Identify the boundaries of the designated Central Business District or Downtown Area; and
 - State that the designated CBG or Downtown Area includes one or more commercial buildings of 10 stories or more.
- If selecting points under 50.9(b)(16)(C) and claiming that the Development is located in what was formerly known as an Empowerment Zone, Enterprise Community or Renewal Community, documentation confirming the Development’s location should be submitted.

NOTE: HUD has a **EZ/RC Locator** tool on its website at <http://egis.hud.gov/ezrclocator/> that allows you to search by address to determine if your Development Site is located within an Empowerment Zone or Renewal Community. The Department suggests that if you request points for the Development being located in an Empowerment Zone or Renewal Community, that you search at the address level and print out documentation to show the Development is or will be located within one of these areas.

- If selecting points under 50.9(b)(16)(D) and claiming that the Development is located in a Colonia, the map should clearly reflect the name of the Colonia Community.

NOTE: The Attorney General of Texas’ website has a helpful Colonia locator tool that allows you to find a Colonia Community based on the

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County. Staff suggests searching and printing a map of the Colonia where the proposed Development is or will be located from this website: https://maps.oag.state.tx.us/colgeog/colgeog_online.html#

- If selecting points under 50.9(b)(16)(E), a copy of the support resolution or ordinance required to be submitted should be located behind the *Resolutions* tab located in Part 1 of the Application.

❖ **50.9(b)(17)- Tenant Populations with Special Needs (Maximum 4 points)**

- No supporting documentation is required. The Department will verify Applicant's point request as reflected in the Self Score form and will award the points requested without any other evidence required.

❖ **50.9(b)(18)- Length of Affordability Period (Maximum 4 points)**

- No supporting documentation is required. The Department will verify Applicant's point request as reflected in the Self Score form and will award the points requested without any other evidence required.
- **Rehabilitation (excluding Reconstruction) Developments are NOT eligible for these points.**



❖ **50.9(b)(19)- Site Characteristics (Maximum 4 points) (Pt 7- Site Characteristics)**

- **Supporting documentation is required and should be placed behind the placeholder tab for this scoring item.** The Department will verify the Applicant's point request as reflected in the Self Score form and will determine eligibility based upon the evidence provided behind this placeholder tab.
- A list of the services to select from can be found in §50.9(b)(19) of the QAP.
- 4 points will be awarded for Development Sites that are located within a (1) one mile radius (or (2) two mile radius for Developments competing for a Rural Regional Allocation) of at least (6) six services.
OR
- 4 points will be awarded for Development Sites that are located within one-half mile of public transportation that is accessible to all residents and/or located within a community that has another form of transportation.
- EVIDENCE to be provided includes a map that should include:
 - the location of the Development Site clearly marked;
 - A scale or a radius;
 - If a Development has scattered sites, at least six services must be located within the appropriate distance of each site;
 - Identify each service by name. **Points will not be awarded if services are not identified by name;**
 - If electing points for public transportation, label the location of the public transportation stop and the one-quarter mile radius around the Development Site.
- If Development is proposing its own specialized transit service or funding a comparable service, evidence should include a detailed description of this service or funding and acknowledgement from the Applicant that this will be a requirement of the LURA.
- All services must exist or, if under construction, be under active construction, post pad by the date the Application is submitted.

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❖ **50.9(b)(20)- Repositioning of Existing Developments** (Maximum 3 points)

- No supporting documentation is required. The Department will verify Applicant's point request as reflected in the Self Score form and will determine eligibility based upon information reflected in the *Acquisition and Rehabilitation Information* form found in Part 5 of the Application.

❖ **50.9(b)(21)- Sponsor Characteristics** (Maximum 2 points) **(Pt 7- HUB Pts)**

- **Supporting documentation is required and should be placed behind the placeholder tab for this scoring item.** The Department will verify the Applicant's point request as reflected in the Self Score form and will determine eligibility based upon the evidence provided behind this placeholder tab as well as information provide in Part 4 of the Application.
- To qualify for (1) one point a plan to use Historically Underutilized Businesses (HUBs) in the development process consistent with the HUB Guidelines for contracting with the State of Texas must be provide behind this tab.
- To qualify for (2) two points the Applicant must provide:
 - a HUB certification from the Texas Comptroller of Public Accounts (place certificate behind this tab); and
 - The HUB must be shown on the Applicant organizational chart in Part 4 of the Application as having at least a 51% interest in the General Partner; and
 - A description of how the certified HUB will materially participate in the operation of the Development throughout the Compliance Period (place description behind this tab).

❖ **50.9(b)(22)- Economic Development Initiatives** (Maximum 1 point) **(Pt7- Econ Dev Initiatives)**

- **Supporting documentation is required and should be placed behind the placeholder tab for this scoring item.** The Department will verify the Applicant's point request as reflected in the Self Score form and will determine eligibility based upon the evidence provided behind this placeholder tab.
- To qualify for (1) one point the Application must document that the Development will be located in either (A) or (B) below:
 - A. an area that has adopted initiatives that promote economic development such as a Tax Increment Financing zone (TIF) or a Tax Increment Reinvestment Zone (TIRZ); or
 - B. a Designated State Enterprise Zone.
- Evidence required under option (A) includes a letter from the Appropriate Local official behind this tab stating:
 - the economic development initiative that is in place; and
 - certifying the date the initiative was adopted by the Unit of General Local Government.
- Evidence required under option (B) must be one of the following (**NOTE: originally this was indicated to be a freebie point item, however, this is no longer the case, please see below for required evidence**):
 - Go to the following map locator tool: <http://www.texasitesearch.com/>, enter the address of the Development Site to determine if the address is located in an already qualifying State Enterprise Zone, print it out and submit it within the Application



OR

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- Provide a letter from the Governor's Office Economic Development & Tourism Division stating that the Development Site is located in a qualifying State Enterprise Zone.
- ❖ **50.9(b)(23) Community Revitalization or Historic Preservation (Maximum 1 point) (Pt 7-Comm Revit/Historic Pres)**
 - **Supporting documentation is required and should be placed behind the placeholder tab for this scoring item.** The Department will verify the Applicant's point request as reflected in the Self Score form and will determine eligibility based upon the evidence provided behind this placeholder tab.
 - To qualify for (1) one point the Application must document that the Development:
 - A. Is part of a community revitalization plan. Evidence must include a letter from the Appropriate Local Official affirming:
 - That the Development is located within the specific geographic area covered by the plan;
 - That the plan is not a Consolidated Plan or other Economic Development Plan or city-wide plan; and
 - That the plan has been approved or adopted by ordinance, resolution, or other vote by the Governing Body with jurisdiction over the area covered by the plan in a process that allows for public input and/or comment
 - OR
 - B. Includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse. Evidence for this item will be confirmed by the following information:
 - the *Activity Overview* form in Part 1 of the Application to confirm activity as Rehabilitation or Adaptive Reuse;
 - Part 3 of the Application relating to Development Financing to confirm that Historic Tax Credits are reflected in the Financing structure; and
 - the *Acquisition and Rehabilitation Information* form in Part 5 of the Application.
 - Points requested for this item will be awarded without further evidence required at Application; HOWEVER, evidence of Historic designation and Historic Tax Credits will be required at Cost Certification.
- ❖ **50.9(b)(24)- Developments Intended for Eventual Tenant Ownership – Right of First Refusal (Maximum 1 point)**
 - No supporting documentation is required. The Department will verify Applicant's point request as reflected in the Self Score form and will award the points requested without any other evidence required.
- ❖ **50.9(c)- Scoring Criteria Imposing Penalties**
 - Applicants that failed to meet the original Carryover submission or 10% Test deadline, or that request extensions for submitting the Carryover documentation and/or 10% Test documentation will have five points deducted from their Application scores for each extension request made.
 - Penalty will not be assessed in cases where the Board or Executive Director makes an affirmative finding setting forth that the facts which gave rise to the

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need for the extension were beyond the reasonable control of the Applicant and could not have been reasonably anticipated.

- A five-point deduction will be made for each Carryover Allocation extension and a five-point deduction will be made for each 10% Test extension requested. Penalties will NOT be imposed for extensions that were requested on Developments that involved Rehabilitation when the Department is the primary lender, or for Developments that involve TRDO-USDA as a lender if TRDO-USDA or the Department is the cause for the Applicant not meeting the deadline.
- No documentation is required behind the tab for this penalty item.
- Penalties will be imposed on an Application if a Developer or Principal of the Applicant violates §50.12(a) relating to Adherence to Obligations.



❖ **Part A.2 Applicant Unique Identifier Number and Authorization to Release Credit Information.**

- Neither of these forms should be included in the Application and are **NOT** required to be submitted at Application.
- The Applicant will be required to submit these forms only as requested by Department staff.

PART 8 –HOME Application

Instructions for completing the HOME Application, which makes up Part 8 of the Application, are included in a separate chapter.

PUBLIC VIEWING OF PRE-APPLICATIONS AND APPLICATIONS

The Department will allow the public to view any Pre-Applications or Applications that have been submitted to the Department in an electronic format. These electronic versions will be available within approximately two weeks of the close of the Application Acceptance Period. An Applicant may request via an open records request a copy of an electronic copy between the hours of 8:00 A.M. and 5:00 P.M. Monday through Friday. There may be an associated cost with requesting this information. To submit an open records request or to coordinate the viewing of a Pre-Application or Application please contact Misael Arroyo in the Multifamily Finance Division at Misael.arroyo@tdhca.state.tx.us.

HOME/CHDO Application

What you will learn in this section:

- ✓ Application delivery instructions
- ✓ HOME Program Overview
- ✓ CHDO Overview
- ✓ HOME Application Reference Materials
- ✓ HOME Application Assembly Requirements
- ✓ HOME Application Components

Application Delivery Instructions

Deliver To: HOME Division
(overnights) Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Regular Mail: P.O. Box 13941
Austin, Texas 78711

HOME Applications

Applications involving TDHCA HOME funds may be submitted to the Department when a Notice of Funding Availability (NOFA) has been approved by the TDHCA Board and published to the Department's website. The NOFA will detail the funding amount available for allocation and the application requirements.

Applicants who are layering HOME with Housing Tax Credits must meet the requirements under the Qualified Allocation Plan for the year in which they are applying for these funds and all of the requirements of Texas Administrative Code (10 TAC) and Chapter 53 ("HOME Program Rule") unless specifically waived by the Department.

The NOFA will provide details specific to the current funding cycle such as submission dates and deadlines. Additionally, in accordance with the HOME Program Rule, the maximum amount of HOME funds available per application is reflected in the NOFA.

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HOME Program Overview

The Texas Department of Housing and Community Affairs (the “Department”) is committed to expanding the development of decent and affordable housing by promoting partnerships between public, private and nonprofit organizations that will effectively utilize all available HOME Investment Partnerships resources to provide more affordable housing choices to the low-income citizens of Texas.

The availability and use of HOME funds are subject to the State HOME Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 53 (“HOME Program Rules”) in effect at the time the application is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306, Texas Government Code. Other Federal regulations may also apply such as, but not limited to, 24 CFR Parts 50 and 58 for environmental requirements, Davis-Bacon Act for labor standards, 24 CFR §§85.36 and 84.42 for conflict of interest and 24 CFR Part 5, Subpart A for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

CHDO Overview

To be eligible for a certification as a CHDO, the CHDO must be organized and structured according to the definition of a CHDO as listed in 24 CFR Part 92 and 10 TAC Chapter 53. Additionally, an organization seeking certification as a CHDO must submit and receive an award of HOME CHDO project funds from the TDHCA. The applications will be reviewed and approved concurrently.

Qualification as a CHDO

In order for a nonprofit organization to qualify as a CHDO it must meet the rules and requirements of 24 CFR Part 92 and the State of Texas HOME Program rules at 10 TAC Chapter 53. Some of the key requirements of qualifying as a CHDO include:

- The organization is organized under State and local laws and currently has a 501(c)(3) or (4) tax exempt ruling from the Internal Revenue Service;
- The governing board of the organization includes:
- Not more than 1/3 board members that are public officials or public employees of the State of Texas; and
- At least 1/3 board members that are residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood associations;
- The organization has at least one year of documented experience serving the city of county in which the proposed housing will be located; and
- The CHDO or entity wholly owned by the CHDO must receive at least 50% of the cash flow from the property (for multifamily developments) or 50% of the developer fee.

For the complete rules and requirements you are encouraged to review 10 TAC Chapter 53 and 24 CFR Part 92 prior to completing an application.

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CHDO Roles and Eligible Activities

In addition to be eligible for funding under the CHDO set-aside the CHDO must engage in CHDO eligible activities in which the CHDO is acting as a developer, owner or sponsor of the HOME-assisted housing activity.

CHDO as a "Developer"

A CHDO is a "developer" when it (1) either owns a property and develops a project, or has a contractual obligation to a property owner to develop a project; and (2) performs all the functions typically expected of for-profit developers, and assumes all the risks and rewards associated with being the project developer.

- 1) For rental housing, the CHDO must obtain financing, and rehabilitate or construct the project. If it owns the property, the CHDO may maintain ownership and manage the project over the long term, or it may transfer the project to another entity for long-term ownership and management. If it does not own the property, the CHDO must enter into a contractual obligation with the property owner. This contractual obligation is independent of the PJ.
- 2) For homebuyer programs, the CHDO must obtain project financing, rehabilitate or construct the dwelling (s), and have title of the property and the HOME loan/grant obligations transferred to a HOME qualified homebuyer within a specified timeframe. If it does not own the property, the CHDO must enter into a contractual obligation with the property owner. This contractual obligation is independent of the PJ. In both of the above scenarios, developer fees negotiated with the PJ are eligible soft costs under Section 92.206 of the HOME regulations.

CHDO as "Owner"

A CHDO is an "owner" when it holds valid legal title to or has a long term (99 year minimum) leasehold interest in a rental property. The CHDO may be an owner with one or more individuals, corporations, partnerships or other legal entities. If it owns the project in partnership, it or its wholly owned nonprofit or for-profit subsidiary must be the managing general partner with effective control (i.e., decision-making authority) of the project. The CHDO may be both owner and developer, or may have another entity as the developer.

CHDO as "Sponsor"

A CHDO is a "sponsor" for HOME-assisted rental or homebuyer housing according to the circumstances outlines below. (In either case, the CHDO must always own the property prior to the development phase of the project.):

- 1) For HOME-assisted rental housing, the CHDO may develop a project that it solely or partially owns and agrees to convey ownership to a second non-profit organization at a predetermined time prior to or during development or upon completion of the development of the project. The HOME funds are invested in the project owned by the CHDO. The CHDO sponsor selects prior to commitment of HOME funds the non-profit organization that will obtain ownership of the property. The non-profit assumes from the CHDO the HOME obligation (including any repayment of loans) for the project at a specified time. If the property is not transferred to the non-profit organization, the CHDO sponsor remains liable for the HOME loan/grant obligation. The non-profit organization must be financially and legally separate from the CHDO sponsor. (The second nevertheless, it is a separate entity from the CHDO.) The CHDO sponsor must

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provide sufficient resources to the non-profit organization to ensure the development and long-term operation of the project. or

- 2) For a HOME-assisted homebuyer program, the CHDO owns a property, then shifts responsibility for the project to another nonprofit at some specified time in the development process. The second nonprofit, in turn, transfers title along with the HOME loan/grant obligations and resale/recapture requirements to a HOME-qualified homebuyer within a specified timeframe. The HOME funds are invested in the property owned by the CHDO. The other nonprofit being sponsored by the CHDO acquires the completed units, or brings to completion the rehabilitation or construction of the property. At completion of the rehabilitation or construction, the second nonprofit is required to sell (transfer) the property along with the HOME loan/grant obligations to a homebuyer. This sponsorship role could include a lease-purchase approach whereby the second nonprofit would lease the property to a homebuyer for a period not to exceed three years. At the expiration of the lease, the second nonprofit must sell or transfer the property along with the HOME loan/grant obligations to the homebuyer. If the property is not transferred, the second nonprofit retains ownership and all HOME rental requirements will apply.

HOME Application Reference Materials

Each Applicant should review the following rules and requirements prior to submission of an Application for HOME funds. Below is a list of the primary sources for rules and requirements applicable to Applicants seeking HOME Multifamily Development Program funds.

Current Multifamily Development Program (MFD) NOFA. The NOFA will provide details specific to the current funding cycle such as submission dates and deadlines. Additionally, in accordance with the HOME Program Rule, the maximum amount of HOME funds available per application is reflected in the NOFA.

HOME Program Rule (10 TAC Chapter 53). The HOME Program Rule reflects the state's requirements for an Application, including threshold requirements, loan terms, rent and income targeting requirements, etc. Additionally, each Applicant is encouraged to review the Administrative requirements that each awardee will be subject to for loan closing and while under construction.

HOME Final Rule (24 CFR Part 92). The HOME Final Rule is the primary source for the federal rules and requirements that apply for all recipients of HOME funds. In addition, HUD has issued extensive guidance with regard to the federal rules and requirements. Applicants should be familiar with these rules and requirements and are encouraged to consult with the management company during the process of completing the application.

Qualified Allocation Plan ("QAP") (10 TAC Chapter 50). The majority of the Threshold Requirements reflected in the QAP apply to Applicants seeking HOME funds. In order to help HOME applicants understand how the Threshold requirements apply to their HOME application, Program staff has developed additional guidance. You can find this guidance in the "*I'm applying for HOME MFD funds. How does the QAP apply to me?*" document available in the HOME Program section of the website.

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Chapter 2306 of Texas Government Code. This portion of Texas Government Code is the governing statute for the Texas Department of Housing and Community Affairs. It includes many state requirements that applicants seeking HOME funds will be subject to. It also includes requirements related to how funding must be distributed and mandated set-asides for Department funding.

HOME Application Assembly Requirements

For each Application the Applicant must ensure execution of all necessary forms and supporting documentation, and place them in the appropriate order according to this manual. All Application materials must be submitted in electronic format only, unless specifically noted otherwise. Application assembly format should be identical to the format for Housing Tax Credit applications beginning on page 36 of this manual. HOME Applications are not considered complete and will not be given a Received Date until all required Third-Party Reports have been submitted.

HOME Application Components

2012 Payment Receipt

- All Applicants must submit a completed and executed (**hard copy**) original of this form with the Application submission, along with a check for the correct fee amount in order for the Application to be accepted by the Department.
- If you are submitting an Application for more than one program at one time, please indicate all programs for which you are submitting documentation and/or payment. If you are submitting one check for more than one fee, please describe each fee included within the payment by selecting the appropriate box(es) in the **Payment Description** section.
- If you are claiming a fee waiver or reduced fee, please see required documentation in HOME NOFA.
- Insert a scanned copy of the completed Payment Receipt and check into the final PDF version of the Application.
- If you would like a copy of the staff-signed Payment Receipt sent to you, please indicate so by checking the box on the second page of the Payment Receipt.

2012 Electronic Application Filing Agreement

- **THIS FORM IS ONLY REQUIRED AT APPLICATION IF A PRE-APPLICATION FOR THE SAME DEVELOPMENT WAS NOT ALREADY FILED!**
- This form must be completed and submitted with the Application in order to be able to submit subsequent information and documents related to the Application by means of electronic transmission using the Department's File Transfer Protocol (FTP) server.
- A TDHCA Application Number will be assigned after the Application is received, along with instructions on how to use the Department's FTP transmission service.
- Fill out all information requested. **IMPORTANT:** identify ALL persons who should receive the FTP setup/login information. This information will not be released by the Department to anyone other than the Applicant and those persons identified on this form.

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Full HOME Application

The complete HOME Application consists of Parts 1 through 8 as detailed in this manual. The parts of the Application listed below are required for each funding program unless otherwise noted. Parts 1 through 7 must be completed and submitted in accordance with the Application Chapter of the Multifamily Programs Procedures Manual.

- **Part 1-** Basic Development Information
- **Part 2-** Development Plan and Budget
- **Part 3-** Development Financing
- **Part 4-** Development Ownership
- **Part 5-** Development Site
- **Part 6-** Notifications
- **Part 7-** Scoring
- **Part 8-** HOME Multifamily Development application (applies only to applications for HOME funds)
- **CHDO Application Tabs** (if applying under the CHDO set-aside)
- **Third-Party Reports**

All required forms may be found on the Department's website; the names of these forms are presented in *italics*. The forms submitted to the Department must be the current version available on the Department website; the Department will not accept Application materials from previous years, and will terminate Applications for this reason. Each form must be completed; all questions must be answered and spaces completed. If a question does not pertain to the Development, mark "N/A."

Abbreviated Application

If specifically allowable in the NOFA under which an application is being submitted, the following abbreviated application process may be used. The Abbreviated Application is generally designed for developments that have already received an award of funding through a Texas Department of Housing and Community Affairs program and that have previously met the applicable Threshold Requirements in the Qualified Allocation Plan (10 TAC 50.8). However, full application and/or an amendment may be required for any application that includes changes to the previous Board approved application beyond those that are directly related to the development costs, financing structure or additional HOME program related requirements or that affect an existing allocation of Housing Tax Credits. All applications submitted under the Abbreviated Application process must follow the public notification requirements.

The Abbreviated Application consists of Parts 1-4, and 6. The parts listed below are required for each funding program unless otherwise noted.

- **Part 1-** Basic Development Information
- **Part 2-** Development Plan and Budget
- **Part 3-** Development Financing
- **Part 4-** Development Ownership
- **Part 6-** Notifications
- **Part 8-** HOME Multifamily Development application (applies only to applications for HOME funds)
- **CHDO Application Tabs** (if applying under the CHDO set-aside)

2012 HTC Reference Manual

2012 HOUSING TAX CREDIT SITE DEMOGRAPHICS CHARACTERISTICS REPORT

The 2012 HTC Site Demographics Characteristics Report can be found at the following link:

<http://www.tdhca.state.tx.us/multifamily/applications.htm>

2012 LIST OF DECLARED DISASTER AREAS

All 254 counties in the State of Texas were declared a Disaster Area by the Governor in October 2011.

2012 LIST OF QUALIFIED CENSUS TRACTS

A complete list of Qualified Census Tracts can be found at the following website:
<http://qct.huduser.org/tables/1statetable.odt?statefp=48.0&DDAYEAR=2012>

2012 Consolidated Definitions

2012 HOUSING TAX CREDIT SITE DEMOGRAPHICS CHARACTERISTICS REPORT

The following definitions apply to the Housing Tax Credit Program, Multifamily Housing Revenue Bond Program, and other Department programs as defined in their Rules. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Texas Government Code, Chapter 2306, §42 of the Internal Revenue Code, and 10 TAC Chapter 1, §1.1

- (1) **Adaptive Reuse--** The change-in-use of an existing non-residential building (e.g., school, warehouse, office, hospital, hotel, etc.), into a residential building. Adaptive reuse does not include the demolition of the external walls of the existing building. All units must be contained within the original exterior walls of the existing building. Porches and patios may protrude beyond the exterior walls. Ancillary non-residential buildings, such as a clubhouse, leasing office and/or amenity center may be newly constructed outside the walls of the existing building or as detached buildings on the Development Site. (10 TAC §1.1 & General Rule §1.1)
- (2) **Administrative Deficiencies--** Information requested by the Department that is required to clarify or correct inconsistencies in an Application that in the Department's reasonable judgment, may be cured by supplemental information or explanation which will not necessitate a substantial reassessment or re-evaluation of the Application. (10 TAC §1.1 & General Rule §1.1)
- (3) **Affiliate--** An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other Person. All entities that share a Principal are Affiliates. (10 TAC §1.1 & General Rule §1.1)
- (4) **Affordable Housing--** Housing that has at least one unit that is restricted in the rent that can be charged either by a Land Use Restriction Agreement or other form of Deed Restriction. (10 TAC §1.1 & General Rule §1.1)

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- (5) **Applicable Fraction**-- The fraction used to determine the Qualified Basis of the qualified low-income building, which is the smaller of the Unit fraction or the floor space fraction, all determined as provided in §42(c)(1) of the Code.
- (6) **Applicable Percentage**-- The percentage used to determine the amount of the Housing Tax Credit for any Development (New Construction, Reconstruction, and/or Rehabilitation), as described in §42(b) of the Code. However, where the property has not placed in service or an Agreement and Election Statement has not been executed the Applicable Percentage must be estimated as of the date of the Application submission. For purposes of the Application, the Applicable Percentage must be projected at: (A) nine (9%) percent if the Development is proposed to be placed in service prior to December 31, 2013 and such timing is deemed appropriate by the Department or if the ability to claim the full 9% credit is extended by the U.S. Congress; (B) forty (40) basis points over the current applicable percentage for 70 % present value credits, unless fixed by Congress, pursuant to §42(b) of the code for the month in which the Application is submitted to the Department; or (C) fifteen (15) basis points over the current applicable percentage for 30 % present value credits, unless fixed by Congress, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department.
- (7) **Applicant**-- Any Person or Affiliate of a Person who files a pre-application or an Application with the Department requesting a Housing Credit Allocation. (§2306.6702)
- (8) **Application**-- A request for funds, housing tax credits or other financial assistance submitted to the Department in a form prescribed by the Department, including any exhibits or other supporting material. (§2306.6702)
- (9) **Application Acceptance Period**-- That period of time during which Applications may be submitted to the Department. (QAP §50.2)
- (10) **Application Log**-- Means a form containing at least the information required by Section 2306.6709.
- (11) **Application Round**-- Means the period beginning on the date the Department begins accepting applications and continuing until all available housing tax credits are allocated, but not extending past the last day of the calendar year. (§2306.6702)
- (12) **Appropriate Local Official**-- With respect to a municipality or area within an extraterritorial jurisdiction (ETJ), where applicable, means either the mayor, the city manager, or another official of the body operating under valid, written confirmation of authority signed by the mayor or city manager. With respect to an area not within the municipality or its ETJ, Appropriate Local Official means a county commissioner or another official authorized by the county commissioner to act. (10 TAC §1.1 & General Rule §1.1)

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- (13) Area Median Gross Income (AMGI)--** Area median gross household income, as determined for all purposes under and in accordance with the requirements of §42 of the Code.
- (14) At Risk Development—**Means a development that:
- (A) has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under the following federal laws, as applicable:
- (i) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 1715l);
 - (ii) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);
 - (iii) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);
 - (iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);
 - (v) the Section 8 Additional Assistance Program for housing developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;
 - (vi) the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development;
 - (vii) Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); or
 - (viii) Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42); and
- (B) is subject to the following conditions:
- (i) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration; or
 - (ii) the federally insured mortgage on the development is eligible for prepayment or is nearing the end of its term. (§2306.6702)
- (15) Bank Trustee--** A bank authorized to do business in this state, with the power to act as trustee. (REA Rules §1.31(b))
- (16) Bedroom--** A portion of a Unit which is no less than 100 square feet; has no width or length less than 8 feet; is self contained with a door (or the Unit contains a second level sleeping area of 100 square feet or more); has at least one window that provides exterior access; and has at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to accommodate 5 feet of hanging space. A den, study or other similar space that could reasonably function as a bedroom and meets this definition is considered a bedroom (10 TAC §1.1 & General Rule §1.1)
- (17) Board--** The Governing Board of the Department. (10 TAC §1.1 & General Rule §1.1)
- (18) Breakeven Occupancy--** The occupancy level at which rental income plus secondary income is equal to all operating expenses, including replacement

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- reserves and taxes, and mandatory debt service requirements for a Development. (REA Rules §1.31(b))
- (19) **Carryover Allocation**-- An allocation of current year tax credit authority by the Department pursuant to the provisions of §42(h)(1)(C) of the Code and U.S. Treasury Regulations, §1.42-6.
- (20) **Carryover Allocation Document**-- A document issued by the Department, and executed by the Development Owner, pursuant to §50.12(e) of the QAP, (relating to Carryover).
- (21) **Cash Flow**-- The funds available from operations after all expenses and debt service required to be paid has been considered. (REA Rules §1.31(b))
- (22) **Certificate of Reservation**-- The notice given by the Texas Bond Review Board (TBRB) to an issuer reserving a specific amount of the state ceiling for a specific issue of bonds. (QAP §50.2)
- (23) **Code**-- The Internal Revenue Code of 1986, as amended from time to time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued thereunder by the U.S. Department of the Treasury or the Internal Revenue Service. (QAP §50.2)
- (24) **Colonia**-- A geographic area that is located in a county some part of which is within one-hundred fifty (150) miles of the international border of this state, that consists of eleven (11) or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, and that:
- (A) has a majority population composed of individuals and families of low-income and very low-income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed Area under §17.921 of the Texas Water Code; or
- (B) has the physical and economic characteristics of a colonia, as determined by the Department. (10 TAC §1.1 & General Rule §1.1)
- (25) **Commitment**-- A legally binding written contract, setting forth the terms and conditions under which housing tax credits, loans, grants or other sources of funds or financial assistance will be made available. (10 TAC §1.1 & General Rule §1.1)
- (26) **Comparable Unit**-- A Unit, when compared to the subject Unit, similar in net rentable square footage, number of bedrooms, overall condition, location, age, unit amenities, utility structure, and common amenities. (REA Rules §1.31(b))
- (27) **Competitive Housing Tax Credits**-- Tax credits available from the State Housing Credit Ceiling. (QAP §50.2)
- (28) **Compliance Period**-- Means with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period. IRS Sec. 42(i)(1)
- (29) **Contract Rent**-- Net rent based upon current and executed rental assistance contract(s), typically with a federal, state or local government agency. (REA Rules §1.31(b))

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- (30) Control (including the terms “Controlling,” “Controlled by,” and/or “Under common Control with”)**-- The power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee. Controlling entities of a partnership include the general partners, special limited partners when applicable, but not investor limited partners who do not possess other factors or attributes that give them Control. Controlling entities of a limited liability company include the managers, managing members, any members with 10% or more ownership of the limited liability company, and any members with authority similar to that of a general partner in a limited partnership, but not investor members who do not possess other factors or attributes that give them Control. Multiple Persons may be deemed to have Control simultaneously. (10 TAC §1.1 & General Rule §1.1)
- (31) Credit Period**-- Means with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is placed in service, or at the election of the taxpayer, the succeeding taxable year, but only if the building is a qualified low-income building as of the close of the 1st year of such period. IRS Sec. 42(f)(1)
- (32) Credit Underwriting Analysis Report**-- Sometimes referred to as the "Report." A decision making tool used by the Department and Board containing a synopsis and reconciliation of the application information submitted by the Applicant. (REA Rules §1.31(b))
- (33) Debt Coverage Ratio (DCR)**-- Sometimes referred to as the "Debt Coverage" or "Debt Service Coverage." Calculated as Net Operating Income for any period divided by debt service required to be paid during the same period. (REA Rules §1.31(b))
- (34) Department**-- The Texas Department of Housing and Community Affairs or any successor agency. (10 TAC §1.1 & General Rule §1.1)
- (35) Determination Notice**-- A notice issued by the Department to the Development Owner of a Tax-Exempt Bond Development which specifies the Department's determination as to the amount of tax credits that the Development may be eligible to claim pursuant to §42(m)(1)(D) of the Code. (QAP §50.2)
- (36) Developer**-- Any Person entering into a contract with the Development Owner to provide development services with respect to the Development and receiving a fee for such services and any other Person receiving any portion of such fee, whether by subcontract or otherwise. (10 TAC §1.1 & General Rule §1.1)
- (37) Development**-- means a proposed qualified low income housing project, as defined by Section 42(g), Internal Revenue Code of 1986 (26 U.S.C. Section 42(g)), that consists of one or more buildings containing at least 16 units, that is financed under a common plan, and that is owned by the same person for federal tax purposes, including a project consisting of multiple buildings that:
- (A)**are located on scattered sites; and

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- (B) contain only rent-restricted units. (§2306.6702 & REA Rules §1.31(b))
- (38) **Development Consultant or Consultant--** Any Person (with or without ownership interest in the Development) who provides professional services relating to the filing of an Application, Carryover Allocation Document, and/or cost certification documents. (10 TAC §1.1 & General Rule §1.1)
- (39) **Development Owner--** Any Person, General Partner, or Affiliate of a Person who owns or proposes a Development or expects to acquire Control of a Development under a purchase contract or ground lease approved by the Department. (§2306.6702, 10 TAC §1.1 & General Rule §1.1)
- (40) **Development Site--** The area, or if scattered site, areas, on which the Development is proposed to be located. (QAP §50.2)
- (41) **Development Team--** All Persons or Affiliates thereof that play a role in the Development, construction, Rehabilitation, management and/or continuing operation of the subject Property, which will include any Development Consultant and Guarantor. (10 TAC §1.1 & General Rule §1.1)
- (42) **Difficult Development Areas--** Means any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, and utility costs relative to area median gross income. (IRS §42 (4)(D)(C)(iii))
- (43) **Economically Distressed Area--** A county that contains an area that meets the criteria for an economically distressed area under §17.92(1), Texas Water Code and has adopted and enforces the model rules under §16.343, Texas Water Code. (10 TAC §1.1 & General Rule §1.1)
- (44) **Effective Gross Income (EGI)--** The sum total of all sources of anticipated or actual income for a rental Development less vacancy and collection loss, leasing concessions, and rental income from employee-occupied units that is not anticipated to be charged or collected. (REA Rules §1.31(b))
- (45) **Efficiency Unit--** A Unit without a separately enclosed bedroom designed principally for use by a single person. (10 TAC §1.1 & General Rule §1.1)
- (46) **Elderly Individual--** Means an individual 62 years of age or older or of an age specified by the applicable federal program. (§2306.004)
- (47) **Eligible Basis--** With respect to a building within a Development, the building's Eligible Basis pursuant to §42(d) of the Code.
- (48) **Eligible Hard Costs--** Hard Costs includable in Eligible Basis for the purposes of determining a Housing Tax Credit Allocation. (REA Rules §1.31(b))
- (49) **Eligible Tenants--** Means: (A) individuals and families of Extremely Low, Very Low and Low Income; (B) individuals and families of Moderate Income; or (C) Persons with Special Needs, in each case, with an Anticipated Annual Income not in excess of 140% of the area median income for a four-person household in the applicable standard metropolitan statistical area; provided that all Low-Income Tenants shall count as Eligible Tenants. (Bond Rules §33.3)

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- (50) Environmental Site Assessment (ESA)--** An environmental report that conforms with the Standard Practice for Environmental Site Assessments: Phase I Assessment Process (ASTM Standard Designation: E 1527) and conducted in accordance with the Department's Environmental Site Assessment Rules and Guidelines in §1.35 of the REA Rules as it relates to a specific Development.(REA Rules §1.31(b))
- (51) Executive Award and Review Advisory Committee ("The Committee")--** The Department committee created under Texas Government Code, §2306.112. (10 TAC §1.1 & General Rule §1.1)
- (52) Existing Residential Development--** Any Development Site which contains existing residential Units at the time the Application is submitted to the Department. (QAP §50.2)
- (53) Extended Use Period--** Means the period beginning on the 1st day in the compliance period on which such building is part of a qualified low-income housing project and ending on the later of the date specified by such agency in such agreement, or the date which is 15 years after the close of the compliance period. (IRS §42(6)(D))
- (54) Family of Moderate Income--** Means a family:
- (A) That is determined by the Board to require assistance, taking into account:
- (i) The amount of the total income available for housing needs of the individuals and families;
 - (ii) The size of the family;
 - (iii) The cost and condition of available housing facilities;
 - (iv) The ability of the individuals and families to compete successfully in the private housing market and pay the amounts required by private enterprise for sanitary, decent, and safe housing; and
 - (v) Standards established for various federal programs determining eligibility based on income; and
- (B) That does not qualify as a family of low income. (§2306.004)
- (55) Floor Space Fraction--** The fraction of which the numerator is the total floor space of the low-income units in such building and the denominator is the total floor space of the residential rental units (whether or not occupied) in such building. (IRS §42(C)(1)(D))
- (56) First Lien Lender--** A lender whose lien has first priority. (REA Rules §1.31(b))
- (57) General Contractor--** One who contracts for the construction or Rehabilitation of an entire Development, rather than a portion of the work. The General Contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the subcontractors. This party may also be referred to as the "contractor." (10 TAC §1.1 & General Rule §1.1)

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- (58) **General Partner**-- That partner, or collective of partners, identified as the general partner of the partnership that is the Development Owner and that has general liability for the partnership. In addition, unless the context shall clearly indicate the contrary, if the Development Owner in question is a limited liability company, the term "General Partner" shall also mean the managing member or other party with management responsibility for the limited liability company. (10 TAC §1.1 & General Rule §1.1)
- (59) **Governing Body**-- The elected or appointed body of public or tribal officials, responsible for the enactment, implementation and enforcement of local rules and the implementation and enforcement of applicable laws for its respective jurisdiction. 10 (TAC §1.1 & General Rule §1.1)
- (60) **Government Entity**-- Includes federal, state or local agencies, departments, boards, bureaus, commissions, authorities, and political subdivisions, special districts, tribal governments and other similar entities. (10 TAC §1.1 & General Rule §1.1)
- (61) **Government Instrumentality**-- A legal entity which is created by a Unit of General Local Government under statutory authority and which instrumentality is authorized to transact business for the Unit of General Local Government. (10 TAC §1.1 & General Rule §1.1)
- (62) **Grant**-- Financial assistance that is awarded in the form of money to a housing sponsor for a specific purpose and that is not required to be repaid. A Grant includes a forgivable loan. (10 TAC §1.1 & General Rule §1.1)
- (63) **Gross Capture Rate**-- Calculated as the Relevant Supply divided by the Gross Demand. (REA Rules §1.31(b))
- (64) **Gross Demand**-- The sum of Potential Demand from the Primary Market (PMA), demand from other sources, and Potential Demand from a Secondary Market Area (SMA) to the extent that SMA demand does not exceed 25% of Gross Demand. (REA Rules §1.31(b))
- (65) **Gross Program Rent**-- Maximum rent limits based upon the tables promulgated by the Department's division responsible for compliance which are developed by program and by county or Metropolitan Statistical Area (MSA) or Primary Metropolitan Statistical Area (PMSA) or national non-metro area. (REA Rules §1.31(b))
- (66) **Guarantor**-- Any Person that provides, or is anticipated to provide, a guaranty for all or a portion of the equity or debt financing for the Development. (10 TAC §1.1 & General Rule §1.1)
- (67) **Hard Costs**-- The sum total of direct construction costs, site work costs, off-site costs and contingency. (REA Rules §1.31(b))
- (68) **Historically Underutilized Businesses (HUB)**-- A business that is a Corporation, Sole Proprietorship, Partnership, or Joint Venture in which at least 51% of the

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business is owned, operated, and actively controlled and managed by a minority or woman in which the owner(s):

- (A) have a proportionate interest and demonstrate active participation in the control, operation, and management of the entities' affairs; and
- (B) are economically disadvantaged because of their identification as members of the following groups:
 - (i) Black Americans--Includes persons having origins in any of the Black racial groups of Africa;
 - (ii) Hispanic Americans--Includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) American Women--Includes all women of any ethnicity except those specified in clauses (i), (ii), (iv), and (v) of this subparagraph;
 - (iv) Asian Pacific Americans--Includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, the Northern Marianas, and Subcontinent Asian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan or Nepal; and
 - (v) Americans--Includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (C) a corporation formed for the purpose of making a profit in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons described by subparagraphs (A) and (B) of this paragraph; or
- (D) a sole proprietorship created for the purpose of making a profit that is 100% owned, operated, and controlled by a person described by subparagraphs (A) and (B) of this paragraph; or
- (E) a partnership formed for the purpose of making a profit in which 51% of the assets and interest in the partnership is owned by one or more persons who are described by subparagraphs (A) and (B) of this paragraph; or
- (F) a joint venture in which each entity in the joint venture is a HUB under this paragraph; or
- (G) a supplier contract between a HUB under this paragraph and a prime contractor/vendor under which the HUB is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies; or
- (H) a business other than described in subparagraphs (D), (F), and (G) of this paragraph, which is formed for the purpose of making a profit and is otherwise a legally recognized business organization under the laws of the State of Texas, provided that at least 51% of the assets and 51% of any classes of stock and

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equitable securities are owned by one or more persons described by subparagraphs (A) and (B) of this paragraph. (10 TAC §1.1 & General Rule §1.1)

- (69) **Housing Credit Allocation**-- An allocation by the Department to a Development Owner for a specific Application of Housing Tax Credits in accordance with the provisions of the QAP. (QAP §50.2)
- (70) **Housing Credit Allocation Amount**-- With respect to a Development or a building within a Development, the amount the Department determines to be necessary for the financial feasibility of the Development and its viability as a Development throughout the affordability period which the Board allocates to the Development. (QAP §50.2)
- (71) **Housing Development**-- Means property or work on a project, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the department and that is financed under the provisions of this chapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by individuals and families of low and very low income and families of moderate income in need of housing. The term includes:
- (A) buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community, and recreational facilities the department determines to be necessary, convenient, or desirable appurtenances; and
- (B) single and multifamily dwellings in rural and urban areas. (§2306.004)
- (72) **Housing Sponsor**-- Means an individual, joint venture, partnership, limited partnership, trust, firm, corporation, limited liability company, other form of business organization, or cooperative that is approved by the department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development, subject to the regulatory powers of the department and other terms and conditions in Chapter 2306. (§2306.004)
- (73) **Housing Tax Credit**-- Means a tax credit allocated under the low income housing tax credit program. (§2306.6702)
- (74) **HUD**-- The United States Department of Housing and Urban Development, or its successor. (10 TAC §1.1 & General Rule §1.1)
- (75) **Institutional Buyer**-- (A) An accredited investor as defined in Regulation D promulgated under the Securities Act of 1933, as amended (17 CFR §230.501(a)), but excluding any natural person or any director or executive officer of the Department (17 CFR §230.501(a)(4) - (6)); or (B) A qualified institutional buyer

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- as defined by Rule 144A promulgated under the Securities Act of 1935, as amended (17 CFR §230.144A). (Bond Rules §33.3)
- (76) **Individuals and families of very low income--** Means individuals and families earning not more than 60 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231. (§2306.004)
- (77) **Individuals and families of extremely low income--** Means individuals and families earning not more than 30 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231. (§2306.004)
- (78) **IRS--** The Internal Revenue Service, or its successor. (10 TAC §1.1 & General Rule §1.1)
- (79) **Land Use Restriction Agreement or LURA--** An agreement between the Department and the Development Owner which is a binding covenant upon the Development Owner's successors in interest, that, when recorded, encumbers the Development with respect to the requirements of the programs for which it receives funds. (10 TAC §1.1 & General Rule §1.1)
- (80) **Local government--** Means a county, municipality, special district, or any other political subdivision of the state, a public, nonprofit housing finance corporation created under Chapter 394, Local Government Code, or a combination of those entities. (§2306.004)
- (81) **Low Income Unit--** A Unit that is intended to be restricted for occupancy by an income eligible household, as defined by the Department. (10 TAC §1.1 & General Rule §1.1)
- (82) **Managing General Partner--** A general partner of a partnership that is vested with the authority to take actions that are binding on behalf of the partnership and the other partners. The term Managing General Partner can also be used for a Managing Member of a limited liability company where so designated to bind the limited liability company and its members under its Agreement or any other person that has such powers in fact, regardless of their organizational title. (10 TAC §1.1 & General Rule §1.1)
- (83) **Market Analysis--** Sometimes referred to as "Market Study." An evaluation of the economic conditions of supply, demand and rental rates or pricing conducted in accordance with the Department's Market Analysis Rules and Guidelines in §1.33 of the REA Rules as it relates to a specific Development. (REA Rules §1.31(b))
- (84) **Market Analyst--** Any person who prepares a market study. (REA Rules §1.31(b))
- (85) **Market Rent--** The rent for a particular Comparable unit determined after adjustments are made to rents charged by owners of Comparable Units on properties without rent and income restrictions. (REA Rules §1.31(b))
- (86) **Material Deficiency--** Any individual Application deficiency or group of Administrative Deficiencies which, if addressed, would require, in the

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Department's reasonable judgment, a substantial reassessment or re-evaluation of the Application or which, are so numerous and pervasive that they indicate a failure by the Applicant to submit a substantively complete and accurate Application. (10 TAC §1.1 & General Rule §1.1)

(87) Material Noncompliance—Defined as:

(A) a Housing Tax Credit (HTC) Development located within the state of Texas will be classified by the Department as being in Material Noncompliance status if the noncompliance score for such Development is equal to or exceeds a threshold of (30 points) in accordance with the Material Noncompliance provisions, methodology, and point system in §60.123 of this title (relating to Material Noncompliance Methodology);

(B) non-HTC Developments monitored by the Department with 1 - 50 Low Income Units will be classified as being in Material Noncompliance status if the noncompliance score is equal to or exceeds a threshold of (30 points). Non-HTC Developments monitored by the Department with 51 - 200 Low Income Units will be classified as being in Material Noncompliance status if the noncompliance score is equal to or exceeds a threshold of (50 points). Non-HTC Developments monitored by the Department with 201 or more Low Income Units will be classified as being in Material Noncompliance status if the noncompliance score is equal to or exceeds a threshold of (80 points);

(C) for all programs, a Development will be in Material Noncompliance if the noncompliance is stated in §60.123 of this title, to be in Material Noncompliance. (10 TAC §1.1 & General Rule §1.1)

(88) Minority Owned Business-- A business entity at least 51% of which is owned by members of a minority group or, in the case of a corporation, at least 51% of the shares of which are owned by members of a minority group, and that is managed and Controlled by members of a minority group in its daily operations. Minority group includes women, African Americans, American Indians, Asian Americans, and Mexican Americans and other Americans of Hispanic origin. (§2306.6734, 10 TAC §1.1 & General Rule §1.1)

(89) Municipality-- Includes only a municipality in this state. (§2306.004)

(90) Neighborhood Organization-- Means an organization that is composed of persons living near one another within the organization's defined boundaries for the neighborhood and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. A neighborhood organization includes a homeowners' association or a property owners' association. (§2306.004)

(91) Net Operating Income (NOI)-- The income remaining after all operating expenses, including replacement reserves and taxes have been paid. (REA Rules §1.31(b))

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- (92) **Net Rentable Area--** The unit space that is available exclusively to the tenant and is typically heated and cooled by a mechanical HVAC system. NRA is measured to the outside of the studs of a unit or to the middle of walls in common with other units. NRA does not include common hallways, stairwells, elevator shafts, janitor closets, electrical closets, balconies, porches, patios, or other areas not actually available to the tenants for their furnishings, nor does NRA include the enclosing walls of such areas. (10 TAC §1.1 & General Rule §1.1)
- (93) **New Construction--** Any construction of a Development or a portion of a Development that does not meet the definition of Rehabilitation. (10 TAC §1.1 & General Rule §1.1)
- (94) **Owner--** An Applicant that is approved by the Department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a Development subject to the regulatory powers of the Department and other terms and conditions required by the Department and the Act. (Bond Rules §33.3)
- (95) **Person--** Without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality or other organization or entity of any nature whatsoever and shall include any group of Persons acting in concert toward a common goal, including the individual members of the group. (10 TAC §1.1 & General Rule §1.1)
- (96) **Persons with Disabilities--** With respect to an individual:
- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
 - (B) a record of such an impairment; or
 - (C) being regarded as having such an impairment, to include persons with severe mental illness and persons with substance abuse disorders. (10 TAC §1.1 & General Rule §1.1)
- (97) **Persons with Special Needs—**Persons who:
- (A) Are considered to be disabled under a state or federal law;
 - (B) Are Elderly;
 - (C) Are designated by the Board as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise; or
 - (D) Are legally responsible for caring for an individual described by subparagraph (A), (B), or (C) of this paragraph and meet the income guidelines established by the Board. (Bond Rules §33.3)
- (98) **Potential Demand--** The number of income-eligible, age-, size-, and tenure-appropriate target households in the designated market area at the proposed placement in service date. (REA Rules §1.31(b))
- (99) **Primary Market (PMA)--** Sometimes referred to as "Primary Market Area." The area defined by the Qualified Market Analyst as described in §1.33(d)(9) of the

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REA Rules from which a proposed or existing Development is most likely to draw the majority of its prospective tenants or homebuyers. (REA Rules §1.31(b))

- (100) Principal--** The term Principal is defined as Persons that will exercise Control over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:
- (A) Partnerships, Principals include all General Partners, Special Limited Partners and Principals with ownership interest;
 - (B) Corporations, Principals include any officer authorized by the board of directors to act on behalf of the corporation, including the president, vice president, secretary, treasurer and all other executive officers, and each stock holder having a 10% or more interest in the corporation and any individual Controlling such stock holder; and
 - (C) Limited liability companies, Principals include all managing members, members having a 10% or more interest in the limited liability company, any individual Controlling such members, or any officer authorized to act on behalf of the limited liability company. (10 TAC §1.1 & General Rule §1.1)
- (101) Private Activity Bond Program Scoring Criteria--** The scoring criteria established by the Department for the Department's Multifamily Housing Revenue Bond Program, §33.5(e) of this Bond Rules. (Bond Rules §33.3)
- (102) Private Activity Bond Program Threshold Requirements--** The threshold requirements established by the Department for the Department's Multifamily Housing Revenue Bond Program, §33.5(d) of this chapter. (Bond Rules §33.3)
- (103) Property--** The real estate and all improvements thereon which are the subject of the Application (including all items of personal property affixed or related thereto), whether currently existing or proposed to be built thereon in connection with the Application. (10 TAC §1.1 & General Rule §1.1)
- (104) Property Condition Assessment (PCA)--** Sometimes referred to as "Physical Needs Assessment," "Project Capital Needs Assessment," or "Property Condition Report." The PCA provides an evaluation of the physical condition of an existing property to evaluate the immediate cost to rehabilitate and to determine costs of future capital improvements to maintain the property. The PCA must be prepared in accordance with the Department's Property Condition Assessment Rules and Guidelines in §1.36 of the REA Rules as it relates to a specific Development. (REA Rules §1.31(b))
- (105) Qualified Allocation Plan (QAP)--** A plan adopted by the board under this subchapter that:
- (A) provides the threshold, scoring, and underwriting criteria based on housing priorities of the department that are appropriate to local conditions;
 - (B) consistent with §2306.6710(e), gives preference in housing tax credit allocations to developments that, as compared to the other developments:

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- (i) when practicable and feasible based on documented, committed, and available third party funding sources, serve the lowest income tenants per housing tax credit; and
 - (ii) produce for the longest economically feasible period the greatest number of high quality units committed to remaining affordable to any tenants who are income-eligible under the low income housing tax credit program; and
 - (C) provides a procedure for the Department, the Department's agent, or another private contractor of the Department to use in monitoring compliance with the Qualified Allocation Plan and this subchapter. (§2306.6702, 10 TAC §1.1 & General Rule §1.1)
- (106) Qualified Basis--** With respect to a building within a Development, the building's Eligible Basis multiplied by the Applicable Fraction, within the meaning of §42(c)(1) of the Code. (IRS §42(c)(1))
- (107) Qualified Census Tract--** Means any census tract which is designated by the Secretary of Housing and Urban Development and for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25 percent. (IRS §42(d)(5)(C)(i))
- (108) Qualified Elderly Development--** A Development which meets the requirements of the federal Fair Housing Act, and:
- (A) Provided under any state or federal program that the HUD Secretary determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
 - (B) Is intended for, and solely occupied by, individuals sixty-two (62) years of age or older; or
 - (C) Is intended and operated for occupancy by at least one individual fifty-five (55) years of age or older per Unit, where at least 80% of the total housing Units are occupied by at least one individual who is fifty-five (55) years of age or older; and where the Development Owner publishes and adheres to policies and procedures which demonstrate an intent by the owner and manager to provide housing for individuals fifty-five (55) years of age or older. (42 U.S.C. §3607(b)) (10 TAC §1.1 & General Rule §1.1)
- (109) Qualified Low-Income Building--** Means any building which is part of a qualified low-income housing project at all times during the period beginning on the 1st day in the compliance period on which such building is part of such a project and ending on the last day of the compliance period with respect to such building and to which the amendments made by section 201(a) of the Tax Reform Act of 1986 apply. (IRS §42)
- (110) Qualified Low-Income Housing Project--** Means any project for residential rental property if the project meets the requirements of one of the following,

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whichever is elected by the taxpayer: (A) if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income; or (B) if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income. Any election made shall be irrevocable. (IRS §42(g)(1))

- (111) Qualified Market Analyst--** A real estate appraiser or other professional familiar with the subject property's market area who demonstrates competency, expertise, and the ability to render a high quality Market Analysis. The individual's performance, experience and educational background will provide the general basis for the determining competency as a Market Analyst. Competency will be determined by the Department, in its sole discretion. The Qualified Market Analyst must be a Third Party. (REA Rules §1.31(b))
- (112) Qualified Nonprofit Development--** A Development in which a Qualified Nonprofit Organization is to own an interest in the Development directly or through a partnership and materially participates (within the meaning of §469(h) of the Code) in the development and operation of the development throughout the Compliance Period. (QAP 50.2)
- (113) Qualified Nonprofit Organization--** An organization that meets the requirements of Texas Government Code §2306.6706 and §2306.6729.
- (114) Real Property--** Means land, including improvements and fixtures on the land, property of any nature appurtenant to the land or used in connection with the land, and a legal or equitable estate, interest, or right in land, including leasehold interests, terms for years, and a judgment, mortgage, or other lien. (§2306.004)
- (115) Reconstruction--** The demolition of one or more residential buildings in an Existing Residential Development and the re-construction of an equal number of Units or less on the Development Site. (10 TAC §1.1 & General Rule §1.1)
- (116) Rehabilitation--** The improvement or modification of an Existing Residential Development through alteration, incidental addition or enhancement. The term includes the demolition of an Existing Residential Development and the Reconstruction of a Development on the Development Site, but does not include Adaptive Reuse (§2306.004(26-a)). More specifically, Rehabilitation is the repair, refurbishment and/or replacement of existing mechanical and structural components, fixtures and finishes. Rehabilitation will correct deferred maintenance, reduce functional obsolescence to the extent possible and may include the addition of: energy efficient components and appliances, life and safety systems; site and resident amenities; and other quality of life improvements typical of new residential Developments. (10 TAC §1.1 & General Rule §1.1)
- (117) Related Party--** As defined,
(A) The following individuals or entities:

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- (i) The brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573 of the Texas Government Code;
 - (ii) A person and a corporation, if the person owns more than 50% of the outstanding stock of the corporation;
 - (iii) Two or more corporations that are connected through stock ownership with a common parent possessing more than 50% of:
 - (I) The total combined voting power of all classes of stock of each of the corporations that can vote;
 - (II) The total value of shares of all classes of stock of each of the corporations; or
 - (III) The total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;
 - (iv) A grantor and fiduciary of any trust;
 - (v) A fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
 - (vi) A fiduciary of a trust and a beneficiary of the trust;
 - (vii) A fiduciary of a trust and a corporation if more than 50% of the outstanding stock of the corporation is owned by or for:
 - (I) The trust; or
 - (II) A person who is a grantor of the trust;
 - (viii) A person or organization and an organization that is tax-exempt under §501(a) of the Code, and that is controlled by that person or the person's family members or by that organization;
 - (ix) A corporation and a partnership or joint venture if the same persons own more than:
 - (I) 50% of the outstanding stock of the corporation; and
 - (II) 50% of the capital interest or the profits' interest in the partnership or joint venture;
 - (x) An S corporation and another S corporation if the same persons own more than 50% of the outstanding stock of each corporation;
 - (xi) An S corporation and a C corporation if the same persons own more than 50% of the outstanding stock of each corporation;
 - (xii) A partnership and a person or organization owning more than 50% of the capital interest or the profits' interest in that partnership; or
 - (xiii) Two partnerships, if the same person or organization owns more than 50% of the capital interests or profits' interests.
- (B) Nothing in this definition is intended to constitute the Department's determination as to what relationship might cause entities to be considered

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- "related" for various purposes under the Code. (§2306.6702, 10 TAC §1.1 & General Rule §1.1)
- (118) Relevant Supply--** The supply of Comparable Units in proposed and Unstabilized Developments targeting the same population including:
- (A) The proposed subject Units;
 - (B) Comparable Units in another development within the PMA with a priority Application over the subject, based on the Department's evaluation process described in the QAP that may not have been presented to the TDHCA Board for decision;
 - (C) Comparable Units in previously approved but Unstabilized Developments in the Primary Market Area (PMA); and
 - (D) Comparable Units in previously approved but Unstabilized Developments in the Secondary Market Area (SMA), in the same proportion as the proportion of Potential Demand from the SMA that is included in Gross Demand. (REA Rules §1.31(b))
- (119) Rent Restricted Unit--** A residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 30 percent of the imputed income limitation applicable to such unit. (IRS §42(g)(2))
- (120) Reserve Account--** An individual account:
- (A) Created to fund any necessary repairs for a multifamily rental housing development; and
 - (B) Maintained by a First Lien Lender or Bank Trustee. (REA Rules §1.31(b))
- (121) Residential Housing--** Means a specific work or improvement undertaken primarily to provide dwelling accommodations, including the acquisition, construction, reconstruction, remodeling, improvement, or rehabilitation of land and buildings and improvements to the buildings for residential housing and other incidental or appurtenant non-housing facilities. (§2306.004)
- (122) Rural Area—**An Area that is located:
- (A) Outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;
 - (B) Within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an Urban Area; or
 - (C) In an area that is eligible for funding by Texas Rural Development Office of the United States Department of Agriculture (TRDO-USDA), other than an area that is located in a municipality with a population of more than 50,000. (§2306.004, 10 TAC §1.1 & General Rule §1.1)
- (123) Rural Development--** Means a development or proposed development that is located in a rural area, other than rural new construction developments with more than 80 units. (§2306.004)

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- (124) Secondary Market (SMA)** -- Sometimes referred to as "Secondary Market Area." The area defined by the Qualified Market Analyst as described in §1.33(d)(8) of the REA Rules. (REA Rules §1.31(b))
- (125) Selection Criteria**-- Criteria used to determine funding priorities of the State under the specific housing program as defined in the rules or funding notices of that program. (10 TAC §1.1 & General Rule §1.1)
- (126) Set-Aside**-- Means a reservation of a portion of the available housing tax credits to provide financial support for specific types of housing or geographic locations or serve specific types of applicants as permitted by the qualified allocation plan on a priority basis. (§2306.6702)
- (127) Single Room Occupancy (SRO)**-- An Efficiency Unit that meets all the requirements of a Unit except that it may, but is not required, to be rented on a month to month basis to facilitate Transitional Housing. Buildings with SRO Units have extensive living areas in common and are required to be Supportive Housing and include the provisions for substantial supports from the Development Owner or its agent on site. (QAP §50.2)
- (128) Site Control**-- Ownership or a current contract that is legally enforceable giving the Applicant the ability, not subject to any legal defense by the owner, to require conveyance to the Applicant. (10 TAC §1.1 & General Rule §1.1)
- (129) State Housing Credit Ceiling**-- The aggregate amount of Housing Credit Allocations that may be made by the Department during any calendar year, as determined from time to time by the Department in accordance with applicable federal law, including §42(h)(3)(C) of the Code. (QAP §50.2)
- (130) Sub-Market**-- An area defined by the Underwriter based on general overall market segmentation promulgated by market data tracking and reporting services from which a proposed or existing Development is most likely to draw the majority of its prospective tenants or homebuyers. (REA Rules §1.31(b))
- (131) Supportive Housing**-- Residential rental developments intended for occupancy by individuals or households in need of specialized and specific non-medical services in order to maintain independent living. Supportive housing development generally require established funding sources outside of project cash flow and are expected to be debt free or have no foreclosable or noncash flow debt. The services offered generally address special attributes of such populations as Transition housing for homeless and at risk of homelessness, persons who have experienced domestic violence or single parents or guardians with minor children. (QAP §50.2)
- (132) Tax Credit (Procedures) Manual**-- The manual produced and amended from time to time by the Department which reiterates the rules and provides guidance for the filing of tax credit related documents. (QAP §50.2)
- (133) Tax Exempt Bond Development**-- A Development requesting or having been awarded Housing Tax Credits and which receives a portion of its financing from

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- the proceeds of tax-exempt bonds which are subject to the state volume cap as described in §42(h)(4) of the Code, such that the Development does not receive an allocation of tax credit authority from the State Housing Credit Ceiling. (QAP §50.2)
- (134) Trustee--** A national banking association organized and existing under the laws of the United States, as trustee (together with its successors and assigns and any successor trustee). (Bond Rules §33.3)
- (135) Texas Department of Rural Affairs (TDRA)--** As established by Chapter 487 of the Texas Government Code. (10 TAC §1.1 & General Rule §1.1)
- (136) TDHCA Operating Expense Database--** Sometimes referred to as "TDHCA Database." A consolidation of recent actual operating expense information collected through the Department's Annual Owner Financial Certification process, as required and described in Chapter 60, Subchapter A of this title, and published on the Department's web site. (REA Rules §1.31(b))
- (137) Third Party--** A Third Party is a Person who is not:
- (A) An Applicant, General Partner, Developer, or General Contractor; or
 - (B) An Affiliate or a Related Party to the Applicant, General Partner, Developer or General Contractor; or
 - (C) Anyone receiving any portion of the Developer fees from the Development. 10 (TAC §1.1 & General Rule §1.1)
- (138) Threshold Criteria--** Means the criteria used to determine whether the development satisfies the minimum level of acceptability for consideration established in the department's qualified allocation plan. (§2306.6702)
- (139) Total Housing Development Cost--** The sum total of the Acquisition Cost, Hard Costs, Soft Costs, Developer Fee and Contractor Fee incurred or to be incurred through lease-up by the Development Owner in the acquisition, construction, rehabilitation and financing of the Development. (10 TAC §1.1 & General Rule §1.1)
- (140) TDRO-USDA--** Texas Rural Development Office (TRDO) of the U.S. Department of Agriculture (USDA) serving the State of Texas. (10 TAC §1.1 & General Rule §1.1)
- (141) Underwriter--** The author(s) of the Credit Underwriting Analysis Report. (REA Rules §1.31(b))
- (142) Unit--** Means any residential rental unit in a development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis that contains complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation. (§2306.6702)
- (143) Unit Fraction--** The fraction of which the numerator is the number of low income units in the building and the denominator is the number of residential rental units (whether or not occupied) in such building. (IRS §42(c)(1)(C))

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- (144) Unit of General Local Government--** A city, town, county, village, tribal reservation or other general purpose political subdivision of the State.)10 TAC §1.1 & General Rule §1.1)
- (145) Unstabilized Development--** A Development with Comparable Units that has been approved for funding by the TDHCA Board or is currently under construction or has not maintained a 90% occupancy level for at least twelve (12) consecutive months following construction completion. A development may be deemed stabilized by the Underwriter based on factors relating to a development's lease-up velocity, Sub-Market rents, Sub-Market occupancy trends and other information available to the Underwriter. The Market Analyst may not consider a development stabilized in the Market Study. (REA Rules §1.31(b))
- (146) Urban Area--** Means the area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area other than an area described by Subdivision (28-a)(B) or eligible for funding as described by Subdivision (28-a)(C). (§2306.004)
- (147) Utility Allowance--** The estimate of tenant-paid utilities, based either on the most current HUD Form 52667, "Section 8, Existing Housing Allowance for Tenant-Furnished Utilities and Other Services," provided by the local entity responsible for administering the HUD Section 8 program with most direct jurisdiction over the majority of the buildings existing, a documented estimate from the utility provider proposed in the Application, or for an existing development an allowance calculated by the Department pursuant to §60.109 of this title. Documentation from the local utility provider to support an alternative calculation can be used to justify alternative Utility Allowance conclusions but must be specific to the subject development and consistent with the building plans provided. (REA Rules §1.31(b))
- (148) Work Out Development--** A financially distressed Development for which the Owner and/or a primary financing participant is seeking a change in the terms of Department funding or program restriction. (REA Rules §1.31(b))